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TEACHERS

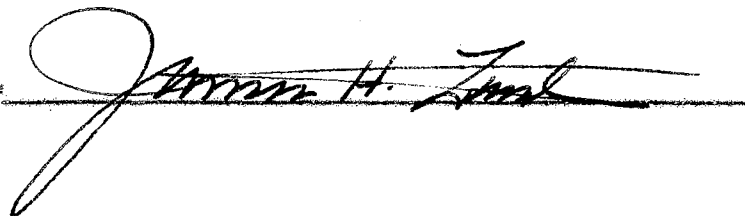
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Scope of Study: A study was made by correspondence with County Attorneys of the State of Oklahoma and eighty different Insurance Companies throughout the United States concerning the need of Liability Insurance for Science Teachers. As well as numerous interviews with College Professors and High School Science Teachers. These opinions were classified according to the cause, need, and the protection of science teachers with Liability Insurance.

Findings and Conclusions: From the information gathered, a majority of the County Attorneys expressed an opinion as to the need of Liability Insurance protection for the good Science Teacher, one who, teaches beyond the scope of the state adopted textbook. Most all of the Insurance Companies expressed the opinion that the cost for Liability Insurance was small as compared to the possible expense of attorney fees and/or judgments. The teacher without Liability Insurance may find himself with an expensive court action that would have been covered in a Liability Insurance Policy.

ADVISER'S APPROVAL



NEED OF LIABILITY INSURANCE
FOR SCIENCE TEACHERS

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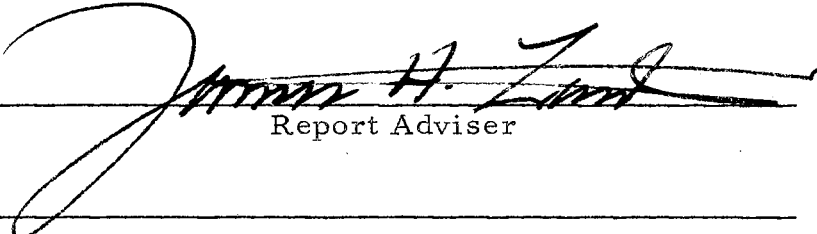
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NEED OF LIABILITY INSURANCE
FOR SCIENCE TEACHERS

Report Approved:


Report Adviser


Dean of the Graduate School

PREFACE

The purpose of this paper is to provide some evidence for the need of Liability Insurance for the Science Teacher. Eighty different Insurance Companies, the seventy-seven County Attorneys of the State of Oklahoma, an estimated two hundred Science Teachers, several College Professors were questioned; the remainder of information was gathered from the Oklahoma State University Library.

Indebtedness is acknowledged to Dr. L. Herbert Bruneau, James H. Zant, and Dr. S. R. Wood for their valuable guidance; and to Charles A. Stutte, and my roommate, Kenneth Poteete, for their advise and encouragement. I am also deeply indebted to the National Science Foundation and the members of the Academic Year Institute, and Academic Year Institute Selection Committee, who materially aided in making this study possible.

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CHAPTER I

INTRODUCTION

From information gathered from Insurance Companies, County Attorneys, High School Science Teachers, College Professors, and the Oklahoma State University Library, it is the general opinion that in this day and age, virtually no one can safely go without liability insurance.

¹Although trustees and board members are not liable as individuals for the tort of their employees, teachers and other employees repeatedly have been held personally liable for their own negligence or want of due diligence. A suit can be entered against the board and a teacher, or against a teacher alone. The individual liability of the teacher is not covered by the school's policy, but it may be protected by a rider thereto. The entire faculty, or named individuals, can be covered in this manner by payment of a small per capita charge. In line with the social responsibility theory that created workmen's compensation it is recommended that every board that protects the system with public liability insurance should in addition protect the individual liability of its teachers against the pupil claim that can and

¹New York State School Board Association, Inc., An Insurance Program for the Guide of School Boards, Mount Vernon, New York, (1936), p. -25

do result from their occupation. Teachers responsibility for pupil safety is greatly increased because of the many school trips in and outside school hours, away from the school premises, and demands insurance protection. Until such an item can be brought into the budget, the teachers should be offered the opportunity to protect themselves at their own expense under an endorsement to the school's policy. Because of the liability to groundless suit, it is grossly unfair to leave the teaching staff vulnerable to the possibility of big expense for legal defense against unlawful claims.

