

2009 NMSBA/Cuddy McCarthy Law Firm School Law Conference Draft Agenda

TIMES

Friday, June 5th

7:30 AM	Registration open until 5:00 PM
7:30 – 8:30 AM	Continental Breakfast
9:00 AM	First General Session
12:00 – 1:30 PM	Lunch
1:30 PM – 5:00 PM	Breakout Sessions

Saturday, June 6th

7:30 AM	Registration open
7:30 – 8:30 AM	Continental Breakfast
8:30 – 9:30 AM	Breakout Sessions
9:45 – 10:45 AM	Breakout Sessions
11:00 AM - 12 Noon	Breakout Sessions

TOPICS

I. General Session Topics

A. General Session I

- (1) Legislative and Judicial Update - Review of legislation considered and/or passed by the 2009 Legislature and of important judicial decisions by State and/or federal courts.
- (2) School District Audits – Review of the requirements for the annual audits of school district finances and the 2009 legislative enactment to add penalties for failure of school districts to submit timely audits (State Auditor will be invited to make the presentation.)

B. General Session II

- (1) Resolving the tension between Boards and Superintendents Resulting from HB 212 - Panel discussion presenting perspectives of boards and superintendents and of the Legislature about the tension created by HB 212 when it removed board authority with regard to employment decisions and reduced boards' budget authority to merely approving budgets submitted by superintendents.

II. Breakout Session Topics

A. Student Discipline Issues in a High-Tech World

This session will examine student discipline issues arising from cell phone use and electronic communications, including text messaging, social networking, cyberbullying, out-of-school conduct, etc. We will also revisit related search and seizure issues including the status of the strip search case currently being considered by the U.S. Supreme Court.

B. Collective Bargaining Issues

This session will examine the roles of the board and administration in collective bargaining, “past practice” issues, grievance procedures for at-will employees and other bargaining issues which have developed recently.

C. The Tort Claims Act and its Protections for School Officials

This session will explain the scope of the protections afforded to school board members and school officials by New Mexico’s Tort Claims Act and the insurance protection which is provided by the New Mexico Public School Insurance Authority.

D. Interacting with Outside Agencies Conducting Investigations

This session will provide guidance as to the obligation of school officials to cooperate with investigations conducted by the police, PED, the Human Rights Division, EEOC, the Office of Civil Rights and CYFD, and the extent and limitation of the obligation of cooperation (including student privacy issues) and how to fulfill those obligations.

E. A Manual for the Capital Side of the Budget

The Public Schools Facilities Authority (PSFA), in cooperation with Cuddy & McCarthy, financial advisors, and others has been developing a comprehensive manual explaining all aspects of funding for school district capital projects. Although still in progress, this session will explain the need for and the concept behind the manual, progress on its preparation, and describe the issues which are addressed, including guidance as to how to successfully conduct school bond and mil levy elections.

F. Civil Rights Law Developments

This session will examine the evolving civil rights issues affecting school boards and administrators, with emphasis on the U. S. Supreme Court’s greatly expanded concept of “retaliation” in the employment context.

G. Title IX and the New Mexico Athletics Equity Act

The passage of the New Mexico Athletics Equity Act by the 2009 Legislature will have a dramatic effect on school district athletic programs and this session will examine the whys and hows of the changes that will have to occur in school district athletic programs.

H. Athletic Codes of Conduct

This session will examine the legal issues presented by athletic codes of conduct, the limits on their permissible scope and how to avoid challenges by adopting legally defensible policies.

I. A Glossary of Employment Rights: “Tenure, “Due Process: “Property Rights”, “At Will”, “Just Cause”, “Adverse employment Action”, “Paid Leave” – What do They Mean?

This session will explain the current status of the tenure rights of school employees, both licensed and unlicensed, the procedural rights which come with tenure and how tenure issues affect employment decisions.

J. Family Issues in the Schools

This session will examine the various “family rights” issues frequently encountered by school officials, including FERPA, the rights of divorced parents, and grandparents, guardianship agreements and limitations on access to children or their records.

K. How to Deal with Employees on Extended Leaves

This session will examine the various situations in which employees may be on extended leave from employment and their rights and school district obligations during and at the end of such leaves. Extended leaves may occur with Workers’ Compensation injuries, under the Family and Medical Leave Act (FMLA) the Uniformed Services Employment and Reemployment Rights (USERRA) and under Board policies (such as medical leave and extended leaves of absence).

L. “Peacemaking” in Indian Student Disciplinary Situations

This session will examine the concept and process of “peacemaking” applied in the disciplining of Indian students in the public schools and how the concept might be extended to the benefit of non-Indian student situations.

M. Education of Undocumented Students and Bilingual Education

This session will examine the current state of the law with regard to school district obligations to educate undocumented immigrant students and to provide education services in the language of “English-language learner” (ELL) students.

N. Religion in the Schools

This session will provide an overview of the law regarding religion in the schools, including prayer in the schools, at board meetings and at athletic events, posting of the Ten Commandments or other religious material, student religious groups, etc.

O. Hazing and Bullying Policies

This session examines the obligation of school districts to protect the safety of students, describes the policies that boards need to have in place to prohibit hazing and bullying (including cyberbullying) administrators should enforce the policies.

P. Special Education – Independent Evaluations, Demands for Private Placement

This presentation will examine current special education issues and how school officials can meet their obligations under IDEA. Why parents demand evaluations or services of their own selection.

Q. Real Estate Issues for School Officials

School districts are among the largest owners of real estate in New Mexico and board members and school administrators need to be aware of and protect their real estate holdings. This session will discuss the need for accurate inventory and legal description of the district's land, title insurance, real estate purchases and sales, zoning easements, water rights and land development issues.

R. Open Meetings Act and the Inspection of Public Records Act

These two statutes are frequently used by school district critics to challenge school board actions or to embarrass school officials. A clear understanding of the requirements of each law is required of boards and their staffs. This session is particularly directed at the school board secretaries, executive assistants and records custodians who have the primary responsibility for seeing that obligations imposed by the statutes are met.

S. Stump the Lawyer

Attend our annual "Stump the Lawyer" session and obtain answers to the legal questions you've been dying to ask. Any question is "fair game" and really good questions are rewarded with prizes.