SCHOOL INSURANCE IN OREGON

by

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CHAPTER I

INTRODUCTION

Public education is primarily a governmental function at the state level. As any sovereign state has the right to do, each state has set its own basic pattern for public education by constitutional provision, legislative enactment, and court decision. This educational pattern has been established to a large extent independently of any other state and has been limited only by the restrictions of our Federal Constitution, laws, and court decisions.

As a consequence, each state differs considerably from others in the details of its educational provisions. This variation is particularly true with reference to school insurance. Each state differs so much in its mandatory and permissive insurance provisions and in its theory of school district and school personnel liability that any study of school insurance to have much practical significance for school boards and school administrators must be made at the state level.

The school district in Oregon is an ad hoc agency created by the State for the purpose of conducting a system of common schools. The school district has a great many

responsibilities to carry out fully its legal and moral obligations among which is the problem of management of its school insurance program. As the American Association of School Administrators has pointed out, every community should protect its investment.

> The school district has an important financial investment in its educational program. In many instances the capital invested in school buildings and equipment, together with costs of operation, constitutes the community's largest economic enterprise. Protecting the community against loss from fires, accidents, and other types of misfortunes through adequate insurance coverage is an important responsibility of local school boards and superintendents. (3 p.3)

The State of Oregon has approximately $167,695,329 invested in public school buildings, $24,833,745 in furniture and equipment and $15,000,000 in school vehicles. The importance of the problem of protecting against the loss of this investment and against other misfortunes by adequate insurance coverage warrants a serious study of school insurance in Oregon.

Purpose of the study

The purposes of this study are:

1. to study the general principles of insurance to determine how insurance applies to Oregon public schools,
2. to analyze the legal requirements of

Oregon in respect to school insurance,

3. to develop principles upon which a sound school insurance program should be based,
4. to determine current school insurance practices in Oregon, and
5. to make recommendations for the specific improvement of school insurance practice in Oregon.

Delimitations of the study

This study was delimited as follows:

1. Because of the wide variation of laws and of school insurance programs in the various states, this study was concerned only with a detailed analysis of the legal status, the legal requirements and the present practices in Oregon.
2. This study was concerned only with insurance purchased by school boards with public funds.
3. Major emphasis was given to the following types of insurance:
   a. Fire
   b. Liability

c. Motor Vehicle

4. Less emphasis was given to:
   a. Extended coverage insurance
   b. Workman's Compensation
   c. Boiler insurance
5. District-operated public schools only were studied.
6. Questionnaires were sent to all first and second class districts.
7. Questionnaires were mailed to superintendents and principals whose names and addresses were secured from the Oregon School Directory for 1953-1954.

Procedures used in the study

The procedures used in this study were as follows:

1. A survey of the literature in the field of insurance for schools was made.
2. A study of the Oregon Laws was made to determine the legal status of schools, the legal requirements for school insurance, and limitations placed against the purchase of such insurance.
3. The opinions of the Attorney General for Oregon were studied for

interpretations of the law and for statements of the implied authority of school boards to purchase school insurance in the absence of specific legislative authority for such purchase.

4. Decisions of the Oregon Supreme Court pertaining to school insurance, school district, and school personnel liability were studied. Case law in other states was also noted where applicable.
5. The problem of insurance for schools was discussed with the following groups of people:
   a. Members of the State Department of Education.
   b. Members of the State Insurance Department.
   c. Members of the State Industrial Accident Commission.
   d. Members of the Oregon Insurance Rating Bureau.
   e. Representatives of insurance

companies operating in the State of Oregon.

f. Selected school board members, school superintendents, principals, teachers, clerks, and attorneys.

6. A questionnaire survey of first and second class school districts was made covering the fields of fire, liability, and motor-vehicle insurance to determine the current practices in school insurance in Oregon.

CHAPTER II

RELATED STUDIES

The literature in the field of school insurance is not extensive although a number of studies have been made of the various aspects of insurance pertaining directly to public schools.

As far as could be determined, no study with the scope of the present investigation has been made of school insurance in Oregon. Holy (63), as a part of a larger study of public elementary and secondary schools in Oregon, limited his discussion of insurance to about two pages. Horner (64) made a field study on the adequacy of insurance on school buses in Oregon. These two studies will be summarized later in this chapter.

Melchior (97) made a study in 1925 of trends and practices in New York in public school insurance and compared that city with other cities in the United States. He analyzed the construction of school buildings, the kinds of insurance carried on them, and the fire losses they suffered. He reported methods used in insuring school buildings and in determining sound values and eliminating hazards. He recommended that school property receive more adequate appraisal, that insurance be carried for longer terms, that effort be made to eliminate hazards,

and that the coinsurance clause be carried in the fire insurance policy. This study was one of the first and most important studies made of school insurance.

Holy (60) studied the insurance premiums paid as compared with the fire losses suffered in Ohio for the period of 1930-32. In reporting his findings in 1933, he indicated that the premiums paid on the school buildings during the three-year period for fire and tornado insurance amounted to $1,347,008, while the reported losses were $93,778, or six and nine-tenths per cent of the premiums paid. Rural schools had a slightly higher loss ratio.

Cross (34) made a study in 1933 of forty-five city school districts of California to determine: the kinds of insurance carried and in what amounts, how insurance values were determined, who decided on types and amounts of coverage, the relation of insurance cost to total budget expenditures, insurance procedures, and code and case law of California on school insurance. He also recommended changes in the California code.

Viles (157) in 1934 studied ways of improving the insurance programs in the local school districts in Missouri. He investigated the way the local school districts secured protection, the cause of school fires and fire losses, the effect of fire hazards on school

building insurance, present practices in administering the insurance programs, and recommended ways of improving the district insurance program.

Steinhauer (150) in 1939 investigated the experiences and practices of fire insurance on Pennsylvania public school property. He found that the insurable value of school buildings is largely determined by estimation on the part of the boards of education with little thought given to replacement cost, depreciation, and sound value. His study showed that local insurance agent influences were detrimental in many cases and that there was enough objective evidence to show that school districts in Pennsylvania should operate a cooperative insurance association.

Van Ausdal (156) in 1939 studied school bus insurance in the State of Ohio. He showed that losses and claims paid by the various insurance companies indicated a rather low loss-ratio experience.

Fuller (44) in 1940 made a study of tort liability. This was an excellent study showing the history and development of the principle of immunity carried into school districts. He recommended that the principle of immunity be abolished as an outmoded and unrealistic means of meeting the responsibilities of justice.

Rosenfield (139) prepared a manual in 1940 after

studying several hundred court cases, legislative acts, and attorney generals' opinions on the subject of negligence as applied to schools. This manual remains a valuable guide to school authorities, and Rosenfield, the author, continues to write on this subject in current periodicals.

The Association of Public School Business Officials (13) made two rather comprehensive surveys of public school insurance carried by city schools in the United States and Canada. Results published in 1941 indicated that only 26.9 per cent of premiums were required to pay losses, that public school buildings in cities are a preferred risk, that school districts should insure with mutual companies or establish State Insurance Funds, that fire insurance could be reduced fifty per cent with ample protection afforded by either state insurance or self-insurance, that public liability insurance was not used widely but predicted its increasing importance due to the tendency of protecting individuals by placing liability upon the state for such injuries.

Johnston (70) made a detailed study in 1943 of the legal aspects of insuring school property. He analyzed the statutes and supreme court decisions of the various states. He found that twenty-one states require school trustees to insure public school property and that eight

states permit such insurance. In the remaining states, the weight of authority seems to hold that school trustees have an implied power to insure school property.

Upton (155) in 1946 studied the costs of fire insurance and insurance practices in city school districts of more than twenty thousand population in the United States and also in some of the larger Canadian cities. Some of his important recommendations were that school districts should take advantage of the economy of the five-year term of insurance policies, that the coinsurance clause should be continued and expanded in use, that continued effort should be made to reduce fire hazards, that the school boards should set-up minimum financial standards of companies, that more attention should be given to appraisal of properties, that objective methods of distributing insurance to local agents be determined, and that California school districts use a standard fire insurance form.

The Association of Public School Business Officials (12) studied school fire insurance for the period 1938-45 and published a report in 1948. Their recommendations were to place responsibility for handling the school district's insurance, secure reliable appraisal to determine insurable values, determine the method to be used in insuring the buildings and contents, develop a school

form, obtain all possible rate reductions, and maintain adequate records.

Brooker and Remmlein (104) prepared a pamphlet on transportation insurance in 1948. It is an excellent guide to the problem of school transportation insurance and shows the present legal status of transportation insurance in the various states.

Satterfield (141) in 1949 made a very careful study of legal aspects of tort liability in school districts by documenting recent court decisions. This study is particularly valuable as a summary of recent case law in the various states. His recommendations include a program of curative legislation including abrogation of governmental non-liability for tort now enjoyed by most school districts; protection of the school employee, who is never immune from suit, from financial loss due to injury or damages arising out of the scope of his employment; underwriting the financial loss of the school districts in assuming liability for the tortious acts of its board members, teachers, and other employees by some method of insurance; protection of all persons transported in school buses for all school purposes; authorization of the board of education to insure its students engaged in athletics, physical education, and other organized school activities.

The Association of Public School Business Officials (11) published a study of on-the-job liability of school employees in 1949. The basic research for this study was done by Hesse (58) in the same year. Hesse's conclusions were published by the Association and are listed as follows:

1. Common law immunity does not acknowledge the changes of society and government that have taken place since its adoption. Modern life has greatly increased in complexity and hazards, and the activities of government affect a larger portion of the population than in colonial days.

2. When the school district accepts responsibility for its acts and for those of its employees, the result is to relieve the employees of a portion of their risks since those injured will seek recovery from the larger more certain unit which is known to be responsible for any judgments secured by the injured party. Victims of school district negligence, who are themselves blameless, are thus saved from unwarranted burdens.

3. Immunity to tort actions as practiced under common law tends to place an unreasonable financial burden upon persons who cannot often afford it; injured parties and the individual school employees.

4. The modifications which have been made by some states in the principle of common law immunity to tort suits, and which continue to be made, seem to indicate a trend toward increasing the liability of schools for negligent acts.

5. Charges of malicious prosecution may arise if the attacks made are shown to be made with malice and the intent to

injure, or if the attacker can show no reasonable justification for his interest in the matter.

6. Fiduciary relationships between student and counselor may exist which prohibit the counselor from any betrayal of the confidence given him by a student.

7. Students may be commented upon by employees if related to their assigned duties to the other persons equally assigned. Communications must not be made to third parties not equally privileged.

8. Defamatory statements about persons, even in the line of duty, must be free of malice; evidence must show that the statements were believed true at the time of publication or utterance to establish a claim of not guilty.

9. Charges of libel or slander require the defamer to prove the truth of his statements to establish innocence. In practice, the establishment of proof has been difficult.

10. Members of the board, administrative staff, and other employees are qualifiedly privileged in making personal comments on other persons if the communication is in the line of assigned duties and is to a person equally privileged. The statements contained therein must not be made to a third party or to the general public unless their welfare requires the information.

11. Most court cases involving libel or slander arise from statements charging the person with incompetence or moral indiscretions which attack the person's right to professional reputation.

12. Social justice will not be served often if the injured person's only means of recovery is against the individual. School employees can rarely meet the assessments of damage set by courts, and the injured

person cannot usually secure an adequate recompense for the injury.

13. Individual board members and administrative officials are not held liable for ministerial acts required of them by law, neither are they held for well-intentioned use of judgment; however, they can be held for omitting the performance of ministerial duties.

14. In Michigan, the practice is opposite of that of New York State, for Michigan school districts are liable only when performing proprietary functions not mentioned by law and which require the use of discretion.

15. In New York State, the school district can be held liable for the negligent acts of employees who are performing services imposed by statute upon the school district.

16. School employees may be charged as joint tort feasors with the school district in States which acknowledge responsibility for the acts of employees. In California it is common practice to name both the district and the employee in tort charges.

17. School board members, administrative officials, and other employees are personally liable for acts performed beyond the authority of established law and lawful regulations.

18. In States that follow common law, an injured party has no right of redress against the school district or its board. He is forced to seek recovery from the individual whose alleged negligence was the immediate cause of the mishap.

19. Teachers and other school employees will be held personally liable by courts for negligence in the performance of duties that fall within the scope of their employment.

In 1950 the Research Division of the National Education Association of the United States (103) published a bulletin entitled "Who is Liable for Pupil Injuries?" This very valuable basic reference for all school personnel covers much the same information as that summarized in the nineteen points above.

In 1950 Holy (63) wrote "A Study of Public Elementary and Secondary Education in Oregon." Two pages of that study were devoted to a comparison of insurance premiums paid and losses sustained in Oregon school districts of the first class by years 1944 through 1949. Because of Oregon's relatively high loss-ratio, he did not recommend the setting up of a state plan for insurance. Instead, he recommended that the State Department of Education make periodic studies of this ratio for the purpose of securing reductions in insurance premiums should the loss-ratio drop.

Dougherty (36) made a study in 1950 of bodily injury and property damage insurance in the United States, collecting information on types of insurance used (stock, mutual, and self), methods of insurance, publicly or privately owned vehicles, relative costs of existing school transportation insurance, determination of actual costs of the different rates of insurance, and the returns in terms of claims paid which had been paid. This study

had little application to the present study.

In 1951 Horner (64) made a field study at the University of Oregon called "Are School Busses in Oregon Adequately Insured?" He recommended that the State Director of Transportation recommend the following insurance coverage for school buses: (a) $5,000 property damage liability, (b) $15,000-$100,000 bodily injury liability, and (c) up to $500 per person for medical payments. He recommended that a waiver of immunity clause be included in every insurance contract, that each school administrator examine the insuring company carefully, that legal liability of the district be clarified, and that consideration be given to the possibility of setting up a plan for Statewide self-insurance for school buses in Oregon.

Smith (146) in 1951 surveyed 305 school districts in the State of Washington for the purpose of ascertaining ways of reducing insurance costs for school districts and included the advantages and disadvantages of a state insurance fund for insuring school district property. His findings are pointed out later.

Taylor (152) in 1952 studied fire, liability, and vehicle insurance in Nebraska public schools. Some of his more important conclusions are listed below:

1. Great savings may be had and the same protection obtained by use of a co-insurance clause instead of flat

insurance.

2. A great saving may be realized if insurance is purchased on a term of longer than one year.

3. The place to start considering insurance on school buildings is in the planning stage where hazards may be eliminated.

4. Computation of depreciation varies greatly among the schools.

5. The amount of insurance carried by the school districts is in many cases inadequate considering the insurable value of the school property.

6. Despite the fact that liability insurance is illegal for Nebrasks schools, 60 of the 155 reporting indicated that the school district carries such insurance.

7. Workmen's compensation insurance is carried by only 59 of the reporting schools despite the fact that it is required by Nebraska laws.

8. The average cost of motor vehicle insurance during the period covered by the survey was $11.21 paid out in insurance premiums for every $1.00 recovered in damages.

9. The cost of insurance on driver education cars was $10.91 paid out for every $1.00 recovered in damages.

Scoville (142), in studying the problem of fire protection in 1952 for the schools of Colorado, found that a state self-insurance plan for fire protection would provide adequate protection at a lower cost and that there is no coordination of insurance practices in the public schools of Colorado. He recommended immediate

establishment of a state self-insurance fund and a closer supervision of insurance practices in school districts by the State Department of Education.

Whenever applicable, frequent use has been made of the findings, conclusions, or recommendations of the related studies in the development of the present study.

CHAPTER III

INSURANCE

In this chapter it is necessary to discuss some basic principles of insurance which apply to all kinds of insurance, including school insurance. Specifically, this will include the definition of insurance and school insurance, general considerations and principles including: risk, the "law of large numbers," the legal aspects of the insurance contract, and such subjects as indemnity, insurable interest, subrogation, concealment, representation, warranty, waiver, estoppel, the Standard Oregon Fire Policy, and the regulation of insurance in Oregon.

Definition of Insurance

For purposes of this study the definition of insurance found in the Insurance Laws of the State of Oregon (111 p.7) will be used. It is stated that "insurance is a contract whereby one undertakes to indemnify another against loss, damage or liability arising from an unknown or contingent event, whereby the insured or his beneficiary suffers loss or injury." When such an insured is a school district or agent of such a district the contract will be considered as a school insurance contract and referred to as school insurance.

Risk

Risk is the chance for loss. This is an abstract definition and refers to the concept of pure risk because pure risks face only the chance for loss. For example, when a school district purchases property, it does not expect to gain by retaining it but immediately assumes the chance of loss when it is acquired. This is a pure risk. Insurance seeks to protect such risks because to allow an insured to gain by having a loss is considered by society to be anti-social and consequently illegal.

The "Law of Large Numbers"

The "law of large numbers" is the basis of all insurance. Reigel and Miller (134 p.19) have said, "insurance is the application of the statistical law of large numbers to the economic problem of risk." The tendency of a large number of cases to take on regularity has been proved by experiment. A simple and effective way to demonstrate this "law" is to toss a coin. If we toss it ten times, it may come up eight times as tails and twice as heads. We cannot be sure of the results with so few chances. However, if the coin is tossed 50,000 times the result will tend toward half heads and half tails. The more trials we make the more and more regular becomes the

result and outcomes can be predicted with more certainty.

Insurance companies have observed so many cases that they can now predict in most areas of insurance with reasonable certainty, thus reducing their risk but not their loss. For the individual this "law" neither reduces risk nor affects loss, because the individual, although aware of the result in a large number of cases, does not know the result in a single case. The individual must therefore transfer his risk to an insurance company.

> This insurance carrier, having insured a large number of similar risks, can arrive at a stable loss certainty and, due to the 'law of large numbers', can eliminate the risk as far as the carrier is concerned. Therefore, if a large number of people insure their risks, the risk is eliminated for all of them and is replaced by a certain small loss. This is the amount paid for the policy. (92 p.7)

Legal Aspects of the Insurance Contract

An insurance policy is in actuality an insurance contract. Because it is a contract all principles governing the relationship between contracting parties generally apply to insurance contracts.

These principles are discussed in detail by Magee (92, 93), Reigel and Miller (134), Ackerman (1), and Mowbray (101) and are listed briefly as follows: (1) There must be an agreement based upon an offer and an acceptance with a meeting of the minds. (2) There

must be a mutuality of knowledge of all material facts and the contract must be free from fraud or misunderstanding. To enforce this principle, the doctrines of concealment, representation, and warranty have been developed. (3) The agreement must be between parties legally capable of contracting. (4) The insured must have an insurable interest. (5) The contract must be in the form required by law. (6) It must be based upon valuable consideration. (7) It must be for a lawful purpose. (8) And to collect on the contract, the insured must have suffered a loss.

The Principle of Indemnity

It is a principle of law that an insurance contract is one of indemnity and not for gain. Public policy prevents the insured from profiting from his loss, this being an anti-social act.

Insurable Interest

Insurance is a contract on indemnity only. The insured under this contract must have an insurable interest in the property insured in order to suffer from its destruction. In order to collect he must suffer a loss. Unless the insured has an interest he cannot suffer a loss. This interest is called an insurable interest. It is not always easy to determine insurable interest

and the Insurance Laws of the State of Oregon do not adequately define insurable interest except for marine and life (111 p.121,71) which are not subjects of this study.

Subrogation

Subrogation is defined as the right of an insurer, after paying a loss to the insured, to acquire all rights possessed by the insured against third parties which are related to such loss. This permits the insurer to sue any third party and to recover the amount paid the insured under the policy. Any excess recovered over the amount paid must be returned to the insured after deducting a reasonable amount for costs of recovery.

Concealment, Representation, and Warranty

It is a fundamental principle of the insurance contract that all parties thereto must have a mutual knowledge of the risk involved. Any material fact that is kept or concealed from one of the parties is usually grounds for voiding the contract.

A representation is a statement regarding a proposed contract of insurance, made by the insured to the insurer before the actual contract is entered into. These statements may be oral or written and have an important bearing on the insurance relationship. Any

misrepresentation of a material fact may void the contract but must be proved by the insurer.

Normally the insurer must prove that any representation is a material fact. To avoid this problem the insurer will frequently include a provision in the insurance policy that all representations be warranties. All representations therefore become part of the contract and must be strictly complied with. Oregon, however, has abolished the distinction between representations and warranties as to the written application by stating that they "Shall be deemed to be representations and not warranties." (111,p.27)

Waiver and Estoppel

The doctrines of waiver and estoppel tend to complicate the study of insurance. Waiver is defined as the intentional relinquishing of a known right and estoppel is said to exist when a person executes a deed or act which precludes him from claiming anything to the contrary.

For example, if an agent insured a school building knowing it to be unoccupied, the company would have waived the clause in the standard form policy which suspends insurance for vacancy beyond sixty days. Because the company is said to have waived a violation of a policy, it is estopped from using the violation as a defense in denying subsequent liability.

The Standard Oregon Fire Policy

The Standard Fire Policy in Oregon was originally standardized by the Oregon legislature in 1918. Later, the policy was revised to conform with the commonly known New York Standard Fire Policy of 1943. This later enactment appears in Insurance Laws of the State of Oregon. (111 pp.169-173). This standard fire policy will be discussed in detail in Chapter IV.

The Application

An application for school insurance is merely a request in which the school district through its agent sets forth the fact that it has a risk to be covered by an insurer. It is not a contract and it is not binding on the insurer. It is in actuality a mere offer which must be accepted to be binding. If the insurer accepts the risk, a binder will be issued.

The Binder

The binder is a memorandum of the offer and acceptance of the insurance transaction. It serves as a temporary policy and binds the insurer to the contract.

The Policy

The policy is the printed, formal, and standard insurance contract form. It is an important and basic document and should be thoroughly understood by school officials.

The first part contains the declaration including the name and address of the insured, the location of the risk, the period covered by the policy, the description of the subject insured by the policy, the amount of the insurance and the premium, and any warranties or statements.

The second part is the contract itself and includes the insuring agreement, the exclusions, the conditions, and the endorsements.

The insuring agreement defines the coverage under the policy and the services the insured can expect from the insurance company.

The exclusions include those subjects which the company considers too hazardous to insure and those subjects which should be covered under other policies.

The conditions set forth the rights and duties of both parties to the contract.

The endorsement feature is the method used to alter or change the basic contract form. Its purpose is to either extend or restrict the coverage or other conditions.

Regulation of Insurance in Oregon

The Insurance Laws of Oregon (111 pp.7-8) specify that there shall be a department of insurance in Oregon, headed by a commissioner, appointed by the governor of the state for a four-year term.

The general powers and duties of the commissioner (111 pp.9-10) are:

1. To have and exercise the power to enforce the insurance laws of Oregon,
2. To issue licenses and certificates to agents and companies to do business in the state,
3. To receive annual financial statements from all companies doing business in Oregon,
4. To see that such companies publish a synopsis of this financial statement in newspapers of general circulation in Oregon,
5. To furnish "convention form blanks" on which companies can submit their annual statements,
6. To purchase forms to furnish as required in number 5 above,
7. To compile and distribute the insurance laws and other appropriate publications, and
8. To preserve in permanent form all records,

proceedings and investigations or examinations made of insurance companies.

