



ACSI's Legal Defense Reimbursement Program

Your School Needs ACSI's Legal Defense Reimbursement Program!

ACSI has consistently looked for opportunities to assist member schools with practical, affordable services. As a result of seeing member schools face various legal actions involving employees or students, ACSI developed the Legal Defense Reimbursement Program. The program is not an insurance policy and does not provide any casualty payments for a lawsuit. However, it is designed to provide reimbursement to member schools of attorneys' fees and litigation costs the school must pay due to certain types of employee or student legal claims or lawsuits.

To illustrate, let's assume that a member school has terminated a teacher during the middle of the year. The teacher now claims that the school discriminated against her and breached her teaching contract. The teacher files a charge of discrimination with the EEOC or with a state civil rights agency. Unless the school has specialized "employment practices" insurance coverage or some other type of insurance coverage applying to employment decisions, the school will have to pay an attorney to represent the school. In addition, assume that the teacher files suit alleging a breach of contract. Most insurance policies do not provide coverage for contract actions. The school would have to retain counsel. The attorney fees in both cases could cost the school tens of thousands of dollars.

To further illustrate, assume that a member school expels a student during the school year or does not allow the student to graduate. Typical liability insurance would provide coverage and an attorney if the lawsuit alleged that the school was negligent. However, most general liability policies do not provide coverage or an attorney for a lawsuit that alleges the school breached an enrollment contract or discriminated against a student. The school again would have to retain counsel and pay the attendant costs and fees.

Pre-Dismissal Counseling

Pre-dismissal counseling of an employee has been an important piece of the LDRP program, allowing schools to get legal counseling before the dismissal of an employee. LDRP will now cover legal counseling in advance of disciplining, expelling, or refusing to enroll or admit a student if such action is instituted as a belief-based decision or practice. For example, if the school decides to expel a student based on a violation of a biblical belief or practice of the school, the school can get legal counsel before expelling the student; the cost will be covered by LDRP. If the school decides not to admit a family based on a biblical belief, the school can get legal counsel before notifying the family of nonacceptance, and the cost will be covered by LDRP.

Legal Fees in the Event of a Lawsuit

The ACSI Legal Defense Reimbursement Program (LDRP) reimburses the participating member school at a set hourly rate for the attorney fees incurred due to the above types of lawsuits or charge of discrimination. The LDRP agreement entered into by the school and ACSI will reimburse a participating member school up to a total of \$35,000 for attorneys' fees and

costs for all covered suits or claims filed during the school year. The agreement is for one year and can be renewed each year. The exact, per-hour limit and other terms and conditions are contained in the LDRP Indemnity Agreement.

The LDRP program covers such suits or claims as:

- Student evaluation, discipline or graduation practices
- Suspension or dismissal of a student
- Failure of the school to meet standards of student educational preparation
- Discriminatory conduct toward students
- Employee references; breach of employee contracts
- Employee EEOC or state agency charges of discrimination

LDRP was recently expanded to include belief-based legal challenges.

Belief-based challenges include:

• Targeted Actions

A targeted action includes any governmental action, agency hearing, criminal proceeding, or other similar action, summons, or proceeding that targets a Christian school as a direct result of the school's belief-based decision or belief-based discriminatory act.

• Financing/Accreditation/Scholarship Challenge

This includes an action against a Christian school that challenges the accreditation status of the school or the school's right to receive state or federal scholarship funds or other financing due to the belief-based decision, practice, or discriminatory act of the school.

Belief-based decision or practice means any decision on behalf of the school to pursue a particular course of action or to implement a particular practice or policy if such action is undertaken in furtherance of the religious beliefs of the school. Belief-based discriminatory act means any act that is undertaken in furtherance of belief-based decision or practice and that would be considered discrimination under any applicable federal, state, or local law.

Examples of What the Expanded LDRP Will Cover:

- The school dismisses a student for an immoral lifestyle that violates the school's biblical beliefs, and then the parents sue the school.
- An accrediting body decides to take away the school's accreditation because of a biblical belief and stance.
- The school decides not to admit a student from a family that is living a lifestyle that is not biblical and the family sues.

The key is to protect our Christian schools from lawsuits that come from decisions based on our biblical beliefs.

There are some lawsuits or claims that are not covered under the program. These suits include those where there is a physical injury to an employee or student, workers' compensation action or proceeding, or a sexual act directed against a student or employee.

The school must follow the procedures outlined in the Indemnity Agreement in order to qualify for reimbursement. However, these are simple and easy to understand and follow.

More information can be found at www.acsi.org/LDRP.

Notice: *This article is designed to provide accurate and authoritative information in regard to the subject matter covered. It has been provided to member schools with the understanding that ACSI is not engaged in rendering legal, accounting, tax, or other professional services. If legal advice or other expert assistance is required, the services of a competent professional should be sought. Laws vary by jurisdiction, and the specific application of laws to particular facts requires the advice of an attorney.*

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