

**DEFENSE AND INDEMNIFICATION OF PUBLIC EMPLOYEES**

Chapter 277 of the Laws of 1981, effective June 22, 1981, added a new Section 18 to the Public Officers Law. Under that law, a school district is defined as a "public entity".

The Harpursville Central School District shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in a state or federal court, or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or claim arose while the employee was acting within the scope of his public employment or duties; provided further that, in the case of a settlement, the duty to indemnify and save harmless shall be conditioned upon the approval of the amount or settlement by the Board of Education.

Except as otherwise provided by law, the duty to indemnify and save harmless shall be conditioned upon the approval of the amount or settlement by the Board of Education.

Except as otherwise provided by law, the duty to indemnify and save harmless prescribed by this resolution shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.

The Board of Education shall not indemnify or save harmless an employee with respect to punitive or exemplary damages, fines or penalties or money recovered from an employee pursuant to Section 51 of the General Municipal Law.

Upon entry of the final judgment against the employee, or upon the settlement of the claim, the employee shall serve a copy of such judgment or settlement, personally or by certified or registered mail within 30 days from the date of entry or settlement, upon the Superintendent of the Harpursville Central School District; and, if not inconsistent with the provisions of this resolution, such amount of such judgment or settlement shall be paid by the Harpursville Central School District.

The duty to defend or indemnify to save harmless prescribed by this resolution shall be conditioned upon (1) delivery by the employee to the Superintendent of the Harpursville Central School District of a written request to provide for his defense together with the original or copy of any summons, complaint, process, notice, demand or pleading within 10 calendar days after he is served with such document, and (2) the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the Harpursville Central School District based upon the same act or omission and in the prosecution of any appeal.

Upon compliance by the employee with the provision of the last paragraph, the Harpursville Central School District shall provide for the defense of the employee in any civil action or proceeding, state or federal, arising out of any alleged act or omission which occurred or allegedly occurred while the employee was acting within the scope of his public employment or duties. This duty to provide a defense shall not arise where such civil action or proceeding is brought by or at the behest of the Harpursville Central School District employing such employee.

The employee shall be entitled to be represented by private counsel of his choice in any civil action or proceeding whenever the Harpursville Central School District attorney or other counsel designated by the School District determines that a conflict of interest exists, or whenever a court, upon appropriate motion or

otherwise by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by counsel of his choice provided, however, that the Harpursville Central School District attorney or other counsel designated by the School District may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel. Reasonable attorneys' fees and litigation expenses shall be paid by the Harpursville Central School District to such private counsel from time to time during the pendency of the civil action or proceeding with the approval of the Board of Education of the School District.

The Board of Education may, from time to time, purchase insurance from any insurance company created by or under the laws of the State of New York, or authorized by law to transact business in the State of New York, against any liability imposed by the provisions of this resolution, or to act as self-insurer with respect thereto.

For the purposes of this resolution, the term "employee" shall mean any member of the Board of Education, employee, volunteer, as well as a former employee, his estate or judicially appointed personal representative.

The benefits of this resolution shall supplement and be available in addition to defense or indemnification protection conferred by any other enactment.

First reading: March 13, 1995

Second reading and adoption: March 27, 1995

Renumbered 11/25/96