

Regular Assessment of Schools Procedures can Reduce Risks.

By:

Edward F. Dragan, Ed.D., M.E.L., C.M.C.

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“How did this accident happen?” “How could the school have prevented it?”
Once an incident occurs, it is too late to ask these questions.

Our nation's schools pay millions of dollars annually in damages to schoolchildren injured in class, sexually assaulted by teachers, and harassed by fellow students. In 1997 alone, boards of education in New Jersey faced 381 suits – more than one case a day – representing a potential liability of over \$500 million. This total does not include cases filed in administrative court, which typically hears special education issues. Since most cases settle privately, the general public and even some education insiders are not aware of the scope of such liability.

The following four instances chronicle occurrences that could have been avoided had the schools involved developed a risk analysis plan identifying potential safety hazards, emphasizing accountability and establishing procedures for creating and maintaining a hazard-free school.

A \$1.7 million verdict

In a private school, a third-grade teacher told two students to return a television cart with a television on its top shelf to be returned to the library down the hall. One student stepped onto the bottom shelf, and the other student lost his grip on the cart. The cart fell, causing the television to strike the first student, whose injury resulted in a coma lasting two weeks and finally, permanent brain damage. The jury in federal district court determined that the school was at least partly responsible for the accident due to the students' lack of adequate supervision.

This unfortunate situation could have been prevented if teachers and administrators had assessed the risks of allowing young children to move such equipment. The U.S. Consumer Product Safety Commission had issued a warning about the tip-over hazard of such carts in February 1987 and again in April 1988. School personnel claimed that they had never seen either alert. Regardless of whether or not they had seen the alert, any reasonable teacher or administrator should have known that is dangerous to send two unaccompanied eight-year-old students into the hallway manning an audiovisual cart top-heavy with a television set and that such an instance exposes children to potentially serious injury. As the case turned out, the jury agreed.

An \$850,000 settlement

In a similar case, a board of education paid \$850,000 to a five-year-old student with autism who was seriously injured when a 50-pound television fell and struck him on

the head. When evidence of inadequate teacher supervision pointed to the school's liability, the case settled out of court.

In this case, three adults – one certified teacher and two teacher aides – were supervising a class of five students. An audiovisual cart with a television on top was in the classroom on a regular basis although it was only used one time a week for about 30 minutes to show students a video. The cart had been kept in a hall closet for years, but when the librarian purchased additional equipment, she suggested to the classroom teacher that she keep this cart in her classroom instead of having to move it back and forth to the library closet for storage.

The student who was seriously injured had a severe receptive language disorder. Consequently the child's education plan specified that the teacher communicate instructions very directly to the student to ensure that the child understood what the teacher had said before continuing to give further instructions. In addition, the education plan indicated that the child was impulsive and needed close supervision. In spite of this knowledge, the teacher left the student virtually unattended in a section of the classroom while the teacher was busy helping with another student. As she worked with that student, the teacher announced to the class that it was video time. Having not clearly received instructions and lacking close supervision, the first child impulsively jumped up, ran to the audiovisual cart, and endeavored to pull it to the center of the room. The cart's wheels caught on a dividing strip between a carpet and the linoleum floor, causing the cart to tip over and fall on the child's head. In this, as in most cases, the school's insurance company paid the judgement and settlement.

A \$300,000 sports injury settlement

The coach of the girls' track team and a student who threw in javelin one more time after the coach announced that practice was over both shared payment of the cost of a settlement of \$300,000 paid to a student who received permanent nerve damage and facial paralysis when the javelin struck her in the face.

Teachers and coaches are responsible for students while they are using potentially dangerous equipment. Teachers must work with administrators to develop and implement procedures that ensure to the greatest extent possible that use of potentially dangerous equipment is restricted and that students are supervised at all times and never placed in control of timing condition under which such equipment is used. In this case, the coach had not established a clearly defined safety policy regarding the use of equipment. Even with such a policy in place, in this situation, the coach should have first taken care to get the attention of all athletes to stop all practice and use of equipment while he supervised collection and storage of sports implements. Only then should he have declared practice at an end. Because such a procedural sequence was not followed, the student who had a javelin in his hands when the coach announced that practice was over took one more throw, striking a student who was retrieving her javelin from a previous throw.

