



Schools Protection Program (SPP)

Administrators' Handbook/Guide to
SPP Coverage

2010/2011 School Year

Web site address – www.bcspp.org

Foreword

The Schools Protection Program (SPP) provides coverage to all boards of education and francophone education authorities against liability and loss; it also assists members in their identification and management of risks that may lead to loss or damage to property, or harm to individuals.

This handbook should not be used as more than a general introduction to coverage available under SPP. It is not legal advice and does not modify actual coverage wordings. Not all activities or losses are covered. For specific details of coverage wordings or answers to specific questions please refer to your Secretary Treasurer or an SPP Consultant.

If you have suggestions or would like to comment on the contents of this handbook, please call or write to:

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Introduction: Why is protection needed?

School Districts, like all organizations and individuals, are exposed to legal liabilities and loss of or damage to property. Litigation against a School District, trustees, its staff or volunteers can result from many different types of situations, such as sports injuries, school yard accidents, bullying, nuisance, and even the alleged failure to meet a child's educational needs.

Just because someone is injured during a school activity does not mean the School District is responsible or legally liable.

In addition, all property is at risk at all times. Buildings, furnishings, equipment, etc. can be damaged by fire, lightning, wind, theft, water, vandalism or earthquake.

SPP assists school districts, their trustees, staff and volunteers in responding to legal actions filed against them which are within the scope of coverage, and assists in the replacement or repair of damaged property.

1. When is Coverage available and who is covered by the Schools Protection Program Liability Coverage?

The Schools Protection Program liability coverage is primarily designed to protect the school district, and its employees while performing their duties, against liability claims.

To the extent that liability arises from their authorized duties on behalf of the school district, coverage under SPP may also extend to include the activities of:

- Trustees
- Members of committees
- Volunteer workers, student teachers
- Students under certain circumstances
- Students participating in Work Experience programs
- Parent Advisory Councils, District Parent Advisory Councils, members and employees
- School Planning Councils
- Community School Societies, their directors, employees and volunteers

a) **What activities are covered?**

All school district authorized activities are covered. Authorizations for different activities may be given by teachers, school administrators or board administrators, depending on board policy. Individuals who are responsible for providing authorization should be familiar with, and follow board policy. For activities which are not part of the regular educational program, teachers should ensure they have the authorization of the principal or district administration.

School personnel are responsible for carefully considering safety issues before planning any activity. Even if a teacher has been taking students on the same trip for many years without incident, it does not mean the trip is well planned and appropriately managed to ensure it is as safe as possible. For example, a teacher planning a canoeing trip may have 20 years of canoeing experience but may never have received formal training in water safety and may have no real ability to assess equipment requirements or emergency communications systems. We suggest that teachers who sponsor such activities ensure their knowledge is current and seek the assistance of experts if in doubt.

Questions about the appropriateness of any particular activity should be referred to the School District Secretary-Treasurer or Risk Management designate.

b) When is coverage not provided?

The liability coverage will not respond to every type of claim. These exclusions are the most common:

- job-related injuries that are covered by WorkSafeBC;
- criminal or illegal acts;
- errors and omissions arising out of professional services contracts;
- ownership, use or operation of automobiles.

c) Are the actions of volunteers covered under the liability coverage?

There are three commonly raised questions concerning volunteers:

1) Are the actions of volunteers performing volunteer duties on behalf of the school district covered by SPP?

Yes. Volunteers' actions are covered while participating in a school board or school authorized and supervised activity.

However, not all situations that occur during school activities will be considered part of the volunteers' approved duties. For example, if during a school band tour, a volunteer or staff member decides to go to the store to buy some personal items and as a result becomes involved in an incident causing injury to a third party, coverage will not be available because the activity was of a strictly personal nature and unrelated to the volunteer's obligations.

Volunteers should be aware that they may have some personal legal liability exposures. These exposures may be insured under the liability section of homeowners or tenants insurance policies, or under an automobile policy. Volunteers should be advised to check with their own insurance agents.

2) Are volunteer coaches, including volunteer coaches who receive an honorarium, extended coverage?

Yes, however coverage is limited to that time during which they are participating in school district activities.

3) Are volunteers provided any medical or disability benefits if injured while volunteering?