The insurance department of Oregon has been in operation now for about 45 years and has brought about a standardization of insurance practice in Oregon, a uniformity of rates, policy forms, and types of insurance coverage. State regulation is generally beneficial to both the insurance companies and the insuring public.

CHAPTER IV

FIRE INSURANCE

Introduction

The State of Oregon has an investment of $167,695,329 in public school buildings, $12,613,287 in school grounds, and $24,833,745 in school furniture and equipment, according to figures released by the State Department of Education for 1951-52.

This is a tremendous investment for educational facilities that the citizen-taxpayers have made. Its care and management demand careful attention by those directors of public school districts who are responsible for its protection.

These directors have a direct obligation to adequately protect the investment in school buildings, furniture and equipment at the lowest possible cost. This protection can usually best be obtained through adequate fire insurance and other extended coverages.

This chapter is concerned primarily with the problem of fire insurance for public schools in Oregon. However, the advisability of boiler insurance will also be discussed briefly.

Authority to Purchase Fire Insurance

Fire insurance is the most common device used by school boards to protect school property against loss. Yet it is interesting to note that the authority to insure school property in Oregon has never been granted by law. Some confusion resulted from this fact in the early stages of this study, until it was determined that a number of other states had also failed to authorize the purchase of fire insurance by school districts.

The Clark School Township v. Home Insurance and Trust Company (28) case in Indiana in 1898 has served as a precedent for approving the actions of school districts who had purchased unauthorized fire insurance. In this widely quoted case the court stated:

> We are of the opinion that, under the statutory provision placing upon the trustees the duty of caring for and managing the school property, a township trustee has such implied authority that, in the exercise of his discretion, he may make reasonable expenditures from the special school revenues by way of procuring insurance on such school property against fire.

No similar case was found in Oregon but it was noted that the Attorney General for Oregon had on November 22, 1909, ruled that:

> The authority of the district to build and acquire school buildings implies the authority to do whatever is necessary in maintaining and protecting such buildings.

> Therefore a district has the authority to contract for insurance on its school property, and this authority is delegated to the board of directors. (108 p.111)

The Need for Fire Insurance

A school district, as a sub-division of the State, is organized for the purpose of providing an educational program and educational facilities for the youth of the district. By law, the directors of the district are given many powers and duties. One of these duties is to provide and care for school property.

Most directors are mindful of the fact that a bonded indebtedness is the source of most of their school property. The size of this indebtedness is strictly limited by law. Most directors also realize that, faced with the destruction of all or even part of their school property, the bonding capacity of the district would be insufficient to provide necessary capital for property replacement or restoration.

This realization is given impetus by the fact that in 1937 fire struck an average of five schools a day in the United States while in 1952 it was striking eight times a day. (20 p.60) In Oregon, the State Fire Marshal's Annual Reports (115) of insured losses by educational institutions showed losses totaling

$969,828 for the five year period 1948 through 1952.

These figures would seem to indicate that it should be mandatory for directors to provide protection of school property, yet it is not. It would seem that directors who fail to so protect district property should be personally liable for losses sustained, yet Johnson (70) located no case in which the courts had specifically ruled on the personal liability of a school board member in case of loss of uninsured property.

Methods of Securing Protection

In order to prevent a situation from arising where funds would not be available to replace property, school boards usually provide some system for providing the necessary funds to replace property losses.

Self-insurance, partial insurance, state funds, and insurance in private companies have all been used as methods of securing protection. Although there are many arguments in favor of each of the above systems, the fact remains that "Most of the school boards plan to secure the needed protection thru insurance. No plan has been devised to give absolute protection without risk or loss on the part of the school district. While insurance costs may seem high, no other adequate plan of protection suitable for all school districts has been

developed." (157 p.11)

Analysis of Oregon's Standard Fire Insurance Policy

The contract entered into between the private insurance company and the school district is provided for by Oregon Law. The main divisions of an insurance policy has been discussed in Chapter III, but it will now be necessary to analyze the provisions of the Oregon standard form because it is very important for members of the school board to know the exact provisions of the policy. For this reason, most contract provisions will be quoted and analyzed.

The face of the policy includes the amount of insurance, the rate, the premium, the period of insurance, the expiration date, the name of the insured, and the insuring clause. It is important that the exact ownership of the property be stated because of the personal nature of the insurance contract.

The Insuring Clause

The coverage of the policy extends only to the "Actual cash value of the property at the time of the loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such

loss." (111 p.169)

By this statement the company has protected itself against an insurer who overinsures his property and against the necessity for replacing the class of building which might now be required because of some state or city statute or zoning ordinance.

The policy carefully states what is insured against:

> ...all DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property described hereinafter while located or contained as described in this policy, or pro-rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere. (111 p.169)

The policy covers property at the designated locations only but in case of fire the property can be removed to other locations. In this case, any insurance in excess of the company's proportion of the value of the property remaining in the original location applies to the property removed to the new location for a period of five days.

The insuring clause also states, "Assignment of this policy shall not be valid except with the written consent of this Company." (111 p.169) Due to the personal nature of the insurance contract, the insurance does not follow the property without the consent of the company. School property does not change hands frequently but this

clause should be noted carefully nevertheless.

In summary then, the first page of the insurance contract, including the insuring clause, actually sets three important limits to the company's liability under the contract: (1) the maximum limit is the face value of the policy; (2) the amount is the actual cash value at the time of the loss and (3) limits the liability to the cost of repairs or replacement with materials of like kind or quality.

The actual terms of the policy appear as numbered lines and are stated on the second page. They should be thoroughly understood by every policyholder.

Concealment and Fraud

Lines 1 through 6 state:

> This entire policy shall be void if, whether before or after a loss, the insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

This clause protects the insurance company against fraudulent claims made by the policyholder. Such concealments or misrepresentations which could void a contract were defined and discussed in Chapter III. However, for emphasis it should be stated that such

misrepresentations or concealments must be intentional, material, made to induce the insurance contract and actually harmful to the insurer in order to void the contract.

Uninsurable and Excepted Property

Lines 7 through 10 state: "This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion or manuscripts."

These exceptions are made due to the difficulty of actually proving the existence and or value of such property. Schools ordinarily would not be greatly affected except possibly by the loss of currency or money receipts which might be destroyed on the premises.

Perils not Included

Lines 11 through 24 state:

> This Company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by: (a) enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire

> did not originate from any of the perils excluded by this policy; (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; (j) nor shall this Company be liable for loss by theft.

Under the policy, the company is not liable for losses by fire or other perils insured against when caused directly or indirectly by (a) through (g) because most insurance companies do not consider these items insurable. In the case of (h), civil authorities sometimes must dynamite or destroy a building in order to prevent the spread of fire. When this is necessary and the fire was not caused by reason of (a) through (g), the policy will apply and cover.

It should also be noted that the insured is obligated to use every reasonable means to protect his own property, during and after a fire. The company is not liable for loss by theft because this policy is a fire policy not a burglary policy.

Other Insurance

Lines 25 through 27 state: "Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto."

This statement does not prohibit other insurance in the same company but it might under unusual

circumstances, or in the case of a large school system, be used by the company to limit the amount of the insurance by an endorsement to the policy.

Conditions Suspending or Restricting Insurance

Lines 28 through 37 state:

> Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring (a) while the hazard is increased by any means within the control or knowledge of the insured; or (b) while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or (c) as a result of explosion or riot, unless a fire ensue, and in that event for loss by fire only.

Unless otherwise endorsed, these three situations merely suspend the insurance coverage. Just as soon as the conditions no longer exist, the policy goes back into effect. When one of these items is thought to increase the risk, the insurer can either increase the premium or exclude the liability. Explosion and riot are commonly covered by the extended coverage endorsement.

Other Perils or Subjects

Lines 38 through 41 state: "Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto."

This clause provides that every other peril or subject of insurance to be in force and affect must be attached to the policy by way of a written endorsement. Many such endorsements are available to school districts and others.

Added Provisions

Lines 42 through 48 state:

> The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except as by the terms of this policy is subject to change.

This clause indicates that other provisions or agreements which are not inconsistent with either the State law or with the terms of the policy may be added by a written endorsement.

Waiver Provisions

Lines 49 through 55 state:

> No permission affecting this insurance shall exist, or waiver of any provision be valid unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

This section is far more applicable to other classes of insurers than it is to school districts because it involves insurable interest. As soon as there has been a claim for loss filed, an adjuster ascertains the amount of the loss and generally helps the claimant file his loss claim. This is usually done before the matter of insurable interest has been checked. After there has been an agreement as to the extent of the loss, the adjuster will ask the insured to sign a non-waiver agreement. This gives the insurance company an opportunity to check on insurable interest and other clauses in the contract later without jeopardizing the right of the Company to refuse payment in case of some violation of some other clause in the contract.

Cancellation of Policy

Lines 56 through 67 state:

> This policy shall be canceled at any time at the request of the insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be canceled at any time by this Company by giving to the insured a five days' written notice of cancellation with or without tender of the excess of paid premium above the pro-rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

Cancellation of the policy of the insured can take place upon demand and upon surrender of the policy. The premium for the unexpired term, less a small charge for overhead, will be refunded. This amount is determined by using the short rate schedule.

If the policy is canceled by the company, a five day written notice must be given the insured. In this case the premium must be returned pro-rata and the company will receive nothing for overhead.

Mortgage Interest and Obligation

Lines 68 through 85 state:

> If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be canceled by giving to such mortgagee a ten days' written notice of cancellation. If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty (60) days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this Company shall claim that no liability existed as to the mortgagor or owner, it shall to the extent of payment of loss to the mortgagee, be subrogated to all mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.

Under this section of the Oregon standard policy form, the mortgagee has the same rights as to appraisal, time of payment and suit as does the mortgagor, if the loss is made payable to a designated mortgagee. If the owner fails to submit proof of loss, the mortgagee is obligated to do so. If the company should pay the mortgagee and not the owner, it may have subrogation of the mortgagee's rights or may pay the mortgage. The company could thereby obtain actual ownership of the property. The mortgagee also receives ten days' written notice instead of the usual five days' notice.

Pro-Rata Liability

Lines 86 through 89 state:

> This Company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not.

This section is to provide for situations where more than one fire insurance policy covers the same property. The loss will be in the same proportion as the policy bears to the entire insurance on the particular risk. This is true whether or not one or more of the other companies are solvent or insolvent.

This clause is not understood by many people and is so important that an illustration is provided for

further clarification.

Suppose a school building is insured for $100,000. Insurance is carried by three companies in amounts of $75,000, $15,000 and $10,000. In event of a $50,000 loss the companies would be responsible for $37,000, $7,500 and $5,000 respectively. However, if the school district could not collect on one or more of the policies, the pro-rata obligation of the remaining company or companies would remain unchanged. When this principle is fully realized, districts will give great care and consideration to the problem of allocating insurance to companies.

Requirements in Case Loss Occurs

Lines 90 through 122 state:

> The insured shall give immediate written notice to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed; and within sixty days after the loss, unless such time is extended in writing by this Company, the insured shall render to this Company a proof of loss, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: the time and origin of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession

> or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

These requirements outline the duties of the insured in case of loss and carry a bewildering array of technical material. Agents have assured the writer that, in most cases, these exact requirements are very seldom put to use, especially in the case of school districts. However, there are some very important and special requirements, like furnishing immediate written notice of loss, protecting the property from further damage, separating damaged personal property from undamaged property and putting the same in the best possible order.

Then too, the "furnishing of a complete inventory" is especially important for school districts. This inventory should be made at the time of insurance and

should include quantity, cost, date of purchase, and estimated present value. It should be kept current and be filed in a place not likely to burn with the property insured.

Proof of loss must be furnished within sixty days according to the policy, although the Insurance Laws of the State of Oregon (111 p.173) indicate such proof must be furnished in ninety days. This is an inconsistency which could be construed in favor of the insured in case of litigation.

Most of these technical clauses are for the protection of the insurance company in case the insured is suspected of attempts to defraud or to profit from his loss.

Appraisal

Lines 123 through 140 state:

> In case the insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this Company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree,

> shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

This section is included to cover a situation where the insurance company and the insured cannot come to an agreement on the amount of the loss. In checking with a number of agencies, it was found that this section is very seldom used.

If the two parties to the insurance agreement cannot agree on the amount of the loss, then on written demand of either party, each shall select a competent and disinterested appraiser and the two appraisers will select an umpire. An agreement of any two will determine the amount of the loss. If the appraisers cannot agree on an umpire such selection will be by a judge of any court of record in whose jurisdiction the property is located.

Company's Options and Abandonment

Lines 141 through 149 state:

> It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within

> thirty days after the receipt of the proof of loss herein required. There can be no abandonment to this Company of any property.

This gives the company the option of either repairing or rebuilding the damaged property with materials of like kind and quality, or of paying the cash value of the damage. The company may take all or any part of the damaged property at an agreed price. However, the insured cannot decide to turn over any of the damaged property to the company because such transfer is at the option of the company.

When Loss is Payable

Lines 150 through 156 state:

> No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within twelve months next after inception of the loss.

Unless all conditions of the policy shall have been complied with, no suit may be instructed against the company. This policy is a contract and as such all conditions have been agreed to by the parties involved and the company is perfectly justified in holding to this particular clause. This protects the company from unnecessary suits, conceived in anger, over petty differences but does not deny either party recourse at

law providing all contract conditions have been met. Suits must be instituted within a twelve month period after the time of the loss. Should the final appraisal take more than one year to complete, the time for filing suits will be extended proportionately.

Subrogation

Lines 162 through 165 state:

> This company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company.

Subrogation was defined and explained in Chapter III. However, it should be stated here, that the company may require an assignment of the insured's right of recovery from a third party. This would be for any amount up to the sum paid by the company to the insured. Subrogation is used only in cases involving negligent third parties involved in the particular loss.

There is far more involved in an insurance contract than merely buying a policy. For schools in particular, there are a number of important responsibilities that should be summarized here: (a) great care should be taken in establishing the initial value of school property; (b) initial inventories should be complete and accurate and kept current; (c) records and inventories should

be stored in a place that will not burn with the school property so records can be produced as proof of loss; (d) reliable companies should be selected; (e) the person charged with the responsibility of the insurance program should be thoroughly familiar with all contract provisions, and (f) an established procedure for reporting losses, like a "battle plan," should be in readiness at all times.

Endorsements

It is a fundamental condition of the Oregon Standard Fire Policy that any change must be made in writing. This is accomplished through a system of endorsements. Most of the endorsements used by the various insurance companies operating in the State are published by the Standard Forms Bureau of San Francisco.

There are about two hundred such endorsement forms now in current use in Oregon. Obviously, time and space will not permit a discussion of each one. Then too, not all of them would be applicable to schools. Therefore, only extended coverage, the average or coinsurance clause and depreciation insurance endorsements will be discussed.

Extended Coverage Endorsement

The extended coverage endorsement extends the fire insurance policy to include such additional perils as

windstorm, hail, explosion, riot attending a strike, civil commotion, aircraft, vehicles, and smoke.

It should be noted that this endorsement merely extends the coverage and does not increase the amount of the insurance. It cannot be written as a separate policy and an additional premium is charged.

Speaking of extended coverage, Linn and Joyner (85 pp.53-54) said: "The broad coverage afforded by this clause is an important part of any city school district's insurance program. One large school district, for instance, for several years collected more under this clause than under fire coverages."

Coinsurance Average Clause

The principle involved in this clause is very simple. It merely proposes that the greater the amount of insurance carried on a risk relative to its full insurable value, the lower the insurance rate per unit of value will be.

Fire insurance companies are willing to make such reductions in rates because they know that most losses are partial losses. This was confirmed by West (174 p.12) who reported a study made by the National Underwriters Association to the effect that in every 1,000 fires only three would have a loss of 90 to 100

per cent, whereas 751 would suffer a loss from one to ten per cent.

There are five average group percentages: 60%, 70%, 80%, 90%, and 100%, with each carrying a lower insurance rate than the former.

To see how the average or coinsurance clause works, let us use an example of a school building worth $100,000. In taking out the policy, the school district elected to take the 80 per cent average clause. This means that the district agrees to keep 80 per cent of the value of the building insured. This would be $80,000. It will be the responsibility of the district to determine the value of the building insured and to keep up the insurance. If the district fails to keep up the required percentage of insurance, it will be penalized.

The following formulas show how the liability of the insurance company is arrived at and the penalty if any that the district will suffer:

No. 1 - $\frac{\text{Amount of Insurance}}{\text{80\% of Property Value}}$ X Amount of Loss = Company's Liability

or

No. 2 - $\frac{\text{Amount of Insurance}}{\text{Amount of Insurance that should have been taken}}$ X Amount of Loss = Company's Liability

If the loss was $40,000 and we apply formula No. 1 above, the result would be as follows:

$$\frac{\$80,000 \text{ (Amount of Insurance)}}{\$80,000 \text{ (80\% of Property Value)}} \times \$40,000 \text{ (Loss)} =$$

$40,000 Recovered

If, however, after the loss it was found that the property was now valued at $150,000 instead of the original $100,000 due to a general appreciation of property values, then formula No. 2 would be applied as follows:

$$\frac{\$\ 80,000 \text{ (Amount of Insurance)}}{\$120,000 \text{ (80\% of present value)}} \times \$40,000 \text{ (Loss)} =$$

$26,666 Recovery

It thus becomes apparent that the average clause, while reducing the cost of insurance, forces the school district to keep up its insurance to present property values or suffer appropriate losses for not doing so.

In speaking of this point, Steinhauer indicated, "The presence of the 80% coinsurance clause in the insurance contract is a 'money saver' only if sound value of the property is known." (150 p.97)

Table I shows a number of other examples of the operation of the 80% coinsurance clause.

TABLE I

OPERATION OF 80% COINSURANCE (85 p.91)

Cash Value of Property Insured	Insurance Required by 80% Clause	Insurance in Force	Loss by Fire	Recovery from Insurer	Loss by Insured
$100,000	$80,000	$80,000	$20,000	$20,000	$ Nil
100,000	80,000	80,000	80,000	80,000	Nil
100,000	80,000	80,000	90,000	80,000	10,000
100,000	80,000	60,000	40,000	30,000	10,000
100,000	80,000	70,000	80,000	70,000	10,000
100,000	80,000	90,000	90,000	90,000	Nil

Upton (155) in his study of California school districts found that about 80 per cent of the city districts studied were using the coinsurance principle and Mann (95 p.102) stated: "Under present conditions coinsurance on a three-year or five-year term is the most economical way to buy insurance for school buildings."

Depreciation Insurance

This clause is used by a number of school districts in Oregon because it relieves school authorities of some of the problems connected with reappraisal and depreciation.

In settling losses under the Standard fire policies, the insurance company settles on the basis of the replacement value of the school building less

depreciation. This value is at the time of the loss, rather than on the basis of the cost of actual replacement of the property.

When the depreciation insurance clause is added by endorsement to the standard policy, it permits the school district to collect the full replacement value of the building. This feature seems to appeal to many school districts notwithstanding the fact that the district must carry the 100 per cent average clause with the consequent premium increase but at the lower rate.

This type of insurance applies only to school buildings and does not cover school equipment or other contents. Yet, it has great appeal to many school boards because they know if a loss occurs complete building replacement will be made with little or no additional cost to the district.

Types of Form

Viles (157 p.11) found that the ordinary fire policy usually written for school districts was in one of the following three forms: (1) Specific Coverage Policy, (2) Specific Schedule Policy, or (3) Blanket Coverage.

The specific is a rather common form. As Magee (93 p.156) says: "It covers one kind of property in one definite location. When the building and contents are

insured under a single policy, with definite amounts on each, the policy continues to be specific."

Schedule policies are actually variations of the specific coverages. "All buildings belonging to an insured, with their contents, may be grouped on a single form, instead of on several forms, supplying specific insurance on each property." (93 p.157)

The specific types have certain disadvantages for schools as Viles (157 p.11) pointed out when he said: "The use of the specific policy forms usually involves a considerable amount of record keeping, and the computing of premium costs at different rates for each of several buildings."

The Blanket Coverage form is briefly defined by Magee (93 p.156) as follows:

> A Blanket Policy covers the same kind of property in different locations, or different kinds of property at a single location. Thus several buildings in different locations may be insured under a blanket policy, as may stocks of goods, or merchandise located in different warehouses or stores, or buildings and contents at a single location.

This Blanket Policy seems to be the best and most popular for school districts. Cross (34 p.178) stated: "The blanket form of policy is most popular because of its low rates, its equal protection of buildings and contents, and its following of property, whose location

may be changed."

Linn and Joyner (85 p.92) indicated that of 142 districts studied by the Public School Business Officials Association, 111 reported they used the blanket policy form. They also give a good summary of the advantages usually given for the use of the blanket insurance form:

1. The district definitely knows at all times that property at locations designated in the blanket form is insured.
2. Removal of property from one building to another at the location designated in the blanket form is automatically covered.
3. The district has but one rate to use for the location covered, and errors are not as likely to occur when policies are being checked with specific insurance, there are many individual rates on buildings and contents.

Appraisal of School Property

Appraisal of school property for the purpose of determining the insurable value is one of the most important problems connected with the school district's insurance program. This is most especially true where the standard fire policy carries a coinsurance clause. It will be remembered that the Oregon Standard Fire Policy requires that the district know what the sound value of its property is at all times. It also requires the district to carry the appropriate amount of

insurance. "This sound value represents the cost, at the time the fire occurs, to reproduce the property at the then prevailing prices of labor and materials, less the actual depreciation." (85 p.78)

To determine reproduction costs of any existing school building is not only a difficult task but involves a very special kind of technical knowledge. Steinhauer (150 p.96) however, found that "The insurance value of school buildings is largely determined by estimation on the part of the Board of Education either as a whole or by some members of the board to whom authority is delegated." Taylor (152 p.153), in his study of insurance in Nebraska as late as 1952, found that only 23.4 per cent of the school districts reporting used an appraising group to determine insurable values.

Because of the technical knowledge needed to make accurate and satisfactory evaluations, the Washington School Board Association (163 p.2) said:

> It is recommended that every school district have a professional and independent appraiser make a full analysis of its property once every five years. The value at which he arrives can be kept reasonably up to date by having a 'thumb nail' appraisal made once during each school year, at which time current building cost factors can be applied. A 'thumb nail' appraisal can be obtained for $10.00 to $20.00 per structure; full appraisals are more accurate and more expensive.

In choosing such a professional or independent appraiser, West (174 p.65) suggests the following tests:

1. Will the appraisal be correct, reliable and show all the values pertaining to the property in order that the owner be fully protected?

2. Will the completed schedule be in such order and form as to be accepted by the adjuster as a basis of settling the fire losses which may occur under the policy?

3. Will they safeguard and protect the owner under the coinsurance clause?

Such services will cost school districts money. However, every prudent board will ascertain in advance what such services will cost and weigh this expense against the advantage of accurate and acceptable appraisals, and against the knowledge that the district will be neither over insured nor under insured. Upton (155) found that the cost of appraisal varied as much as two cents to fifty-one cents per $1,000 of value.

Appraisal of Contents

It has been previously stated that a complete and accurate inventory of school building contents and school equipment is indispensable to the school insurance program. Only by having such a complete inventory can the district be fully protected in case of a fire loss.

There is no agreement, as far as this writer can

determine, among appraisal authorities as to the rate of depreciation on equipment. This is due to the great variation in district policy with reference to maintenance and replacement of such equipment.