Inappropriate school policy

A 15-year-old student with a learning disability, while chasing another student in a classroom, put her hand through a plate glass window in a door and seriously injured her arm. At the time of the incident, the teacher in charge of the classroom was not adequately supervising the students. Furthermore, the school district had not provided a substitute teacher aide in the class as required by state regulation. The school was

clearly at fault for not providing a classroom aide according to state regulations when the aide assigned to the special education class called in sick that morning. State regulations required such an aide to be assigned to special education classes due to the nature of the class and to the number of students assigned to it. The job description of the required aide specified that among other functions, the aide was to assist in maintaining order in the classroom, guarding against the type of behavior that ultimately caused the student's injury. The case clearly revealed substandard care in the classroom.

Reducing risks

Unnecessary risks in school must be corrected, most importantly to protect the safety of students, faculty and support staffs, but also to eliminate costly litigation and settlements. Although insurance companies usually pay these settlements, school and taxpayers will ultimately have the burden of higher taxes and insurance coverage and payment of expensive legal fees. In addition, substitute teachers must be hired when a school personnel testify in court, a procedure that often is very stressful. Thus along with loss of money that could be well-spent elsewhere, classroom productivity is also lost.

Most cases of school violations could be prevented through practice of proactive risk management. Teachers and administrators must learn to scrutinize their procedures, equipment use and personnel practices for ways to ensure the safety of students, faculty and support staff.

Safety tips for risk management

School should consider following risk management guidelines to improve overall safety in schools and eliminate high costs of accident-related litigation:

- ☐ Inspect the school buildings and premises for evidence of hazards with potential for injury or harm to students, faculty and support staff.
- ☐ Establish an inspection log in which observations of potential hazards are recorded along with actions taken to eliminate the hazards of unsafe procedures.
- ☐ Assess potential for risk related to use of the following equipment: playground or gym, sports equipment, audiovisual and library carts, televisions, tape recorders, cassette players, microphones, lecterns, theatrical production sets and flats, science laboratory paraphernalia, and eating area tables, benches and umbrellas.
- ☐ Establish a safety handbook detailing procedures for supervising students in the classroom, on playing fields, at special school events, in eating areas, on school buses/in school vehicles, and in hallways/on stairs/in elevators.
- ☐ Conduct in-service training and review first-aid practices, crisis response strategies, school emergency evacuation drills, communications alternatives during emergencies and procedures for reporting suspected child abuse and sexual harassment.
- ☐ Establish a responsibility flow chart or "tree" assigning faculty and support staff responsibility for overseeing specific areas of the school and reviewing those areas on a regular basis for potential vulnerability, safety hazards and unsafe practices.
- ☐ Establish a prioritized action plan for making corrections based on reported safety hazards and unsafe practices.
- ☐ Develop a risk analysis plan to identify problem areas with potential for rendering the school vulnerable to lawsuits.

- ☐ Review any past lawsuits to determine the proximate cause of the lawsuits and develop safeguards that will ensure no repetition of casual incidents.
- ☐ Model and emphasize personal accountability and commitment to creating safe school procedures.

Administrators who follow steps such as those above demonstrate proactive commitment to safeguarding the welfare of students, faculty and support staffs that will produce safe school campuses and climates and reduce potential school liabilities.

Dr. Edward F. Dragan is the founder and principal consultant for Education Management Consulting, LLC, Lambertville, NJ. He has a doctorate from Rutgers University in Educational Administration and Supervision, a master's degree in Special Education from The College of New Jersey, and a masters degree in Education Law from Franklin Pierce Law Center. He is also a Certified Management Consultant. He can be contacted at (609) 397-8989 or by visiting the firm's website at www.edmgt.com.