



RICHARD P. IEYOUB
ATTORNEY GENERAL

State of Louisiana

DEPARTMENT OF JUSTICE
CIVIL DIVISION
BATON ROUGE
70804-9005

One American Place
301 Main Street, Suite 600
P.O. Box 94005
TEL.: (225) 342-7013
FAX: (225) 342-2090

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OPINION NUMBER 03-0338

107-A	SPECIAL DISTRICTS
84	PARISHES
90-A	POLITICAL SUBDIVISIONS - OFFICERS, AGENTS, EMPLOYEES

Honorable John T. "Tom" Schedler
P. O. Box 1656
Slidell, LA 70459

Any person who is serving as a member of any board, commission, or authority of a political subdivision must be absolved of any personal liability while acting in the course and scope of his/her duties provided he/she is in good faith and absent any intentional misconduct on his/her part.

Dear Senator Schedler:

This office is in receipt of your recent opinion request in which you present an inquiry with respect to the personal liability of members of a permanent nominating committee within St. Tammany Parish Hospital Service District No. 2. Particularly, your question arises from concerns that members of said nominating committee have relative to whether any personal liability may arise in the course of carrying out their duties (i.e., interviewing potential nominees and/or forwarding the names of nominees to the appointing authority).

La.R.S. 9:2792.4 discusses the limitations of liability of members of boards, commissions, or authorities of political subdivisions. La.R.S. 9:2792.4(B) states, in relevant part:

"A person who serves as a member of a board, commission, or authority of a political subdivision as defined in Subsection A, shall not be individually liable for any act or omission resulting in damage or injury, arising out of the exercise of his judgment in the formation and implementation of policy while acting as a member of a board, commission, or authority of that political subdivision, provided he was acting in good faith and within the scope of his official functions and duties, unless the damage or injury was caused by his willful or wanton misconduct."

For the purposes of statutory construction, the word "shall" is mandatory and the word "may" is permissive. La.R.S. 9:2792.4(B) uses the word "shall" in its language, which establishes that the provisions contained therein are to be regarded as a mandate from the legislature. It is clear on the face of the statute that any person who is serving as a member of any board, commission, or authority of a political subdivision must be absolved of any individual liability while acting in the course and scope of his/her duties provided he/she is in good faith and absent any intentional misconduct on his/her part.

OPINION NO. 03-0338

Thomas L. Tyler,

Deputy Chief of Staff

Requesting on behalf of Sen. John Schedler

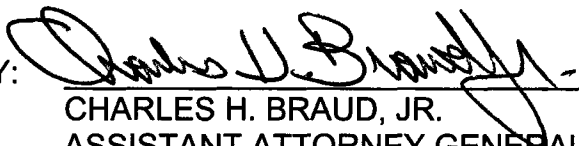
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Therefore, where persons may have been damaged or injured as a result of acts or omissions to act by employees or officers of a board, commission or other entity, individual members are not liable (unless caused by the individual's willful or wanton misconduct), but this limitation of liability does not relieve the board or commission, itself, from potential liability.

I trust that this adequately responds to your inquiry. Should you have any further questions, please contact this office.

Very truly yours,

RICHARD P. IEYOUB
ATTORNEY GENERAL

BY: 
CHARLES H. BRAUD, JR.
ASSISTANT ATTORNEY GENERAL