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Workers’ Compensation and the School Business Official

By Charles J. Russo, J.D., Ed.D.

Workers’ compensation laws emerged during the Industrial Revolution to protect individuals and their families from salary losses and medical expenses that resulted from work-related injuries, illnesses, or death. The laws allow employees to receive partial or full benefits temporarily or permanently, depending on the seriousness of their conditions.

In light of the significance of workers’ compensation laws for school board budgets and staffing, this column begins with a brief history of the statutes; examines the components of a typical workers’ compensation statute, along with selected representative recent litigation; and then offers recommendations for school business officials (SBOs), their boards, and other education leaders who are charged with overseeing the implementation of workers’ compensation laws in their districts.

Workers’ Compensation Laws

American workers’ compensation laws afford individuals and their families the right to receive medical treatment and lost wages when workers are injured, become ill, or die through no fault of their own under circumstances arising from their jobs. Workers’ compensation laws were also designed to protect employers from devastating litigation that typically arose from negligence because benefits claims under those laws often prevented injured employees from filing suit.

Recognizing that each state has its own workers’ compensation law, this column briefly examines the law in Ohio, the author’s state of residence, because it is representative of the statutes in most jurisdictions.

As an initial matter, school boards in Ohio have two options when paying for workers’ compensation:

- Boards can join group-rated state-funded plans that spread the risk for expensive claims over a broader range of employees, or they can participate in retrospective plans calling for fixed semiannual payments. Boards are deemed protected by the state-fund coverage unless they elect, and are approved, to participate in other plans (Ohio Revised Code [ORC] § 4123.35).

- Although statutory requirements to qualify for that option are so restrictive that few systems can qualify, boards have the option of self-insurance (ORC § 4123.35).

All school board employees in Ohio, including administrative staff and board members, are covered for injuries arising out of or in the course of their jobs. The law can also apply to independent contractors, particularly those working on construction projects, subject to many statutory conditions (ORC § 4123.01 [A][1][c]). Not surprising, disputes arise over what it means to be in the course of employment.

Illustrative litigation—although not from Ohio—highlights the types of disputes arising over the kinds of injuries covered by workers’ compensation laws. The Iowa Supreme Court affirmed a workers’ compensation award for a permanent and total disability regarding the ankle injury of a job coach who worked with students with disabilities. The job coach was injured when she slipped and fell as she helped students onto a van transporting them to their assignments (Cedar Rapids Community School District v. Pease 2011). Further, the court upheld an award paying the employee’s medical bills because her doctor claimed that...
the ankle injury aggravated her heart problem.

Similarly, an appellate court in Louisiana affirmed an award of workers’ compensation for an employee who allegedly injured his back while stripping floors even though no one saw what occurred (Franklin v. Calcasieu Parish Board 2013). Moreover, although there was some disagreement over whether a maintenance worker’s injury was caused when the plywood under the ladder he was working on slipped on a plastic sheet beneath it or the ladder slipped on the plywood, an appellate court found that benefits were warranted (Smith v. New York State and Local Retirement System 2013). The court decided that insofar as the incident was a sudden and unexpected event, it met the requirements of the state’s workers’ compensation law.

Conversely, another appellate court in Louisiana affirmed the denial of a teacher’s request for benefits premised on post-traumatic stress disorder as a result of having been assaulted by a student (Whetstone v. Jefferson Parish School Board 2013). The court noted that the teacher visited 15 health care professionals over nine years, and only one physician and a social worker diagnosed her with the condition she claimed. Since the remaining doctors cleared the employee to return to work on the ground that she was malingering, the court concluded that she was not entitled to benefits.

An appellate court in New York affirmed the denial of the claims of a former teacher who allegedly suffered work-related injuries (Tawil v. Fallsburg Central School Board 2013). The court rejected the applicant’s claim for benefits because he accepted a teaching job in Florida that was no different from the one from which he resigned after being notified that he was denied tenure. A second appellate court in New York rejected a former teacher’s request for benefits where he was no longer working because he accepted a favorable retirement package rather than because of injuries (Richardson v. Schenectady City School District 2012).

Employees who are injured, become ill, or die in the course of their work, and their survivors, may be entitled to benefits in the form of medical treatment and hospitalization costs, as well as lost pay. Benefits can range from temporary (ORC § 4123.56), partial (ORC § 4123.57), permanent partial (ORC § 4123.57[A] or permanent total (ORC § 4123.58), depending on whether individuals can return to their prior positions. In the event that the Ohio Bureau of Workers’ Compensation (ORC § 4123.511), the state agency responsible for benefits, denies claims or other disagreements arise, aggrieved parties can pursue litigation (ORC § 4123.512). Employees or their survivors must ordinarily file claims within two years of the date of the injury (ORC § 4123.84).

**Recommendations**

In light of the far-reaching nature of workers’ compensation laws and ongoing litigation over the scope of their coverage, it is essential for SBOs, their boards, and other education leaders to become familiar with their state statutes. As such, to help reduce the number of claims and associated expenses, the following recommendations should be of interest to education leaders as they work with policies designed to ensure compliance with state laws.

1. **Board policies, which should be available in hard copy and on district Websites, should detail the steps required by state law for employees who file job-related claims. Those steps should include the following:**
   - Notification of employee’s immediate supervisors.
   - Required completion of notice-of-injury forms documenting how injuries occurred.
   - Receipt of a list of designated physicians if medical attention is required.
   - Time lines for filing forms.

2. **Board policies should detail procedures for filing claims, such as:**
   - Where and from whom (whether from their boards, insurance companies, or the state level) employees can obtain injury packets; which form(s) must be completed first; and where forms must be sent when completed.
   - The contact information for individuals who process claims.
   - Processes for seeking medical treatment, particularly because processes vary from one district to another; some policies direct employees to their personal physicians, whereas others encourage staff to seek treatment at designated locations.
   - Procedures for returning to work, defining what lost time is covered, how much employees will be paid during absences, and what costs associated with medication and mileage to and from doctor visits are subject to reimbursement.

3. **Board policies should mandate in-service programs at the district and building levels to explain workplace safety rules for employees as part of the plans to keep schools accident free. Those sessions should be designed to ensure employee familiarity with state laws and board policies on workers’ compensation coverage and procedures. Boards should offer additional programs for custodians, maintenance workers, and others whose jobs pose more risk of physical harm or who may be around possibly hazardous substances.**

4. **Board policies should require employees as part of their contracts to sign off on annual**
reminders that they were apprised of their rights to workers’ compensation.

5. Officials should post notices in conspicuous locations, and online, reminding employees of their rights under state workers’ compensation laws.

6. Boards should ensure that their record-keeping systems include copies of (a) their policies and procedures, (b) accident reports, (c) maintenance and inspection records, (d) employee training records, (e) environmental impact studies, and (f) complaint files.

7. Board policies should include grievances or dispute resolution procedures if employees are dissatisfied with how their claims are handled.

8. Acting in conjunction with their lawyers, SBOs, their board members, and other education leaders should regularly review and update workers’ compensation policies, preferably annually, to ensure that they are up-to-date.

Conclusion
As with so many areas, compliance with the preceding suggestions may not eliminate all concerns about litigation. Yet following those guidelines can go a long way toward helping avoid unnecessary conflict and should allow SBOs, their boards, and other education leaders to better marshal their board’s resources on appropriate educational expenditures with regard to workers’ compensation.

References
Cedar Rapids Community Sch. Dist. v. Pease, 807 N.W.2d 839 (Iowa 2011).

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