



Book	BYLAWS AND POLICIES
Section	8000 OPERATIONS
Title	INDEMNIFICATION
Code	8750
Status	Active
Legal	I.C. 20-25-4-11, 34-4-16.7-1, 34-13-2-1, 34-13-3-5, 34-13-3-20, 34-13-4-1
Adopted	September 15, 2020

The board and Edison School of the Arts staff may from time to time be exposed to criminal prosecution or civil actions because of acts done by them in good faith as members or employees of the Board.

To the end that competent persons may continue to seek Board membership and employment by Edison School of the Arts, the Board should, in the opinion of its members, formally adopt a policy providing for the Board's providing defense and indemnity to any Board member or Edison School of the Arts employee who shall be subjected to criminal prosecution or a civil action because of an act done by him/her in good faith as a board member or employee of Edison School of the Arts.

State law defines the power of an Indiana public school corporation to defend and indemnify its members and employees in circumstances like those that are referred to in the two (2) preceding preambulatory paragraphs:

The Board hereby adopts the policy respecting defense and indemnification of the board members and Edison School of the Arts employees that is set out below:

A. Definitions. When used in this resolution, the terms set out in the following part of this paragraph shall have the meanings assigned to them in this paragraph.

1. The term "Legal Action" shall include every claim, action, suit, or proceeding (and every appeal thereof), whether civil, criminal, administrative, or investigative in nature, or threat thereof, in which board member or employee of Edison School of the Arts (or his/her heirs and personal representatives) may become involved or may be involved on the date on which this resolution is adopted, as a party or otherwise, by reason of any act or acts done or omitted by such member or employee in the performance of his/her duties as a board member or employee of Edison School of the Arts.
2. The terms "expense" and "liability" shall include, but shall not be limited to, respectively, (1) reasonable counsel fees and disbursements and (2) amounts of judgements, fines, or penalties against, and amounts paid in settlements by or on behalf of, a board member or employee of Edison School of the Arts.
3. The term "wholly successful" (which is used hereinafter to describe, from the point of view of the affected board member or employee of Edison School of the Arts, a possible outcome of a Legal Action) shall mean (1) termination of any Legal Action against the particular Board member or Edison School of the Arts employee without any finding of liability or guilt against him/her, (2) approval by a court, with knowledge of the indemnity provided by this Resolution, of a settlement of any Legal Action, or (3) the expiration of a reasonable period of time after a claim or threat of Legal Action against a member or employee of the Board shall have been made, if, during such period, no Legal Action shall have been instituted and no payment or promise shall have been made to induce the maker of the claim or threat to forbear institution of a Legal Action.

B. General Declaration of Policy of Defense and Indemnity. Subject to the provisions of this paragraph, and the other paragraphs, of this Resolution, the Board shall defend every member of the Board and every employee of Edison School of the Arts (and the heirs and legal representatives of every such person) in and in respect of every Legal Action, if the act or acts giving rise to the Legal Action shall have been done by the board member or Edison School of the Arts employee in good faith and shall not constitute (on the part of the board member or employee of Edison School of the Arts who shall be involved in the Legal Action) malfeasance in office or employment. Further, the Board shall indemnify and save harmless every member of the Board and every employee of Edison School of the Arts (and the heirs and personal representatives of every such person) who shall be involved in a Legal Action (if the act or acts giving rise

to the Legal Action shall have been done by the member or employee in good faith and shall not constitute malfeasance in office or employment) from any and all liability, damage, loss, cost, or expense in connection with the particular Legal Action.

C. Standards for Determination of "Good Faith" etc. Subject to the provisions of paragraph D of this Resolution, below, a board member or employee of Edison School of the Arts shall be deemed to have "acted in good faith" and not to have been guilty of any "malfeasance in his/her office or employment" in doing the act or acts that shall have given, or shall give, rise to the Legal Action if, in doing such act or acts, the member or employee whose act is or whose acts are in question shall have acted

(a), if the Legal Action shall be a civil proceeding, in the reasonable belief that his/her act, was, or his/her acts whereof in the best interests of the Board, or (b), if the Legal Action shall be a criminal proceeding, without any reasonable cause to believe that his/her conduct was unlawful.

