

Attorneys at Law

John G. Moyer, Jr.

John E. Howland

Jerry L. Zimmerman

Frederick J. Hegenbart

Eric P. Nelson

Karen L. Long

John E. Priddy

Bryan K. Drummond

Kent "Bo" Rainey

Eric D. Wade

Matthew P. Cyran

Jerry A. Richardson

Cheryl A. Dixon

Adam S. Breipohl

Haley A. Drusen

M. Scott Major

C.H. Rosenstein

(1893-1990)

Henry L. Fist

(1893-1976)

David L. Fist

(1931-2008)

School Safety Clearinghouse Available for Districts to Assist in the Prevention, Mitigation, and Response to Emergency Situations

by Cheryl A. Dixon

A new federal school safety clearinghouse was announced on February 10, 2020, that provides school safety resources for K-12 education stakeholders and is now available at <https://www.schoolsafety.gov>. The U.S. Department of Homeland Security (DHS), U.S. Department of Education (ED), U.S. Department of Justice (DOJ), and the U.S. Department of Health and Human Services (HHS) created SchoolSafety.gov to share recommendations to assist in keeping school communities safe. SchoolSafety.gov is intended to be a source of information, guidance, best practices, and tools intended to improve safety in K-12 schools and aims to help school districts prevent, protect, mitigate, respond to,

and recover from emergency situations.

The clearinghouse was developed in response to a recommendation from the Federal Commission on School Safety, which was formed in the wake of the shooting at Marjory Stoneman Douglas High School in Parkland, Florida on February 14, 2018. The new website has resources organized into three categories: Prevent; Protect and Mitigate; and Respond and Recover. Topics addressed in the Prevention category include mental health; school climate; bullying and cyberbullying; and threat assessment and reporting. Under Protect and Mitigate, the website provides information for school security

In this issue:

1

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2

Friendly Lawsuit? Prior Year Fiscal Limitations and Teacher Underpayment

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by Haley A. Drusen

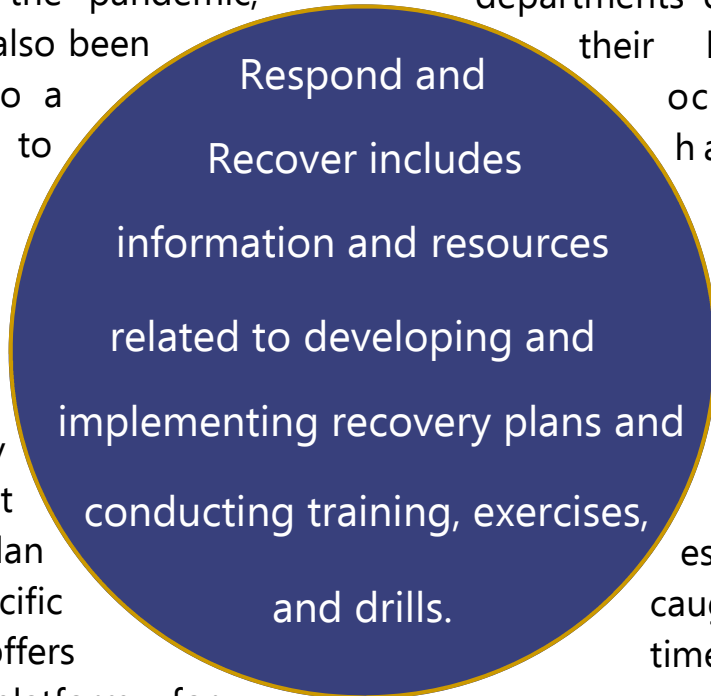
personnel, emergency planning, and physical security. Respond and Recover includes information and resources related to developing and implementing recovery plans and conducting training, exercises, and drills. Each of the three topic areas includes guidance, resources, and recommended best practices from both the federal government as well as other organizations. Since the pandemic, the clearinghouse has also been updated with a link to a page devoted solely to coronavirus and school safety.

SchoolSafety.gov also offers an interactive online school safety assessment that generates an action plan based upon the specific answers input. It also offers a "private, secure platform for school communities to share safety and security plans" that will allow school safety officials to "access plans and other resources developed by schools, which you can apply to your own planning process." The safety of school district students, staff and patrons is an important issue.

If you have any questions or need any assistance in this area, please contact your district's attorney.

