

## ***THE SUPERINTENDENT AND THE LAW***

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### **THE SUPERINTENDENT IS THE DISTRICT'S EVERY DAY LEGAL LEADER**

The board, administrators, and teachers look to (expect) the Superintendent to know basic law and basic legal principals, and do the right thing.

Educate yourself, the Board, your administrators, teachers, and staff (share what you know and learn).

When legally wrong the Superintendent may take the hit.

### **THE SUPERINTENDENT MUST READ AND UNDERSTAND THE LAW**

Read school law

Education Law - New legislation - Tort cases (court and Commissioner Decisions).

The NYSSBA book "School Law" is NOT a law book, only a reference book.

Understand that law is always changing - either follow legal changes or seek legal advice.

You cannot save money on legal fees until you know enough law to act with knowledge and confidence

### **THE SUPERINTENDENT MUST UNDERSTAND THAT LAW IS PRACTICED IN A SPECIFIC SCHOOL CULTURE**

You may be legally correct but be in violation of the community culture (what is acceptable).

Almost every issue has unique legal aspects (situational).

### **THE SCHOOL ATTORNEY MUST BE ABLE TO DO THE JOB**

Use different lawyers for different issues - the strength you need

School law

Labor law

Civil Service law

Local issues (contracts, residency, etc.)

Special Education Law

Tax Law

The School Attorney is the board's appointment, but should be the Superintendent's choice.

The School Attorney is the District and Board's attorney, not the Superintendent's attorney.

What should the superintendent expect (demand) from a School Attorney

Knowledge of the law, and sharing of the law

An understanding of law as practiced in the school district environment

Availability when needed, reasonable response time, meeting of all deadlines

Minimal postponements

Written opinion when needed, revision of written when required

Education of the superintendent, board, and staff when needed/requested

Reasonable pricing for services

## **BE PREPARED TO REACT TO LEGAL ACTION**

For every legal move there is a counter move. Learn the counter moves.

## **EXPECT TO BE THREATENED WITH SUIT AND BE SUED**

Every school Superintendent gets sued.

Have the additional protections you need in your contract and Board resolution

When served - immediately contact the attorney, insurance company, Board, business administrator

Don't talk to the opposition's attorney.

Tell them, "I'll be glad to talk (or meet) with you, or your attorney can call our attorney.

- sometimes just the cost is enough to deter the opposition.

## **PREPARING FOR A NEW ASSIGNMENT**

- Review who is the School Lawyer(s), what has been the Superintendent -Lawyer relationship
- Any Recent Litigation? - review the past several years budget for costs of legal services, retainer or hourly, any litigation on-going at this time (3020A, special education hearings, open labor contracts, etc.)
- Review Board Policy Manual and Administrative Regulations
- Review Board Minutes/Resolutions
- Review Collective Bargaining Agreements
- Review Prior Grievances, Arbitration Decisions and PERB decisions
- Communicate with Resource Individuals
  - Predecessor Superintendent
  - BOCES Labor Relations Department
  - District Superintendent
  - School Attorney
  - Business Manager
  - District Treasurer
  - Auditor
  - Union Presidents and Their Labor Relations Specialists
  - General Staff Meetings

## **EXAMPLES OF LEGAL ISSUES SUPERINTENDENT MAY FACE**

- Employee/Personnel Issues
- Student Issues
- Students with Disabilities
- Tax
- Student Discipline
- US Constitution Issues (discrimination, freedom of speech, etc.)
- Board Policies
- Board Meetings/Resolutions/Executive Session

- Fiscal Responsibilities
- Transportation
- Finance/Taxation
- Religion in Schools
- Use of District Property/Facilities/Materials
- Fraud
- Residency
- Negligence/Injuries