There is no medical or disability coverage for volunteers, unless it was specifically purchased by the school district. However, if they are injured by the actions of other people, they still have the right to sue. If the injury is automobile-related ICBC may provide coverage and ICBC should be advised.

It is most important for volunteers to be advised that they are required to report all incidents to an administrative officer. Please refer to Section 5 for details. This is necessary both for purposes of guidance on required procedures in the event of an accident, and for the Incident Report process.

d) Are the actions of students covered under the liability coverage?

There are four issues commonly raised concerning students:

1) Are student actions against other students covered by SPP?

No. Students are not extended coverage by SPP, unless they are performing assigned duties at the request of school staff, e.g., crossing guards, classroom monitors, or acting at the specific direction of school staff.

2) Are students covered if a claim is made against them while working in a Work Experience placement at a standard work site covered by SPP?

Generally, yes. SPP covers the acts of students in the absence of a contrary agreement between the Work Experience employer and the school district.

3) Are students provided any coverage if they are injured while participating in a Work Experience placement?

Not by SPP. Students participating in Work Experience placements at standard work sites of an employer in BC are covered by Work Safe BC. This Coverage is limited to students who are 15 years of age or older, or 14 years of age, enrolled in Career and Personal Planning 11/12, and participating in a Work Experience with the approval of a school board.

4) Are students provided any coverage if injured while at school?

SPP does not provide accident coverage to an injured student.

There may be some benefits to students through the Student Accident Insurance if the parents have chosen to purchase the insurance directly from the insurer.

There may also be some benefits available to a student, through the Student Accident Insurance, if the school district has sponsored one of the available insurance programs, even if the parents have not elected to purchase the Student Accident Insurance. Check with your school district on this issue.

e) Are the actions of user groups covered under the Liability coverage?

User groups are not extended coverage by SPP.

School districts should have formal policies regarding the use of school facilities by outside groups. User groups should be advised that they do not have protection under SPP for their use of school facilities. They are legally liable for their own actions, including bodily injury to persons and any damage to school property they or their participants may cause.

All user groups should have a written agreement with the school district regarding the use of the facilities. This agreement should have an indemnity to the school district and in most cases a requirement for general liability insurance.

As outlined in the User Group Agreement, all incidents resulting in either injury or property damage, arising out of the user group's activities must be reported to the school district.

f) Are Parent Advisory Councils extended liability coverage?

Yes. SPP liability coverage extends to cover Parent Advisory Councils (PAC's), members and employees with respect to authorized activities in connection with the school district. This coverage does not apply to claims brought by a member against any other member.

School districts should ensure that PAC activities are properly authorized by the school district in accordance with board policy. Parent Advisory Councils are responsible to insure their own property and securities.

g) Are School Planning Councils extended liability coverage?

Yes, liability coverage under SPP is extended to School Planning Councils established by school boards.

h) Are parent-sponsored events covered?

No. Parent-sponsored events are not covered. SPP only covers events that are sponsored by either the school district or by the Parent Advisory Council, if authorized by the school district. Parents are not covered as "parents". They are covered only if they are acting as "school district volunteers" or "PAC members" while participating in school district events.

An example of a parent-sponsored event that is not covered is a "Grad" event that is not sponsored by the school district or authorized by the school district as a PAC activity.

2. Field Trips

a) **What should the considerations be prior to approving a Field Trip?**

- 1) Refer to your school district's Field Trip Policy for your required approval process;
- 2) Risk should always be assessed prior to approval and where the activity involves moderate or high-risk exposures, one should ensure that the controls are in place to manage or eliminate the risk. If you are unsure as to whether or not the proposed activity is moderate or high risk, contact your secretary treasurer, board office or SPP;
- 3) Depending on the level of risk and whether the activity is a curricular or extra-curricular activity, a permission form, detailed consent form or waiver may be required. Check with your secretary treasurer;
- 4) Extended Field Trips may have special requirements, such as the requirement to purchase out-of-province medical coverage.

b) **Screen your volunteers.**

See Risk Ed Article "Screen your Volunteers" on the website – www.bcspp.org

c) **15 Passenger Vans**

See Risk Ed Article "15 Passenger Vans" on the website – www.bcspp.org

Any vehicle with a seating capacity of more than ten persons including the driver is defined by the Motor Vehicle Act as a bus. A "bus" used to transport students is required to have a valid school bus permit.

d) **Student Volunteer Drivers**

Refer to 3 (c) following.

