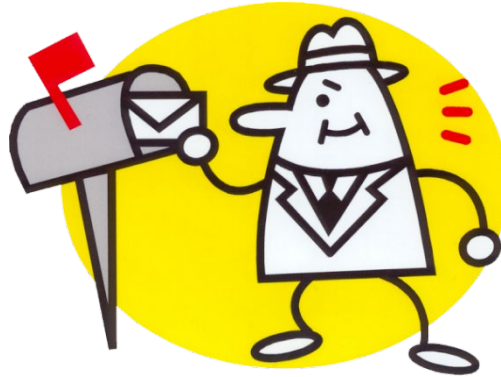


# LEGAL MAILBAG – OCTOBER 10, 2024



By Attorney Thomas B. Mooney, Neag School of Education, University of Connecticut

*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](mailto:legalmailbag@casciac.org).*

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Dear Legal Mailbag,

As the principal of an elementary school, I usually get along great with my Superintendent. But last week was a different story.

The problem started when a third grade student snuck away at recess undetected. The teacher first noticed that the student was missing when she brought the students back from recess. As you might imagine, she called the office in a panic, and several of us went out looking for the youngster. Happily, we found the student playing on the swings in a nearby playground.

I called the parent, of course, and then the Superintendent, and I told both about the incident. At the Superintendent’s request, I wrote an incident report. That is where the trouble started.

I had had concerns about this student, and in my report, I reminded the Superintendent of our prior discussions about this student. I described in the report how this student had a history, and that I had therefore requested that an extra paraeducator be assigned to my school because I was concerned that this student would elope unless we had an extra pair of eyes on her. When the Superintendent denied my request for budgetary reasons, I warned her that we were taking a chance, and I ended my report with a polite “I told you so” to make sure that no one would blame me for this unfortunate incident. But now the Superintendent is mad at me. The parent is threatening to sue the district for negligence, and the Superintendent thinks that my report will be a problem if she does.

Signed,  
*It’s Not My Fault*

Dear Fault:

Legal Mailbag is as defensive as the next person and understands your desire to defend yourself in your report. Doing so, however, was a mistake.

Your job was to write a report, not to revisit the past. By doing so, you did invite a claim that the district was negligent here. A claim of negligence can be made successfully if a parent (or other claimant) can show the following:

- School officials had a duty of care.
- School officials breached that duty by acting unreasonably.
- That unreasonable action caused an injury.
- That injury was foreseeable.

What is or is not unreasonable action can be debated. However, by memorializing the prior conversation to protect your reputation, you invited the parent (and a lawyer she might hire) to claim that the district acted unreasonably in not assigning an additional paraeducator to your school as you had requested.

When writing an incident report, you should stick to the facts as you know them. You should not speculate about the situation, and you should not editorialize. Even people directly involved in a situation do not have all the facts, and you should only report what you know. Leave the judgments to others.

Even the words you choose can cause problems. When writing novels, authors love adjectives and adverbs to add color. But adjectives and adverbs perforce leave matters to the imagination. People can argue over the meaning of terms like “forceful” or “quickly,” and it is typically best simply to state what happened in plain terms.

That all said, it is essential to be accurate in describing events in an incident report. Fortunately, you found the student safe. It is therefore unlikely that the mother will carry through on her threat, and if she did, the damages would be minimal. But this experience may serve as a lesson to you and others who have to write incident reports -- keep it simple.