



Uncovering the truths of liability insurance

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Questions about how much liability insurance coverage an education employee really needs come up frequently. There are myths, rumors and flat out misrepresentations that permeate faculty lounges, e-mails and even some websites – all in an attempt to lure education employees into believing they need a specific amount of liability insurance coverage to protect their employment. Here is the truth.

First, the vast majority of cases handled by OEA counsel are not covered by any insurance policy. If a school employee is facing termination, discipline, pay disputes or certificate loss due to false accusations, no insurance policy will help them.

However, as OEA members, they are provided full representation by OEA counsel without cost; that is a benefit of membership and is not part of any insurance policy. In fact, no insurance policy provides coverage for those issues. Any group who says their “insurance” policy will provide an attorney for these issues is making a blatant misrepresentation.

Second, the Oklahoma Governmental Tort Claims Act (OGTCA) protects school employees from any damages that are caused by the negligent acts of school employees while acting within the scope of their employment. The OGTCA even prohibits a plaintiff from naming a school employee in any lawsuit that alleges injury resulting from the negligence of a school employee acting within the scope of their employment and when a plaintiff does name an employee as a defendant, the OGTCA requires a school district to provide a defense for any such employee that is named in a lawsuit.

Finally, the OGTCA limits the amount of damages that a local school district is responsible for to no more than \$175,000 for any claim arising out of a single act and no more than \$1 million for any number of claims arising out of a single occurrence or accident.

The NEA Educators Employment Liability Insurance (EEL) is a benefit of your OEA membership. The NEA EEL policy is secondary or excess insurance and only applies in the event the school district insurance is exhausted or there is some dispute about your coverage under the OGTCA.

The NEA EEL policy provides coverage up to \$1 million per occurrence for any claims against a school employee arising out of their educational employment activities. The NEA EEL policy also provides an aggregate coverage of up to \$3 million for any number of claims arising out of a single occurrence or event.

The reason the NEA EEL policy far exceeds the liability limits set forth in the OGTCA is that the same EEL policy is provided by the NEA to all state affiliates – and some states may have liability limits that exceed those set forth in the OGTCA. However, in Oklahoma there have been very few claims even made against the NEA EEL policy because of the OGTCA and the required school district coverage for any damages caused by the negligent acts of school employees acting within the scope of their employment.

Even when there have been claims, no member has paid a single cent on any claim for a negligent act and the liability policy has only paid a handful of claims, none over \$50,000 since 1980 – when we started keeping our current records of these claims.

This is not to suggest that you don't need additional liability protection. The purpose of having additional liability protection is to ensure that a school district provides a defense for any tort claim against an employee acting within the scope of their employment and to provide a defense in the event there is some dispute about whether the complained of actions occurred during the course and scope of employment.

Finally, the additional protection provides excess coverage for any claims that for some reason – one that has yet to occur – exceed the limits set forth in the OGTCA. The added protection is important; however, the amount of the protection is superfluous as long as it provides protection within the limits of the OGTCA.

So, there you have it – the truth about how much liability insurance coverage you really need. Still not convinced? Visit the Oklahoma State Courts website (www.oscn.net) and read the complete OGTCA, paying close attention to Section 152 Definitions; Section 153 Liability – Scope – Exemption; Section 154 Exemption of Liability; Section 162 - Constitutional or Statutory Rights (et al); and Section 163 Venue – Parties (et al).

In the next issue (December/January 2015), we will discuss how to read a liability insurance policy, what these policies provide, and compare other policies to the NEA EEL policy as well as the other legal services provided by the OEA.