²In the State of Oklahoma if the teacher involved was acting solely within his appointed duties as a teacher and in the classroom activity that the immunity of the school as a governmental instrumentality and function would, likewise, extend to him while acting within the prescribed agency of a teacher in a school system.

On the other hand, if the teacher were permitted by the Board of Education or recognized authorities to engage in experiments not normally considered to be a part of the curriculum and being tempted with materials which he had personally purchased and was using, the liability for his personal acts would be a matter that would be separate and apart from his official acts as a teacher. If, as a result of such an activity, an accident occurred he would be accountable for his

²Personal correspondence with Ralph C. Horton, Insurance Personal, Oklahoma City, Oklahoma

personal act which was negligent in its nature and from which damage to the person or property not his would prevail.

CLARIFICATION OF TERMS

³When one refers to "liability insurance" he is referring to a policy which primarily would cover the legal liability of any person or persons for whom indemnity against loss by reason of negligence is being sought.

⁴A liability insurance policy promises to pay on behalf of the party insured the amount (up to the policy limit) which the insured becomes obligated to pay because of the liability imposed upon him by law for damages. Liability involves the commission of a "tort", which is, at law, a civil injury, as contrasted with a crime, which is a public injury, or in other words an injury to the common good. The consequence of a tort evoke an action by a private party to recover for the damages suffered - a civil action.

⁵Negligence may be a tort, and its results therefore may be subjected to civil action by the injured party. Negligence is determined by an individual acting at all time with reasonable care, and a

³Personal correspondence with Ralph C. Horton, Insurance Personal, Oklahoma City, Oklahoma.

⁴Riegel, Robert, PhD., and Jerome S. Miller, Insurance Principles and Practices, Prentice-Hall, Inc., New York, (1954) p. -591

⁵Ibid

teacher is responsible for the acts of his students.

MILERS PATTS
ERASE
COTTON CONTENT

CHAPTER II

CAUSES FOR NEED OF LIABILITY INSURANCE

GENERAL DEMONSTRATION HAZARDS

¹In the past several years, students and spectators, at college science demonstrations, have been severely injured when spectacular experiments went awry. One such experiment is supposed to demonstrate the effect of rapid oxidation of iron or aluminum filings. Liquid oxygen or liquid air is poured over iron or aluminum filings and allowed to soak in for a short time. A flame is then passed over the filings and, if everything goes according to schedule, a brilliant white flame is supposed to rise in the air and then rapidly subside. Recently in California and previously in Indiana something went wrong and an explosion occurred. Persons in the room were showered with flying glass, bits of metal, and red hot liquids - several were severely injured and considerable property damage resulted.

COMMON HAZARDS OF THE LABORATORY

Not only do spectacular experiments cause accidents, but some of the more common things of the laboratory may cause severe damage

¹Personal correspondence with Robert Stone, Underwriter, The Employer's Group Insurance Companies, Boston 7, Massachusetts

to property and person.

²Glassware is fragile and may break suddenly on account of internal strain. This strain may be already present in the apparatus owing to wrong or inadequate heat treatment during manufacture. A flask, beaker or bottle may break through local overheating. Thick-walled bottles and measuring flasks should never be heated. For this reason solutions should never be made in a bottle, a measuring cylinder or a washing bottle as the heat of the solution may cause the container to break. This is illustrated by an accident that occurred to a lab assistant who was preparing a concentrated solution of sodium hydroxide. She put solid sodium hydroxide in a bottle (first mistake) and added the required amount of water. Then she closed the bottle (second mistake) and shook it, holding the bottle on a level with her eyes (third mistake). The heated solution created a considerable pressure in the bottle. The bottle broke and the hot, concentrated solution splashed over the face and eyes of the victim. The result was total blindness. Such procedures and accidents occur in High School Science Laboratories, but most are less severe.

