



5 Tips to Avoid a School Safety Lawsuit



Michael Dorn
School Safety Expert

Executive Director, Safe Havens International
SafeSchools Training Author



Michael Dorn, nationally recognized school safety expert and SafeSchools Training author, shares his firsthand experience about how he's helped schools during litigation. He urges schools to have proper documentation of their effective safety practices. Doing so can help prevent safety incidents, and reduce exposure to civil liability and severe damage to the reputation of school organizations.

1. Killing false narratives with documentation of your proper safety efforts.

REAL CASE EXAMPLE: Scheduled as a four-day event, the federal civil trial involving Camden Military Academy lasted four weeks. The judge allowed an aggressive team of attorneys to depose the head of the school not just once or twice, but five times. A sensational video using doctored footage to smear the school's name went viral due to frightening news stories generated by the plaintiff's side. Attorneys located several students who had been expelled from the school. Using these witnesses, the attorneys wove a bizarre narrative of bullying, rape, and the torture of students. Throughout this two-year ordeal, the names of three administrators with decades of

exemplary service were dragged through the mud in news stories. **Fortunately, there was tangible evidence to counter the carefully scripted plaintiff's narrative – the school had the results of student surveys that asked if students felt comfortable at school and most importantly, if bullying was a problem.**

During trial testimony, I was able to explain to the jury that the level of bullying reported by students surveyed was low for a K-12 school in the U.S. In my report of findings and during my deposition, I was also able to opine truthfully and with considerable supportive evidence that the many comments to open-ended questions by students on the surveys indicated that the results were genuine. When I could look jurors in the eye and testify factually under oath, the carefully crafted narrative created by plaintiff's counsel came down like a house of cards. An experienced defense team was able to make it clear to jurors that the data from student surveys did not match the tales of horror alleged by attorneys who were working tirelessly to win a \$7 million lawsuit.

After a short deliberation, the jury voted to exonerate the school and the employees of any wrongdoing in this \$7M lawsuit.



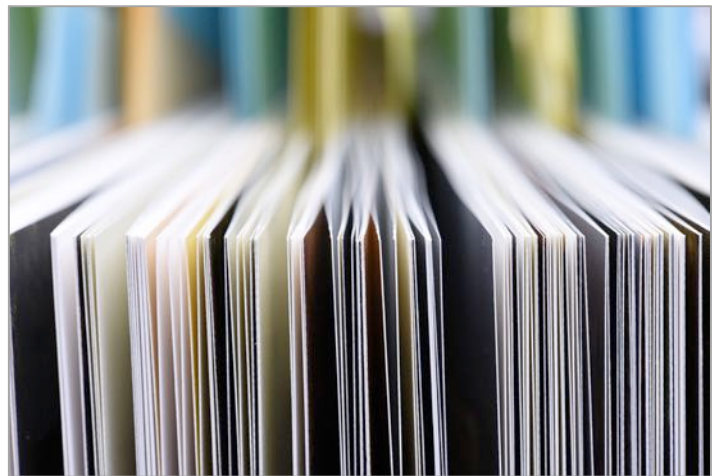
Amazingly, plaintiff's counsel had spent \$3.1 million dollars to pursue this lawsuit, losing a huge financial gamble. However, these types of losses can be one of the best defenses for school officials as personal injury attorneys often invest considerable funds to press a major civil action to depositions and a trial. **Of greater importance, properly documented school safety efforts can help to prevent incidents in the first place.** Such documentation can also be used to persuade plaintiff's counsel that it would be unwise for them to continue to litigate school officials. This case also illustrates how a school organization's public reputation can be protected by the use of proper safety efforts that have been documented to create positive evidence.

2. Do the right thing and take the time to document it.

REAL CASE EXAMPLE: Doing the right thing and taking a few moments to document it can prove to be beneficial in a number of ways. For example, in a South Carolina federal civil action, plaintiff's counsel purported that a thirteen-year-old boy had hung himself in a barn because he had been severely bullied at his public school. The suit was dropped after evidence was found to counter the plaintiff's allegations that staff had not received training on bullying prevention.

Documentation that the school's employees had completed web-based training on bullying prevention combined with excellent practices of the school's principal with solid supportive written notes were used by defense counsel to persuade the plaintiff's attorney that it would be unwise to spend time, energy, and money pursuing the suit.

Conversely, the failure to document positive actions can open the door for harmful allegations. In the arbitration following an active shooter incident at a high school in Littleton, Colorado, experts retained by the victim's family seized upon the fact that a district mental health official had not signed an attendance sheet at a training session. In their written report, they concluded that he had not attended the training even though the employee and another employee had both testified under oath that the employee had indeed attended the training session. The expert's report represented as a fact, rather than a contested issue, that the employee had not completed the training. Local media was particularly hostile to the district and inaccurately reported this contested issue as a proven fact. In this example, **the lack of proper documentation became problematic in both the legal process and in the ensuing media coverage.** This type of situation can result in damage to the organization and to an individual employee's personal reputation.