Speaking of this problem Linn and Joyner (85 p.87) state:

> Probably the best procedure for a school official to use would be to check through a local agent to the most reliable fire adjustment bureau or company in the area and obtain the rates which would be used or which would be acceptable in adjusting a school fire loss. Calculations for depreciation for insurance purposes becomes an almost impossible task and no real benefit would be derived.

In setting up an insurance program, school officials should be cognizant of the fact that building rates are lower than rates on contents. Viles (160 p.6) indicates that fixed and loose contents should be insured separately. Fixed contents value should then be added to the insurable value of the building. Although not considered as part of the building, they are nevertheless insured at building rates.

Linn and Joyner (85 p.88) give some specific examples of types of fixed equipment that may be classified under such building rates. They are: fixed desks, fixed tables, benches, cases, counters, lockers, chalkboards, bulletin boards, fixtures, lighting fixtures, and stationary heating, lighting, and ventilating

equipment and apparatus.

Selecting Fire Insurance Companies

One problem that confronts a school district in setting up an insurance program is the selection of insurance companies. In general, the district can choose between stock and mutual companies or a combination of the two.

In Oregon, the problem is somewhat simplified because of the regulation of insurance by the State Insurance Department. When the law provides for a Standard Fire Policy, and when the department of insurance is given authority to approve rates and the financial condition of insurance companies, it serves as a protection for the insurance purchaser.

It is generally recommended that school districts set up certain minimum standards that insurance companies should meet for the maximum protection of the district. However, any company approved for operation in Oregon will have been found to meet the minimum requirements of the State and can be considered safe.

In the case of Mutual Companies however, a different problem presents itself. Punke (124) has shown that in many states, school districts are not permitted to insure with mutual companies. The chief objection in the minds of most lawmakers is that premium charges under a

mutual policy cannot be definite and the policyholders may be called upon to pay additional assessments. It has therefore been held by courts that this assessment constitutes, in effect, an unlimited pledge of the district's credit and is therefore illegal. This objection is not usually valid where the policy of the mutual company is non-assessable.

As far back as November 22, 1909, the Attorney General for Oregon ruled (108 p.110) "A school district in the State of Oregon is authorized as incident to its authority to own school property, to become a member of a mutual fire insurance association."

Further clarification came from the Oregon Supreme Court in the case of Johnson v. School District No. 1 of Multnomah County (69) where it was held that a school district could not lawfully insure its property with the Northwestern Mutual Fire Insurance Company, on the ground that a municipal corporation cannot become a member of a joint-stock company. Mutual companies are not usually joint-stock companies as Magee indicates when he says: "A mutual insurance company is a corporation owned, operated, and controlled by its policyholders. It is organized under general laws for the purpose of providing insurance for its policyholders at cost. Every policyholder is a member of the company. There are no

stockholders.(93 pp.41-42)

On June 9, 1942, the Attorney General ruled again on the problem when he stated that: "Counties, school districts, and other municipalities may attain necessary insurance in inter-insurance exchanges, provided policies are non-assessable and conditions of section 101-1304, O.C.L.A. as amended by Chapter 268, Oregon Laws, 1941, relating to surplus and deposits are complied with." (108 pp.644-645)

Savings can usually be made by insuring with mutual companies as pointed out by Linn and Joyner (85 p.120) when they said "....insurance may be placed with mutual companies at a lower cost than that charged by stock companies. In some cases the savings to be effected by insuring with mutual companies are very substantial."

Burke (24 p.528) recommends insuring with strong mutual companies where this is legal and recommends co-operating to legalize this type of insurance coverage.

Upton (155) found that over half the California school districts studied bought insurance from stock companies only and that fewer than one-half insure with mutual companies but that the number was increasing.

Insurance Rates

The regulation of insurance is a function of the

state and Oregon has provided an act to specifically regulate rates and rating organizations. This act states very clearly the purpose intended. Section 101-2101 (111 p.190) states:

> The purpose of this act is to promote public welfare by regulating insurance rates to the end that they shall be just, reasonable and not unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this act. Nothing in this act is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit or encourage, except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This act shall be liberally interpreted to carry into effect the provisions of this section.

Rate making is a very complicated science and it is not intended here to go into great detail. It should be emphasized, however, that school districts should study the rating sheets available from the Insurance Rating Bureau. These sheets show the various rates, the credits allowed and the penalties charged on any building. Garver (49 p.56) states that "Periodic examination of these ratings is a prime necessity if complete protection is to be a fact." Linn and Joyner (85 p.115) state:

> At times school business officials simply accept the rates stipulated for their properties without analyzing the rating sheets and, therefore, do not realize the possible economies that might be effected by some appropriate actions or procedures. Many times relatively simple actions result in substantial savings,

> although at other times the investment cost may not be justified because, relatively, the savings are too small.

For large school districts, Reger and Bloke (130 pp.165-166) recommend the use of Insurance Engineering Services to make rate savings by: (a) correctly applying schedules and by reducing hazards, (b) accurately appraising buildings to ascertain and establish present sound value, (c) setting up correct policy forms and checking over existing policies to see that they are in order, and (d) checking over plans for new buildings.

Plans for all new buildings should always be checked by the Insurance Rating Bureau for the purpose of ascertaining in advance of actual construction where savings can be effected. This seems so obvious as to hardly warrant mention yet, few school districts follow such a procedure.

Additional savings can be made by school districts by arranging the term of the policy for a longer period of time.

> A three year term rate on a school fire insurance policy, with few exceptions, is two and one half times the one year rate. The five-year rate is usually four times the one year rate, providing approximately a 4 per cent saving over the three-year rate.
>
> It is therefore recommended that school insurance be purchased on a five-year basis with one fifth of the covering expiring on a common expiration date each year. In this

> manner the yearly budgets for fire insurance will be the same each year. (85 p.95)

Boiler Insurance

The purpose of boiler insurance is to cover losses associated with explosions in the school heating plant. The coverage afforded by the policy includes: (a) damage to the property of the school district, (b) expediting charges, (c) property damage liability, (d) bodily injury liability, (e) legal expenses, (f) riot and malicious damage and (g) automatic coverage may be added for an additional premium.

The necessity for this type of insurance is sometimes questioned by school boards. However, Smith (147 p.251) indicates "Boiler insurance is an especially desirable type of casualty insurance for a school district to carry."

Englehardt has this to say about boiler insurance: "Arguments for boiler insurance are more or less obvious, but most potent of them is the regular inspection service which goes with the insurance." (38 p.401) He also says that the "Boiler inspection associated with insurance is of great value to the small community where untrained firemen and janitors are employed." (38 p.401)

Pauly (121) recommended carrying boiler insurance only during the school term and not during the summer months, thereby effecting a substantial saving.

CHAPTER V

LIABILITY INSURANCE

Introduction

In the discussion of fire insurance it was pointed out that a contractual relationship between the insurer and the insured existed. In the case of the liability insurance contract, a different type of contract comes into operation. This type frequently is called third-party insurance because it covers only liability for damages imposed by law on the insured for injury to persons or property of others. In other words, liability insurance protects only third parties. It does not cover the person or property of the insured.

In the operation of the public school today there are many opportunities for injuries to occur to persons or property and school authorities are mindful of the hazards involved in the operation of stadiums, gymnasiums, cafeterias, shops, swimming pools, and motor-vehicles. Then too, accidents can happen because of faulty equipment, or in the disciplining of students.

Whether or not the school district, the school board, the administrators, the teachers, or other school employees are liable for such injuries is a matter of

vital concern and warrants study.

Before a person or an agency can be held liable for an act, some wrong must have been committed. Under our system of law there are in general two classes of wrongs. Magee (93 p.334) says:

> If the wrong is the violation of a public law for the protection of the public and is punishable by the state in its own name, the wrong is termed a 'crime'. Contrasted to crime is the private wrong or civil injury termed in law a 'tort'. A tort is an infringement upon the civil rights of individuals, whereas a crime is a violation of rights that affects the entire community.

In this study we are concerned only with torts, and it will be necessary to discuss the theory of tort liability, negligence, and the extent of liability for negligent conduct before proceeding.

The Theory of Tort Liability

Many accidents and injuries occur by pure chance and frequently are referred to as "acts of God." When such accidents do happen, no person can be held liable for an injury resulting therefrom. However, it is frequently very difficult to determine whether any negligence was present and a court trial may be necessary to decide actually the issue.

The National Education Association has summarized the general theory of tort liability as follows: (103 p.5)

> A tortious act is a wrongful act consisting of the commission or omission of an act by one, without right, whereby another receives some injury, directly or indirectly, in person, property, or reputation. A tort may arise out of the following acts: (a) an act which without lawful justification or excuse is intended by a person to cause harm and does cause the harm complained of; (b) an act in itself contrary to law or an omission of specific legal duty, which causes harm not intended by the person so acting or omitting; (c) an act or omission causing harm which the person so acting or omitting did not intend to cause, but which might and should, with due diligence, have been foreseen and prevented.

It is difficult to believe that any teacher in complete control of his faculties intentionally would injure or harm a student. However, it would be quite easy for a teacher to fail to give needed instruction or to fail to foresee and prevent the occurrence of some accident that would result in injury to a student, thereby committing a tort. The extent of the liability of the teacher in such a situation would be determined by the application of the laws of negligence.

Negligence

The law of negligence is an old branch of the common law and is based on the principle that each and every person must handle himself and control his conduct in such a way that another person is not harmed. Failure to exercise such care makes a person a wrong-doer and therefore liable for damages. Magee (93 p.335) says:

> Negligence is a tort. The negligent party or wrong-doer is liable to parties injured if his negligent act is the proximate cause of the injury.
>
> Negligence is the failure on the part of an individual to exercise the proper degree of care required by circumstances. It may consist in the failure to do what was required under the circumstances, or it may consist in the doing of something that ought not to have been done. Behavior in any circumstances that fail to measure up to that expected of a careful prudent person in like circumstances constitutes negligence. It can readily be seen that faulty judgment may result in liability for negligence, even though the motive behind the act was the best.

Illustrating this principle of "due care" is an Oregon Supreme Court case, Fahlstrom v. Denk (40), in which a driver of a school bus was held liable for negligently parking the bus across a driveway when he knew that students at the school were coasting down hill and using the driveway. The driver had been instructed to park at that place for loading and unloading of students by school authorities. In spite of these instructions, the court held him liable for injuries to a student who coasted into the school bus.

There are different degrees of care required of a person under different circumstances. This can be illustrated by referring to another school bus case, Pelfrey v. Snowden et al (122), in which a student was injured after alighting from a school bus. In crossing

the highway the student was hit by a car driving without lights. Because the car was without lights, the court indicated the driver of the bus could not have foreseen its approach and was therefore not liable for negligence.

The two cases indicated above illustrate that negligent behavior is, to a large extent, determined by specific details or circumstances and each case can be different. There are some general boundaries for negligent conduct however. These general principles have been abstracted from Harper's "A Treatise on the Law of Torts" (103 p.7), and warrant inclusion here.

An act may be negligent because:

1. It is not properly done; appropriate care is not employed by the actor.
2. The circumstances under which it is done create risks, altho it is done with due care and precaution.
3. The actor is indulging in acts which involve an unreasonable risk of direct and immediate harm to others.
4. The actor sets in motion a force, the continuous operation of which may be unreasonably hazardous to others.
5. He creates a situation which is unreasonably dangerous to others because of the likelihood of the action of third persons or of inanimate forces.
6. He entrusts dangerous devices or instrumentalities to persons who are incompetent to use or care for such instruments properly.

7. He neglects a duty of control over third persons who, by reason of some incapacity or abnormality, he knows to be likely to inflict intended harm upon others.

8. He fails to employ due care to give adequate warning.

9. He fails to exercise the proper care in looking out for persons whom he has reason to believe may be in the danger zone.

10. He fails to employ appropriate skill to perform acts undertaken.

11. He fails to make adequate preparation to avoid harm to others before entering upon certain conduct where such preparation is reasonably necessary.

12. He fails to inspect and repair instrumentalities or mechanical devices used by others.

13. His conduct prevents a third person from assisting persons imperiled thru no fault of his own.

14. His written or spoken word creates negligent misrepresentations.

These general principles illustrate the scope of activity that could result in actionable negligence.

Contributory Negligence

Contributory negligence is a common law rule that anyone who tries to hold another person responsible for negligence must himself be free of negligently contributing to his own injury. When used as a defense by the defendant in a suit, the burden of proof is placed upon

such defendant.

Speaking of contributory negligence, Magee (93 p.335) says:

> In cases in which contributory negligence is alleged as a basis for denying liability, the claimant frequently advances the plea that the alleged contributory negligence was in fact not a proximate cause of the accident and, therefore, did not contribute to the injury. It is contended that, in spite of the alleged contributory negligence of the claimant, had the defendant exercised reasonable care, he could have avoided the accident.

Where the law expects every person to practice reasonable self-preservation and protection, it is logical to assume that alleged wrong-doers will use the principle of contributory negligence as a defense whenever possible.

Extent of Liability

The scope of activity that can result in actionable negligence is so broad as to give concern as to the extent of liability for tort. An excellent summary showing the implications of liability for negligence was abstracted from the "Restatement of the Law of Torts." (103 p.9)

> If the person's negligent conduct has resulted in any injury to another so as to create a right of action, he may also be liable:
>
> 1. For physical harm resulting from fright or shock or other similar and immediate emotional disturbances caused by the injury or the negligent conduct causing it;

2. For additional bodily harm resulting from acts done by third persons in rendering aid irrespective of whether such acts are done in a proper or negligent manner;

3. For any disease which is contracted because of lowered vitality resulting from the injury caused by his negligent conduct; and

4. For harm sustained in a subsequent accident which would not have occurred had the person's bodily efficiency not been impaired by the original negligence.

It is due to the growing concern over the application of tort liability to school personnel and the possibility of its application to school districts and to district boards that has brought about an awakening of interest in liability insurance protection.

Liability of School Districts

During the Middle Ages in England there developed a common law principle that the king can do no wrong. In the United States we have adopted the old common law principles as the basis for our system of law. Not having a king it has been assumed that the state was sovereign and therefore could not be sued without its consent. From this common law principle has grown our concept of non-liability.

In 1857 Chief Justice Taney of the United States

Supreme Court stated the principle of governmental or sovereign immunity very clearly when he rendered his opinion in the case of Beers v. Arkansas (18 p.991). Taney declared:

> It is an established principle of jurisprudence in all civilized nations, that a sovereign State cannot be sued in its own courts, or in any other, without its consent and permission; but it may waive this privilege, and permit itself to be made a defendant in a suit by individuals, or by another State.

This principle applies to both national and state governments and to school districts. Hamilton (54 p.2) said:

> The legal rule is that since school districts are instrumentalities of the state, and the state is immune from suit unless it consents, the state's immunity extends to the districts....

Weltzin (164 p.52) has also expressed this same point by saying that:

> ...school districts have been almost uniformly declared to be agents of the states, acting for the state governments in the matter of public education, which is a state business, these corporations may not be sued for damages for results of wrongful actions or neglect any more than may states themselves.
>
> The school corporation as a branch or agent of the state, engaged in the execution of the governmental functions of furnishing education to the public, a duty involuntarily imposed upon it by the state, is in the absence of statute to the contrary, protected to the same extent as is the sovereign state from responsibility for its own torts or those of its servants, resulting either from misfeasance or nonfeasance in the execution of its public duty.

A school district engaged in a governmental function occupies a privileged position. However, many attempts have been made to collect damages for injuries alleged to have been caused by negligence of the district.

Maintenance of Buildings and Grounds

The construction, repair, and maintenance of buildings and grounds is essentially a governmental function of the school district. In the absence of a statute to the contrary, the school district cannot be held liable for any accident arising out of such construction, repair, and maintenance.

In Ward v. School District No. 18 of Tillamook County (162) the Supreme Court ruled:

> A school district was not liable for injuries a pupil sustained while at play, during noon recess, by slipping from a ceiling joist and falling through the ceiling of school house, since district was acting in a governmental capacity in relation to pupil.

In the Spencer v. School District No. 1 (148), the Supreme Court of Oregon said:

> A school district, under Oregon statutes, is an arm of the state functioning in the maintenance of school buildings and accoutrements as agency of the state, not in a private or proprietary capacity.

A study of case law in Oregon indicates that there is little likelihood of a school district being held

liable for injuries connected with buildings or grounds.

Supervision

Many attempts have been made to recover damages from the school district on the ground that the supervision supplied was grossly negligent. In speaking of this problem Satterfield (141 p.13) said:

> Ordinarily an employer is liable in damages for the negligence of his employee, but this is not true of the school district. Even in states where suit is allowed, the courts refuse to listen to the plea of respondeat superior (a phrase indicating the relationship of master and servant, a relation which practically never exists between teachers and school districts); for neither the state nor any of its agencies engaged in a governmental function is liable in tort for the negligence of its officers or employees.

Trespass

In a few instances, courts have held that school boards are liable for trespass where some unlawful act with violence has been committed against the property of another. "Sometimes it is ruled that where the injury is the result of the direct act or trespass of the district, the district is liable, no matter whether its officials are exercising obligatory or discretionary powers." (4 p.11)

Generally however:

> School districts cannot be held for any kind of tort committed by its officers for the simple reason that a board is not authorized to commit a tort, and, when it does, it does not represent the district, and the district is not bound. (4 p.11)

This principle was laid down in Wiest v. School District No. 24 (175) where the school board had dismissed a school teacher for alleged immorality. Wiest, the teacher, sought damages and the board admitted the charges were false. The Oregon Supreme Court, however, asserted that the board was not authorized to commit tort and when the board did so commit a tort it was in effect not representing the district and the district could not be held liable.

Nuisance

It has been said that "In some jurisdictions the exemption from responsibility which applies to governmental agencies in the case of negligence does not extend to cases of actual misconduct. (4 p.11)

For example, if a district permitted conditions to exist that endangered lives and property of others it would be held liable for maintaining a nuisance.

School districts are like municipal and private corporations as far as responsibility for the ownership of property is concerned. The general rule is that:

> Municipal corporations are liable for the improper management and use of their property in the same extent and in the same manner as private corporations and natural persons. Unless acting under valid, special legislative authority, they must, like individuals, use their own so as not to injure that which belongs to another. (4 p.11)

Negligent Injury

In the matter of injury to pupils "The almost universal rule, in the absence of statute imposing it, is that a school district or school board is not liable for injuries to public school pupils." (4 p.8)

This same principle holds true as far as district liability for negligent injury of district employees because:

> As far as school district liability for negligence is concerned there is no significant distinction in the eyes of the court between pupils, school employees, and the general public. Consequently, the same principles of law which exempt a school district from liability for injuries sustained by pupils exempt it from liability for injuries sustained by employees. (4 p.8)

If the injury is to a private person on school property there is little chance of district liability because "In virtually all cases where persons of the general public are injured on school property, the non-liability principle is applied." (4 p.9) The general legal pattern has been:

> That if the board is acting in a governmental capacity it is not liable in tort; if it is acting in a proprietary capacity its act is ultra vires (an act beyond the scope of authority) and there is no liability. (4 p.9)

Exceptions to the Rule of Non-Liability

It has been stated frequently that in the absence of a statute to the contrary, a school district is not liable in tort. This principle has been the general rule of law with New York the only exception. However, Hamilton and Mort (55 pp.268-269) have said that:

> The legislatures of all the states have made school districts bodies corporate with the power to sue and be sued. It would seem that the intent of such legislation was to waive immunity from suit on the part of the state agencies. Judicial interpretation, however, has made it quite clear that nothing short of an express statute will extend the liability of school districts for damages arising out of acts or omissions of the board while acting in its governmental capacity.

Oregon is one of a number of states that have enacted legislation to modify the common law principle of sovereign immunity. In 1862 Oregon provided such a law and in 1887 amended it (113 p.45) to read as follows:

> An action may be maintained against any organized counties of this State upon a contract made by such and not otherwise. And an action may be maintained against any of the other public corporations in this State mentioned in section 346 in its corporate character, and within the scope of its authority or for an injury to the rights of the plaintiff arising from some act or omission of such

public corporation.

By this statute it seems that actions may be taken against school districts because such districts were specifically mentioned in section 346. However, the Oregon Supreme Court has on a number of occasions ruled to the effect that the provisions of this statute were mere re-enactments of the old common law principle that a public corporation is liable in tort only in the performance of proprietary functions and not for the performance of public or governmental functions.

In the case of Antin v. Union High School District No. 2 (10) the Supreme Court stated that a school district performs only public functions. Weltzin (168 pp.127-128) in commenting on this interpretation has indicated that it amounts to a practical exclusion of any remedy for tort.

In summing up the issues involved in school district liability with possible exceptions thereto, it has been said that:

> This distinction made by the courts between public and private duties in order to avoid an overruling of their former decisions has resulted in hairsplitting and inconsistent distinctions between municipal corporations and quasi-municipal corporations; between governmental, municipal, and commercial functions of corporations; between discretionary and ministerial duties of school board members; and between invitee and licensee (that is, between those who attend school as pupils and

> those who go to the school house after school hours when the school house is used as a community center). Many of these distinctions appear to be 'distinctions without differences'.
>
> In the light of such confusion it is possible to conclude only that wherever there is a suggestion of doubt in the meaning of any statute placing liability upon a school district, the courts are likely to make use of that suggestion to follow the doctrine of stare decisis (upholding precedents) and thus perpetuate the common-law rule of non-liability. (103 pp.12-13)

Liability of School Board Members

There is uncertainty and some concern in Oregon over the matter of the personal liability of school board members growing out of their handling of school affairs.

Corpus Juris (31 pp.343-344) sets down the status of a school board member with reference to personal liability for tort in saying:

> In accordance with the rule applicable to other public officers, it is the general rule that an officer of a school district or other local school organization...is not personally liable for any loss or injury resulting from an act within the line of his duty or the scope of his authority, unless he acts willfully or wantonly, or with malice or a corrupt motive, or unless, in doing such act, he assumes to act in his individual capacity and not officially as such officer.... A mistake of judgment, however, does not impose personal liability.

In another section of this same publication (31 p.348) it is stated that:

> School officers, or members of the board of education, or of directors, trustees or the like, of a school district, or other local school organization are not personally liable for the negligence of persons rightly employed by them in behalf of the district, and not under the direct personal supervision or control of such officer or member in doing the negligent act, since such employee is a servant of the district and not of the officer or board member.

Most of the case law seems to support this principle of non-liability of school board members. In Oregon, the Antin v. Union High School District No. 2 (10), is an actual case in point. In this case a school student was injured in an explosion of a water tank installed on the school premises. The Oregon Supreme Court refused to hold the individual school board members liable and stated:

> Persons employed to do such work, while selected by the directors, are not the servants of the directors, but are the servants of the district. The relation of master and servant, or of principal and agent, does not exist in such cases, and hence the doctrine of respondeat superior does not apply between the directors and such persons.
>
> A public officer is not personally liable for the negligence of an inferior official, unless he, having the power of selection, has failed to use ordinary care in the selection.

The responsibility of a school board member in Oregon for tort liability seems quite clear. However, it should be emphasized that the principle of non-liability is to a large extent predicated on the theory that the director is acting within his line of duty or the scope

of his authority. Should he act, individually or jointly, outside of such authority, then, liability might attach.