³Fire hazards are common in the laboratory and may cause severe pain, loss of lymph, and poisoning by the absorption into the blood of toxic products from decomposition of the burning substance

²Pieters, Dr. H.A.J., and Dr. J. W. Creighton, Safety in the Chemical Laboratory, New York Academic Press, Inc., London (1957) p. -6

³Ibid

and the body tissues. Students are liable to receive burns from burners that have blown back, hot glass, ignition of inflammable solvents, or clothing catching alight.

Explosions are common hazards of the laboratory. Self-combustible substances and mixtures, such as explosives, are naturally liable to explosions. Many unstable endothermic compounds may decompose causing a violent exothermic reaction. Some potentially explosive substances are nitric acid, hydrogen peroxide, chlorates, nitrates, persulphates, and especially perchloric acid. With some combinations of substances the explosion hazard is particularly great. Filter paper soaked with nitrophenol deposited in a waste bin can give rise to an unexpected explosion. The mixing of some liquid vapours with air cause explosions.

Chemicals are tools of science laboratories, and some become so familiar with them that they are apt to forget that they can be detrimental to health if they get into the system. Several substances have a bad reputation such as arsenic and potassium cyanide, but there are a great many substances which are equally dangerous without one realizing it. Some of the common hazardous chemical are sulphuric acid, hydrochloric acid, nitric acid, ammonia, and hydrogen peroxide.

Carbon monoxide, hydrogen sulphide, and hydrogen cyanide are some of the common poisonous gases of the laboratory, and may be deadly in a poorly ventilated science room. Carbon monoxide has a

treacherous action because it gives no warning, being odorless and tasteless.

Field trips is another place for hazards such as damage to private property by students on the field trip.

⁴According to Dr. Wood, some of our most common experimental hazards are the hydrogen generator, preparation of oxygen using potassium chlorate, and the sodium experiments.

STUDENT DISCIPLINE

⁵Today the problems of discipline seem always to be present. It has been a source of worry to parents and teachers since time began. But some are learning to look at the problems with new insight and understanding, by use of psychological and psychiatric training. Schools in the next decade must foster in children and young people the intellectual and moral discipline needed for the democratic way of life.

⁶Teachers are rather frequently brought to court for charges of unwarranted chastisement or punishment of school children. The damage, if any, of an act of this kind is punitive in its nature and not the result of either negligence or accident.

⁴Personal interview with Dr. S. R. Wood, Chemistry Professor, Oklahoma State University, Stillwater, Okla.

⁵Sheviakov, George V., and Fritz Redl, Discipline for Today's Children and Youth, Department of Supervision and Curriculum Development, N.E.A., Philadelphia, Pa., (1944) p. -2

⁶Personal correspondence with Ralph C. Horton, Insurance Personal, Oklahoma City, Oklahoma

⁷One of the earliest recorded pronouncements of a theory related to this practice in education is found expressed in words of Solomon, "Foolishness is bound up in the heart of a child; but the rod of correction shall drive it far from him."

⁸The theory of the rod as an aid to learning has persisted through the vicissitudes of nearly three thousand years of man's history. Today we still find it entrenched in the common law of the schools of some of the most populous states. Falk (1941) states the law: "To use or attempt, or offer to use, force or violence upon or toward the person of another is not unlawful when committed by a parent or the authorized agent of any parent, or by any guardian, master, or teacher, in the exercise of a lawful authority to restrain or correct his child, ward, apprentice or scholar, and the force or violence used is reasonable in manner and moderate in degree."

⁹It is the general opinion of County Attorneys and Insurance Companies that it is a well established principal of law that every tortfeasor must answer for his own acts. While a science teacher for the most part would be following a prescribed course, there are areas of latitude where he may use his own initiative, which would tend to

⁷Proverbs, 22:15

⁸Falk, Herbert Arnold, PhD., Corporal Punishment, Bureau of Publications, Columbia University, New York, (1941) p. -11

⁹Personal correspondence with H. L. Furr, Supervising Underwriter, American Fore Loyalty Group, Oklahoma City, Oklahoma

"point up" strictly personal acts. The manner and method of science presentation must be left largely to the teacher, which seems to leave him standing alone.

