

THE SCHOOL RULE:

Implementing a Comprehensive Risk Management Plan

by David R. Hostetler, Esq.

This article continues the current “School Rule” series on risk management. The following provides practical legal strategies for comprehensively addressing risk management issues in your school.

The busyness and complexity of running schools sometimes cause important things to get pushed aside and neglected. Strategic legal practice and planning is one of them. It should be a crucial part of any school’s operations. What does it mean? It’s more than keeping a school out of trouble or avoiding liability. It’s about understanding and applying legal principles and practices that promote a safe, cost-effective, quality education. There are many ways the law can help. Below are specific recommendations.

1. Establish a Risk Management Plan and Team

Each school should have a team or committee responsible for developing and implementing a strategic risk management plan (“RMP”). Team members should have varied experiences that, together, contribute to the team’s effectiveness regarding legal and operational matters. Team members should normally include the school director (or a designee), a board member, the finance and personnel officers, a veteran teacher and, if feasible, a lawyer with experience in education law or related fields of non-profit, employment, administrative, and/or corporate matters.

2. RMP Categories

The plan and the team’s oversight duties should, minimally, address the following categories:

- School safety: e.g., facilities and grounds, emergency response, medications and first aid, student supervision, athletics, field trips and volunteers, high-risk curricular activities such as chemistry labs, shop classes), harassment and bullying, school safety reporting obligations (such as social services abuse & neglect reports)
- Personnel practices: e.g., employee background and criminal checks, hiring procedures, anti-discrimination and bullying practices
- Grievances and appeals: e.g., policies and procedures for addressing concerns, conflicts, and grievances
- Insurance: e.g., general liability, buildings and grounds, board liability
- Financial compliance and integrity: e.g., auditing and accounting procedures, reporting obligations, oversight,

record-keeping

- Contracts: e.g., personnel, vendor, contractors, insurance contracts
- Records: e.g., record-keeping, confidentiality, document retention and disposal practices
- Ethical standards and practices: e.g., board, employee, and student codes of conduct, conflict of interests, conflict resolution
- General legal compliance and updates: e.g., basic laws and legal updates incorporated into practice and policy
- Policies and procedures: e.g., policies, procedures, and handbooks that are relevant, comprehensive, clear, and cohesive
- Professional legal services and training: e.g., review and assessment of needs for professional legal services, document review and preparation, and legal training
- Systematic legal audits: e.g., rotational reviews of all legal documents, policies, and practices (see below)

3. Rotational Legal Audits

Strategic legal planning should include a systematic review and update of all school legal practices and documents. Below is a suggested rotation that can be adjusted to a school’s particular needs and resources, and to changes in the law.

Annually:

- Board and staff orientation & training: e.g., orientation for new members, review of key policies, board and staff procedures, codes of conduct, new laws, pressing legal concerns
- Review annual contract obligations: e.g., contracts due to expire, contracts that automatically renew if not expressly terminated, notification dates, fees and charges to be incurred and avoided, insurance policies, better contracting alternatives
- Update necessary policies per new laws and needs: e.g., new legislative developments or regulations, important court cases, policies to address new or emerging school issues
- Buildings & grounds safety review: e.g., audit list of things to check, warning notices needed, new safety threats, repairs required

The “School Rule” column is designed to offer legal updates and practical legal recommendations. Mr. Hostetler, legal consultant for ACCS, specializes in education law, is founder and director of Lex-is School Law Services (Chapel Hill, NC), and is an associate professor of education law, policy, and ethics at Appalachian State University (Boone, NC). He may be contacted at hos@Lex-is.com or (919) 308-4652. More information is available at www.Lex-is.com.

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5-year Rotational Legal Audits:

- Year 1: All contracts (e.g., staff, insurance, contractors, vendors)
- Year 2: Student safety policies, practices, protocols
- Year 3: Board policy manual
- Year 4: Handbooks and procedures
- Year 5: School mission, strategic plan, charter, by-laws

Note: A prior version of this article appeared in the *Lex-is Law Byte* e-Law newsletter of September 2, 2011.

This column is for information only and not offered as formal legal advice. Readers are urged to consult a school law attorney to address specific legal questions.

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