The Nebraska case of Fulk v. School District No. 8 (42) illustrates this possibility. In this case three officers of a school board purchased a home for the superintendent under authority of a resolution passed at an annual meeting of the district. The Nebraska Supreme Court held this to be illegal because the "District was without power either by vote or by action of the board to make such purchase." It held that the district was a creature of the statute and therefore could not be held liable; that the original owners of the property were legally obligated to restore the money paid for the home; and that the individual board members who participated in this illegal act were liable."

Liability of School Personnel

School administrators, school teachers and non-certified personnel are liable for tort the same as any other person.

In the case of administrators, however, it seems that as a group they are in the position of middlemen between the classroom teacher and the school board.

The Research Division of the National Education Association (103 p.14) has pointed out that it seems to

be the responsibility of the teacher to prevent pupil injury rather than the responsibility of the administrator. That even when the teacher has been given authority to conduct some activity which results in pupil injury, the administrator who gave the permission is not legally responsible if the classroom teacher was competent and the administrator actually ascertained that the teacher would be present during the activity. However, if the administrator himself negligently causes an injury to a pupil, his position would be no different than any other negligent person. Satterfield (141 p.57) pointed out that "The principle underlying liability of a school district employee, whether certified or not, is the same as that of any other person - negligence."

Linn and Joyner (85 p.159) point out that:

> Continuous making of administrative decisions can easily and often does get the administrator over into the borderline liability on such matters as:
>
> (a) corporal punishment
> (b) discipline on grounds
> (c) discipline at athletic events
> (d) stopping fights
> (e) handling trespassers

It is common practice for persons receiving an injury to seek to recover damages from the one responsible for the injury. Where such damages cannot be collected from the school district, as in the case

in Oregon, then an attempt is made to collect from the teacher or other person in charge of the activity at which the injury occurred.

The status of teachers varies from state to state. However, in most states, teachers are held to be employees of the local school district. Satterfield (141 p.2) has said that:

> If this were strictly correct, then they should come under the common law rule of respondeat superior; namely, that the employer (the board) is responsible for their acts. But this is an interpretation from which courts shy away, because it conflicts with the doctrine of sovereign immunity. So courts fall back on the thesis that teachers are independent contractors, and, as such, liable for any injury which may result from their acts.

A number of aspects of a teacher's position tend to operate to increase the risk of damage suits involving negligence. This was pointed out in a study by the Association of School Business Officials (11 p.26) when they said:

> (1) School employees occupy the position of exemplars in the community; consequently it is ordinarily expected that a high standard of efficiency, personal conduct, and judgment may be expected of such public servants.
>
> (2) Dealing almost exclusively with minors, usually in too large numbers to make it possible to be thoroughly attentive to each of them all the time, school personnel find their personal liability risks, through sheer multiplication, to be above that of the average adult worker.

(3) The immaturity, inexperience, and helplessness of small children especially, means that more than ordinary care must be exercised by those in loco parentis.

In addition to the personal liability of school teachers and other personnel for injuries associated with some physical violence, it has been shown (11 pp.49-61) that there are other areas of possible suit. Court actions in these areas are brought under libel and slander, trespass, false arrest and false imprisonment, deprivation of right or malicious prosecution.

In summarizing basic elements of the school employee liability, Satterfield (141 p.71) quoted a communication to the Commissioner of Education in New Hampshire by the Attorney-General of the State to the effect that:

> The exemption of school districts and school boards from liability does not extend to school teachers or other school employees. A school employee owes certain private duties, for the non-performance of which he may be liable. A school employee owes a duty to use due care not to injure anyone anywhere, any time, and to use due care not to permit a person to injure himself while under the influence of the employee. The words 'due care' mean 'ordinary care'; that is, the care that a person of average prudence would use in the same situation and under the same circumstances. The law does not require the care that would be exercised by the most careful person, nor does it permit the lack of care that might be used by the most careless person. It sets up as a standard the care that would be taken by the average person in that locality not to injure anyone nor permit anyone to injure himself. Against this standard there would be measured the conduct

> of the employee sought to be held liable. What this standard was, what the conduct of the employee was, and how they compare are questions of fact to be determined by the court or jury, whichever is the trier of facts. If the conduct measures up to the standard, then the employee has not failed in his duty and there is no liability; but otherwise the employee MAY BE liable. The failure to use due care is commonly called negligence. When one is negligent in the performance of a private duty, he owes another; he is liable for the natural consequences of his acts unless the other, by his own negligence, has contributed to his injury.

The Need for Liability Insurance

The preceding discussion has indicated quite clearly that there is little likelihood of school districts or school boards in Oregon being held for tort liability growing out of personal injury. Garber (46 p.41) has said that "...courts are in almost total agreement that a school district is not liable in damages for accidents growing out of the negligence of school district employees...."

However, Rosenfield (138 p.44) indicates that "Pressure continues against the predominant rule of law that school boards are not liable for negligence." This point of view was expressed indirectly in Oregon where the Supreme Court said in the case of Lovell v. School District No. 13, Coos County (86), that:

> It may be that the common law rule of immunity is harsh and unjust in requiring the individual alone to suffer the wrong, and that society, in keeping with the modern trend, should afford relief, but that is a legislative and not a judicial question. If the legislature desires to impose liability upon a school district for tort, and while acting in any capacity whatsoever, it clearly has the power to do so. Statutes in derogation of the common law must be strictly construed and the intention to impose such liability must, therefore, be clearly expressed.

The Oregon Legislature has thus far refused to impose such liability on school districts or school boards. As a consequence, it would appear that there is little need for liability insurance.

However, there are certain aspects of liability insurance that appeal to school boards that are over and above the obligation of the insurance company to pay damages that might or might not be awarded by a competent court.

Linn and Joyner (85 pp.163-164) have expressed this idea in saying:

> The payment by insurance companies of claims (settlement out of court) where liability has been charged but not yet proved has frequently confused school personnel and the public. The reason for the practice should be rather obvious. A competent claims department knows when liability exists and can estimate the probable decision to be expected should the case go to court. To save delay and expense for both the injured and the company, claims approximating the legal liability are frequently paid.

In addition to the protection against the bodily injury and property damage liabilities, a liability insurance policy undertakes to:

1. Defend all suits brought against the school district whether justified or not. This saves considerable expense and annoyance.

2. Give necessary investigation to all liability claims.

3. Pay expenses for investigation and defense of suits. These expenses are over and above the limits of the policy.

4. Pay all premiums on release, attachment, appeal, and bail bonds (in connection with automobile accidents) required in any defended suit.

5. Pay all costs taxed against the district in any such suit.

6. Pay all interest accruing after entry of judgment until the company has paid and deposited in court the judgment (not to exceed policy limits).

7. Pay any expense incurred by the school district for such immediate medical and surgical relief as shall be imperative at the time of the accident or occurrence. Usually this is an optional coverage and is frequently excluded from school district policies.

Then too, "Liability insurance becomes more important as courts tend to grant awards in larger amounts and seem more inclined to hold school districts responsible for certain types of damages." (78 p.72)

The matter of larger awards is causing great concern and in every suit that comes to trial in Oregon there is

always the possibility, at least, that the court might break precedent and find the defendant school district or school board liable. The size of some of these awards in Oregon in recent years was reported by Gearin (51 p.70). While not a single award reported was against a school district, the size of such awards alone was staggering and should give school boards and school employees real concern:

Personal Injury	1947	$ 79,474.00
Malpractice	1950	75,000.00
Personal Injury	1950	67,031.45
Death Action	1951	68,377.20
Assault and Battery	1951	150,579.47
Personal Injury	1952	119,235.25
Personal Injury	1952	63,000.00

Bearin (51 p.4) also indicates that a National Association of Claimants and Compensation Attorneys has been organized now for seven years. National membership totals 1,500 and 75-100 Oregon attorneys are members of this organization. Their purpose is to force higher settlements and or to secure higher verdicts from casualty underwriters in personal injury cases. The size of some of the higher awards in Oregon shown above would attest to the success of the organization.

The greatest need for liability insurance, however, appears to be on the part of the teacher or other school employee. So great is this need that Hamilton reports (54 p.6) that three states have enacted what are called

"save harmless" statutes for the protection of teachers. These statutes require the districts in New York, New Jersey, and Connecticut to pay judgments recovered against teachers. He expresses the fact that this is enlightened legislation and should be adopted widely.

Carson (26 p.25) goes further and says:

> In line with the social responsibility theory that created Workman's Compensation... every board...should protect the individual liability of its teachers against the pupil claims that can and do result from their occupation.
>
> Until such an item can be brought into the budget, the teachers should be offered the opportunity to protect themselves at their own expense under an endorsement to the school's policy.

Authority to Purchase Liability Insurance

It is a well established principle that school districts can do only those things which by statute they have been authorized to do, or which can reasonably be implied from such authorization. Applying this principle to the purchase of liability insurance, school boards are without power to purchase such insurance unless specifically authorized because the school district is without liability.

In Oregon there have been a number of opinions on this matter pertaining directly or indirectly to the

right of a board to purchase liability insurance.

One such opinion was stated by the Attorney General (108 p.103) who said:

> A district school board has no power to disburse the funds of the school district except where there is express or implied authority therefore:
>
> School funds in the hands of school officers or boards are in the nature of trust funds for the benefit of the public, and such funds can be paid out only for the purposes and in the manner authorized by law. A school board has no right to direct school funds to private purposes.
>
> Members of a school board who vote for or permit a misapplication of funds are personally liable on the amount so misappropriated.... Therefore, it is my opinion that the board of directors of a school district has no authority to expend the funds of the school district intended for the education of its school children in payment of premiums upon indemnity insurance to indemnify the district against a liability which does not exist.

This opinion should have deterred school boards from making liability insurance purchases. However, pressure to authorize such purchases must have continued because in 1945 the Oregon Legislature passed a permissive statute authorizing liability insurance. This statute appears as § 111-1022a of the Oregon School Laws (116 p.78) and is quoted herewith:

> The board of directors of school districts be and the same hereby are empowered to enter into contracts of insurance for liability covering all activities engaged in by the district, and contracts covering medical and hospital benefits for students engaging

> in athletic contests and to pay the necessary premiums thereon. Failure to procure such insurance shall in no case be construed as negligence or lack of diligence on the part of the board of directors or the members thereof.

In an opinion after the passage of this statute, the Oregon Attorney General (108 p.403) reiterated the fact that the boards of directors of school districts were authorized to enter into contracts for liability insurance and especially for medical and hospital benefits for students engaged in athletics.

In an opinion as late as September 18, 1952, the Attorney General (109), in answering a letter from the State Superintendent of Public Instruction regarding the legality of school district funds being used to provide an insurance policy covering medical care for students' injuries due to accidents in the school or on the school grounds where such students were not engaged in athletic contests, stated,

> We do not believe the legislature intended to limit to purchase 'liability insurance' to policies of 'indemnity' only, that is, policies permitting recovery only after actual loss paid by the insured, or after judgment is attained against the insured. Under the law of this state school districts are not liable for torts committed in a governmental capacity, and seldom if ever, could a judgment be procured against a school district for an accident occurring on school premises.

> With these considerations in mind, it is our opinion that...(the law)...empowers school districts to procure liability insurance covering injuries to students that may result from accidents in the school or on the school grounds. Such policies may be limited to the payment of medical care resulting from such accidents.

This opinion not only clarifies the status of liability insurance purchase, as such, but also indicates that accident insurance is also legal under the law.

It is well known, that an opinion of the Attorney General of the state is advisory only and might or might not be validated in an actual court case. However, such opinions must serve as guides to school districts in the conduct of their school insurance programs.

One serious question regarding the purchase of liability insurance remains. Whether under this statute a school district board is authorized to spend public funds for the purchase of liability protection for teachers and other school employees or not. Many school boards are making such purchases and it may be ultra vires. However, it will remain for either a court case or an opinion of the Attorney General to clarify the problem.

Satterfield (141 p.90) has pointed out that "The supreme courts of several states have ruled that a school district does not waive its immunity from tort by reason of purchasing liability insurance." Streit

(151 p.612) has also stated that "According to the majority rule the presence of liability insurance has no effect upon the immunity."

For this reason authorities are almost unanimous in their recommendations that if a school district purchases liability insurance such policies should contain a waiver of immunity clause.

> Since there is no right of action against the insurer under the provisions of the (liability) policy until the liability of the insured is established and since liability cannot be established because of the immunity, recovery is denied. In other words, the policy protects only against the loss of the insured and does not purport to protect the injured person. (151 p.612)

It therefore becomes important to have this waiver of immunity clause to permit a direct suit to protect the injured person.

Workman's Compensation

Oregon, like most other states, has enacted Workman's Compensation Laws. (110) The purposes and objects of these laws which the Oregon Supreme Court has recognized are: (110 p.x)

1. To make every industrial enterprise bear the pecuniary loss of all accidental injuries without regard to fault or negligence....

2. To create an administrative force through which workmen may receive a certain and fixed compensation without formality of Court procedure....

3. To replace an unscientific and cumbersome procedure for determining the right to and amount of compensation for injured workmen....

4. Minimizing litigation and lessening the burden of the taxpayer....

These laws are in a way a combination of accident and liability insurance and have a relation to a school insurance program because schools can participate under the laws although they are not required to do so in all cases.

School districts are considered as employers (110 p.2) under the Workman's Compensation Laws but are not required to come under the laws because few of their activities have been defined as hazardous. Therefore, coverage is optional with the district.

School boards should investigate the work assignments of their employed personnel for the purpose of determining if any positions are hazardous, i.e., meat grinders in school cafeterias, carpenters, etc., because if personnel are working in hazardous jobs as defined in the act, then the district must participate

in Workman's Compensation Insurance. The law reads:

(110 p.8)

> 656.032 Public bodies engaged in hazardous occupations without right to reject benefits; ...If the state or any state department, county, incorporated city or town, school district...engages as an employer in any hazardous occupation as defined..., it may not reject the provisions and benefits....

CHAPTER VI

MOTOR VEHICLE INSURANCE

Introduction

School transportation at public expense began in Massachusetts (9 p.45) as a result of a law passed in 1869. Numbers of school students transported have increased tremendously since that date and so have the costs of transportation. Cooper (30 p.11) indicated that from 1923 to 1950 alone the cost increased about 400 per cent.

In Oregon the pattern is similar. Holy (63 p.335) reported that transportation of school pupils at public expense was first authorized in 1903 but by 1948 approximately 800 districts were transporting 98,000 students in 1,250 buses and 250 cars at an annual cost of $3,600,000. The Oregon State Department of Education in its Transportation Summary for 1951-52 states that 729 districts were transporting 123,858 students in 1,573 buses and forty-five cars at a cost of slightly over $4,653,145. A total of 72.5 per cent of all school districts transport their students at a cost of $37.57 per pupil (average). A total of 40.6 per cent of all Oregon students are transported.

Along with the growing problems of furnishing

transportation facilities to Oregon students is the problem of insurance on the school buses that transport the students. In speaking of this problem in Nebraska, Taylor (152 p.88) said:

> The school officials should feel the responsibility for the pupils' safety and the preservation of the equipment in which the community has a large amount invested....The conscientious school official should be familiar with the types of insurance available on the district's motor vehicles and know what protection they afford. It is his responsibility to see that the people of the community have adequate protection against litigation as well as protection of their investment.

Authority to Purchase Motor Vehicle Insurance

A school district in Oregon could not purchase motor vehicle insurance until the state legislature passed an enabling statute in 1939. This statute (116 p.78) states:

> That the board of directors of school districts by and the same hereby are empowered to enter into contracts of insurance for public liability and property damage covering the motor vehicles operated by the districts and to pay the necessary premiums thereon.

It should be noted that this authorization is quite specific as to the kind of insurance but it does not include other types of insurance coverage commonly associated with liability and property damage insurance. Coverages like fire, theft, collision, and accident were not

authorized by the law and the question immediately arises as to the authority of a school district to enter into such contracts.

This type of insurance is quite different from liability and property damage because it involves repair and replacement of physical equipment owned by the district. Should any district board decide to contract for such insurance it could do so with the assurance that it has the implied authority from the general power of school boards to manage, care for, and maintain school property. This principle was discussed at length in Chapter IV.

As far as could be ascertained, there has been no court case or attorney general's opinion on the authority of district boards to provide for medical payments to persons injured in school bus accidents although districts are authorized to purchase such coverage for injuries to students in school buildings and on school grounds.

The Need for Motor Vehicle Insurance

In the absence of a statute creating liability, the school district is immune from liability for the negligent operation of its school vehicles. This immunity has been previously discussed. Generally it can

be said that an accident involving a school vehicle is no different from an accident on the school grounds, in a school building, or at any school activity because the district is not liable while performing a government function.

The American Association of School Administrators (4 p.15) has said that:

> The whole question of the school district's immunity from liability in pupil transportation is basically no different than its immunity from liability for tortious action in any other phase of the organization and operation of the educational program. But it has claimed special attention because of the proportionately large number of children transported and the well-recognized hazards of automotive vehicle travel on the highways.

In Oregon the Supreme Court in Rankin v. School District No. 9 (127) held that in the transportation of its pupils by bus the school district was acting as an agency of the state, functioning in its governmental capacity, and was not liable from such ownership and operation of a school bus.

The need for liability insurance for the school district becomes a matter of discretion on the part of the directors. The Transportation Handbook for School Administrators and School Board Members (118 p.7) states that:

> Under our law what happens is this--if a person is injured and the insurance company protests the payment of the claim, the injured party must take his case to court. He sues the school board, but the case is dismissed because the school board has governmental immunity. In other words, the liability of the insurance company does not arise until the liability of the district has been established. The injured person cannot sue the insurance company because the insurance contract is between the carrier and the school district. Frankly, it would seem that most pupil liability insurance is worthless as written unless the company sees fit to settle the claims without the necessity of court action.

Holy (63 pp.347-348) in speaking of transportation insurance and school district liability said:

> ...it is difficult to determine whether such insurance is necessary. Apparently most of the school districts of the state do not wish to assume any risks because more than 98 percent carry property damage insurance. More than two-thirds of them carry collision and theft insurance, and an even larger percent carry fire insurance. There is no uniformity in the extent of coverage of insurance carried.

If liability insurance is carried, every school district should see that a waiver of immunity clause is written into the contract. Such a clause is recommended (118 p.7) as follows:

> In consideration of the premium to which this policy is written, it is hereby understood and agreed, by and between the company and the insured named in the policy, that the company will not raise, nor permit its representatives to raise, in any suit brought against the insured, and otherwise covered by the policy, any question of governmental immunity growing out of the exercise of the governmental function.

Many authorities have indicated that this type of clause in an insurance contract does not guarantee that the insurance company will pay the claims nor does it guarantee that the courts will allow an injured party to sue the school board to establish his claim for damages.

Thus far liability insurance only has been discussed under need. Prudence would seem to dictate that school directors provide insurance protection for replacement or maintenance of school district vehicles in case of accident, fire, or theft. However, the State Department of Education (118 p.8) recommends the following school bus insurance program:

1.	Property damage liability	$ 5,000.00
2.	Bodily injury liability per one person	10,000.00
3.	Bodily injury liability for any accident	100,000.00
4.	Medical payments per person due to accident	500.00
5.	Collision insurance (Very expensive - not recommended)	----
6.	Fire insurance	Necessary
7.	Theft insurance	Unnecessary

The American Association of School Administrators (4) indicate that independent contractors in every state have a common law liability and are responsible for the negligent operation of school vehicles. This is also true of bus drivers employed by the school district. Almost without exception, governmental immunity does not extend to the driver. If a person is injured or his property damaged through any misfeasance, or nonfeasance or

malfeasance on the part of the driver, he is personally liable regardless of whether the school bus is owned in whole or in part by the school district.

The Oregon case of Falstrom v. Denk illustrates this principle and indicates the Oregon practice. In this case the bus driver was held liable for parking his bus where the school authorities had instructed him to park it. Satterfield (141 p.67) states that "...the school bus driver's only protection against suit is care, prudence, and liability insurance."

Factors to Consider

After an exhaustive study (13) of court decisions affecting the various provisions of school vehicle insurance contracts, it was pointed out that many situations might arise in school transportation services in which there would be no insurance coverage under the ordinary standard form policies. This being true, it would seem important that school officials study such services carefully before buying insurance and make sure that the company or its representative is given complete data in regard to such factors as: legal liabilities of the district, services to be performed, equipment to be used, housing facilities and areas in which the equipment is to be housed. School officials should be sure that they

understand all provisions in the insurance policy, the protection being given the district, and the responsibilities of the district in case of accident or suit.

Joyner (71 p.52) lists some specific policy provisions that the school district should see are included in the insurance policy:

(1) Eliminate any restrictions as to periods vehicles may be in use;

(2) Additions to or deletions from coverage should be made on a pro-rata basis;

(3) Provide that any error or omission for unintentional violation of warranty by the assured shall not invalidate the coverage;

(4) Automatic coverage should include new or substitute equipment;

(5) Loading and unloading clause should be written in;

(6) Any desired changes in the notice of the accident, subrogation rights, or cancellation clause should be made.

(7) Provide for the broadest protection on the use of the equipment, such as...the use of busses for any activity authorized by the board or its administrative officers.

Provision (7) is very important to schools who frequently use their school buses to transport students on excursions, field trips, and other similar activities. Likewise, school driver training cars are frequently used to run school errands and carry students on any of the activities mentioned above. When such other

services are rendered by school transportation vehicles, specific coverage provisions must be included or such vehicles may be operating without insurance coverage.

To assist school authorities in buying the type of insurance protection needed on district owned vehicles, Linn and Joyner (85 pp.267-275) have provided a suggested list of specifications for buying such insurance. They also suggest a Bid or Quotation Form to be used where purchases of insurance are made after taking competitive bids. These should prove very valuable to those having to make insurance purchases.

CHAPTER VII

PRINCIPLES OF A SOUND SCHOOL INSURANCE PROGRAM

It is impractical, if not impossible, for anyone to formulate definitely a master insurance program or plan which can meet the needs of all school districts in Oregon. School districts vary so much, in geographic size and location, in school census, in assessed valuation, and in the types of their school building construction, that any insurance plan must be worked out by the appropriate authorities in the individual districts as to specific particulars. It is desirable, however, to follow basic principles in planning any sound school insurance program. These basic principles should form the over-all pattern for the district insurance program and give it desirable form and substance.

In studying the literature on school insurance it became apparent that there are a number of basic principles to be considered in setting up and operating a district insurance program. These principles are that: (a) the program should be planned and farsighted, (b) it should provide for responsible administration, (c) it should provide adequate protection, (d) it must meet legal requirements and limitations, (e) it should be

based on complete and accurate records and appraisals, (f) it should provide for periodic review and reappraisal of the program, (g) it should provide for selecting reliable companies, (h) it should provide for the elimination of hazards and penalties, (i) it should provide for an objective and equitable distribution of policies, (j) it should establish a procedure for reporting losses and accidents, (k) it should be economical, and (l) it should include a safety program.

The Program Should be Planned and Farsighted

Planning is the sine qua non of the school insurance program. The board of directors should plan carefully and formulate long-term philosophy towards the district insurance program just as it does with educational philosophy.