One of the most important departments for any business is the accounting department. It is where payables get paid, payroll gets run, and all of the numbers are kept in order. Though these departments do their best to keep their businesses in line, occasionally errors happen. While miscalculations and accounting errors are hard to completely avoid, in typical businesses those small errors can be reconciled, especially if they are caught before too much time has elapsed.

However, as school districts and technology centers are bound by certain limitations on spending for prior fiscal years, correcting even relatively minor errors can require a legal process. When a district or technology center owes money to an individual or entity from a prior fiscal year, the situation will typically require a lawsuit to resolve. If both the district and the person owed money agree as to the amount that is owed, these lawsuits are generally referred to as "friendly lawsuits."



Friendly lawsuits are common when a district erroneously underpays an employee by miscalculating an experience step or failing to pay a required stipend. With most employees receiving their payments via direct deposit, oftentimes employees do not realize that they have been underpaid until well into the next fiscal year or beyond.

Importantly, a friendly lawsuit solves a key issue for prior year fiscal payments. Generally, school districts and technology centers *cannot* use their general fund money to pay for obligations from a prior fiscal year. In other words, money from the 2020-21 school year cannot be used to pay an underpayment from the 2017-2018 school year. While there is a limited exception for permitting certain payments for obligations of the immediately prior fiscal year shortly after a new fiscal year has begun¹, typically a judgment will have to be obtained to pay underpayments from prior years.

When a judgment is obtained, payment on the judgment will be made out of the school district's or technology center's sinking fund. Typically, this involves a statutory process that levies and pays the judgment over three years.

Ordinarily school districts may choose, at their sole discretion, to pay the judgment in a lump sum from the sinking fund if there is an excess amount in the sinking fund sufficient to cover the judgment amount after all other obligations from the sinking fund have been taken into account.

However, it is important to note that not all underpayments may result in a friendly suit. Oklahoma's statute of limitations for contracts may bar or limit some claims. Additionally, in contracts for goods or services, the school district may have arguments that the underpayment was due to the party not meeting their obligations.

Of course, the best practice for the District is to avoid underpayments entirely. Districts and technology centers should ensure that each employee is placed on the appropriate payroll step level commiserate with his or her education and experience and should encourage employees to make sure that they are being paid on the correct level. If an internal review or employee complaint leads the district to discover an underpayment from a prior fiscal year, the

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district should contact their legal counsel to determine whether a friendly suit would be appropriate.

If you have questions about teacher underpayment, RFR is here to help. Your RFR attorney can guide you through the friendly suit process.

¹If a claim from the prior fiscal year is submitted to a district by September 30th, the district may pay that claim out of the unencumbered balance from the prior fiscal year. 62 O.S. § 310.4. As applied, this would mean that if an invoice was submitted to the district (1) for a service performed in the 2019-2020 fiscal year and (2) that invoice was submitted by September 30, 2020, then the district could pay that invoice out of the balance of the 2019-2020 fund.

Tulsa Office:
525 S. Main, Suite 700
Tulsa, Oklahoma 74103
Phone: 918.585.9211
Fax: 918.583.5617
Toll Free: 800.767.5291



Oklahoma City Office:
3030 NW Expressway
Suite 200
Oklahoma City, OK 73112
Phone: 405.521.0202

ROSENSTEIN FIST & RINGOLD
ATTORNEYS & COUNSELORS AT LAW

Chalkboard is a Rosenstien, Fist & Ringold publication that addresses current education law issues. *Chalkboard* is published monthly through the school year and is sent without charge to all education clients of Rosenstien, Fist & Ringold and all other persons who are interested in education law issues. We invite you to share *Chalkboard* with your friends and colleagues. We think you will find *Chalkboard* to be informative and helpful with the difficult task of operating our educational institutions.

Chalkboard is designed to provide current and accurate information regarding current education law issues. *Chalkboard* is not intended to provide legal or other professional advice to its readers. If legal advice or assistance is required, the services of a competent attorney familiar with education law issues should be sought.

We welcome your comments, criticisms and suggestions. Correspondence should be directed to: Rosenstien, Fist & Ringold, 525 South Main, Seventh Floor, Tulsa, Oklahoma 74103-4508, or call (918) 585-9211 or 1-800-767-5291. Our FAX number is (918) 583-5617. Help us make *Chalkboard* an asset to you.

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