CHAPTER III
NEED FOR LIABILITY INSURANCE

COURT'S OPINIONS

¹For many years the courts through the country have held that boards of education are immune to liability in case of accidents on school grounds, even where full negligence was proved. This approach was based upon the theory that neither a city nor school district itself could be held liable in tort because the function discharged was purely governmental and that the subordinate body acts merely as an agency of the state in maintaining and managing the schools and the school property and therefore, enjoys the immunity of the state from suits.

Recent cases brought in behalf of pupils injured through neglect of school authorities to provide safety have gone to courts with the result that such authorities are held liable for damages.

LAWYER'S OPINIONS

From the seventy seven Oklahoma County Attorneys fifty-five

¹The Committee on Insurance Research, National Association of Public School Business Office, Bulletin 2, Insurance Practices and Experience of City School Districts of the United States and Canada, Trenton, New Jersey, (1932) p. -166

percent had the opinion the teachers are charged with the same degree of care and responsibility in the conduct of their classes as would an ordinary prudent person under same or similar circumstances. Thirty percent of them saw no need for the teachers to obtain the insurance with the opinion that the teachers following the procedure outlined in the text approved by the State Board of Education would not be liable. There are however many good science teachers who attempt to provide their students with recent information and experimental methods. In this case and in some instances it is the opinion of many of the county attorneys these teachers would be held liable if accidents should occur to cause damage or injury. Fifteen percent of the county attorneys stated no opinion one way or another.

PAST CASES

²A case in California that held the school authorities liable for damages was an action brought in behalf of a nine year old pupil (Huff v. Compton City Grammer School District, 267 Pac. 918), who was burned by contact with a refuse incinerator maintained on the school playground. The court held that the teachers and authorities were fully aware of the dangerous character of the incinerator and possessed full power to surround the same with safeguards, and, therefore, were liable for the injury that had been suffered.

²Ibid., p. -11

³Another case was decided in New York State (Lessin v. Board of Education of City of New York, 161 N. 160), A boy engaged at play fell into an elevator shaft near a sidewalk on the school grounds and was injured. The unguarded condition of the elevator shaft was known to the employees of the board, but the defect was ignored. The case was decided in favor of the plaintiff.

The position taken by the courts of California and New York is significant. ⁴The former theory was that inasmuch as the state was immune from liability, its agents or subordinates were equally immune. The present theory is that the board of education, regardless of the fact that it is a subordinate of the state, is liable wherever willful negligence is proved.

Below are some court cases involving the Personal Liability of teachers taken from Public Liability A1-1 and 2:

<u>CASES</u>	<u>STATE</u>
Dunn vs. Miller - 135	North Carolina - 204
Harris vs. State - 203-SW-1089	Texas
Melen vs. McLaughlin - 176-Atl. -296	Vermont
Fertisch vs. Mischner - 14-NE-68	Indiana
Roe vs. Deming - 210-S-66	Ohio
Johnson vs. City of Hudson	New York - 610

³Ibid., p. -11

⁴Personal correspondence with Springfield-Monarch Insurance Companies, Springfield 1, Massachusetts

CASESSTATE

Katterschinsky vs. Board of Education	New York - 424
State vs. Vanderbilt - 18 NE-266	Indiana
Sweeney vs. Young - 131 Atl. -155	New Hampshire
State vs. Misner - 50	Iowa 145
Sheehan vs. Sturges - 2-Atl. -841	Connecticut
Hardy vs. James - 5	Kentucky - Op. -36
Lauder vs. Seauer - 32	Vermont - 114
Gaincott vs. Davis - 281	Michigan - 515