In speaking of planning Eichler (37 p.41) says "School directors are custodians of much valuable public property. They owe it to themselves and to the community to put into effect a carefully planned insurance program." West (174 p.32) goes on to say that "There is abundant evidence showing that a carefully planned fire-insurance program even now is the exception rather than the rule."

Carson (26 p.7) is very specific about planning when he says:

> ...in the insurance detail of school administration, perils should cease to exist; knowledge should replace ignorance; guessing should give way to facts; and casual, occasional or superficial consideration of insurance matters should give way to careful, systematic, long-term planning.

The Program Should Provide for Responsible Administration

Under Oregon School Law there is no question as to responsibility for the school district insurance program. The board of directors are legally responsible as custodians of school district property. In setting up any insurance program some one individual or committee should be delegated primary responsibility for the continuity and general operation of the program.

Taylor (152 p.15) in referring to this aspect stated that:

> While the school board as a whole has the legal responsibility for the school, the board may delegate this responsibility to some one of its members or some other capable person. However they retain the legal responsibility and final control in all matters.

Various ways have been suggested by writers in the field of school insurance as to how to handle the problem of responsibility for the school insurance program.

Sears (143 p.327) says the district:

> Should either employ a dependable firm of experts to plan its insurance program or see that a member of its own staff is capable

of and is given responsibility for the service.

Nolting (107 p.23) states that the school board should:

> Assign to one official, preferably the responsible finance officer, the responsibility for the entire insurance program.

Taylor (152 p.16) indicates that:

> If the responsibility for the insurance program is delegated to one person he should be carefully chosen. This individual may be the superintendent, the secretary of the board, another board member, or some other qualified and interested person. He should have control of the program insofar as is legally possible. Of course, in the end he cannot, without the consent of the board of education, enter contracts or make settlements in their stead as this is the legal responsibility of the school board as custodian of public funds and property. The responsible individual should, however, have access to all records, all reports of losses should be made to him, he should have charge of all revaluations and should carry out the business concerning the insurance company to the point of termination. He should not have complete jurisdiction over the program but should be a coordinator of all insurance carried by the school district.

Joyner (76 p.29) advocates that one individual should be given primary responsibility when he says:

> The first desirable steps in handling the school district's insurance program are to establish the general plan governing the purpose of insurance and to appoint one official to handle the entire program. This person should be held responsible for the administration of the insurance plan and see that protection in proper amounts is secured to conform to approved policies and procedures. In the event of loss, he would be empowered to conduct the loss adjustment

with the carriers involved, although the final approval of the adjustment would be retained by the board of education.

Methods or practices of handling insurance vary a great deal. There are school districts in which:

1. The board of education as a whole, or a committee of the board, handles and distributes the insurance.

2. The superintendent, business manager, or other school official is held responsible for the function.

3. Authority has been given to an insurance adviser, usually a local insurance agent or broker, who receives a larger proportion of the premiums in return for his services.

4. A local agents' association, as a unit, handles all the fire insurance for the district. This method, known as the 'Oakland Plan', is used quite widely. Under this plan the distribution of commissions is made by the local association to its members. Membership in the local unit is open to all representative agents.

Methods 2, 3, and 4, are acceptable methods and any one might well receive serious consideration. The second plan is the most desirable practice. This plan will enable a school district to purchase intelligently-planned 'insurance protection' rather than a collection of unrelated policies. Under it, insurance agents and brokers may have only one person to contact to get information regarding coverage and policies.

In his study Dougherty (36 p.29) found that the problem was complicated by the fact that board members were also insurance agents on occasion and that "Some of the agents were more interested in selling policies than

in the welfare of the community, with the result that some districts were carrying more insurance than was necessary as well as more than they could afford." However, the Washington State School Board Association (163 p.1) has stated that:

> Experience has demonstrated that a competent agent or group of agents are not only able to assist the board in securing the best possible protection, but their services relieve the school board and its employees of many otherwise burdensome details. The responsibility of handling the business in the proper manner is centralized and the board is in a position to make decisions on matters which can best be presented by experienced insurance men.

The Program Should Provide for Adequate Protection

Providing for the adequate protection of the district against the many hazards it faces is not an easy matter. It is, however, of primary consideration for the local board. "Securing indemnification for losses and reduction of risks are among the most important responsibilities of school boards who are the trustees, not only of public property, but also the lives and safety of pupils." (34 p.9)

Carson (26 p.8) has stated that it is essential that the board "Become aware of all the different kinds of losses that the district might suffer and which of these hazards can be protected by insurance." Englehardt

(38 p.401) says "Insurance, therefore, is a local matter and must be adjusted to local needs after a careful study of conditions." Linn and Joyner (85 p.19) state that "To secure the broadest coverage, those responsible for the school fire insurance program must know the hazards to which the school properties are exposed." Carson (26 p.8) elaborates further by saying the board must "Evaluate each hazard and apply sound judgment as to which hazards are important enough to insure against and for how much." Reeder (129 p.435) comments on the amount of insurance when he says "The amount of insurance cannot be stated categorically. The amount depends primarily upon such factors as size of the community, the number and distribution of risks, and the hazards involved in each property."

Garvey (50 p.58) issues a warning about the adequacy of insurance by saying that:

> My surmise is that many schools have had or stand to have serious financial losses that are not covered by insurance, not necessarily because the school system is not paying a sufficient amount for insurance premiums - it may be paying too much - but because coverage is not up to date, the proper forms have not been used or the amounts of protection are inadequate.

Viles (158 p.50) also criticizes boards for not generally providing for adequate protection when he states that:

> School boards spend considerable money to secure insurance protection, and in many instances the money spent is not bringing the type of protection desired. In order to plan an efficient, economical insurance program the boards need to determine the types of insurance that are necessary to give the protection desired.

The Program Should Meet Legal Requirements and Limitations

School districts and school board members have only those powers which have been given them by constitutional provision or by specific statutory enactment or which can reasonably be implied from such provisions or enactments by the courts. It is of first importance then that each board be extremely careful to see that all actions taken are legal. This is particularly true on matters of school insurance.

Roach (135 p.63) says:

> It has been well said that all educational administration is based in law, since it obtains its structure from the provisions of various constitutions and legislative statutes... The portion of this task assigned to local boards of education involves...carrying out these responsibilities...in full accord with existing principles of law.

Reeder (129 p.428) says "The types of insurance, if any, which should be carried by the school districts will be determined first of all by the statutes and court decisions of the state."

Speaking of the insurance program generally Pattington (120 p.46) says "Follow the state law. Whenever a doubt arises, the insurance laws of the state should be checked to be sure that all statutes are complied with."

A study of the state insurance law may not always give a definite answer as to the legality of an insurance expenditure. In such cases Garber (46 p.41) says "All school boards should make inquiry of their state departments of education concerning the legality of such expenditures in their own states."

The Program Should be Based on Complete and Accurate Records and Appraisals

One phase of the insurance program that is frequently neglected is the matter of keeping complete and accurate records. Yet this phase is of vital importance in the insurance program of the school district. Englehardt (38 p.404) says "The studies made in insurance of public school systems show that in most cases adequate records are not maintained." Smith (147 p.260) states that "An Adequate insurance record is essential to the record system of every school business office."

There is some variation in the kinds of records that are recommended for school districts. Viles (160 p.12) indicates that "Insurance records should be

kept up to date. They should be so outlined that school officials may by a glance determine:

> The coverage on each building and contents; the amount of coverage expiring each year; the date of expiration; the premiums to be paid; the name of the agents writing the coverage and the companies providing the protection.

Pattington (120 p.46) recommends a slightly more elaborate system of records and cautions about the possibility of required form when he says "Many states require that a definite form be followed so that state auditing practices can be simplified. In general, a form providing for the following should be maintained:

(1) Number of policy
(2) Name and home address of company
(3) Agent's name and address
(4) Date of issuance
(5) Date of expiration
(6) Amount of policy
(7) Rate
(8) Premiums
(9) Name of property covered and descriptions
(10) Exact extent of insurance coverage (fire, liability, bus, etc.).

Joyner (76 p.30) briefly sums up the case for records when he says "Keep adequate records. Any system of records should be adequate to give quick, reliable information when needed and should be simple enough that it can be economically maintained."

All insurance is based on a legal contract and all parties thereto must know their obligations thereunder. Holmes (59 p.23) stresses this point in referring to the

general problem of appraisal by pointing out that few policy holders know their obligation under the insurance contract to: (1) provide for correct valuations when the Standard New York Policy Form is used, (2) correctly proportion building and content values, (3) make correct allowances for depreciation, and (4) determine the correct values of such portions of buildings as are excluded from insurance, i.e., excavations, certain foundations, architect fees, etc.

Providing for correct valuations is stressed by the Washington State School Board Association (163 p.2) when it is stated that:

> The first and most important step in drawing up a property insurance contract is to determine the value of the property. It is the directors' responsibility to establish this value, which can be said to be the cost of the property's replacement, less depreciation due to age, wear and obsolescence.

Mann (95 p.102), Carson (26 p.16), Nolting (107 p.23) and Garvey (50 p.58) emphasize the need for knowledge of sound values and correct determination of insurable value. Viles (161 p.56) and Joyner (76 p.29) stress methods of determining these values to prevent over or under insurance.

Appraisal of school property is not an easy task yet its importance is so great that care should be exercised in its determination. "Probably the most

desirable appraisals are those made by respectable appraisal companies..." (48 p.53) Yet in the Steinhauer study (150 p.97) it was found that over 50 per cent of the school districts in Pennsylvania did not seek advice in the estimation of insurable value of school property.

The Program Should Provide for Periodic Review and Reappraisal

After the property has been appraised and insured, the board of directors should follow the principle of reviewing all values and insurance requirements at periodic intervals. There are always fluctuations occurring in our economy with consequent increases or decreases in building values and replacement costs. By reappraising regularly the board can protect the district from unnecessary insurance expenditures from over insurance and from the threat of financial loss due to under insurance.

Commenting on regular appraisal Cross (34 p.141) stated that "Apparently there is much to be done in educating school officials and school trustees to the necessity of regular appraisals of school property for insurance purposes."

Garver (48 p.53) has said that "An efficient policy for handling school fire and windstorm insurance will involve...accurate appraisals of school property,

periodically corrected." Garvey (50 p.60) stated that "...many school insurance programs are not reviewed often enough and a school district would stand to lose for the lack of application of some of these principles."

Scoville (142 p.28) reported one example where a school building built in Colorado in 1885 was still insured on the basis of its original cost in 1951. Although many districts in Washington reappraised regularly, Smith (146) reported that 40 reporting districts had no plan for reappraisal and that 37 districts had not been reappraised from four to sixteen years.

The Program Should Provide for Selecting Reliable Companies

Board members who have the care and custody of valuable school property and who are responsible for the general welfare of the district should give serious consideration to the determination of reliable insurers of district property. It is not enough that the school directors should just provide a plan for insurance protection for the district. Rather, they should, as Nolting (107 p.23) says, "Set up minimum standards of acceptable insurance companies." Viles (158 p.50) emphasizes the same point when he states that "The board should know what criteria to use in judging the reliability of the

companies with whom the insurance is written." Carson (26 p.8) also says that the board should "Become certain that all the insurance carried is correctly written in companies that are beyond question."

The fact that considerations other than reliability frequently have a bearing on the selection of insurance companies is alluded to by Carson (26 p.40) when he says:

> Personal friendship, fraternal relationships, political obligations, sympathy and price, should all be secondary to the matter of complete and unquestionable protection from financial loss to the district when disaster comes in the form of property destroyed or liability incurred.
>
> A school insurance program can help solve this particular problem by setting up a simple set of standards by which each company can be tested.

The fact that many school districts do not provide a means for selecting reliable companies was shown by the Upton study (155) of California school districts where 40 per cent of the districts studied did not require an insurer to qualify.

Insurers should be of unquestioned stability and practice a fair claim policy before being considered as an insurance carrier for school districts.

The Program Should Provide for Eliminating Hazards and Penalties

When some condition that creates or increases the probability of loss exists, a hazard is said to exist. When such hazards are noted by rating bureaus or underwriters, a special rate charge is added to the basic insurance rate. This special rate is called a penalty.

Every school insurance program should provide for the elimination of hazards and penalties. Viles (161 p.57) has said that eliminating such hazards would effect a substantial saving in insurance premiums. Roberts (137 pp.27-29) also says the insurance dollar can be "stretched" by eliminating hazards. Burke (24 p.525) says the "Largest savings on insurance come from eliminating risks and hazards."

Carson (26 p.9) states that boards should "Endeavor to remove all rating penalties, if it is humanly possible to make the requisite improvements." Later he says, "...the insurance adviser can show the board all the dangerous hazards existing in the school, what these features are costing in penalties, and advise about changes or corrections that will produce credits or eliminate charges." (26 p.13)

Garver (49 p.57) adds his authority to this point by saying "It is absolutely essential that buildings be

inspected regularly and that, following the inspection, proper steps be taken for the correction of such hazards as may be found economically justified."

The Program Should Provide an Objective and Equitable Distribution of Policies

"The problem of school insurance placement," says Carson (26 p.36), is perhaps the most troublesome and vexatious one that a school insurance committee has to solve." This being true, school directors and superintendents who are mindful of their public relations should give serious attention to a solution of the problem. This can best be done by devising an objective and equitable basis for distributing insurance to get away from what Carter (27 p.367) calls "partiality."

Nolting (107 p.23) suggests that the school directors consult with the local insurance agents' association for suggestions for an acceptable basis for distributing the insurance. Joyner (72 pp.50-51) and (73 pp.27-29) suggests detailed procedures for the distribution of school insurance to agencies. Womrath (176 p.265) says:

> The independent and uncontrolled placing of school insurance by board members by the superintendent or by any official of the board is a survival of the spoils system and nourishes criticism, complaints, and ill feeling among

> the agents who are not given any of the board's business. To alleviate a situation of this kind, the school board should adopt a definite method of procedure under which it will be possible equitably to distribute the board's insurance among a large number of agents.

A study of California school districts by Upton (155) revealed that only slightly more than 25 per cent of the districts surveyed had an objective basis for distributing insurance.

The Program Should Provide a Procedure for Reporting Losses and Accidents

Due to the nature of the insurance contract, its exact provisions must be followed by all parties thereto. Any act of omission will afford relief to the injured party. Every insurance contract contains exact stipulations on the notice required by the insurer and the manner of making such reports.

School districts should therefore have a definite routine provided for the reporting of all losses and accidents at the time and in the form that is required. Speaking of this procedure for proof and settlement of losses, Smith (147 p.260) says, "School administrators and boards of education, in event that they suffer a loss, should know the routine so that all requirements can be met."

Nolting (107 p.23) says "Assign to one official, preferably the responsible financial officer, the responsibility for the entire insurance program" and then "Require that all losses be reported to the official responsible for the insurance..."

The Program Should be Economical

For one reason or another school districts have not always followed sound practices in their school insurance programs. West (174 p.32) says "Sound business practice demands that every possible economy in school administration should be sought out and studied, and the insurance program presents one neglected field for investigation and revision."

Morrison and Scoville (99 p.29) state that "The more prudent schools can be in the wise spending of funds for such needs as insurance the more money will be left for the more direct aids of class instruction."

It would seem that one of the insurance objectives of the district school board should be to protect the district adequately against loss at as low a cost as possible. This will demand good business practice and more attention to insurance and its problems by board members and school administrators.

Carson (26 p.11) says that "Before an efficient,

economical program can be set up, the insurance committee must focus a definite responsibility upon a selected few, intelligent and trustworthy agents, who will become its advisers."

The Program Should Include a Safety Program

As far back as 1925 this principle was stated by Melchior (97 p.49) when he said "The cheapest and best form of protection against fire is prevention...until everyone responsible for a school plant knows and acts in accordance with principles of fire protection, the insurance policy is but an attempt at shifting responsibility; for, although insurance premiums partly buy back a destroyed building, they can never buy back lives."

This statement that prevention is better than insurance has received almost unanimous approval but others have stressed similar ideas. Regarding the safety of children, Carson (26 p.8) said, "...a sound insurance program puts conservation paramount to insurance cost." McCunn (89 p.44) indicated that the insurance program for school boards should be based on the "Principle of a well-established and functioning safety program."

Steinhauer (150 p.37) also stressed safety when he stated that:

Data...points to the need for a type of insurance which would cause school trustees and personnel to become more cognizant of the part they play in the reduction of insurance costs and in the development of a fire prevention program which would help reduce the cost and provide safe buildings in which to work.

CHAPTER VIII

THE STUDY

A part of this study of school insurance in Oregon was to determine the current practices in the administration of the school insurance programs of the school districts. To do this, a questionnaire was used, a copy of which is included in the appendix.

The questionnaire was prepared after a thorough study of school insurance. It was submitted to the State Department of Education, to various insurance company representatives and to one school superintendent. It was then revised, printed in booklet form and mailed with a covering letter endorsed by Mr. Rex Putnam, State Superintendent of Public Instruction. A follow-up card was sent three weeks after the mailing of the questionnaire. Copies of the covering letter and the follow-up card are included in the appendix.

The schools to which the questionnaire was sent were selected upon the recommendation of the State Department of Education and included all districts of the first and second class in the State of Oregon as indicated by the Oregon School Directory for 1953-1954. These schools included 103 districts of the first class and 260 districts of the second class or a total of 363.

Seventy-five districts of the first class responded for a return of 73 per cent. One hundred thirty-five districts of the second class replied for a percentage of 52. In all, 210 school districts submitted returns for an over-all return of 58 per cent. Table II gives a complete breakdown of the number of questionnaires sent and returned from each county.

TABLE II

DISTRIBUTION OF QUESTIONNAIRES BY COUNTIES

County	District 1st Class		District 2nd Class	
	No. Sent	No. Returned	No. Sent	No. Returned
Baker	1	1	5	2
Benton	1	1	5	2
Clackamas	10	8	14	8
Clatsop	2	2	5	4
Columbia	1	1	10	5
Coos	7	7	5	4
Crook	1	1	0	0
Curry	0	0	5	3
Deschutes	3	3	3	2
Douglas	7	5	13	5
Gilliam	0	0	3	1
Grant	0	0	7	2
Harney	2	0	2	1
Hood River	1	1	0	0
Jackson	3	3	12	8
Jefferson	2	0	2	1
Josephine	1	1	6	6
Klamath	5	5	10	10
Lake	1	0	0	0
Lane	8	6	20	9
Lincoln	2	2	9	9
Linn	6	5	17	5
Malheur	4	2	4	3
Marion	6	4	15	10
Morrow	0	0	2	2
Multnomah	8	3	16	11
Polk	2	2	3	1
Tillamook	1	1	9	5
Umatilla	4	4	10	3
Union	1	1	6	3
Wasco	1	0	4	0
Washington	8	5	23	6
Wheeler	0	0	6	0
Yamhill	4	2	9	4
Total	103	75	260	135

General Practices

Centralization of responsibility for the school insurance program is a recognized principle and was discussed in a previous chapter. To determine the extent of the centralization of responsibility, the districts were asked the question: Who has charge of the insurance program in your district?

In tabulating the responses it was found that many school districts indicated more than one choice, which accounts for more responses than there were districts responding. This complicated interpretation.

Table III indicates the various responses.

TABLE III

RESPONSIBILITY FOR SCHOOL INSURANCE PROGRAM

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
School board	38	36	112	65
Superintendent	37	35	42	24
Clerk	13	12	12	7
Committee of board	4	4	1	1
Member of board	1	1	3	2
Business manager	2	2		
Broker	1	1		
Insurance agent of record	7	7		
No answer	2	2	2	1
Total	105	100	172	100

Table III shows that the school board retained control of the insurance program in 36 per cent of the responses of the districts of the first class and in 65 per cent of the responses of the districts of the second class. This would tend to indicate that there is little centralization of responsibility. However, in 35 per cent of the responses of the districts of the first class it was indicated that the superintendent was responsible for the program. Inasmuch as this is almost half of the total number of districts of the first class who reported, it

is felt that in most of these districts the board and the superintendent share responsibility. In the case of the districts of the second class, only 24 per cent of the responses indicated that the superintendent was responsible for the program. Undoubtedly the superintendent of the districts of the second class also shares responsibility with the school board.

Further study of Table III shows that 62 per cent of the responses of districts of the first class indicated some centralization of responsibility. In the case of the districts of the second class, however, only 34 per cent of the responses indicated any centralization of responsibility.

It is generally recognized that the distribution of the school insurance business is a complicated and persistent problem. This was pointed out in a previous chapter. The weight of opinion seems to be that every district should have some objective method or plan for determining the allocation of insurance to companies. Table IV indicates the response to the question: Do you have an objective method of distributing your insurance business?

TABLE IV

DISTRIBUTION OF INSURANCE

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
Distributed objectively	58	77	60	44
Not distributed objectively	12	16	70	52
No answer	5	7	5	4
Total	75	100	135	100

Table IV indicates that 77 per cent of the districts of the first class have an objective method of distributing the school insurance business. However, less than half or 44 per cent of the districts of the second class have such an objective method. The percentage of objectivity in Oregon is considerably higher than the 25 per cent reported in California by Upton (155).

Many of the districts indicated that they had worked out local plans for distributing insurance with local insurance associations and that such plans were mutually satisfactory. A number of districts gave very subjective reasons for awarding their insurance business. Table V will show these reasons.

Schools who had reported an objective method of distribution were not to indicate reasons included in

Table V. However, a number did check one or more of the responses in Table V. It appears that agent's reputation, company reputation, service and cost are important factors in allocating the school's insurance.

TABLE V

REASONS GIVEN FOR DISTRIBUTION OF INSURANCE

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
Agent's reputation	16	35	44	27
Company reputation	7	15	40	24
Friendship			2	1
Insurance always carried	1	2	19	12
Service	12	26	29	17
Cost	6	13	30	18
Other	4	9	2	1
Total	46	100	166	100

It is almost axiomatic that the school insurance program is no stronger than the insurance companies carrying the school insurance. As pointed out earlier, every company authorized to do business in Oregon has met minimum standards. However, if more than minimum strength is desired, then some qualification or financial rating is necessary. A question was included to determine

whether school districts were actually requiring insurance companies to qualify for insurance business. Table VI indicates the response to this question.

Table VI shows that 70 per cent of the districts of the first class do require some qualification and that 54 per cent of the districts of the second class require companies to qualify. Sixty-two different districts use the Best's General Policyholders Rating, which is recognized as perhaps the most reliable rating system in common use.

TABLE VI

QUALIFICATIONS REQUIRED OF INSURANCE COMPANIES

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
None	16	21	51	38
Best's General Rating	22	30	40	30
Financial	16	21	18	13
Other	14	19	15	11
No answer	7	9	11	8
Total	75	100	135	100

No law, court case, or attorney general's opinion could be found in Oregon which specifically required school districts to use competitive bids for purchasing

insurance, although such bids are sometimes required for other things, such as supplies and equipment.

A question was asked to ascertain the bidding practice: Do you require companies to submit competitive bids for your insurance? Table VII indicates the current practice.

It is interesting that 19 per cent of the districts of the first class and 39 per cent of the districts of the second class require competitive bids for insurance. In addition, a few districts make this requirement for specific types of insurance only.

