
Closing the Communications Gap, Part I

Why School Boards Won't Tell You the Reasons for Employee Discipline or Dismissal

Boards of education are sometimes asked by news reporters or other citizens to explain the reasons when they fire an administrator, teacher or other employee. Some school boards, in fact, are publicly criticized when they refuse to divulge such reasons or do not speak out in defense of a dismissal.

The Illinois Association of School Boards believes such criticism is almost always unwarranted and unfair. The public needs to know that a school board must treat information regarding an employee dismissal as completely confidential.

The fact is, a public right to know rarely if ever attaches to an employee dismissal, especially when the employer is a public body. Even in those rare situations involving criminal misconduct, responsibility for publicly releasing information about formal charges would rest, not with the public employer, but with law enforcement officials.

Under any circumstances imaginable, it would be improper for the members of a school board to comment publicly regarding an employee dismissal for at least three reasons:

- 1) Barring some heinous misconduct on the part of the employee, no employer should wish to make future employment any more difficult than necessary.
- 2) Releasing stigmatizing information on an employee, even in the form of accusations or opinions, will increase the level of hostility and make an amicable settlement of an employment dispute impossible. The cost of going to court is many times greater than the cost of an out-of-court settlement and is not a prudent use of dollars that should be spent on educating children.
- 3) Public employees have constitutionally protected interests in personal reputation, integrity and the right to future employment opportunities. A public body that divulges stigmatizing information in dismissing an employee jeopardizes the constitutional rights of that employee and creates an intricate and costly web of procedural due process requirements. Even where stigmatizing information is believed to be true, efforts to prove it in court carry enormous financial risks.

These are among the reasons that Illinois law specifically exempts the discussion of employee performance or conduct from open meetings requirements and shields personnel records from public scrutiny.

The Illinois Association of School Boards recognizes the public's right to know as an essential element of self-government and urges boards of education to operate as openly as possible. At the same time, however, IASB recognizes that the public's right to know is not without limit and must be weighed against such factors as individual rights of privacy and the need to protect the citizenry from unnecessary financial liability.

Costly litigation, regardless of whether it results in financial judgments against the public body, creates tax burdens that must be weighed against the public's desire to know the reasons for a public employee's dismissal.

Attorneys advise school boards not to disclose information regarding the dismissal of any employee. Following such legal advice is a wise course, especially when public pressure tempts members of the public body to speak out and let taxpayers finance the huge court costs, legal fees and damage settlements that are sure to follow.

Taxpayers and the news media alike should congratulate any school board for following its attorney's advice when such advice reduces the school district's exposure to litigation and possible liability for damages.

The Illinois Association of School Boards recommends careful consideration of these legal issues before asking members of a board of education to divulge reasons for an employee dismissal.

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