

LIABILITY INSURANCE

Background

Merely participating in the everyday activities of life provides a degree of hazard. In the event of a mishap, the loss or injury must be borne by the individual responsible. It is only when the law finds someone else legally liable that a damage action can be successful. The District, as employer, would also be liable if the teacher is acting within the scope of their employment. For teachers, the best protection against such liability is careful planning, the acceptance and use of proven procedures and standards, and the presence of well-qualified leaders. When a student is injured while participating in school activities, either inside or outside the school premises, the student has no claim for damages against the District or the teacher unless negligence on the part of the District or the teacher is proven to have resulted in the injury.

The District is covered for comprehensive liability by the Schools Protection Program maintained by the Ministry of Education. This coverage applies to:

- The Board as a corporate entity;
- District senior management; and
- All employees and volunteer workers of the District while acting within the scope of their duties, including extra-curricular activities.

This program insures against liabilities arising out of personal injury, sickness or disease (including death at any time resulting therefrom) and applies to:

- All persons insured (as above) but only in respect to liability arising within the scope of their duties for the District, and
- All students but only in respect to liability arising out of their activities on behalf of the District.

Liability for injury resulting from poor supervision can be established when the following conditions exist:

- The standard of care that a court of law would likely use as a criterion in negligence action is that exercised by a careful parent of a large family. It is the duty or obligation of a teacher to use a standard of care for the protection of others against unreasonable risk of injury.
- Failure to conform to the above standard; and
- A reasonably close connection between the conduct of the person in charge and the resulting injury; and
- Actual loss or damage to the injured person.

Procedures

1. Liability in Assistance to Physically Challenged Students

- 1.1. It is the practice of the District to request that aid and assistance be extended to physically challenged students by teachers, students, District employees, and volunteer aides.
- 1.2. Any person who assists a physically challenged student is expected to take reasonable care in giving such assistance; only if a physically challenged student is injured because of negligence will the person assisting them be liable for damages. If a physically challenged student is injured while being assisted by a staff member or a student, the District and the staff member and the student are covered by the Ministry's liability program.

2. Insurance Coverage During Field Studies

- 2.1. Teachers, in order to feel comfortable and secure when involved in out-of-classroom activities, are to be aware of their legal rights and protection as a District employee. The following information outlines the District's insurance policy as it relates to field study.
- 2.2. Under the terms of the policy, parents are considered as volunteer workers and, as such, the policy protects the District and the volunteers for liability imposed by law as a result of possible negligence by one of these volunteer workers.
- 2.3. If the supervisors of the group are negligent in the care and custody of the students, both the District and the supervisor are protected.
- 2.4. The District, teachers, and volunteers are protected on a "24-hour basis" during the field study. The coverage is in effect so long as teachers and volunteers are acting within the scope of their employment; for example, a teacher would not be covered if a student was taken on an unauthorized venture for personal reasons during the field study. Similarly, the teacher might also not be covered if a field study was organized without getting the permission of the Principal. If the District were held liable by the courts as a result of such unauthorized activity, it would be covered under its policy, but the insurers may have the right to recover from the teacher any payment that it is obliged to make on behalf of the District.

3. Transporting Students

- 3.1. Regarding the liability of teachers or other persons transporting students to curricular or extra-curricular activities in private automobiles, the District has acquired excess third party liability insurance that will extend the person's own regular coverage to a maximum set by the Ministry. The policy covers the owner/driver of the vehicle and, also, the owner's spouse and any students who may be driving the vehicle with the owner's consent and the District's authorization. School authorization via the Volunteer Driver form is required in accordance with Administrative Procedure 565 before any students may be transported by private vehicle.

4. Comprehensive Garage Liability (applies to secondary schools only)

- 4.1. Garage liability insurance is carried for vehicles being repaired in Technical Studies automotive shops in all secondary schools as follows:

- 4.1.1. Third party liability: liability for loss or damage caused by the use or operation of a customer's motor vehicle - no deductible;
 - 4.1.2. Liability for damage to customer's automobile:
 - 4.1.2.1. Collision - \$300 deductible,
 - 4.1.2.2. Comprehensive - \$300 deductible.
 - 4.2. In the event of an accident or possible claim against damage to a customer's automobile (Collision: \$300 deductible; Comprehensive: \$300 deductible), the procedure as stated below must be followed:
 - 4.2.1. All incidents must be reported to the Insurance Corporation of B.C. (ICBC) giving details of the insurance policy by the Principal reporting the incident directly to ICBC (Dial-A-Claim: 604-520-8222). This will expedite the processing of the claim in cases where repairs may be involved. A copy of the report must be forwarded to the Secretary-Treasurer for information.
 - 4.3. ICBC will analyse each situation on an individual basis and advise the school how to proceed; i.e., cost estimates, repairs by school, etc.
5. Indemnification of Officers and Employees Against Claims for Damages
- 5.1. It is in the interest of a responsive and efficient public service that officers and employees be protected against a claim for damages arising out of the performance of their duties and pay legal costs incurred in a court proceeding arising out of a claim.
 - 5.1.1. Subject to the following section, to the extent authorized by law, the District shall indemnify every person being an officer and employee of it against any claim for damages arising out of the honest performance of duties assigned by the District;
 - 5.1.2. It shall be a condition of the District's obligation to indemnify an officer or employee that the said officer or employee agree that the District has the right to conduct the defence of any claim and in its discretion to compromise or settle any claim. It is a further condition of the District's obligation to indemnify an officer or employee that the officer or employee co-operate fully in the defence of the claim and provide statements when requested by the District;
 - 5.1.3. A registration and approval form for excess third-party liability coverage (volunteers and staff) is filed. This form is required before volunteers or staff may transport a student in a private vehicle.

Reference: Sections 22, 23, 65, 74, 84, 85, 95 School Act
 Occupational Health and Safety Regulation
 Order in Council 1390/87
 Collective Agreements
 Schools Protection Program Policy

Adopted: October 18, 1982

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