TABLE VII

COMPETITIVE BIDS FOR INSURANCE

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
Required	14	19	53	39
Not required	47	63	79	58
Boiler only	1	1		
Liability only	4	6		
Vehicle only	7	9	1	1
Will after this year	1	1		
No answer	1	1	2	2
Total	75	100	135	100

In a previous chapter the importance of furnishing the required notice of loss or accident to the insurer was pointed out. To determine this practice, the school districts were asked to indicate whether they had a definite procedure set up for reporting losses and accidents. Table VIII indicates their answers.

Sixteen per cent of the districts of the first class and 29 per cent of the districts of the second class do not have a definite procedure or plan established to report losses and accidents. It is possible that where no established routine is provided that the district is not clear on the requirements for furnishing notice. Only by having such a definite routine can the district be sure of meeting the contract provisions with reference to the furnishing of proof of loss or accident.

TABLE VIII

PROCEDURE FOR REPORTING LOSSES AND ACCIDENTS

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
Have definite procedure	58	78	92	68
No definite procedure	12	16	39	29
No answer	5	6	4	3
Total	75	100	135	100

A question was asked: Do you have a definite program for the elimination of hazards? The principle involved in this question was discussed in a previous chapter and the advantages of such a program are obvious. In answering, 75 per cent of the districts of the first class and 70 per cent of the districts of the second class indicated they have such a program. Twenty per cent of the districts of the first class and 26 per cent of the districts of the second class answered negatively.

A previous chapter revealed that it was good practice to have about an equal amount of insurance premiums due each year. This simplifies budgeting and accounting practice and helps make it possible to have some insurance policies expiring at the same time each year.

To determine the current practices in this regard, the districts were asked the question: Do you have approximately the same amount of insurance premiums due each year?

Ninety-one per cent of the districts of the first class reported that they did have the same amount of premiums due each year and 93 per cent of the districts of the second class also reported "yes" to the question. This is a very commendable percentage and indicates that most districts are following recognized practice. Only five districts of the first class and seven districts of the second class reported "no" to the question.

It is important for districts that have more than one policy for the same kind of protection to have their policies worded alike so they will be consistent and concurrent. The study revealed that 87 per cent of the districts of the first class and 75 per cent of the districts of the second class had policies worded the same for the same coverage. Eight per cent of the first and 13 per cent of the districts of the second class reported their policies were not worded the same. Three districts or 2 per cent of those of the second class indicated they did not know whether their policies were worded the same or not.

The original insurance policy is a very important document and it should be protected by filing in the safest practical place. Filing practices vary greatly as indicated by Table IX.

A brief study of Table IX indicates that far too many of the filing places are not fireproof. In fact, most of the school offices and safes are not fireproof. Although the twelve districts of the first class which reported policies filed in clerks' offices did not indicate whether such offices were fireproof, it can almost be assumed that all are not. According to the answers to this question, most clerks of the districts of the second class have their offices in their homes.

This indicates that 33 per cent of those in this classification have their policies filed in family dwellings which undoubtedly are not fireproof. Securing the insurance policies against loss or fire should be of paramount concern to the districts. A number of districts indicated that they had milticopies of their policies all filed in different places as an additional precaution. This is commendable practice.

TABLE IX

LOCATION OF FILED INSURANCE POLICIES

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
Safety deposit box	13	18	31	23
School vault	29	39	19	14
Administrative office safe	9	12	24	18
Clerk's office	12	16	44	33
School office	3	4	5	4
School file			2	1
Board office	1	1		
School and broker's office			2	1
Insurance office	1	1		
No answer	7	9	8	6
Total	75	100	135	100

Fire Insurance

In an earlier chapter it was pointed out that it was important to secure a rating sheet from the fire rating bureau. This sheet shows the rate and all penalties and credits on every building in the school district for fire insurance purposes. This question was asked to determine if school were securing these sheets: Have you obtained a rating sheet from your rating bureau? Seventy-three per cent of the first and 45 per cent of the districts of the second class reported that they had secured such sheets. Twenty-two per cent of the first and 50 per cent of the districts of the second class indicated that they had not secured the rating. On a following question all districts who had secured the rating sheet indicated that they had used the sheet to reduce hazards and penalties.

As discussed earlier, it is prudent practice to submit plans for new school buildings to the fire rating bureau before starting construction. By so doing, school districts can determine what penalties, if any, will be assessed against the building at a time when such penalties might be eliminated. Every penalty eliminated is a saving in fire insurance premiums. Forty-two per cent of the first and 28 per cent of the districts of the second class reported that they submitted building plans

to the rating bureau before beginning construction. Fifty-one per cent of the first and 58 per cent of the districts of the second class reported that they did not submit plans.

In the chapter on fire insurance, the three main types of fire policies were discussed and it was pointed out that the blanket policy form was usually recommended for school districts. Table X indicates the response as to type of policies carried by the districts.

TABLE X

TYPE OF POLICY FORM

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
Specific policy form	5	7	30	22
Specific schedule form	5	7	20	15
Blanket policy form	61	81	81	60
No answer	4	5	4	3
Total	75	100	135	100

It is significant that 81 per cent of the first and 60 per cent of the districts of the second class use the recommended policy form. This indicates praiseworthy practice. However, ten first and fifty districts of the second class still use either the specific or specific

schedule form.

It has been pointed out earlier that considerable saving was possible by running the fire insurance policy for longer terms. The weight of opinion indicates that schools should use either the three-year or preferably the five-year term fire policy. Table XI shows the current practice in Oregon.

TABLE XI

TERM OF INSURANCE POLICY

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
One year				
Two year				
Three year	3	4	13	10
Five year	69	92	118	88
Combination			2	1
No answer	3	4	2	1
Total	75	100	135	100

The findings showed that 92 per cent of the first and 88 per cent of the districts of the second class use the five-year term policy and that an additional 4 per cent of the first and 10 per cent of the districts of the second class use the three-year term policy. This

indicates that Oregon school districts are following recommended practices and are receiving the benefits of the consequent savings.

In states where it is legal for school districts to insure with mutual companies, it has been pointed out that savings are possible by insuring with such companies. The survey showed that 40 per cent of the first and 33 per cent of the districts of the second class carried all of their insurance with stock companies. Moreover, 80 per cent of the first and 74 per cent of the districts of the second class had at least part of their insurance with the stock companies in Oregon.

Mutual companies received all of the insurance business from only 15 per cent of the first and 23 per cent of the districts of the second class. However, 54 per cent of the first and 64 per cent of the districts of the second class carried at least part of their insurance with mutual companies.

There was some evidence that as insurance policies expired some school districts were converting from stock companies to mutual companies because of the savings that could be secured.

Districts that carried all or part of their insurance with mutual companies were asked to indicate the name of the mutual company or companies. These names were

compiled and taken to the Department of Insurance for the State of Oregon where the type of policy the company issued was checked. It was found that every company named by a school district issued a non-assessable policy. It is not legal in Oregon for a school district to insure in a mutual company unless the policy is non-assessable.

Extended coverage is a very important addition to the regular fire policy because it insures against common perils not covered by the regular policy. This was shown in a previous chapter. The survey revealed that 73 per cent of the first and 68 per cent of the districts of the second class carried the extended coverage endorsement. This was slightly lower than the 77 per cent reported in Nebraska (152 p.155). This would seem to be a very low percentage in view of the relatively low additional cost for the added protection.

The advantages of depreciation insurance was discussed previously. In order to determine how widely depreciation insurance was being used, the districts were asked: Do you carry depreciation insurance permitting your district to collect full replacement value on the building? Only 42 per cent of the first and 24 per cent of the districts of the second class indicated that they carried this type of insurance. Several comments were added indicating that some districts were now in the

process of considering the addition of this type of insurance.

The purpose of a coinsurance clause is to make the school district keep the property covered to a certain amount or become a coinsurer for a part of any loss that is sustained. In a previous chapter it was shown that considerable savings can be effected by using the coinsurance clause. It was surprising that only 76 per cent of the first and only 55 per cent of the districts of the second class indicated that they carried this clause. This is slightly lower than the 76 per cent Taylor (152 p.135) found in Nebraska, but higher than Smith (146 pp.3-6) reported in Washington.

Table XII indicates the per cent of coinsurance carried by the districts that reported its use.

Table XII shows that most of the districts carry a relatively high percentage of coinsurance due no doubt to the fear of generally increasing property values and the desire to get as near complete replacement as possible in event of a major loss. Then too, the higher the percentage of coinsurance carried the cheaper the rate.

TABLE XII

PER CENT OF COINSURANCE CARRIED

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
100 per cent coinsurance	19	33	11	15
90 per cent coinsurance	38	67	54	73
80 per cent coinsurance			3	4
70 per cent coinsurance			2	3
No answer			4	5
Total	57	100	74	100

In the chapter on fire insurance it was shown that an accurate school property appraisal was necessary to determine the amount of insurance the district should carry. This is even more important to the districts that carry the coinsurance clause because of the penalties that can be suffered where insufficient insurance is carried. Table XIII shows the individual, group or agency making appraisals of school property in Oregon.

Appraisal of school property is a very complicated problem and necessitates a lot of technical knowledge. Yet, Table XIII shows that only 65 per cent of the

TABLE XIII

PROPERTY APPRAISERS

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
School board	1	1	25	13
Insurance agent	12	14	52	28
Contractor	3	4	16	9
Appraisal firm	41	48	22	12
Superintendent	9	11	19	10
Insurance company appraiser	15	17	43	23
No one			1	1
Other	2	2	2	1
No answer	3	3	5	3
Total	86	100	185	100

responses of first class and only 35 per cent of the responses of the districts of the second class indicated use of appraisal firms or insurance company appraisers. Table XIII also indicates that a number of different types of appraisers are used. A number of school districts reported using more than one type of appraiser, which accounts for more responses than districts reporting on the question.

In this survey the schools were asked the question:

How is the insurable value of buildings determined? Table XIV shows the methods used by the reporting school districts in determining this all important value.

TABLE XIV

METHODS OF DETERMINING INSURABLE VALUE

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
By appraisal	55	67	61	40
By estimate	8	9	35	23
Original cost	5	6	30	20
Cost less depreciation	9	11	15	10
Commodity index	3	4	3	2
No answer	2	3	7	5
Total	82	100	151	100

Table XIV shows that the most common single method used to determine insurable value is the appraisal method. Sixty-seven per cent of the responses of the first and 40 per cent of the responses of the districts of the second class indicated the use of this method. It is evidence of bad practice when as many as eight first and thirty-five districts of the second class still use the estimate method of determining insurable value. Table XIV indicates the extent to which other methods are used and

shows that a number of districts use more than one method which accounts for a larger number of responses than the total number of districts responding.

The insured school district is not always sure that their appraisals will be accepted by the insurance company. However, any appraisal made by a reputable appraisal firm or by an insurance appraiser representing the company carrying the insurance will usually be acceptable. Eighty-four per cent of the first and 78 per cent of the districts of the second class report that they know their appraisals will be acceptable in event of a loss. Only 8 per cent of the first and 15 per cent of the districts of the second class indicated that their appraisals will not be acceptable. A number of districts did not answer this question.

The cost of appraisals varied from a high of $8 per $1,000 of value to a low of fifty-one cents for new appraisals and from sixty cents to seventeen cents for reappraisals.

The recency of the appraisal that determined the insurable value is important to the school district. Table XV shows the years that current insurable values were determined.

TABLE XV

RECENCY OF APPRAISAL OF PROPERTY

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
1954	1	1	4	3
1953	34	46	75	56
1952	24	32	21	16
1951	5	7	10	7
1950	1	1	4	3
1949	2	3	3	2
1948	1	1	2	1
1935			1	1
No date reported	7	9	15	11
Total	75	100	135	100

Eighty-six per cent of the first and 82 per cent of the districts of the second class have determined their insurable value in the last four years which indicates that serious consideration has been given to keeping property values current. However, it was found that some appraisals run back to 1935.

As pointed out before, standard practice calls for a district to reappraise the property and revise the insurance at three-year or five-year intervals. However, during periods of rapidly increasing values, more

frequent reappraisals are necessary. To determine the Oregon practice, the question was asked: How often do you reappraise and revise your insurance? Table XVI will show the current practice.

TABLE XVI

FREQUENCY OF PROPERTY REAPPRAISAL AND INSURANCE REVISION

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
Every 6 years			1	1
Every 5 years	6	8	11	8
Every 4 years			1	1
Every 3 years	7	9	11	8
Every 2 years	4	6	10	7
Every 18 months	10	13	17	13
Annually	21	28	27	20
Semi-annually			1	1
Plan to annually	1	1	1	1
Monthly	1	1	1	1
Having first made	2	3	1	1
Never			5	3
Not regular	5	7	28	21
Appraised once			2	1
Don't know			1	1
No answer	18	24	17	12
Total	75	100	135	100

Practice varies widely as far as the frequency of property reappraisal and insurance revision is concerned. Table XVI shows that 64 per cent of the first and 57 per cent of the districts of the second class reappraise at intervals of one to five years. The number of districts that indicated no regular practice of reappraising and the number that failed to answer the question at all shows poor practice is fairly general especially among the districts of the second class.

School districts have a great deal of money invested in the contents and equipment of school buildings and the importance of accurate and regular inventories has been stressed before in this study. Table XVII shows the current practice with reference to the frequency of this type of inventory.

The majority of the school districts inventory at intervals of six months to five years. Table XVII shows that 71 per cent of the first and 66 per cent of the districts of the second class inventory every year which is excellent practice.

TABLE XVII

FREQUENCY OF INVENTORY - BUILDING CONTENTS AND EQUIPMENT

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
Every 5 years	4	5	2	1
Every 3 years	5	7	8	6
Every 2 years	3	4	10	8
Every 1½ years	3	4	7	5
Every year	53	71	89	66
Every 6 months	1	1	3	2
As necessary			3	2
Never			2	1
Being done now first time			1	1
No answer	6	8	10	8
Total	75	100	135	100

The districts were asked the question: Considering the recent trends in the cost of buildings and equipment, do you consider the coverage on your buildings and equipment adequate? Table XVIII indicates the answers to this question.

TABLE XVIII

ADEQUACY OF INSURANCE

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
Adequate	60	80	113	84
Not adequate	11	15	19	14
No opinion	4	5	3	2
Total	75	100	135	100

Eighty per cent of the first and 84 per cent of the districts of the second class indicated that their insurance was adequate. Only 15 per cent of the first and 14 per cent of the districts of the second class which answered this question indicated inadequate insurance. Although relatively few school districts indicated inadequate insurance, there is a sufficient number to be of concern. If the insurance is inadequate in any one of these thirty districts and a serious fire loss is sustained, then a serious financial burden would be imposed on the taxpayers of the district.

The number of school districts which reported fire or extended coverage losses in the last five years is shown in Table XIX.

TABLE XIX

LOSSES FOR LAST FIVE YEARS

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
Loss suffered	34	45	26	20
No loss suffered	39	52	107	79
No answer	2	3	2	1
Total	75	100	135	100

This table shows that 45 per cent of the first and 20 per cent of the districts of the second class reported some fire or extended coverage loss in the past five years. Most of the districts reporting losses indicated the amount of the loss recovered from the insurance company. These losses totaled $474,754. Most of the districts also reported the amount of the annual premiums on fire and extended coverage. The premiums totaled $533,599. This represents a cost of $5.61 paid out in premiums for every dollar recovered from claims.

Boiler Insurance

The survey showed that 68 per cent of the first and 59 per cent of the districts of the second class carried boiler insurance. This type of insurance was discussed earlier and includes a regular inspection

service. The value of this service was mentioned by several school districts. This inspection service aids the school district in maintaining boilers in good condition even though many unskilled firemen are employed.

Liability Insurance

This section deals primarily with general liability insurance which protects the school district, school directors, and school district employees from legal liability for negligence in performing official responsibilities or from accidents occurring on school property.

Seventy-two per cent of the districts of the first class and 46 per cent of the districts of the second class reported that they carried liability insurance. A total of 116 school districts carry such insurance.

Each district that carried liability insurance was asked to state the amount of insurance coverage per person, per accident and for property damage.

Table XX indicates the liability insurance limits per person for the 116 school districts that reported such insurance.

Limits for bodily injury liability insurance varied from a high of $250,000 per person to a low of $5,000 per person. Fifty-eight per cent of the districts purchased amounts from $25,000 to $100,000 while 19 per

cent purchased amounts from $5,000 to $20,000.

TABLE XX

BODILY INJURY LIABILITY - LIMIT PER PERSON

Response	Number	Per Cent
250,000	1	1
150,000	1	1
100,000	23	20
50,000	21	18
25,000	23	20
20,000	3	2
15,000	3	2
10,000	14	12
5,000	4	3
No report	23	20
Total	116	100

Table XXI shows the liability insurance limits per accident for the 116 school districts that reported liability insurance.

Limits for bodily injury liability insurance ranged from $1,000,000 to $5,000 per accident. This is a very wide range; however, 43 per cent of the school districts reported limits upward from $100,000.

TABLE XXI

BODILY INJURY LIABILITY - LIMIT PER ACCIDENT

Response	Number	Per Cent
1,000,000	1	1
500,000	5	4
300,000	24	21
200,000	13	11
100,000	23	20
60,000	1	1
50,000	16	13
40,000	1	1
25,000	2	2
20,000	4	3
5,000	1	1
No answer	25	21
Total	116	100

Table XXII indicates the property damage limits for those districts reporting liability insurance.

This table shows that limits for property damage insurance vary from $100,000 to $1,000. Sixteen per cent of the districts purchased the $25,000 limit while 32 per cent limited themselves to $5,000. Thirty-nine per cent of the districts failed to indicate any limit at all.

TABLE XXII

PROPERTY DAMAGE LIABILITY

Response	Number	Per Cent
100,000	1	1
50,000	2	2
25,000	18	16
20,000	3	2
10,000	9	7
5,000	37	32
1,000	1	1
No answer	45	39
Total	116	100

After indicating the limits for liability insurance, the districts were requested to show if the liability policy protected: the district, the board members, or all employees.

Eighty-seven per cent of the districts having liability insurance said the district was protected from liability. Eighty-four per cent reported the policy covered the board members. Sixty-one per cent of the districts indicated the policy afforded protection to all employees. It is interesting that so many districts feel the need for liability protection in such large amounts

in view of the persistent refusal of the Oregon Legislature and the Oregon courts to impose liability on school districts and school boards for negligence.

It is interesting that 61 per cent of the school districts having liability insurance are carrying liability policies on employees and paying for them with public funds. This is being done in spite of the fact that there is some question about the legality of the use of public funds for such private protection.

In a previous chapter it has been pointed out that authorities are almost unanimous in their recommendations that all liability insurance policies should contain a waiver of immunity clause. Otherwise the traditional immunity of a school district could prevent any right of action against the insurer by any injured third party.

In order to ascertain whether the liability insurance policies covering school districts contained such a waiver of immunity clause the question was asked: Does your policy carry a waiver of immunity clause?

Table XXIII indicates the presence or absence of such a clause.

Table XXIII shows that only 44 per cent of the liability policies of the districts of the first class have the waiver of immunity clause and only 13 per cent of the districts of the second class have the clause

included. It is significant that so many districts do not know whether they have such a clause or do not answer which could indicate the same lack of knowledge.

TABLE XXIII

WAIVER OF IMMUNITY CLAUSE

Response	District 1st Class	Per Cent	District 2nd Class	Per Cent
Policy has the clause	24	44	8	13
Policy does not have the clause	18	33	26	42
Don't know	5	10	24	39
No answer	7	13	4	6
Total	54	100	62	100

The schools were asked the question: Has there been any case covered by liability insurance in the last five years? Ten first and five districts of the second class indicated such cases had arisen. Information submitted on the amount of money that had been recovered under the liability policy was very limited. However, a total of $867 was reported. Five cases were reported still pending, one of which was for $150,000 for a shop injury. The total of the annual premiums for liability insurance for seventy-eight districts which reported this figure was $23,454. This represents a cost of $173.40

in premiums for each dollar recovered from claims.

Workman's compensation is a combination of liability and accident insurance and is therefore discussed briefly under the general heading of liability insurance.

The schools were to answer the question: Do you carry workman's compensation?

Slightly more than 82 per cent of the districts of the first class and 57 per cent of the districts of the second class reported they carried this type of insurance. The study showed that the general practice was to cover custodians, cooks and other laborers. However, a number of districts included athletic coaches, and a few included all employees of the district, including teachers.

Vehicle Insurance

This section deals primarily with the insurance on school buses.

The districts were asked to indicate the type of insurance and the appropriate limits carried for each type of insurance. Table XXIV shows the number of school districts carrying the various types of insurance protection.

Table XXIV shows that a total of 165 districts reported that they carried bodily injury insurance on vehicles. This figure was taken as 100 per cent and other percentages figured therefrom.

TABLE XXIV

TYPES OF VEHICLE INSURANCE

Response	Number	Per Cent
Bodily injury	165	100
Property damage	158	96
Collision	83	50
Comprehensive	65	39
Fire	113	69
Theft	120	73
Medical	110	67

In the chapter on vehicle insurance the recommendations of the State Department of Education for a school bus insurance program were presented. This recommendation included: bodily injury, property damage, fire and medical payments in case of an accident. It did not recommend collision, comprehensive or theft insurance.

In view of this recommendation it is interesting that 4 per cent of the districts do not carry property damage insurance; that 31 per cent do not carry fire insurance; and that 33 per cent do not provide for medical payments.

Contrary to the State Department's recommendations, 50 per cent do carry collision insurance, 39 per cent do

carry comprehensive, and 73 per cent do carry theft insurance. In actual point of fact, an official of the State Department of Education indicated that two school buses had been stolen in recent years.

Table XXV shows the number of districts that have various limits per person for bodily injury insurance.

TABLE XXV

VEHICLE BODILY INJURY - LIMIT PER PERSON

Response	Number	Per Cent
250,000	5	3
200,000	1	1
120,000	1	1
100,000	19	11
50,000	32	19
40,000	1	1
25,000	18	11
20,000	13	8
15,000	9	5
10,000	42	25
5,000	6	4
No answer	18	11
Total	165	100

It will be noted from Table XXV that 25 per cent of the districts carry a $10,000 limit per person for bodily injury. This is the amount the State Department has recommended for this limit. However, ninety-nine districts, which is 60 per cent of the total number carrying bodily injury insurance, are carrying amounts in excess of the recommendation and 4 per cent carry less than the recommended amount.

Table XXVI indicates the bodily injury limits for each accident and the number of districts that have such limits.

In Table XXVI it can be seen that 28 per cent of the districts have limits of $100,000 for each accident. This is the amount the State Department has recommended. By this standard, 23 per cent of the districts are under-insured and 35 per cent are over-insured.

TABLE XXVI

VEHICLE BODILY INJURY - LIMIT EACH ACCIDENT

Response	Number	Per Cent
500,000	9	5
400,000	1	1
300,000	21	13
250,000	2	1
200,000	20	12
150,000	4	2
125,000	1	1
100,000	47	28
60,000	1	1
50,000	12	7
30,000	3	2
25,000	16	10
20,000	4	2
10,000	1	1
No answer	23	14
Total	165	100

Table XXVII shows the property damage limits for each accident and the number of districts that have such limits.

