Not all insurance policies are created equal

Research the power of the liability coverage

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(This is the second article in a two-part series on educator liability insurance. You can read the first article, “Uncovering the truths of liability insurance,” in the Legal & Advocacy section of okea.org.)

If you were comparing pickup trucks, two particular models might both be just as pretty on the outside, but before buying, you would surely look under their hoods to see which one has more power. The same kind of care should be taken when comparing educator liability insurance. Before committing to the ride, you should look under the hood of that policy.

The first thing you should do is ask for a copy of the insurance policy. You would not buy a homeowner’s or automobile insurance policy without first obtaining a copy of the policy and its terms – and an educator employment liability (EEL) policy is no different, except that there are vast differences in what various EEL policies provide and what they cover.

You should not settle for a “summary” or a “comparison” of a specific policy – you should obtain a copy of the certificate of insurance or the declarations contained in a particular policy. An insurer is required to provide to its insured the terms and conditions of the coverage bargained for in the insurance contract. So, it should immediately raise a red flag if you are told that you can’t get a copy of a certificate of insurance.

The NEA EEL policy is provided to every member as part of their OEA membership and to every prospective member that wants a copy of the policy. There is nothing to hide and the certificate of insurance is relatively easy to read and understand.

Second, you should review what is covered and the policy limits for the various coverages contained in the policy. For example, the NEA EEL policy provides coverage up to $1 million per occurrence for any claims against a school employee that arise out of their education employment activities. There are no aggregate limits to this coverage. In other words, if somehow a judgment was entered for $1 million against every OEA member in a particular year, the NEA EEL policy would cover all of those judgments, regardless of the cumulative total.

Other policies contain an aggregate limit for the amount of judgments that will be paid in a particular year. For instance, an EEL policy offered by the American Association of Educators (AAE) and underwritten by Savers Property & Casualty Insurance Company contains a $2 million aggregate for all acts and omissions during the policy period. So, if somehow a judgment was entered for $1 million against every person covered by that policy, the policy only pays claims up to the $2 million aggregate, not the total amount of claims made. So, while you may think you have $2 million in liability protection; that is true only if no other claims are made during the policy period. Aggregate policy limits are common in these policies and it is important to understand what coverages are limited and how.

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Third, you should be wary of any “comparisons” of the “legal protection” afforded by an insurance policy with the other legal services provided by the OEA. Those comparisons likely mean that the other group is offering its “legal protection” through an insurance policy and not through the organization. For example, the AAE policy mentioned above contains coverage for defense against adverse employment action, with relatively low limits of coverage. Under that policy, you are limited in the amount of fees that are available for having an attorney attend a due process hearing before a local school board and you are limited in the amount of fees that are available to pursue additional legal action.

Contrast those limitations to the legal services that are provided to OEA members for defense of adverse employment action through the Kate Frank/DuShane Legal Services Program. Frank/DuShane has no limits to the amount of fees available for a board hearing or other litigation. Knowing that may be why other groups want to provide a “comparison” instead of the actual EEL policy language.

The legal services provided by the OEA to its members are not provided through an insurance policy; they are provided by and through the OEA and those services are not diminished by coverage limits that may be contained in an insurance policy. The legal professional and personal legal services offered by OEA to its members are totally separate from the NEA EEL policy that provides for the liability protection available to every OEA member. You should make sure that you are comparing “apples to apples” when reviewing an EEL policy and/or any comparison of the OEA legal programs to the “legal protection” that is supposedly available with other groups.

Finally, like most anything else, the age old adage that “you get what you pay for” is equally applicable when reviewing these policies and any comparisons of the legal protection that is available through the OEA and other groups or organizations. Protect yourself – ask the right questions and understand what those policies provide – and you will be thankful in the event you ever need those protections.

If you have questions about any of the coverages contained in the NEA EEL policy or any of legal programs offered by the OEA to its members, contact the Center for Legal and Corporate Services or your Regional Advocacy UniServ Specialist.

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