



Risk Management – Insurance Questions

Risk Management

- ◆ **The Board's insurer is the Ontario School Boards' Insurance Exchange (O.S.B.I.E.)**



*Ontario School Boards'
Insurance Exchange*

- ◆ **OSBIE's Liability policy covers the liability of the Board, its staff and volunteers for any injury or property damage they might cause to a third party**



Volunteers

- ◆ **Parent groups contribute significantly to the success of many school functions through their volunteer efforts**
- ◆ **This contribution is recognized through the board's liability policy which extends coverage to volunteers while they are acting within the scope of their duties on behalf of the board**
- ◆ **Activities/duties assigned are covered if they are approved and controlled by an authorized staff member**
- ◆ **Staff person authorizing the activity must assume responsibility for the activity and the activity must be in accordance with board policies and procedures**

Volunteers

- ◆ **If a volunteer were sued because of alleged negligence arising out of their duties for the board, OSBIE's policy would provide protection**

QUESTION

- ◆ **When volunteers are involved supervising children, can they become financially liable if an incident occurs under their supervision? (The volunteer accepts a phone call, and a child gets hurt, or the volunteer does not intervene (or stop a child) when some scuffle is started)**
 - **YES, volunteers are covered under the General Liability Policy and enjoy the same coverage as would a teacher**

Volunteers

- ◆ **If an incident happens under the “duties” of a volunteer what kind of record should the volunteer provide?**
 - **The OSBIE incident report form should be completed and submitted**
 - **Keep some simple notes about the situation in case of future development and they are asked to recall the events of that incident**

- ◆ **Is the volunteers’ information kept confidential from the insurance company?**
 - **If a volunteer is involved in a situation where a third party is injured or suffers property damage, the board would provide OSBIE with their name and contact information**
 - **The volunteer is insured and has coverage under the OSBIE policy so it is in the volunteers best interest to meet and discuss the situation with an OSBIE representative**

Questions

- ◆ **When does the financial responsibility shift from the school to parents as a consequence of a child's actions?**
 - **Financial responsibility is never the school's in the first place**
 - **Legal question, depends on the facts of each incident**
 - **School/board would only be held responsible for a child's action if it was due to their negligence (i.e. lack of supervision which is the cause of the incident)**

Question

- ◆ **Does the optional Student Accident Insurance purchased by parents also cover liability? Is the liability covered even if the child is found to have behaved negligently or intentionally?**
 - **The insurance provides coverage for accidents to the student named on the policy**
 - **Provides coverage for expenses not covered under government health or group insurance plans**
 - **This coverage does not provide liability coverage for the actions of the student**

Questions

- ◆ **If not, what kind of insurance can parents take out for liability?**
 - **Parents should have home owner's/ tenant's insurance which includes Liability as well as protection against their building and contents**
 - **Children would be considered an insured under those policies**
 - **Most policies exclude intentional or criminal acts. Negligence is covered as that is the purpose of Liability Insurance**

Questions

- ◆ **Who establishes responsibility when police are not involved?**
 - **The incident would be investigated by the principal (or by OSBIE) and the results of the investigation would determine who was at fault for the incident or whether it was an accident**
 - **If persons involved disagree with the response, they can take the matter to Court via a Civil Suit and have a Judge or Jury determine who is at fault**

Questions

- ◆ **Can a child be interviewed without the presence of a parent or guardian, when the outcome of the interview can determine financial responsibility?**
 - **The principal can interview the students to determine what occurred**
 - **OSBIE will only speak to a child one on one with the principal present**
 - **If child is under 18 OSBIE obtains parental permission before speaking to a student on their own**

Questions

- ◆ **What kind of records does the school have to keep about the interviews ?**
 - **The principal would best be able to answer this question**
 - **OSBIE incident forms are forwarded to OSBIE for retention**
 - **If OSBIE does the investigation, the interviews are kept at OSBIE, not shared with the school or board but are confidential as it is part of an investigation for insurance purposes**

Questions

- ◆ **Can a parent refuse to be interviewed by the insurance company?**
 - Yes

- ◆ **What age defines a child?**
 - Legal question – Civic – 18 years of age,
Criminal – 12 years of age
 - However the courts have other test they use to determine if the child can be held accountable such as what is the child's experience, intellect, maturity/intelligence

Questions

- ◆ **If a child is bullied emotionally, could a parent be responsible for any financial repercussions after the fact (example – counselling)?**
 - **Legal question – if the child who is the bully is found to be negligent/at fault, the court would award damages to the victim, which could include an amount for counselling**

- ◆ **If a child intercedes on another child’s behalf, are they still liable if an incident occurs?**
 - **Legal question – depends on the facts of the incident**

Questions

- ◆ **Can a parent be liable if the children are on a field trip, and no longer on TDSB property?**
 - **Legal question - Children are responsible for their actions whether on or off school property**
 - **In situations where a child has harmed another child, the child inflicting the harm could be held responsible at law for their actions. In turn the parent would be responsible for their child's action**
 - **OSBIE's policy provides coverage to the Board and its staff and volunteers for their actions that may cause personal injury or property damage to a third party**

School Councils

- ◆ **School Councils are deemed to be formed for the sole purpose of provide an advisory function to school staff. They are mandated by the Ministry of Education & Training to provide advice to principals on a variety of issues**
- ◆ **Members of School Councils are fully protected by the board's liability insurance for lawsuits while they are performing volunteer duties that are under the jurisdiction and control of the principal and staff of the school. OSBIE protects staff and volunteers who are deemed to be working within the scope of their duties for the board**
- ◆ **School Council members are those who sit on the committee working with the principal only, it does not cover volunteers**



School Council Activities Beyond Advisory Capacity

- ◆ **Fundraising activities – are they covered?**
 - **YES protected IF school council members are “working within the scope of their duties for the board as assigned by an authorized board representative”**
 - **Example: Principal organized a fund-raising activity and the school council members were asked to assist with the event, insurance protection would be provided to these members who volunteered**



School Council Activities Beyond Advisory Capacity

- ◆ **NO , IF school council members involve themselves in a fund-raising or other activity on their own and outside of the control of the school or board, the members are not protected by the board's liability insurance policy**
 - **School council decides to hold a social, family social event, hold a craft sale, orchestrate programs not provided by the school on its own, coverage is not extended by the board's insurer**



School Council Activities Beyond Advisory Capacity

- ◆ **School Council given permission to use school gymnasium for an after-school program that the parents are running, are parents protected by the board's liability insurance?**
 - **NO, if the school council is simply using the school gym to operate a non-school activity, the group would require its own liability insurance for the activity they are running**



School Council Insurance

- ◆ **School Council Insurance that OSBIE offers is recommended for those councils that organize activities, not under the control of the school principal, and which would not be covered by the school board's insurance**
- ◆ **Cost of \$80.00**
- ◆ **The limit of this policy is \$2M**