TABLE XXVII

VEHICLE PROPERTY DAMAGE - LIMIT EACH ACCIDENT

Response	Number	Per Cent
500,000	1	1
100,000	4	2
60,000	1	1
50,000	9	6
25,000	15	9
20,000	6	4
15,000	2	1
10,000	22	14
5,000	76	48
No answer	22	14
Total	158	100

Table XXVII shows that 48 per cent of the districts are carrying a $5,000 limit for each accident for property damage. This is the recommended amount according to the State Department of Education. It appears that 38 per cent of the districts are carrying excess insurance for vehicle property damage.

Table XXVIII shows the deductible limits for vehicle collision insurance.

TABLE XXVIII

VEHICLE COLLISION - DEDUCTIBLE LIMITS

Response	Number	Per Cent
250	9	11
200	1	1
150	2	3
100	41	50
90	1	1
75	1	1
50	21	25
25	1	1
No answer	6	7
Total	83	100

Although collision insurance is not recommended for schools in Oregon, 50 per cent of the districts owning vehicles have such insurance. Table XXVIII shows the number and percentage of districts that carry the various deductible amounts. The $100 deductible is carried by 50 per cent of the districts while 15 per cent have more and 28 per cent have less than this amount.

Table XXIX shows the limits of vehicle medical payments for each person and the number of districts having these limits.

TABLE XXIX

VEHICLE MEDICAL - LIMIT EACH PERSON

Response	Number	Per Cent
25,000	1	1
20,000	1	1
5,000	1	1
2,000	6	5
1,000	19	17
750	2	2
500	49	44
300	1	1
250	14	13
150	1	1
No answer	15	14
Total	110	100

Table XXIX indicates that 44 per cent of the schools have a $500 limit for medical expenses, which is the recommendation of the State Department of Education. However, 27 per cent have limits in excess of this amount and 15 per cent of the districts are carrying less than the recommended limit for medical payments.

The districts were asked the question: If you operate five or more buses, do you have fleet insurance?

Sixty schools answered "yes" and only nine answered "no." This would seem to indicate that most of the schools were taking advantage of the cheaper rate for fleet insurance. However, those answering "no" should convert to the cheaper fleet insurance.

The schools were asked to indicate the term for which their vehicle insurance was written. Most of the responses indicated that the majority of schools were taking advantage of insurance savings wherever possible. For example, seventy-six districts wrote their insurance for either nine or ten months because this was the only period they had any risk under such coverage as: bodily injury, property damage, collision or medical. Fire and theft, when carried, were written for the year. Districts that used their vehicles for the year carried insurance coverage for that period.

The annual cost of vehicle insurance as reported by the schools totaled $71,411, although some schools did not submit this information. Sixty-nine districts reported that they had suffered losses under their vehicle insurance in the last five years and that they had recovered $23,444 during this period. This amounts to $13.23 paid out in premiums for every $1 collected in claims.

The question was asked: Are your buses used for other purposes than transporting pupils to and from

school? It was interesting that 82 per cent answered "yes." Those that gave an affirmative answer were then asked to indicate if their insurance covered these other trips. One district of the first class and seven districts of the second class answered "no." These eight districts would have no insurance protection on these extra trips.

Forty-one districts said they charged for these extra trips. This is 31 per cent of those who use their buses for purposes other than transporting pupils to and from school. Twenty-two or 17 per cent of the districts making this extra charge reported that their insurance did not cover them when the charge was made. This of course could present a very serious problem for the district.

Several questions on the general subject of driver training were included in this survey. Fifty-eight schools reported that they had a driver training program. Of this number, 62 per cent indicated that they used their driver training cars exclusively for driver training and 28 indicated that they used their cars for other purposes. When such cars are used for purposes other than those originally intended, it raises a question about the insurance coverage. For this reason a question was included to ascertain if the vehicle insurance covered

these other uses. It is interesting that two districts of the first class reported that their insurance did not cover these extra trips.

Seven districts or 12 per cent of those giving driver training reported accidents with driver training cars. Annual insurance costs on these cars was reported as $3,222 and losses reported recovered from insurance claims totaled approximately $2,976. This appears to be a very high loss rate caused, no doubt, by the total loss of one car which was included at an approximate value of $2,600.

CHAPTER IX

SUMMARY AND RECOMMENDATIONS

This study was undertaken because the State of Oregon has invested a tremendous sum of money in school buildings and school equipment. As a consequence, there are many problems and responsibilities for school boards and school administrators in the protection of this investment by adequate and economical insurance coverage.

The purposes of this study were: to study the principles of insurance to determine how insurance applied to Oregon public schools, to analyze the legal requirements of Oregon in respect to school insurance, to develop principles upon which a sound school insurance program should be based, to determine current school insurance practices in Oregon, and to make recommendations for the specific improvement of school insurance practices in Oregon.

The study gave major emphasis to fire, liability and motor vehicle insurance with less emphasis given to extended coverage insurance, workman's compensation and boiler insurance.

In making this investigation a number of procedures were used. A survey of the literature on school insurance was made for the necessary background of the

problem. The Oregon laws were studied to determine the legal status of schools, the legal requirements for school insurance, and the limitations placed upon the purchase of such insurance. The opinions of the Attorney General for Oregon were studied for interpretations of the law and for statements of implied authority of school boards to purchase types of school insurance that had not been specifically authorized. Decisions of the Oregon Supreme Court pertaining to school insurance, school district, and school personnel liability were studied. Interviews were had with a number of persons connected with departments of the state government, with the field of insurance or with schools. A questionnaire survey was made of all districts of the first and second class in Oregon to determine current practices in school insurance.

The major findings are enumerated under the following headings: general, fire, liability, motor vehicle, workman's compensation and boiler insurance.

General

The major findings of a general nature follow:

1. Regulation of insurance is a function of the State of Oregon.

2. There are principles of insurance which apply to all kinds of insurance, including school insurance.

These are: risk, the "law of large numbers," the principles of the insurance contract, indemnity and insurable interest.

3. There are a number of basic principles to be considered in setting up and operating a school district insurance program. These principles are:

(a) the program should be planned and farsighted,

(b) it should provide for responsible administration,

(c) it should provide adequate protection,

(d) it must meet legal requirements and limitations,

(e) it should be based on complete and accurate records and appraisals,

(f) it should provide for periodic review and reappraisal of the program,

(g) it should provide for selecting reliable companies,

(h) it should provide for the elimination of hazards and penalties,

(i) it should provide for an objective and equitable distribution of policies,

(j) it should establish a procedure for reporting losses and accidents,

(k) it should be economical, and

(l) it should include a safety program.

4. Sixty-two per cent of the districts of the first class but only 34 per cent of the districts of the second

class indicated any centralization of responsibility for the district insurance program.

5. Seventy-seven per cent of the districts of the first class and 44 per cent of the districts of the second class have an objective plan or method of distributing their insurance.

6. Agent's reputation, company reputation, service and cost are important factors in allocating the school's insurance.

7. Regulation of insurance in Oregon simplifies the problem of selecting reliable insurance companies.

8. Even though every company authorized to sell insurance in Oregon has met minimum standards, 70 per cent of the districts of the first class and 54 per cent of the districts of the second class require some additional qualification. Best's General Policyholders Rating system was used most frequently by school districts to determine qualification.

9. Savings can be made by insuring with mutual insurance companies. The courts and the attorney general for Oregon have indicated that it is legal to insure in mutual companies provided such companies issue non-assessable policies.

10. Stock insurance companies carry all of the insurance for 40 per cent of the districts of the first

and for 33 per cent of the districts of the second class.

11. Mutual insurance companies receive all of the insurance business for 15 per cent of the districts of the first and for 23 per cent of the districts of the second class.

12. Sixteen per cent of the districts of the first class and 29 per cent of the districts of the second class do not have a definite procedure or plan established to report losses and accidents.

13. A definite program for the elimination of hazards was reported by 75 per cent of the districts of the first and by 70 per cent of the districts of the second class.

14. Ninety-one per cent of the districts of the first and 93 per cent of the districts of the second class reported they have approximately the same amount of insurance premiums due each year.

15. There is considerable evidence that insurance policies are not filed in fireproof depositories, especially in districts of the second class.

16. As far as could be determined, school districts have never been specifically required by law to use competitive bids for purchasing insurance. Yet 19 per cent of the districts of the first class and 39 per cent of the districts of the second class require competitive bids for

insurance.

17. In the absence of any mandatory law, directors of a school district in Oregon have only a moral obligation to insure school property.

Fire

The major findings pertaining to fire insurance follow:

1. Authority to insure school property against fire has never been authorized by law. However, the Attorney General for Oregon ruled in 1909 that school districts had the implied authority to purchase fire insurance.

2. The Oregon Legislature has adopted a Standard Fire Policy for use in Oregon.

3. Fire policies for school districts are usually written in one of the following three forms: specific coverage policy, specific schedule policy, or the blanket coverage policy.

4. The blanket policy form is the best and most popular for school districts.

5. The blanket policy form is used by 81 per cent of the districts of the first and 60 per cent of the districts of the second class.

6. The extended coverage endorsement is an important addition to the school district's fire policy.

7. Only 73 per cent of the districts of the first and only 68 per cent of the districts of the second class carry the extended coverage endorsement.

8. When the depreciation or replacement cost insurance clause is added to the standard fire policy the school district is permitted to collect the full replacement value of the building.

9. Depreciation or replacement cost insurance was carried by 42 per cent of the districts of the first and by 24 per cent of the districts of the second class.

10. The coinsurance clause purchased on a three or five-year term is the most economical way to buy insurance for school buildings.

11. The coinsurance average clause was carried by only 76 per cent of the districts of the first and by only 55 per cent of the districts of the second class. Most districts that coinsure use the 90 or 100 per cent coinsurance clause.

12. Ninety-two per cent of the districts of the first and 88 per cent of the districts of the second class use the five-year term fire policy.

13. To avoid penalties under the coinsurance clause, school districts are required to determine accurate insurable values and to keep them current.

14. Appraisal of school property for determining

insurable value is a very important part of the district's insurance program.

15. Professional appraisers should be used wherever possible.

16. Sixty-five per cent of the districts of the first and 35 per cent of the districts of the second class use appraisal firms or insurance company appraisers in determining the insurable value of school property.

17. Eighty-four per cent of the districts of the first and 78 per cent of the districts of the second class indicated they know that their appraisals will be accepted in event of a heavy loss.

18. The insurable value of school property has been determined within the last four years by 86 per cent of the districts of the first and by 82 per cent of the districts of the second class.

19. Practice varies widely as far as the frequency of property reappraisal and insurance revision is concerned.

20. It is important for school districts to study the rating sheets issued by the Insurance Rating Bureau.

21. Seventy-three per cent of the districts of the first and 45 per cent of the districts of the second class have secured a rating sheet from the fire rating bureau and have used this rating to reduce hazards and penalties.

22. Fifty-one per cent of the districts of the first and 58 per cent of the districts of the second class do not submit plans in advance of construction to the fire rating bureau.

23. Building rates are lower than rates on contents. Therefore fixed and loose contents should be insured separately.

24. School building contents and equipment are inventoried annually by 71 per cent of the districts of the first and by 66 per cent of the districts of the second class.

25. Fifteen per cent of the first and 14 per cent of the districts of the second class indicated they carried inadequate insurance.

26. Fire or extended coverage losses in the last five years were reported by 45 per cent of the first and by 20 per cent of the districts of the second class.

27. The reported cost of premiums for fire insurance was $5.61 paid out for every dollar recovered from claims.

Liability

The major findings pertaining to liability insurance follow:

1. In the operation of the public school today,

there are many opportunities for injuries to occur to persons and property.

2. The principles of tort liability are firmly fixed in Oregon law.

3. The school district in Oregon operates under the general principle of non-liability. As such, the district is not liable for injuries growing out of any governmental function or for the ultra vires acts of the directors.

4. Although Oregon did enact legislation to modify the common-law principle of sovereign immunity, the courts have ruled this to be a mere re-enactment of the old common-law principle that a public corporation is liable in tort only in the performance of proprietary functions and not for the performance of public or government functions.

5. The doctrine of respondeat superior does not apply between school directors and persons employed by the district.

6. A school director is not liable for the negligence of an inferior official provided ordinary care was used in the selection of the official.

7. Directors are not liable when acting within their line of duty or within the scope of their authority.

8. School administrators, school teachers and non-certified personnel in Oregon are liable for tort the same

as any other person.

9. School administrators are less likely to be found negligent than are school teachers.

10. Liability insurance becomes more important as courts tend to grant larger awards.

11. The Oregon Legislature has authorized the purchase of liability insurance by school boards for all activities engaged in by the district. This includes medical and hospital benefits for students engaging in athletic contests. Failure to procure such insurance is not construed as negligence.

12. Seventy-two per cent of the districts of the first class and 46 per cent of the districts of the second class carry liability insurance.

13. Limits for bodily injury liability insurance varied from a high of $250,000 per person to a low of $5,000 per person. Fifty-eight per cent of the districts purchased amounts from $25,000 to $100,000 while 19 per cent of the districts purchased amounts from $5,000 to $20,000.

14. Limits for bodily injury liability ranged from $1,000,000 to $5,000 per accident. Sixty-six per cent of the school districts reported limits of $100,000 or more.

15. Limits for property damage ranged from

$100,000 to $1,000. Sixteen per cent purchased the $25,000 limit, 32 per cent purchased the $5,000 limit and 39 per cent failed to indicate any limit.

16. Most of the liability policies were written to protect the school district or the school board from liability. However, 61 per cent of the policies cover all employees although the legality of such expenditures has never been settled.

17. The use of public funds for the purchase of liability insurance to protect teachers and other school employees has not been legally decided.

18. The presence of liability insurance does not waive the traditional immunity of the school district.

19. All school district liability policies should contain a waiver of immunity clause.

20. Most of the liability policies do not have a waiver of immunity clause.

21. Fifteen school districts reported cases covered by liability insurance in the last five years.

Motor Vehicle

The major findings pertaining to motor vehicle insurance follow:

1. School districts were authorized to purchase public liability and property damage insurance on motor

vehicles operated by the district in 1939 by the Oregon Legislature.

2. Fire, theft and collision insurance were never authorized by law but may be implied under the authority of the school district to care for, repair and replace property of the district.

3. As far as could be determined, there has been no court case or attorney general's opinion on the authority of district boards to provide for medical payments to persons injured in school bus accidents although districts are authorized to purchase such coverage for injuries to students in school buildings and on school grounds.

4. The school district is not liable for the negligent operation of its school vehicles. School bus drivers are liable for the negligent operation of such vehicles.

5. Where a district operates five or more buses it is more economical to carry fleet insurance.

6. Sixty per cent of the school districts carrying bodily injury insurance on vehicles are insured for more than the $10,000 limit per person recommended by the State Department of Education. Four per cent carry less than the recommended amount.

7. Thirty-five per cent of the districts carrying bodily injury insurance on vehicles are insured for more

than the $100,000 limit per accident recommended by the State Department of Education. Twenty-three per cent carry less.

8. Thirty-eight per cent of the school districts are carrying more property damage insurance on vehicles than the $5,000 limit for each accident recommended by the State Department of Education.

9. Fifty per cent of the districts owning vehicles carry collision insurance and 50 per cent of this number have the $100 deductible policy.

10. Forty-four per cent of the districts owning vehicles have a $500 limit for medical expenses as recommended by the State Department of Education. Twenty-seven per cent have more and 15 per cent have less than this limit.

11. School buses and driver training cars are frequently used for purposes other than those originally intended. Specific coverages are required to provide insurance coverage under these conditions.

12. School buses are used for other purposes than transporting pupils to and from school by 82 per cent of the districts and eight of these school districts reported they had no insurance protection for these extra trips.

13. Forty-one school districts make a charge for

these extra trips and twenty-two districts report that their insurance did not cover them when the charge was made.

14. Twelve per cent of the districts giving driver training reported accidents with driver training cars.

15. The reported cost of premiums for vehicle insurance was $13.23 paid out for every dollar recovered from claims.

Workman's Compensation

The findings pertaining to workman's compensation follow:

1. Workman's Compensation is optional with the school district unless district employees are engaged in hazardous work as defined in the act.

2. Workman's Compensation was carried by 82 per cent of the first and by 57 per cent of the districts of the second class.

Boiler Insurance

The findings pertaining to boiler insurance follow:

1. Boiler insurance covers losses associated with explosions in the school plant and also includes an

important inspection service. Savings in boiler insurance can be made by writing this coverage for the school term only and excluding the summer months.

2. Boiler insurance was carried by 68 per cent of the first and by 59 per cent of the districts of the second class.

RECOMMENDATIONS

1. Because present-day insurance needs are so complex and because the field of insurance is so technical, it is recommended that school districts select a well trained and competent insurance advisor to help plan the insurance program.

2. In keeping with efficient administration, it is recommended that the responsibility for the entire school insurance program be centralized in one individual and responsible to the board of directors. This individual could be the superintendent, the business manager, the clerk or any other designated person.

3. It is recommended that the State Department of Education explore the possibility of providing an insurance consultant to audit and assist school districts in their insurance programs.

4. All school districts should carefully inventory their present and plan their future insurance needs

annually in the light of the best information and advice available.

5. The State Department of Education should take the initiative to get legal clarification of or enabling legislation for:

(a) the use of public funds for the purchase of liability insurance protection for teachers and other district employees,

(b) the use of public funds to provide insurance for medical payments to persons injured in school bus accidents,

(c) the insuring of driver-training vehicles not owned by the district,

(d) mandatory competitive bids for school insurance, and

(e) the authority of the board of directors to purchase fire, theft, and collision insurance on district owned motor vehicles.

6. Legislation should be enacted to require directors of a school district to insure school buildings, contents and equipment against fire and other common perils.

7. The Oregon Legislature should determine required amounts for all kinds of school vehicle insurance to prevent confusion and over and under-insurance.

8. Until required limits are standardized by law, school districts should follow the recommendations of the

State Department of Education regarding vehicle insurance.

9. Extended coverage should be added to all school fire insurance policies.

10. All school districts not insuring under a co-insurance average clause should be encouraged to add this endorsement.

11. In order to accurately determine insurable values, school districts should utilize trained appraisers at frequent intervals.

12. Because it simplifies record keeping and effects economies, school districts should use the blanket policy form written for either the three-year or preferably the five-year term.

13. School districts should study stock and mutual insurance companies and place their insurance where the district will receive adequate protection and service at the lowest cost.

14. All general and vehicle liability insurance policies should contain the waiver of immunity clause.

15. As a supplement to the insurance program, all school districts should give serious consideration to the adding of Workman's Compensation.

16. Before any school district uses a school vehicle for extra errands or trips, the district should ascertain whether its insurance will cover such usage.

17. Because of the savings that can be made, it is recommended that districts operating five or more vehicles carry fleet insurance.

18. In order to eliminate the subjectivity so common in the allocation of school insurance, every district should develop an objective and equitable plan or method for the allocation of its insurance business.

19. The financial rating of all insurance companies under consideration should be checked in standard rating systems and their claims settlement policy ascertained before insurance is purchased.

20. Every district should establish a definite procedure for reporting losses and accidents.

21. In the interest of efficiency and simplicity, school districts should revise their insurance so they will have insurance premiums due each year in approximately equal amounts.

22. Inventories of contents and equipment should be completed annually. These records along with all insurance policies should be filed in fireproof vaults preferably away from the school plant.

23. All liability insurance coverage should be held to a minimum.

24. All insurance policies should be written only for the period of time that the district needs insurance

protection.

25. In order to effect as many savings as possible, it is recommended that all districts specifically plan for the elimination of hazards and penalties.

26. All school building plans and specifications for new construction, alteration or addition should be submitted to the fire rating bureau so that factors that increase the rate make-up for the particular building can be checked before the building is constructed.

27. The insurance premiums paid and the losses sustained for every school district in Oregon should be incorporated into the annual report of the Superintendent of Public Instruction. After a few years this cumulative record would be invaluable in securing a separate rating bureau classification for public schools.

28. The State Department of Education should take the initiative in publishing an insurance handbook for the use of insurance advisors, school administrators and school board members.

BIBLIOGRAPHY

1. Ackerman, S. B. Insurance. 3d ed. New York, Roland, 1948. 769p.

2. Allen, Francis T. General principles of insurance. New York, Longmans, Green, 1936. 241p.

3. American association of school administrators. Managing the school district insurance program. Washington, 1953. 24p.

4. _____. School district liability. Washington, 1953. 23p.

5. American digest system. Digests of all reported cases from 1658. St. Paul, West.

6. American Insurance Company v. District Township, 4 Iowa 472, 8 N. W. 472.

7. American law institute. Restatement of the law of torts. St. Paul, American Law Institute, 1934.

8. American reports, Containing all decisions of general interest decided in the Courts of Last Resort in the several states. Albany, Parson.

9. Amis, Otis C. It's a story of growth. Nation's schools 29:45-46. April 1942.

10. Antin v. Union High School District No. 2 of Clatsop County (1929) 280 P. 664.

11. Association of public school business officials. Insurance committee report on insuring the on-the-job liability of school employees. Kalamazoo, 1949. 99p.

12. _____. Insurance committee report on school fire insurance, 1938-45. Kalamazoo, 1948. 29p.

13. _____. An investigation of insurance practices in various lines covering United States city schools. Pittsburgh, 1941. 293p.

14. Baldwin, Harry G. Why an appraisal of school property? American school board journal 90:29-30, 72. April 1935.

15. Ballentine, James A. The college law dictionary with pronunciations. Rochester, Lawyers' Co-operative, 1931. 998p.

16. Barker, Howard. Are your buildings insured for all they're worth? School executive 62:44-45, 52, 54-55. June 1943.

17. Baxter v. Davis (1910), 58 Or. 109; 112 P. 410; rehearing denied 58 Or. 109; 113 P. 438.

18. Beers v. Arkansas (1857), 61 U. S. (20 How.) 527, 15 L. Ed. 991.

19. Benson, Horace H. Four phases of an adequate school fire protection program. Nation's schools 43:56-58. March 1949.

20. Bevons, George J. School fire losses hit all time high. School executive 71:60-61. August 1952.

21. Billion dollar fire losses facing nation, NBFU warns. Fire insurance facts and trends 9:1-4. October 1953.

22. Boyle v. School District No. 8 of Douglas County 222 P. (2d) 1004.

23. Brant, Henry J. How to find the law. 3d ed. St. Paul, West, 1940. 923p.

24. Burke, Arvid J. Defensible spending for public schools. New York, Columbia University, 1943. 379p.

25. _____. Financing public schools in the United States. New York, Harpers, 1951. 584p.

26. Carson, Russell M. L. An insurance program for the guidance of school boards. Mount Vernon, New York State School Board Association, 1936. 52p.

27. Carter, James S. Selecting school insurance coverage. American school and university 25:363-368. 1953-1954.

28. Clark School Township v. Home Insurance and Trust Company (1898) 20 Ind. App. 543; 51 N. E. 107.

29. Clove, James, Jr. Legal liability of the school district for damages. Doctor's thesis. Los Angeles, University of Southern California, 1932. 185 numb. leaves.