3. Document what did not happen.

REAL CASE EXAMPLE: School officials sometimes have the need to disprove questionable and even false allegations. **When used thoughtfully, representative security camera footage can help accomplish this.** As vehicle/pedestrian fatalities in school parking lots are one of the most common causes of death for K-12 schools, this example is a particularly important one. Security camera footage depicting staff who are properly positioned to supervise students as they arrive and depart during morning drop-off and afternoon dismissal can be of value in several ways. **First, this type of footage can be incorporated into staff development efforts to improve effectiveness and consistency. School officials can use this type of footage to create brief web courses to deliver and document training.** High-quality web training platforms like the [SafeSchools Training System](#), allow school officials to create their own custom training programs of this type. Next, this type of video creates a valuable tool for defense counsel to use to show a jury what the process looks like in practice. This can make it more difficult for plaintiff's counsel to verbally create an inaccurate narrative for jurors who may struggle to accurately picture something they have not seen. **Video can often demonstrate what a process really looks like in contrast to verbal descriptions that attempt to create an inaccurate picture.**

Another technique is to have central administrative personnel periodically spot check security camera footage to see if staff are supervising students properly. **If gaps are seen, taking and documenting corrective action can be powerful evidence that school officials made a reasonable effort to verify compliance and to correct gaps.** A simple email to notify the building administrator of findings and any appropriate corrective actions or praise for staff can provide additional positive evidence and improved safety. Retaining more typical video footage that depicts proper staff actions can help to show that in most instances, staff are using proper student supervision practices.

4. Look for and correct conflict between written policies, plans, and procedures and actual practice.

REAL CASE EXAMPLE: Significant misalignment between written policies and procedures and actual practice of staff can result in safety incidents and can be used by plaintiff's counsel to attack school officials. We have also seen highly damaging media stories using this approach. For example, reporters in New York City filed open records requests for emergency drill reporting forms from hundreds of school systems in New York, New Jersey, and Connecticut. By carefully comparing the dates on drill reporting forms, they were able to demonstrate not only that some schools had not performed drills as required by law, but were also able to create very strong inferences that school officials had falsified official government documents (a felony criminal act in many states). Reporters found numerous instances where the dates for drills being logged were on weekends and official holidays when schools were closed. These situations can do significant damage to the reputation of school organizations and individual school officials.



When we conduct school safety, security, climate, culture, and emergency preparedness assessments, we look for and frequently find misalignment between paper requirements and actual practices. **Finding and correcting these situations to prevent incidents can be extremely valuable.**

5. Beware of “liability language” in documents.

REAL CASE EXAMPLE: We commonly see the use of unrealistic and absolute language to describe safety efforts in schools. Statements like “safety is our number one priority” can be difficult to defend. **While well intentioned, these statements can create challenges in court and can result in damage to public trust.** For example, a superintendent may be asked how safety can be the district’s number one priority if safety efforts are not among the top budget items.

Words & phrases that can create problems for school officials:

- | | |
|------------------|--|
| 1 Ensure. | 5 Safety is our top priority. |
| 2 Every. | 6 Safety is our number one priority. |
| 3 All. | 7 Best practice. |
| 4 Always. | 8 State of the art security technology. |

Similarly, school officials should take great care in using the term “best practice” to describe bullying programs, active shooter training programs, or other safety measures. Very few programs can meet the rigorous standards that this term implies in a court of law. Unfortunately, a number of vendors use the term best practice to describe their products and services setting their clients up for failure in court and in the media. **Using defensible language to convey the same basic meaning can be important. For example, “student safety is a priority in our school” conveys similar meaning but it is easier to prove that it is true and accurate.**

Conclusion

While there are many other examples to demonstrate the value and importance of properly documenting your school safety measures, our analysts have found the above-referenced situations frequently in security assessments of more than 6,000 public and non-public K-12 schools across the U.S. Doing the right thing and documenting it properly can be extremely important to prevent tragedy and to protect schools when allegations are made in a court of law or in the court of public opinion.

Documenting common safety practices can reduce your liability exposure. Examples include:

- Participation of public safety officials in crisis planning meetings.
- Documenting that fire, police, and/or emergency management officials observed school emergency drills.
- Maintaining sign-in sheets, agendas, and handouts used in live safety training sessions.
- Developing and using a written student supervision plan.
- Creating and retaining diagrams showing supervision assignments at playgrounds and athletic events.
- Consistently requiring parents to sign in when visiting schools and retaining sign in documentation. This can be used to help refute false claims by parents that they have met with school officials to complain about bullying prior to an incident such as an assault.
- Retaining certificates for live safety training or electronic verification of web-based safety training of staff.
- Utilize and save sign-in sheets for school crisis team meetings.
- Use email to document correction of safety concerns.

About Michael Dorn

Michael Dorn is one of the most credentialed school safety experts in the nation. He is the Executive Director of [Safe Havens International](#) and a graduate of the FBI National Academy. The author of 27 books on school safety, Michael Dorn has served as an expert witness for high profile and complex civil actions involving public, charter, faith-based, and independent schools. A powerful and popular keynote speaker, Michael's work takes him around the world. Michael is also the author of several courses in the SafeSchools Online Staff Training System, including *Active Shooter; Crisis Response and Recovery; Emergency Operations Planning; Family Reunification; Tactical Site Surveys; Terrorism: Awareness and Response; and Visual Weapons Screening.*



About SafeSchools

SafeSchools is the leader in safety and compliance solutions for K-12 institutions. Our suite of award-winning online products includes solutions for staff training, SDS management, bullying and incident reporting, and accident tracking. We're the first choice of thousands of busy school administrators who want to save time and money, while increasing safety and compliance.

For more information about the SafeSchools suite of safety and compliance products, please visit www.safeschools.com or email info@safeschools.com. No-obligation free trials are available.

Make Your School Even Safer

*With our award-winning K-12 safety programs for staff training,
SDS management, accident tracking and incident reporting!*

