

KENTUCKY ASSOCIATION OF SCHOOL ADMINISTRATORS  
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DOCUMENTATION: WHAT YOUR ATTORNEY WANTS TO SEE  
(OR HOPES NOT TO) WHEN YOU GET SUED

- I. Lawsuits against school employees
  - A. Capacity
    - 1. are you sued in your individual capacity or official capacity?
    - 2. what does this mean legally? practically?
  - B. Claims
    - 1. personal injury claims
      - a. intentional or negligence
    - 2. civil rights claims
  - C. Forum
    - 1. administrative agency
    - 2. state court
    - 3. federal court
  - D. Immunity
    - 1. official immunity (state or federal; absolute or qualified)
    - 2. statutory immunity (good faith reporting; NCLB)
  
- II. When, not if
  - A. What do you do when you receive a summons?
    - 1. the clock is ticking
  - B. Who do you talk to? Who do you not talk to?
    - 1. what to tell superiors, insurance representatives, attorneys, family, co-workers
  - C. Do you have insurance coverage?
    - 1. primary insurance through board of education
    - 2. secondary insurance through membership group
    - 3. secondary insurance through homeowners policy
  
- III. Prevention vs. Preparation
  - A. How well do you know your job responsibilities?
  - B. How familiar are you with board policies? procedures? discipline code?
  - C. How familiar are you with the public school district records retention schedule?
  - D. How good are your habits?
  - E. How good is your memory?
    - 1. no one has a good enough memory to be a successful liar
    - 2. faded ink is better than anyone's memory
  - F. How much sewing do you want to do?
    - 1. think: a stitch in time saves nine

- IV. Privacy? Assume you have none.
  - A. What do other employees have access to?
    - 1. assume everything with their name on it or directly relating to them
  - B. What do parents/students have access to?
    - 1. assume everything with their name on it or directly relating to them
  - C. What does media/public have access to?
    - 1. assume everything
  - D. What can a court order you to produce?
    - 1. assume everything
  
- V. Omission vs. Commission
  - A. Omission
    - 1. missing records
    - 2. deadline missed
    - 3. policy not followed
  - B. Commission
    - 1. falsified records
    - 2. destruction of records
  
- VI. Attorney vs. Magician
  - A. Attorneys
    - 1. you provide the evidence
    - 2. you provide the testimony
    - 3. we provide the best possible defense
  - B. Magician
    - 1. unring the bell
    - 2. put toothpaste back in the tube
  
- VII. Practical advice
  - A. Know your duties and do them
  - B. Develop good habits
  - C. Be prepared
  - D. Document your work
  - E. Be honest (don't sugar coat, don't exaggerate)
  - F. Don't pass the buck (if you delegate, you must follow-up)
  - G. Don't be bullied
  - H. Email: use it wisely or not at all