

# Insuring Your Students' Safety

By JOHN P. TRIMARCHI

**A** second-grade student falls off a swing, breaking her arm. While banned from the school bus, a sixth-grader is hit by a car as he walks home from school. A five-year-old is sexually assaulted by a volunteer worker. This could never happen in your school, right? Don't count on it!

If one of these unfortunate circum-

stances befalls your organization, who has the responsibility of paying the medical bills or legal expenses if a lawsuit results?

Every school or other organization is likely to be exposed to several areas of risk. Unfortunately, no single type of insurance can cover every situation that might occur. Basically, however, schools need to be concerned with two

main types of coverage—student accident and public liability insurance.

Generally speaking, student accident insurance is written either as primary or excess coverage. Primary coverage provides reimbursement for medical expenses described in the terms of the policy, regardless of whether the school or parents hold other policies covering the same types of claims.

## **Primary Coverage**

Primary coverage plans usually set a specified limit on the amount the insurance company will pay. The policy may pro-rate payment, thereby sharing the cost of the accident with other companies. This prevents people from "double billing" several companies and thereby profiting from an accident. The purpose of insurance is to return an individual to the same financial position he or she enjoyed prior to the occurrence of an accident.

## **Excess Coverage**

Excess coverage insurance provides reimbursement only after a loss exceeds a certain amount and claims have been made against other policies. Most student accident insurance is written on an excess coverage basis, since it costs less than primary coverage insurance.

In obtaining student insurance, denominational organizations can purchase commercial policies or participate in self-funded pooling arrangements. Self-insuring often leads to a savings, since there is no company overhead to support, and the money stays "in the family." General Conference Risk Management Services can provide the necessary information for schools to make an informed decision.

# LEGAL UPDATE

Administrators should carefully study all options before choosing one program over another.

## Public Liability Insurance

Schools should be aware that their public liability exposure places them at great risk for insurance claims and lawsuits. One of the potentially most explosive area is that of negligence.

Comprehensive general liability coverage can cover severe injury losses that involve possible negligence. *Negligence* is a common-law term that connotes legal fault. It occurs when a person's unintentional conduct results in injury to someone else.

Simply described, negligent conduct is the kind of activity a reasonably careful person would avoid. In actual cases, however, circumstances weigh heavily in a court's determination of whether negligence occurred in a specific incident. Despite the fact that educational personnel are not considered insurers of student safety, they still have the legal duty of protecting students from reasonably foreseeable harm.

When students are under the guidance and control of a teacher, the teacher is responsible for their actions. However, most injuries occur because of what the law calls unavoidable or pure accidents; in other words, accidents for which there is no legal fault. But because of the litigious nature of our age, the number of lawsuits against teachers and administrators is increasing. Organizations are losing many of these suits.

## Supervision

Most of the legal cases involving school personnel liability hinge on the adequacy of supervision. In theory, adequate supervision should prevent student injuries from reasonably foreseeable dangers. Lack of proper supervision can constitute negligence.

Potential liability problems exist on school premises before, during, and after the school day as well as on field trips and school-sponsored activities off campus.

Because the majority of the school day is spent in the classroom, most supervision takes place there. Since most Adventist schools do not have sufficient resources to provide teachers' aides, situations often arise when classrooms are left without adult supervision. The mere absence of a teacher from the classroom is not necessarily a basis for liability. How-

ever, the length of the absence can be a critical element. Of course, the size of the group and the students' maturity are key factors. The test is whether the teacher's presence would likely have prevented the accident. Since the church operates many one- and two-teacher schools, the issue of proper supervision is a critical one.

## Field Trips

Adequate supervision is also required during field trips because they often involve unfamiliar surroundings. A court may find a teacher negligent for failing to exercise proper supervision if the reason for the accident could have reasonably been foreseen. To avoid potential problems, the activity and place of the visit should be examined in advance. The teacher should determine what kind of student conduct is required, how many chaperons are needed, whether some areas should be declared off-limits, and what action should be taken in an emergency.

Our church operates a number of unusual activities, such as Maranatha building projects, Ingathering, and community-service activities. These are often misinterpreted by outside insurance companies and agents. Risk Management Services understands the unique requirements of the church and can deal effectively with these needs.

## Day Care Liability

The growing number of church-operated day-care centers has greatly increased our liability risk. Responsibility for small children is an awesome task. It is extremely important, therefore, that persons wishing to operate such centers research state and local regulations relating to their operation. Policies need to be developed to meet the wide variety of situations that may arise in caring for young children.

Many commercial insurance companies have either ceased insuring day-care operations or have dramatically increased the cost of policies. The programs administered by Risk Management Services still include protection for these types of operations at a reasonable cost.

## Planning for Safety

Planning ahead can help schools identify and remove potential hazards and prevent dangerous situations. A standing committee should meet regularly to assess safety hazards. Its aim

should be to prevent accidents before they happen.

Severe injuries, of course, are the source of greatest concern. These cause expensive losses that may turn into liability claims. They also result in absenteeism, lost productivity, and great personal suffering. These are, fortunately, the types of accidents that are generally preventable.

A handbook the size of an unabridged dictionary could not list all situations that might possibly arise or tell how to deal with them. At best, general guidelines can be given—along with an admonition to use common-sense judgment. Schools should establish a few simple rules, communicate them in writing to teachers and students, and enforce them consistently.

Generally, the school liability insurance covers operations and activities both on and off the premises. Administrators should discuss with their risk manager the types of activities in which their students and teachers are likely to engage, along with any unusual circumstances presenting special risks. The risk manager can then determine if a particular activity will require special coverage. If the activity appears to be too hazardous or costs too much to insure, it may be wise to eliminate it from the schedule.

## Keeping in Touch With the Risk Manager

Administrators of schools and day-care centers should be aware of who is responsible for the risk management and insurance program for their conference or organization. They should then counsel with that person frequently in order to keep abreast of any changes in the risk management program. Two-way communication will also keep the conference or organization informed of new programs or activities in schools or day-care facilities.

Just as the scope of church activities is worldwide, so is the mission of its Risk Management Services. As a service entity of the General Conference, Risk Management Services stands ready to serve the world needs of our denominational organizations. □

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