

Deborah Lehman v. Fox C-6 School District

April 27, 2018



In a recent Cole County case, *Deborah Lehman v. Fox C-6 School District*, the Plaintiff challenged her termination by arguing that the school district's board policies were void. Specifically, Plaintiff argued that Board Policies IGBA and GBCB—the two policies for which she was charged with violating—were not properly promulgated, adopted, and published in accordance with Missouri law. The court agreed that there were flaws in the policy process used by the District which resulted in an unfavorable outcome for the District in that case. In light of this judgment, we encourage school districts to review their process for adopting Board Policies and determine whether any policies would be deemed not properly promulgated.

The court relied on section 171.011 RSMo., which sets forth the process by which a school board may establish its Board Policies. Section 171.011, RSMo., provides:

The school board of each school district in the state may make all needful rules and regulations for the organization, grading and government in the school district. **The rules shall take effect when a copy of the rules, duly signed by order of the board, is deposited with the district clerk.** The district clerk shall transmit forthwith a copy of the rules to the teachers employed in the schools. The rules may be amended or repealed in a like manner. (Emphasis added).



According to the court, “the plain language of the statute requires that the rule itself be signed,” and the school district “must comply with the relatively simple requirements of § 171.011, RSMo., in promulgating its regulations or its regulations are voided.” Because neither Board Policy IGBA nor Board Policy GBCB was signed by the Board, the court found that both policies “were not properly promulgated by the Fox C-6 Board of Education and are therefore void.”

We recommend District's review all Board Polices to ensure they contain the necessary signatures of both the Board President and Board Secretary. If they do not, the Board of Education should adopt and sign a resolution that will accompany each policy currently in place. The following language for the resolution is recommended:

The Board acknowledges a review of all Board Policies currently in effect, as previously adopted by the Board. In light of the January 11, 2018 decision in *Lehman v. Fox C-6 School District*, Case No. 17AC-CC00589, which interprets Section 171.011 RSMo to require each policy of the Board of Education to be “duly signed by order of the Board” in order to be effective, this Board now adopts this resolution, which is signed by the Board president and attested by the Board secretary, upon authorization of the Board as a whole. This signed resolution shall accompany each policy currently in place, and shall function as signature by order of the Board for said policies. Policies that are amended or adopted after the date of this resolution shall be individually signed by the Board president and Board secretary by order of the Board.

This resolution will serve to cover all policies that are currently adopted by the District. For Policies adopted after the passage of this resolution, be sure that each policy is signed by the sitting Board President and Board Secretary.

As always, should any questions arise from the District regarding Board Policies or any other legal issues, please contact any one of our offices for specific legal guidance.

Emily Wopata