

Insurance Costs

- A. **The NJSBA believes** that boards of education should be able to avail themselves of insurance coverage at the lowest possible cost and should be able to pursue options in a competitive environment including, but not limited to, joint insurance funds and insurance pools (such as the New Jersey Schools Insurance Group), when selecting health benefits programs and liability insurance coverage. *[Authority: DA 6/79-CR (Insurance); DA 6/83-13; DA 6/86-16; DA 6/93-SR; DA 11/95-CR (Shared Services); DA 5/96-SR]*
- B. **The NJSBA believes** that liability insurance costs to boards of education should be kept at a minimum and that punitive and exemplary damage awards against boards of education should be prohibited in all cases and prohibited against board of education employees except in cases where the award is based upon a finding of actual fraud or malice, willful misconduct or an intentional wrong. *[Authority: DA 11/99-ER(A); BD 1/01]*
- C. **The NJSBA believes** that the New Jersey Tort Claims Act should be expanded to limit damages for pain and suffering recoverable by a plaintiff suing a public entity under the Act and permit a judge to assess the defendant public entity's court costs and attorney's fees against the plaintiff, his/her attorney, or both in the event of a frivolous suit brought under the Act. *[Authority: DA 12/77-7; DA 6/93-SR; DA 5/96-SR]*
- D. **The NJSBA believes** that the award of punitive or exemplary damages against a board of education in any legal action should be prohibited regardless of the applicability of any remedies available in common law or pursuant to statutory law including, but not limited to, any actions under the Law Against Discrimination, N.J.S.A. 10:5-1 et seq., and the Conscientious Employee Protection Act, N.J.S.A. 34:19-1 et seq. *[Authority: DA 11/99-ER(A); BD 1/01]*
- E. **The NJSBA believes** increases in medical care costs must be contained in order to reduce the rate of increase in premiums. *[Authority: DA 5/03-2, DA 11/01-SR, DA 11/06-SR, DA 11/11-SR]*
- F. **The NJSBA believes** that local school districts should not bear the financial burden of the Patient Protection and Affordable Care Act (PPACA) and that boards of education should be given legal authority to mitigate the potential consequences of the PPACA caused by surcharges or any other costs imposed, by shifting to less expensive health benefit plans, which may not be equal to or better than currently offered benefits, passing on the costs of particular health plans to their employees, and other actions necessary to reduce this impact. *[Authority: DA 5/16-5, DA 12/16-SR]*

Insurance Protection

- A. **The NJSBA believes** that boards of education should maintain appropriate insurance coverage for injuries, damages, errors and omissions.
- B. **The NJSBA believes** that insurance coverage should be available to boards of education for injuries, damages, errors and omissions related to the presence of asbestos in school buildings. *[Authority: DA 12/88-A; 5/96-SR]*
- C. **The NJSBA believes** there should be protection from liability to public schools and private non-profit organizations that use community service workers to ease the concerns of some agencies and expand the number of sites available for community service. *[Authority: 11/99-ER(A); BD 1/0 , DA 11/01-SR, DA 11/06-SR, DA 11/11-SR, DA 12/16-SR]*

Indemnification in Civil, Criminal, Quasi-Criminal and Administrative Proceedings

**The NJSBA believes** that board of education members and employees should be indemnified against the costs incurred in defending any action against the board member or employee arising out of or in the course of the duties as a board member or employee, except that:

A. In the case of board members:

1. In criminal or quasi-criminal proceedings, there should be indemnification only when the action results in a final disposition in favor of the board of education member.
2. In civil and administrative proceedings where exemplary or punitive damages are awarded, there should be no indemnification regardless of the final disposition of the matter.
3. Where there is an award of punitive or exemplary damages and when the acts on which the punitive or exemplary damages were based did not constitute actual fraud, actual malice, willful misconduct or an intentional wrong, indemnification should be at the board of education's discretion.

B. For board of education employees:

1. In criminal or quasi-criminal proceedings, there should be indemnification only when the action results in a final disposition in favor of the board of education employee.
2. In civil and administrative proceedings where exemplary or punitive damages are awarded or where the proceeding is a result of action initiated by the board of education either through a complaint filed by or on behalf of the board of education or an appeal of board of education action by the employee, there should be no indemnification regardless of the final disposition of the matter.
3. Where there is an award of punitive or exemplary damages and only when the acts on which the punitive or exemplary damages were based did not constitute actual fraud, actual malice, willful misconduct or an intentional wrong, indemnification should be at the board of education's discretion.
4. Where the proceeding is a result of action initiated by the board of education either through a complaint filed by or on behalf of the board of education or an appeal of board of education action by the employee, there should be no indemnification. *[Authority: DA 5/98-1 and 2, DA 11/01-SR, DA 11/06-SR, DA 11/11-SR, DA 12/16-SR]*

**Cross References:** 3516 Safety  
4144 Insurance/workers' compensation  
4147 Employee safety  
5142 Pupil safety  
9271 Code of ethics

Key Words: insurance, liability, indemnification