D. Methods for Determination of "Good Faith", etc.

1. If the board member or employee of Edison School of the Arts who shall be involved in a particular Legal Action shall be wholly successful therein, it shall be conclusively presumed that the act or acts giving rise to his/her involvement in the Legal Action was or were done in good faith and did not constitute malfeasance in office or employment. With reasonable promptness after the occurrence of the event that shall establish that a Board member or employee of Edison School of the Arts has been wholly successful in respect of the particular Legal Action, the Board shall adopt a resolution declaring that the board member or employee of Edison School of the Arts has been wholly successful in, and is therefore entitled to all of the benefits provided for by this Resolution in respect of, the particular Legal Action.
2. If the board member or the employee of Edison School of the Arts who shall be involved in a particular Legal Action shall not be wholly successful therein, then the question whether or not the act or acts giving rise to his/her involvement in the Legal Action was or were done in good faith and did not constitute malfeasance in office or employment shall be determined in accordance with the provisions of the paragraph below.

(b) Every board member or employee of Edison School of the Arts who shall claim the benefits of defense and indemnification provided for by this Resolution (other than one who has been wholly successful with respect to a particular Legal Action) shall be entitled to those benefits (a) if special independent legal counsel, who shall be the regular counsel of the Board or some other disinterested attorney at law admitted to practice in the State of Indiana (such counsel or other attorney at law being hereinafter called "the referee") and shall be selected by a majority of the then members of the Board (which majority may include the Board member who shall be seeking the benefits of defense and indemnity provided for by this Resolution), shall deliver to the Board a written finding that such member or employee has, in respect of the particular Legal Action, met the standards of conduct set forth in C of this Resolution, above, and 2 (a) if a majority of the then members of the Board (which majority may include the Board member who shall be seeking the benefits of defense and indemnity provided for by this Resolution), acting upon such written finding, shall so determine and shall incorporate that determination in a resolution. The board member or employee of Edison School of the Arts claiming such benefits shall, if requested to do so, appear before the referee and answer questions that the referee deems relevant, and s/he shall be given ample opportunity to present to the referee evidence upon which s/he bases his/her claim for the benefits provided for by this Resolution.

The Board shall, at the request of the referee, make available such facts, opinions, or other evidence as are within the possession or control of the Board and are in any way relevant to the referee's finding.

E. Benefits Provided for Hereby are Cumulative. The rights of defense and indemnification provided for by this Resolution are intended to be, and are, in addition to any rights to which any such board member or employee of Edison School of the Arts may otherwise be entitled. Irrespective of the provisions of this Resolution, the Board may, at any time and from time to time, approve indemnification of board members or employees of Edison School of the Arts or other persons to the full extent permitted by the provisions of Indiana law at the time in effect, whether on account of past or on account of future transactions

- F. Extent of the Power Hereby Exercised by the Board. The provisions of this Resolution are intended to constitute an exercise by the Board, to the fullest extent possible, of the powers defined in Section 202 (16) of the Indiana General School Powers Act and of any similar powers that are now, or may hereafter be, given to the Board by any provision of any other statute, or by the common law, of the State of Indiana.
- G. Effect of Subsequent Amendment, Modification, or Rescission of this Resolution. The provisions of this Resolution for the benefit of the board members and employees of Edison School of the Arts is intended to be, and are, contractual in nature. In respect of any act or acts, whether of commission or omission, that shall have been done by any board member and employee of Edison School of the Arts shall give rise to such member's or such employee's being subsequently involved in a Legal Action and shall have occurred prior to any particular amendment, modification, or rescission of this Resolution, such board member or employee of Edison School of the Arts shall be entitled to all of the benefits of defense and indemnity provided for by this Resolution, notwithstanding such subsequent amendment, modification, or rescission of this Resolution.
- H. Board May Affect Insurance in Respect of the Defense and Indemnity Provided for by this Resolution.
1. The Board shall have the power to expend public funds to insure its liability to board members and employees of Edison School of the Arts under the provisions of this Resolution.
  2. Whenever the Board shall have effected such a contract of insurance as is described in paragraph H (1) of this Resolution, above, any liability of the Board under the provisions of this Resolution to any of its board members and employees of Edison School of the Arts in respect of a particular Legal Action shall be deemed to be discharged to the extent to which the insurer shall provide the defense and indemnification from expense and liability that would otherwise be provided by the Board under the provisions of this Resolution.
  3. In every such contract of insurance as is described in paragraph H (1) of this Resolution, above, the Board shall, by causing itself to be named as an insured party in the contract or by obtaining the insurer's express waiver of every right of subrogation against the Board or by any other effective means, provide against the insurer's having any right ever against the Board by reason of (1) the Board's adoption of this or any similar resolution and (2) the insurer's defending or indemnifying any Board member or employee against liability or expense in any particular Legal Action.