3. Automobile Use

a) What does an employee or a volunteer need to know about driving their own or a borrowed vehicle for school activities?

When an employee or authorized volunteer driver has an accident while operating an owned or borrowed licensed vehicle for an approved school activity, SPP has in place with ICBC a Special Excess Third Party Liability Policy that bridges the gap that may exist between the owner's automobile liability limit and \$1,000,000. SPP provides excess automobile liability coverage in excess of the \$1,000,000. **However, the vehicle owners' automobile liability is always the primary coverage to the full extent of the limit of coverage carried.**

There are two possible circumstances, which will disqualify the driver and/or vehicle owner under SPP:

- 1) Where the vehicle is used for a purpose other than what it is insured for;
- 2) When the vehicle is operated in violation of any motor vehicle regulation or section of the criminal code.

Personal belongings contained within a vehicle are not insured by ICBC or SPP. The driver should look to their homeowners/tenants insurance for this coverage.

b) What happens if there is physical damage to an employee's or volunteer's owned or borrowed vehicle?

SPP does not provide any insurance for physical damage to employees' or volunteers' owned or borrowed vehicles. It is the responsibility of the vehicle owner to insure physical damage directly with an insurer.

c) Should students be permitted to act as volunteer drivers?

As students have limited driving experience, SPP does not recommend the use of student volunteers. However, for some types of activities, or in some districts, students may be required or permitted to make their own arrangements for transportation. In this case, it may be inevitable that students may choose to ride with one another. This is not a preferred practise for transporting students. It should be made clear to parents and students in a consent form that transportation is the responsibility of the individual to arrange. Refer to the secretary-treasurer or risk management designate regarding the school district's policies on student drivers.

4. What Property is covered by the Schools Protection Program Property Coverage?

All property, excluding licensed vehicles, which is owned by the school district and recognized by the Ministry of Education, or leased, rented or borrowed property required for the provision of education services and programs, is covered. There are some exclusions, such as artwork and property transported outside Canada or the United States of America, so check with your secretary-treasurer/risk management designate or SPP.

a) Is employees' personal property covered under SPP?

Employees' personal property (excluding vehicles), used for authorized instructional or employment purposes, is covered up to a maximum of \$3,000., but only in excess of their personal insurance coverage. This means that employees who have something stolen or damaged can only place a claim through SPP if:

- 1) they can show that the property was being used for instructional or employment purposes;
- 2) they have coverage and have first claimed upon, and exhausted, their own personal insurance.

Excluded from this coverage is money, valuables, or any other personal property except such items that are specifically used for instructional or employment purposes. For example, personal items, such as purses, wallets, or clothing are not within the scope of this coverage.

Because all property claims are subject to a \$3,000 deductible per incident, employees should review the provisions of their personal home/tenants insurance. *It is likely that the employee is required to notify their insurer if their property is being used away from their residence and for employment purposes.* The SPP deductible, in combination with the maximum limit, can severely reduce any claim an employee might make. For example, an employee's computer is stolen from the staff room; here is how the claim would proceed:

- 1) School confirms that the computer was being used for instructional/employment purposes;
- 2) The employee checks to determine if personal insurance will cover the loss;
- 3) If the personal insurance does not respond or is not in effect, the employee makes a claim under SPP (Incident Report);
- 4) The employee provides proof to establish amount of the loss at \$4,000;
- 5) Maximum coverage is \$3,000 less the deductible of \$3,000, which means there is no claim.

If the claim involved the property of other employees, and perhaps also school equipment at the same time, one single deductible would apply over the total loss,

and not per employee. This would allow the school district to consider apportioning the deductible over all parties whose property was involved, but would not affect the total maximum, coverage per employee of \$3,000.

b) Is students' personal property covered under SPP?

No, it is not.

c) Is leased, rented or borrowed property covered?

Effective July 1, 2010, leased, rented or borrowed property required for the provision of education services and programs, except artwork, is covered. Please contact your risk management designate prior to taking possession of artwork, to arrange coverage under the optional policy.