CHAPTER IV

PROTECTION WITH LIABILITY INSURANCE

TEACHER'S INSURANCE

¹This form of insurance is designed principally to protect teachers employed by private schools or colleges. In 1937, a Law was passed in the State of New York, requiring the Board of Education of the City of New York to hold harmless a duly appointed member of the teaching staff (or supervising officer or employee of such board) for damages arising out of the negligence of any such employee (or appointed member of office) resulting in personal injury or damage to the property of others, provided that the employee was acting "in the discharge of his duties, and within the scope of his employment." A similar law was passed during the same year, affecting employees of Boards of Education in the State of New York, other than the City of New York. Notwithstanding the laws referred to above, it is frequently recommended that teachers of public schools purchase this form of insurance to protect themselves from accidents of this nature which may have been caused while they were not "acting in the discharge of

¹Werbel, G. Bernard, General Insurance Guide, Fifth Edition, Long Island, New York, (1958) pp. -1950-1956

their duties and within the scope of their employment."

²Instructors in schools and colleges are divided into two classes:

- (1). Athletic, laboratory, manual training, physical training, and swimming instructors.
- (2). All other instructors.

Most liability insurance is written by casualty insurance companies, but some forms, especially those referring to property in the care of the insured, are underwritten in connection with fire or marine business.

INSURANCE COMPANIES' OPINIONS

Nearly all of the Insurance Companies gave the opinion that the High School Science Teacher did have a definite need for liability insurance to protect the insured for claims and suits brought as a result of the occupation. ³In many cases, whether the school board or the individual trustees are liable or not, the individual teachers may be sued and held liable. This may involve either accidents to pupils incurred during activities directed by the teacher or accidents to the public as a result of some work over which the teacher has supervision. This liability, including the cost of defense of suits, might be substantial to the individual teacher. This also holds in the classroom.

²Ibid., p. -15

³Personal correspondence with Springfield-Monarch Insurance Companies, Springfield, Massachusetts.

COST

⁴Teachers Liability Insurance is coverage for the "personal liability of instructors, members of faculties and teaching staff in connection with their occupational pursuits only."

There are two divisions of liability for teachers:

- (1). Athletic, laboratory, manual training, physical training, and swimming instructors.
- (2). All other instructors.

The rate for class (1) is \$3.50 per instructor. The rate of class (2) is \$1.50 per instructor at the minimum limits for one year or less. Coverage for Teacher's Liability for Corporal punishment of pupils is available for an additional charge of \$2.50.

The Casualty Insurance Companies write nearly all of the teachers liability policies. Listed below are a few of these companies selling Teacher's Liability Insurance:

Commercial Union
910 Colcord Building
Oklahoma City 2, Oklahoma

Firemen's Insurance Company
4915 N. Lincoln Boulevard
Oklahoma City 5, Oklahoma

The Employer's Group Insurance Company
110 Milk Street
Boston 7, Massachusetts

Trinity Universal Insurance Company
P. O. Box 5028
Dallas 22, Texas

⁴Levy, Michael H., Your Insurance, Harcourt, Brace and Company, New York, (1955) p. -155

SUMMARY

The information in this report is intended to aid the teacher, especially Science teacher, in deciding if there is actually a need for liability insurance coverage while in the classroom, laboratory, or on field trips. The Teacher's Liability Insurance Policy promises to pay claims brought against a teacher (up to the limits of the policy) which he is obligated to pay because of liability imposed upon him by law for damages occurring while he is in pursuit of his occupation.

Near misses in the laboratories, on field trips, and in the classrooms may one day, even though the chances are small, turn into a misfortune which may result in court action, embarrassment, damage claims, or an enormous court cost for the teacher.

The general opinion of the school liability interpreter places the teacher as a subordinate to the school district and is liable in case of neglect which may arise from deviation of a prescribed course, usually set up by the State Department of Education.

Many educators seem to think good science teachers should attempt to bring too their students as many new and learned ideas and methods as possible. Barring the thought of protection this may be thought of as wisdom plus initiative, but with the question of protection this may be thought of as personal acts of the teacher.

The dividing line may be narrow between prescribed courses and personal acts. Yet, the line of cost may be great between the court's rulings and the Teacher's Liability Insurance Policy.

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