

Teacher Responsibilities and the Concept of Legal Liability

“The standard of care to be exercised by school authorities in providing for the supervision and protection of students for whom they are responsible is that of the careful or prudent parent.” Education Act

Teaching and learning that occurs outside classrooms and schools must consider issues of legal liability and avoidance of negligence. Teachers owe students a duty of reasonable care. All efforts to ensure breaches in the duty of care are minimized and avoided should be taken to negate, reduce or minimize student injury and therefore negligence on behalf of the teacher with duty to care.

The issue of legal liability, and the avoidance of negligence, carries with it certain duties of responsibilities including, but not limited to, the following examples:

Duty of Care

- to provide proper instruction prior to and adequate supervision during the activity.
- to provide and maintain safe equipment and transportation.
- to provide first aid and immediate care and transport for injuries if necessary.

Duty to Warn

- to inform parent/guardian(s) and students of the inherent risks of actual hazards of any given activity through approved consent forms.
- to inform parents/guardian(s) and students of the potential of extraordinary circumstances which may result in the alteration or cancellation of an excursion.

Conduct of a Reasonable Person

- to govern actions in light of the question that will be asked, *“How would a reasonable person act in this circumstance?”*
- to remember that certified teachers are held to a higher standard of care than are ordinary persons and are expected to keep up-to-date with procedures, techniques and certification where necessary.

Standard of Practice

- to know and adhere to the standard of learning and practice set in Board guidelines, to be knowledgeable about and adhere to other standards, for example those set by provincial sport associations, Board Social Justice Committee, Experiential Learning expectations, Outdoor and Environmental Education procedures.
- Algonquin and Lakeshore Catholic District School Board Excursion Policy and Administrative Procedures have been developed to support the enhancement of learning and the meeting of these legal obligations by Board personnel and to reduce risks for students and staff.

Checklist

- Applicable OSBIE Guidelines
- Applicable WSIB Procedures
- Applicable OPHEA Guidelines
- All applicable ALCDSB Policies

Excursion organizers are to plan to avoid and minimize the risk associated with any excursion for all participants and supervisors thereby eliminating or reducing legal liability for excursion participants. This includes taking all appropriate steps to eliminate or remove possible negligence by ensuring that all actions are those of a prudent person.

The following questions and suggested information should be considered by the Staff Organizer to ensure the reduction or elimination of liability and negligence when planning and during an excursion. Consideration of these questions and gathering of this information constitutes the actions of a prudent person.

1. *Is the planned activity both mentally and physically suited to the student's age and condition?*
 - Progress reports, medical and personal records will serve as documentary evidence to substantiate the staff organizer/supervisor's solid understanding of the student's physical and emotional preparedness.
2. *Is the activity properly supervised?*
 - The degree of supervision required varies directly with the difficulty [and inherent risks] of the activity. The supervision ratio must be in accordance with Board established rates and or governing organization (eg. OPHEA) rates.
3. *In a sporting scenario, does the student have progressive training and proper coaching to avoid danger?*
 - Proper coaching requires a demonstration of structured progress, with adequate review procedures to ensure that students will not move too quickly into areas beyond their capabilities. The provision of competent well-trained coaches, instructors and all others involved in the sport activity is a positive step towards ensuring proper instruction and experience.
4. *Are up-to-date written reports available and current should an incident or accident occur?*
 - Complete detailed accident reports, including the names of observations of witnesses, immediately after any mishap.
 - Keep a diary on the condition of equipment and facilities and make sure that any necessary repairs are made.
 - Establish and enforce written rules for conduct on and about the training or competition area. These rules must be brought to the student's attention regularly.
5. *Are the facilities adequate and equipment suitably arranged?*
 - Everyone, especially excursion supervisors and facility owners, must exercise caution and care when inspecting facilities and equipment and fitting uniforms and protective gear.

Signatures indicate that a discussion of the above risk reduction methods, evidence and documentation has occurred:

Staff Organizer Signature: _____ Date: _____

Supervisor Signature: _____ Date: _____

Volunteer Supervisor Signature: _____ Date: _____

Principal Signature: _____ Date: _____