5. Reporting of Incidents/Claims

Prompt notice must be given to SPP of any event/incident likely to give rise to a claim and every incident of the types described below. Serious incidents should be reported by telephone (250-356-1794) or fax (250-356-0661) immediately to SPP.

Note: If you receive a call from someone who says they are a lawyer or investigator representing a student, employee, or visitor requesting information, please be cautious about responding to questions. The person may not be who you first think they are and may seek to have you disclose personal confidential information which is a breach of the Freedom of Information legislation. Instead we suggest you obtain their name and contact information and advise them that you will have someone get back to them. Then please call SPP immediately; we will assist you to respond to these inquiries.

a) Reporting of Liability Accidents/Incidents and Property Loss/Damage Claims

Report every incident of the types described below, whether it took place during school hours or not. If in doubt call SPP for directions.

- 1) Bodily injury or property damage is suffered by others including a student, parent, volunteer, visitor or bystander;
- 2) Medical/first aid attention is provided to or obtained by an injured person in connection with a school or school activity;
- 3) A loss or damage to property of others occurs with a value in excess of One Hundred Dollars (\$100.00); or where the owner has indicated they will make a claim regardless of the value of damaged or lost property;

- 4) There is any indication that a claim may be made for personal injury. For example, the injured person, or the person's family expresses a concern or makes a complaint or blames the school or school employee for the injury;
- 5) There is a motor vehicle accident involving injuries;
- 6) An allegation of discrimination is made or psychological injury is reported. These may include emotional distress, shock, or mental suffering. Allegations may be informal or may take the form of a written complaint or legal document such as a Human Rights complaint;
- 7) Incidents resulting in damage to or loss of school property occurs with a value in excess of \$3,000;
- 8) Crime, theft, or burglary losses occur;
- 9) A legal action is commenced and legal documents are served.

When an incident happens, a teacher or staff member (regardless of his or her responsibility for the activity) should be made responsible to ensure that the following steps are taken promptly:

- 1) Fully complete an Online Incident Report form (see 5 (b) below);
- 2) Advise ICBC if the incident involves an automobile and advise the RCMP or local police immediately if there is injury involved in a vehicle accident;
- 3) Advise the RCMP or local police if there is:
 - damage to school property by vehicles unknown (hit and run) or suspected arson;
 - theft of contents;
 - vandalism to school property.

If it is possible, the teacher/staff member should take steps to preserve any items, equipment or information which might assist to defend those involved in litigation, or assist to prove a property damage claim. Call SPP for direction.

If the incident (either involving injury or property damage) is of a very serious nature immediately notify the school district office (Secretary-Treasurer or Risk Management Designate). If the Secretary-Treasurer or Risk Management Designate is not available, notify SPP Claims Department (250-356-1794).

Incident reports are also required for incidents that occur with user groups or PAC activities. User group facilities contracts should require that incidents that occur during the group's usage be reported to the secretary-treasurer or risk management designate.

b) On-Line Incident Reporting www.sppirs.org or through www.bcspp.org

The On-Line Incident Reporting System allows for the completion and submission of school incident reports electronically. SPP automatically receives the information.

To obtain your schools districts' unique user name and password for the online incident report system please contact your Secretary Treasurer/School Board Office or call SPP (250) 356-1794.

Do not provide copies of an incident report to anyone, call SPP for direction.

6. Certificates of Insurance

a) How are Certificates of Insurance issued?

All requests for Certificates of Insurance are to be made through the office of the secretary-treasurer or risk management designate. A copy of the contract or written agreement, such as a permit, must accompany the request. The individual who signs the contract, agreement or permit should ensure they have the authority to sign.

Contracts or agreements, which include indemnity and hold harmless clauses and require the school district to be responsible for the negligence of others, should be avoided, or entered in to only with great care. Seek advice from your secretary treasurer or risk management designate.

b) When should I request a Certificate of Insurance from others?

Any time you have entered into a contract, which requires the other party to carry liability insurance, including, for example, commercial user groups and service providers.

7. How do I get more information on issues not covered in this handbook?

All matters should be referred through the school district secretary-treasurer or risk management designate.

Copies of correspondence or questions should be sent to the secretary-treasurer or risk management designate.

Check the SPP web-site: www.bcspp.org