

III - A.2(a)
+ (b)

Recommended indemnification language, to be included in the Board's by-laws or adopted as a formal policy statement:

[NOTE: These provisions are based upon ORC Section 340.11, "Indemnification against liability for board members and employees."]

1. In the event that insurance procured by the Board, insuring Board members or employees of the Board against liability arising from the performance of their official duties, is unavailable, or the amounts the Board has procured (or is able to procure), is insufficient to cover the amount of any claim, and to the extent that the Board member or employee is not otherwise immune from liability pursuant to Ohio Revised Code 340.03(D), the Board shall indemnify a current or former Board member or employee (hereinafter "Board Representative"):
 - a. Against judgments, decrees, and amounts paid in settlement (if approved by attorneys for the Board), in connection with any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, to which the Board representative is or was a party, for any action or inaction in the Board representative's capacity as a Board member or employee or at the request of the Board, whether or not the action or inaction is expressly authorized by the Ohio Revised Code, if the Board representative acted in good faith and in a manner reasonably believed to be in or not opposed to the best interest of the Board and only if such action or failure to act did not constitute willful misconduct, fraud, or gross negligence, and with respect to any criminal action or proceeding, had no reason to believe the conduct was unlawful; and
 - b. Against any expenses, including attorneys' fees, the Board representative actually and reasonably incurred as a result of a suit or other proceeding involving the defense of any action or inaction in the Board representative's capacity as the Board member or employee or at the request of the Board, or in defense of any claim, issue, or matter raised in connection with the defense of such action or inaction, to the extent that the Board member or employee is successful on the merits or otherwise.
2. The termination of any action, suit, or proceeding by judgment, order, or settlement, shall not, in itself, create any presumption that the Board representative did not act in good faith and in a manner that the Board representative reasonably believed to be in or not opposed to the best interest of the Board.
3. The termination of any action, suit, or proceeding by judgment, order, or settlement, shall not, in itself, create any presumption that the Board representative was not successful on the merits or otherwise.
4. The fact that a Board representative is sued in a personal capacity shall not, in itself, create any presumption that the Board representative was acting outside the performance of his or her official duties.