

LEGAL MAILBAG – DECEMBER 19, 2024



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The “Legal Mailbag Question of the Week” is a regular feature of the CAS Weekly NewsBlast. We invite readers to submit short, law-related questions of practical concern to school administrators. Each week, we will select a question and publish an answer. While these answers cannot be considered formal legal advice, they may be of help to you and your colleagues. We may edit your questions, and we will not identify the authors. Please submit your questions to: legalmailbag@casciac.org.

Dear Legal Mailbag,

I am a superintendent of a PreK-12 public school district here in Connecticut, and I think I have budgetary PTSD. The problem started when our operating budget took a major hit due to unanticipated outplacements for new students and a decrease in excess cost grant payments from the State of Connecticut. We understood our responsibilities under special education law, and we accepted the tuition and transportation costs that came along with those outplacements.

To keep the ship afloat, we froze the budget and took immediate steps to soften the blow. My Board of Education and I, however, decided against drastic measures—no mid-year layoffs, no cancelled spring sports, no axed extracurriculars. After all, we didn’t want to be responsible for a full-scale student and community revolt. Instead, we followed the statutory procedure for requesting a supplemental appropriation.

So far, so good. However, our Town charter requires a town meeting vote to authorize a supplemental appropriation. I admit to being a little nervous about the vote, but thankfully the good citizens of my town stepped up and approved the supplemental appropriation.

My relief was short-lived. A local grouch promptly sent me a letter to say that I might be personally liable the next time. She included copies of Connecticut General Statutes, Sections 7-348 and 7-349, with the following excerpts circled in crayon:

Section 7-348: “No officer of such town shall expend or enter into any contract by which the town shall become liable for any sum which, with any contract then in force, shall exceed

the appropriation for the department, except in cases of necessity connected with the repair of highways, bridges, sidewalks and water and sewer systems and the care of the town poor, and then not more than one thousand dollars.”

Section 7-349: “Any officer who, in violation of any provision of this chapter, expends or causes to be expended any money of such town, except for the purpose of paying judgments rendered against such town, shall be liable in a civil action in the name of such town, and the amount so drawn from the treasury of such town shall be liquidated damages in such action against any such officer.”

Hold on! Could this grouch be correct? Could I be **personally liable** if the Town had voted against the supplemental appropriation and we overspent our budget? Nobody warned me about that risk in my education law class back in graduate school.

Legal Mailbag, please tell me—just how worried should I be?

Signed,
Sleepless Superintendent

Dear Sleepless:

As a threshold matter, it is not clear that the statutes the grouch sent you even apply to your situation. Those statutes are in Title 7, which contains the statutes that apply to municipal officials, and there is a separate but different statute in Title 10 that applies to school officials. But the grouch has a point -- public officials should not spend money that is not authorized, and there is risk in doing so. However, Legal Mailbag thinks that you should relax for the following reasons.

First, you and your board of education acted responsibly in dealing with the unanticipated expenses, which were unavoidable. You followed the procedure set forth in Conn. Gen. Stat. § 10-222, which provides:

If any occasion arises whereby additional funds are needed by such board, the chairman of such board shall notify the board of finance, board of selectmen or appropriating authority, as the case may be, and shall submit a request for additional funds in the same manner as is provided for departments, boards or agencies of the municipality and no additional funds shall be expended unless such supplemental appropriation shall be granted and no supplemental expenditures shall be made in excess of those granted through the appropriating authority.

As you read, this statute similarly admonishes school officials against spending funds without authorization, but it does not include the scary part about personal liability.

Even if Section 7-349 applies here, however, Legal Mailbag notes an odd twist as we read separate statutes together. Let’s posit that the town meeting voted against the supplemental appropriation, and let’s further assume that despite your best efforts at that point, it was not possible to avoid ending the year in the red. The local grouch could then possibly bring a claim against you (and the

board members) under Section 7-349 and claim that you all should be personally liable for the over-expenditure.

Should you ever be sued for actions you take in the scope of your employment, you will certainly invoke the protections of Conn. Gen. Stat. § 10-235, the indemnity statute. That statute provides that board of education members, board employees and (in some circumstances) even volunteers are indemnified and held harmless against personal liability for actions they take in the scope of their responsibilities, and that protection includes the related legal fees. Thus, if the vote had gone the wrong way and this grouch had brought a claim against you under Section 7-349, you would have been held harmless by virtue of Section 10-235.

Finally, before you get carried away, this protection has its limits. The indemnity statute applies to actions taken that are “not wanton, reckless or malicious.” If a board of education or superintendent confronted a budget deficit and took a “who cares” attitude in overspending (rather than taking mitigating measures such as you describe), such actions could be found to be reckless and, as such, outside the protections of Section 10-235. However, public officials take their responsibilities seriously, and Legal Mailbag has never encountered a cavalier attitude about a looming deficit. You and others who act in good faith should be fully protected.

Best wishes to you and to all for a restful holiday season!