

R 1-8-8 Tort Liability

Except as identified below, the Board is not liable for damages in a civil action for injury, death, or loss to persons or property allegedly caused by an act of omission of the Board or an employee of the Board in connection with a governmental or proprietary function.

The Board is liable for injury, death, or loss to persons or property caused by:

- ❖ The negligent operation of any vehicle by its employees when the employees are employed within the scope of their employment and authority;
- ❖ The negligent performance of acts of its employees while acting within the scope of employment;
- ❖ Its negligent failure to keep the public roads, alleys, sidewalks, or school district-owned grounds in repair or free from nuisance; and
- ❖ The negligence of its employees which occurs within or on the grounds of buildings that are used by the school district; and
- ❖ Injury, death, or loss to persons or property when liability is expressly imposed upon it by state law. Liability shall not be construed to exist under another section of law merely because a responsibility is imposed upon the Board or because of a general authorization that the Board of Education may sue and be sued.

The Board of Education is immune from liability if a loss or claim results from:

- ❖ Legislative or quasi-legislative functions;
- ❖ Judicial or quasi-judicial or prosecutorial functions;
- ❖ Adoption or failure to adopt a law, including but not limited to, any statute, resolution, rule, regulation or written policy;
- ❖ Execution or enforcement of the lawful orders of any court;
- ❖ Snow or ice conditions or temporary or natural conditions on any public way or other public place due to weather conditions, unless the condition is affirmatively caused by the negligent act of a political subdivision
- ❖ Natural conditions of unimproved property of the political subdivision;
- ❖ Any claim covered by any worker's compensation law or any employer's liability law; or
- ❖ Misrepresentation, if unintentional.

An employee of the Board of Education is immune from liability unless one of the following applies;

- ❖ His or her acts or omissions were manifestly outside the scope of employment or official responsibilities;
- ❖ His or her acts or omissions were with malicious purpose, in bad faith, or in a wanton or reckless manner; or
- ❖ Liability is expressly imposed upon the employee by a provision of this code.

The immunity conferred upon an employee by the code does not affect or limit any liability of a political subdivision for an act or omission of the employee.
(WVC §29-12A-4 and §29-12a-5)