

<b>POLICY</b>	<b>BOARD OF EDUCATION OF FREDERICK COUNTY, MARYLAND</b>
<b>GENERAL POWERS AND DUTIES</b>	<b>POLICY 106</b>
<b>106.1 Body Politic</b> <b>106.2 Succession</b> <b>106.3 General Powers</b> <b>106.4 Maintenance of School System</b> <b>106.5 Legal Counsel</b>	

Purpose: To provide information as it relates to the Board's legal status, statutory responsibility relating to the appropriate staffing, operation of the school system, and securing legal counsel when warranted.

**106.1 Body Politic**

The Board of Education (Board) is hereby declared to be a body politic and corporate.

**106.2 Succession**

The Board has perpetual succession.

**106.3 General Powers**

The Board may sue and be sued and have a common seal and exercise all the powers and privileges granted to or vested in them by law.

**106.4 Maintenance of School System**

A. The Board is authorized and required to maintain a reasonably uniform system of public schools designed to provide quality education and equal educational opportunity for all youth.

B. Administrative and Supervisory Central Office Personnel

The Board is dedicated to providing adequate central office support to the school system. It expects the Superintendent to supply each year during the budget hearings, organizational plans to keep the central staff sufficient to provide the assistance that the schools need. The Board recognizes its responsibility in this area and will exercise its lawful budget authority with discretion, based upon its perception of the needs of the system and the Superintendent's recommendations.

Legal Reference	§3-104, Education Article, <i>Annotated Code of Maryland</i>		
	§4-104, Education Article, <i>Annotated Code of Maryland</i>		
	§5-518, Courts & Judicial Proceedings Article, <i>Annotated Code of Maryland</i>		
Policy History	Reviewed: 2017	Adopted: 4/5/03	Revised: 10/11/17

## **106.5 Legal Counsel**

### **A. Retention of Counsel**

The Board may retain counsel to represent it in legal matters that affect the Board and contract for the payment of a reasonable fee to the counsel. Funds for these fees shall be included in the annual budget.

### **B. Payment for Counsel in Suits Against Board Members**

The Board may pay all or part of the counsel fees for the defense of a Board member who is involved in litigation because of his/her service and in his/her official capacity on the Board. These payments are a valid educational expense as determined by Maryland law.

### **C. Counsel to be Provided for Teachers and Other Board Agents and Employees**

In any lawsuit or claim brought against an employee of the Board by a parent or other claimant with respect to an action taken by the employee, the Board shall provide counsel for that individual if:

1. The action was taken in the performance of his/her duties, within the scope of employment, and without malice; and
2. The Board determines that he/she was acting within his/her authorized official capacity in the incident.

### **D. Immunity**

1. An FCPS employee or Board member, acting within the scope of employment or Board member's authority, without malice and gross negligence, is not personally liable for damages resulting from a tortious act or omission of an act.
2. A Board member is immune as an individual from civil liability for any act or omission if the Board member is acting within the scope of the Board member's authority, without malice and in a discretionary capacity.