30. Cooper, Shirley. Why do we transport children? School executive 69:11-14. April 1950.

31. Corpus Juris. Vol. 56. New York, American Book, 1932. 1094p.

32. Crawford v. District School Board (1913) 69 Or. 388; 137 P. 217.

33. Crobaugh, Clyde J. Handbook of insurance. New York, Prentice-Hall, 1931. 1413p.

34. Cross, Jerome Orcutt. The insurance of public school property by the city school districts of California. Doctor's thesis. Berkeley, University of California, 1933. 245 numb. leaves.

35. Davis, W. Jefferson. Fire insurance and the public interest. Insurance law journal No. 354:461-467. July 1952.

36. Doherty, Leo David. School transportation insurance: cost and coverage. Doctor's thesis. New York, Teachers College, 1950. 113 numb. leaves.

37. Eichler, George A. Planning an insurance program. American school board journal 118:39-40. May 1949.

38. Engelhardt, N. L. and Fred Engelhardt. Public school business administration. New York, Columbia University, 1927. 1068p.

39. Ewing, Palmer L. A study of insurance practices of boards of education in the State of Illinois. Doctor's thesis. New York, New York University, 1950. 240 numb. leaves.

40. Fahlstrom v. Denk (1933) 143 Or. 514; 23 P. (2d) 325.

41. Falls, Lawrence E. Introduction to insurance. New York, Insurance Institute of America, 1949. 94p.

42. Fulk v. School District No. 8 N. W. (2d) 56; 155 Neb. 630.

43. Fuller, Edgar. Liability for negligence of educational officers and employees. American school board journal 103:29-30, Oct. 1941; 23-25, Nov. 1941; 27-28, 63, Dec. 1941.

44. _____. Tort liability of school districts in the United States. Doctor's thesis. Cambridge, Harvard University, 1940. 256 numb. leaves.

45. Garber, Leo O. District liability for bus accidents. Nation's schools 50:79-80. November 1952.

46. _____. Legal responsibility of school bus operators. Nation's schools 49:41. January 1952.

47. _____. Liabilities for injuries received on school property leased for profit. Nation's schools 51:77-78. April 1953.

48. Garver, Harlie. Appraising for insurance. Nation's schools 21:53-55. May 1938.

49. _____. Facts on insurance. Nation's schools 22:55-57. September 1938.

50. Garvey, James J. Your school insurance. Nation's schools 36:58, 60. August 1945.

51. Gearin, John Gordon. The adequate award in Oregon. Northwest insurance news 41:4, 36, 66, 70, 72. October 1953.

52. Gephart, W. F. Principles of insurance. New York, Macmillan, 1913. 306p.

53. Gruelle, Orie P. State insurance of public school property in Kentucky. Doctor's thesis. Lexington, University of Kentucky, 1939. 136p.

54. Hamilton, H. H. School liability. Safety education 32:2-6. December 1952.

55. Hamilton, Robert R. and Paul R. Mort. The law and public education. Chicago, Foundation Press, 1941. 579p.

56. Harper, Fowler V. A treatise on the law of torts. Indianapolis, Bobbs-Merrill, 1938. 714p.

57. Hearn, A. E. Depreciation in adjusting losses. Northwest insurance news 41:6, 18-19. April 1952.

58. Hesse, Myron A. Personal liability of selected school district employees and a plan for their protection. Doctor's thesis. Los Angeles, University of Southern California, 1949. 233 numb. leaves.

59. Holmes, Warren S. How the cost of insurance on public-school property can be reduced. American school board journal 87:23-24. August 1933.

60. Holy, T. C. Comparison of school plant insurance premiums and reported fire losses in Ohio cities and counties 1930-1932. Mimeo. Columbus, Bureau of Educational Research, 1933. 76p.

61. _____. Public school plant insurance. Review of educational research 5:370-377. October 1935.

62. _____. State insurance for school buildings. Nation's schools 16:60, 61. October 1935.

63. _____. A study of public elementary and secondary education in Oregon. Salem, Superintendent of Public Instruction, 1950. 443p.

64. Horner, Howard F. Are school busses in Oregon adequately insured? Master's field study. Eugene, University of Oregon, 1951. 54 numb. leaves.

65. Hunn, Frank L. Economizing on school insurance. School executive 61:28-30. September 1941.

66. Jedlicka, A. I. What price insurance. School executive 52:183-184. January 1933.

67. Jenkins, H. E. Savings on school fire insurance. School executive 57:32-33. September 1937.

68. Jepsen, Victor L. School liability and the California Courts. American school board journal 113:37-38. October 1946.

69. Johnson v. School District No. 1 of Multnomah County (1929) 273 P. 386.

70. Johnston, Robert W. Legal aspects of insuring school property - its legal basis. Doctor's thesis. Nashville, George Peabody college for teachers, 1943. 270 numb. leaves.

71. Joyner, S. C. Buying school insurance. American school board journal 46:51-52. March 1938.

72. _____. Distributing school insurance to local agencies. American school board journal 95:50-51. September 1937.

73. _____. Distribution of school fire insurance. American school board journal 106:27-29. February 1943.

74. _____. Methods of insuring school property. American school board journal 105:36-37. November 1942.

75. _____. Recent trends in school insurance. American school and university 19:199-200. 1947-1948.

76. _____. Recommended school fire insurance procedure. American school board journal 106:29-30. April 1943.

77. _____. School automobile liability insurance. American school board journal 103:48-49, 87. September 1941.

78. _____. Start the new year with reappraisal of insurance. Nation's schools 47:72, 74. January 1951.

79. _____. Statutory provisions affecting school automobile liability insurance. American school board journal 105:30-31. December 1942.

80. _____. When are schools liable in bus accidents. American school board journal 106:38-39. June 1943; 106:24-25. July 1943.

81. Kulp, C. L. Liability insurance coverage for school boards. American school board journal 91:30-32. September 1935.

82. Leibee, Howard C. Liability for accidents in physical education athletics recreation. Ann Arbor, Ann Arbor Publishers, 1952. 71p.

83. Linn, H. H. Are fire-insurance rates on public-school property excessive? American school board journal 89:25-26, 64. November 1934.

84. Linn, Henry H. Practical school economies. New York, Columbia University, 1934. 461p.

85. Linn, Henry Harold and Schuyler C. Joyner. Insurance practices in school administration. New York, Ronald, 1952. 446p.

86. Lovell v. School District No. 13, Coos County (1943) 143 P. (2d) 236.

87. Lupke v. School Dist. No. 1 (1929) 275 P. 686.

88. Lura, C. P. 1000 school fires. Nation's schools 25:70. March 1940.

89. McCunn, Drummond J. An insurance program for the school board. American school board journal 103:44, 68. November 1941.

90. McKesson, William B. Liability of California school districts. American school board journal 103:70. November 1941.

91. McWilliams, Robert. Valuation of buildings for insurance purposes. Insurance law journal No. 355:525-532. August 1952.

92. Magee, John H. General insurance. 3d ed. Chicago, Irwin, 1947. 913p.

93. _____. General Insurance. 4th ed. Chicago, Irwin, 1953. 924p.

94. _____. Property insurance. Rev. ed. Chicago, Irwin, 1947. 725p.

95. Mann, Herrold V. A system of buying insurance for the school district. Nation's schools 51:100, 102. March 1953.

96. Mehr, Robert I. and Emmerson Cammack. Principles of insurance. Chicago, Irwin, 1952. 779p.

97. Melchior, William T. Insuring public school property. New York, Columbia university, 1925. 187p.

98. Monroe, Walter S. The encyclopedia of educational research. Rev. ed. New York, Macmillan, 1950. 1520p.

99. Morrison, Gaylord D. and Wilber E. Scoville. American school board journal 127:28-29. August 1953.

100. Mort, P. R. and Walter C. Reusser. Public school finance. New York, McGraw-Hill, 1941. 569p.

101. Mowbray, Albert Henry. Insurance; its theory and practice in the United States. 3d ed. New York, McGraw-Hill, 1946. 694p.

102. Murray, G. S. Accounting for depreciation of school buildings. Master's thesis. New York University, 1930. 80p.

103. National education association of the United States. Who is liable for pupil injuries. Washington, 1950. 32p.

104. _____. Research division. School transportation insurance. Washington, 1948. 34p. (U.S. office of education pamphlet no. 101).

105. National reporter. Complete reports of the decisions of the state and federal courts from 1879. St. Paul, West.

106. Noble, M. C. S. Pupil transportation in the United States. Scranton, International textbook, 1940. 541p.

107. Nolting, Orin F. Basis of an insurance program. American school board journal 122:23. February 1951.

108. Oregon. Attorney general. Biennial reports and opinions, 1899, 1908-1910, 1922-1952. Salem, 1899-52.

109. _____. Opinion No. 2226, September 18, 1952. Salem, 1952.

110. Oregon. Industrial accident commission. Annotated laws relating to the State Industrial Accident Commission. Salem, 1953. 154p.

111. Oregon. Insurance commissioner. Insurance laws of the State of Oregon, 1951. Salem, 1951. 261p.

112. Oregon. Insurance department. Annual report V.45, 1953. Salem, 1953. 74p.

113. Oregon. Laws, Statutes, etc. General Laws of Oregon, 1845-1864; 1887.

114. _____. Oregon revised statute laws of Oregon of a general, public and permanent nature. Vol. 1-7, Salem, 1953.

115. _____. Oregon state fire marshal laws, 1948-1952. Salem, 1948-1952.

116. _____. Office of superintendent of public instruction. Laws relating to the Oregon public school system, 1946. Salem, 1946. 362p.

117. _____. Oregon school directory 1953-1954. Salem, 1954. 92p.

118. _____. Transportation handbook for school administrators and school boards. Salem, 1952. 27p.

119. Patterson, Edwin W. Essentials of insurance law; an outline of legal doctrines in their relation to insurance practices. New York, McGraw-Hill, 1935. 510p.

120. Pattington, M. G. Let the school board reconsider its insurance program. American school board journal 110:46, 74. May 1945.

121. Pauly, Frank R. Research and practice in school insurance. Washington, 1940. American educational research association. 192p.

122. Pelfrey v. Snowden et al (1937 Ken) 102 S. W. (2d) 352.

123. Petit, L. H. Readjusting board of education insurance. American school board journal 84:49-50, 98-99. May 1932.

124. Punke, Harold H. The courts and public-school property. Chicago, University of Chicago, 1936. 313p.

125. _____. Law and liability in pupil transportation. Chicago, University of Chicago, 1943. 291p.

126. _____. Liability for injury in school-bus transportation. American school board journal 101:38-40, 93. September 1940.

127. Rankin v. School District No. 9 et al (1933) 23 P. (2d) 132.

128. Reeder, W. G. The administration of pupil transportation. Columbus, Education, 1939. 200p.

129. _____. The fundamentals of public school administration. New York, Macmillan, 1951. 756p.

130. Reger, Carl and A. K. Brake. Fire insurance engineering service. American school and university 9:165-166. 1937.

131. Remmlein, Madaline Kintner. Accidents will happen. Nation's schools 42:33-36. December 1948.

132. _____. The law of local public school administration. New York, McGraw-Hill, 1953. 271p.

133. _____. Shall the school board surrender its immunity? American school board journal 98:18, 100. February 1939.

134. Riegel, Robert and Jerome S. Miller. Insurance principles and practices. 3d. ed. New York, Prentice-Hall, 1947. 788p.

135. Roach, Stephen F. Board acceptance of school buildings. American school board journal 126:63-64, 91. January 1953.

136. Roberts, H. C. Fire insurance protection and costs for public school properties. American school and university 6:129-131. 1933-1934.

137. _____. Stretching the school board's fire insurance dollar. American school board journal 102+27-29. March 1941.

138. Rosenfield, Harry N. Liability for school accidents. Nation's schools 41:44-45. June 1948.

139. _____. Liability for school accidents. New York, Harper, 1940. 220p.

140. Rosenstengel, W. E. School property insurance. School executive 53:184-185. February 1934.

141. Satterfield, Ted Joseph. Legal aspects of tort liability in school districts as indicated by recent court decisions. Doctor's thesis. Teachers College of Temple University, Philadelphia, 1949. 122 numb. leaves.

142. Scoville, Wilber E. A state program for the fire insurance of public school property in Colorado. Master's thesis. Greeley, Colorado State College of Education, 1952. 62 numb. leaves.

143. Sears, Jesse B. Public school administration. New York, Roland, 1947. 433p.

144. Shepard's Oregon Citations. A compilation of citations to Oregon cases, etc. New York, Shepard.

145. Shirley, Granville V. Insuring school buses and children - the recent experience in West Virginia. American school board journal 103:49-51. October 1941.

146. Smith, George D. Fire insurance coverage for Washington school districts. Seattle, University of Washington, 1951. 65p. (University of Washington. Bureau of governmental research. Report no. 114)

147. Smith, Harry P. Business administration of public schools. Yonkers-on-Hudson, World Book, 1929. 432p.

148. Spencer v. School District No. 1 (1927) 121 Or. 51; 254 P. 357.

149. Stanley, Elmer W. Your school building values and insurance. American school board journal 121:38. October 1950.

150. Steinhauer, Milton Henry. Fire insurance on public school property in Pennsylvania. Doctor's thesis. Philadelphia, University of Pennsylvania, 1939. 124 numb. leaves.

151. Streit, Edward F. The carrying of liability insurance as creating tort liability. Insurance law journal No. 356:603-615. September 1952.

152. Taylor, Floyd Leo. A school insurance program for Nebraska. Doctor's thesis. Lincoln, University of Nebraska, 1952. 192 numb. leaves.

153. Today seven schools will catch fire. Safety education 31:22. October 1951.

154. Twenty-eight worst fires in U. S. history. Fire insurance facts and trends 8:1-4. October 1952.

155. Upton, Rolland H. A study of fire insurance costs and practices in city school districts. Doctor's thesis. Los Angeles, University of Southern California, 1946. 380 numb. leaves.

156. Van Ausdal, Gerald. A critical study of school bus insurance in Ohio. Master's thesis. Oxford, Ohio, Miami University, 1939. 137 numb. leaves.

157. Viles, Nelson E. Improving the insurance program in the local school districts. Doctor's thesis. Jefferson City, University of Missouri, Midland, 1934. 100p.

158. _____. Protection is needed against fire loss. Nation's schools 16:49-50. July 1935.

159. _____. Reducing fire hazards in school buildings. School management 18:13-15. December 1949.

160. _____. School plant insurance. Nashville, Interstate School Building Service, George Peabody College for Teachers, 1941. 15p.

161. _____. Sources of penalties in fire insurance. Nation's schools 16:55-57. August 1935.

162. Ward v. School District No. 18 of Tillamook County (1937) 73 P. (2d) 379.

163. Washington state school directors' association. School insurance economics. Olympia, 1950. (Second printing) 34p.

164. Weltzin, Joakim Frederick. The new tendency in the tort liability of school districts. American school board journal 84:52-53. March 1932.

165. _____. The new tendency in the tort liability of school districts. American school board journal 84:37-38, 92-93. April 1932.

166. _____. The new tendency in the tort liability of school districts. American school board journal 84:31-32. May 1932.

167. _____. The new tendency in the tort liability of school districts. American school board journal 84:39-40. June 1932.

168. _____. The legal authority of the American public school as developed by a study of liability damages. Grand Forks, University of North Dakota, 1930. 239p.

169. Werner, J. C. Litigation concerning school fire insurance. American school board journal 91:40-41, 58. December 1935.

170. _____. School-insurance costs. American school board journal 89:44. July 1934.

171. _____. State fire-insurance fund provisions. American school board journal 90:22-23. April 1935.

172. _____. State laws on school insurance. Nation's schools 15:33-34. February 1935.

173. _____. What price fire insurance. Nation's schools 16:50-51. December 1935.

174. West, John C. School property appraisals for insurance purposes. American school board journal 88:32-34, 65-66. June 1934.

175. Wiest v. School District No. 24 (1914) 68 Or. 474; 137 P. 749.

176. Womrath, George F. Efficient business administration of public schools. New York, Bruce, 1932. 463p.

177. Words and Phrases. Permanent ed. 1658 to date. Judicial constructions and definitions of words and phrases by the state and federal courts from earliest times, alphabetically arranged and indexed. St. Paul, West, 1940.

APPENDIX

ASHLAND PUBLIC SCHOOLS
SCHOOL DISTRICT NO. 5, JACKSON COUNTY
Office in First National Bank Building
ASHLAND, OREGON

Ashland, Oregon
December 18, 1953

Dear Superintendent:

Most school administrators and school board members are currently interested in school insurance. This interest is not new because the cost of insurance and the kind and amount of coverage needed has always been a worry to educators and lay leaders alike. However, with steadily increasing educational costs, it is now particularly appropriate and timely to study this important problem. We have a legal and a moral obligation to the people to get the most from the public funds we spend and to protect the educational system we administer.

Due to the general importance of this problem and because of my personal interest as a school board member, I am undertaking a rather detailed study of school insurance in Oregon.

As a part of this study, I wish to ascertain some current practices in school insurance in Oregon school districts. For this purpose I have developed a questionnaire with sections on fire and extended coverage, liability and motor vehicle insurance. Would you be kind enough to complete this questionnaire or have it completed and returned to me at your earliest convenience?

Your assistance in this study will certainly be appreciated. The value of the study will be increased in direct proportion to the number of returns received. The findings will be made available to school administrators and school board members.

Respectfully,

[redacted]

Marshall E. Woodell

We urge your cooperation in this important and timely study.

[redacted]

Rex Putnam
Superintendent of Public Instruction

[redacted]

Stanley E. Williamson
Chairman, Doctoral Committee
Oregon State College

SCHOOL INSURANCE QUESTIONNAIRE

Part I

County_____City_____District Number_____Class_____

1. Who has charge of the insurance program in your district?
   ____School Board
   ____Superintendent
   ____Clerk
   ____Committee of the Board
   ____Member of the Board
   ____Business Manager
   ____Other (indicate)
   ____

2. Do you have a definite procedure set up for reporting losses and accidents?
   ____Yes ____No Explain:

3. Do you have a definite program for the elimination of hazards?
   ____Yes ____No

4. Have you obtained a rating sheet from your rating bureau?
   ____Yes ____No

5. If so, have you studied this sheet for the purpose of eliminating hazards and penalties?
   ____Yes ____No

6. Do you submit plans for new buildings to the rating bureau before beginning construction?
   ____Yes ____No

7. What percent of your insurance business is underwritten by:
   ____Self-insurance
   ____Stock companies
   ____Mutual companies (Please name company_____)

8. What qualifications do you require of companies?
   ____None
   ____Best's General Policyholders rating
   ____Financial rating
   ____Other (indicate)

9. Do you require companies to submit competitive bids for your insurance?
   ____Yes ____No

10. Do you have an objective method of distributing your insurance business?
    ____Yes ____No

11. If so, indicate your plan. (Use other side if necessary)

12. If not, do you distribute your insurance because of:
    ____Agent's reputation ____Service
    ____Company reputation ____Cost
    ____Friendship ____Other (indicate)
    ____Insurance always carried

13. What type of policy or policies does your district carry?
    ____Specific Policy Form (where each building is insured separately)
    ____Specific Schedule Form (where a number of buildings with their exact locations and amount of insurance on each is shown with a computed average rate)
    ____Blanket Policy Form (where an average rate is computed on a number of buildings without fixing the specific amount for each building)

14. What is the term of your insurance?
    ____One year ____Three years ____Other (indicate)
    ____Two years ____Five years

15. Do you have extended coverage?
    ____Yes ____No Indicate Kind:

16. Do you carry Depreciation Insurance permitting your district to collect full replacement value on the building?
    ____Yes ____No

17. Do you insure under a coinsurance plan?
    ____Yes ____No If so, what per cent? %_____

18. How much insurance do you carry on your school property?
    $_____

19. What is the insurable value of your school property?
    $_____

20. When was this insurable value determined? _____(Year)

21. Does this value include the value of contents and equipment?
    ____Yes ____No

22. How often do you inventory your building contents and equipment? _____

23. How is the insurable value for buildings determined?
    ____By appraisal
    ____By estimate
    ____Original cost
    ____Original cost less depreciation.
    ____Commodity index applied to original cost less depreciation
    ____Other (indicate)

24. By whom is appraisal of your property made?
    ____School Board
    ____Insurance Agent
    ____Contractor
    ____Appraisal firm
    ____Superintendent
    ____Insurance company appraiser
    ____Other (indicate)

25. How often do you reappraise and revise your insurance? _____

26. If you pay for appraisals, what is the approximate cost per $1000 of value?
    _____

27. Do you know whether your appraisals would be accepted by the insurance company in case of a heavy loss?
    ____Yes ____No

28. How is depreciation determined on:
    Buildings:

    Contents and equipment:

29. Considering the recent trends in the cost of buildings and equipment, do you consider the coverage on your buildings and equipment adequate?
    ____Yes ____No

30. What is the total annual premium(s) on all fire and extended coverage?
    $_____

31. Have you suffered a collectible fire and/or extended coverage loss on your property in the last five years?
    ____Yes ____No

32. If so, what was the amount recovered from the insurance company?
    $_____

33. Do you carry Boiler Insurance?
    ____Yes ____No

34. Where are all insurance policies filed?

35. Are your policies (if more than one) worded exactly the same with the same coverage?
    ____Yes ____No

36. Do you have approximately the same amount of insurance premiums due each year?
____Yes ____No

Part II

If your district does not own at least one motor vehicle or does not contract for the transportation of pupils, disregard this part.

1. Indicate * types of insurance carried and paid for by the district on vehicles:	owned and operated by the district	privately owned and operated under contract	Indicate * types of insurance required by the district of private owners under contract but not paid for by the district.
Bodily Injury Liability			
Limit each person			
Limit each accident			
Property Damage			
Limit each accident			
Collision			
Deductible			
Comprehensive			
Fire			
Theft			
Medical			
Limit each person			

*Indicate "yes" or "no" for type of coverage and appropriate amount under limits.

2. If you operate five or more busses, do you have fleet insurance?
____Yes ____No

3. What is the annual cost of your vehicle insurance? $_____

4. Is your insurance written for the year or 9 months? Explain.
_____
_____
_____
_____

5. Are your busses used for other purposes than transporting pupils to and from school?
____Yes ____No

6. If so, does your insurance cover these other trips?
____Yes ____No

7. Is any charge made for these trips?
   ____Yes ____No

8. Does your insurance cover if this charge is made?
   ____Yes ____No

9. Have you had any claims for injuries or accidents covered by your school bus insurance in the last five years?
   ____Yes ____No

10. If so, please describe briefly:

11. How much was recovered on these claims for injuries or accidents from your insurance company? $_____

12. Is Driver Training taught in your school?
    ____Yes ____No

If no, disregard the remainder of the questions in this part.

13. If yes, is the car(s) used for driver training exclusively?
    ____Yes ____No

14. If they are used for other purposes, does your insurance cover?
    ____Yes ____No

15. What is the annual cost of insurance on these cars? $_____

16. Have any accidents occurred under this insurance?
    ____Yes ____No ____Number

17. If so, how much was recovered from the insurance claim? $_____

Part III

This section deals primarily with General Public Liability Insurance which protects the school district, school directors, and district employees from legal liability for negligence in performing official responsibilities or from accidents occurring on school property. It is not automobile insurance or accident insurance. The insurance company is not obligated to pay until damages have been awarded by a competent court.

1. Does your district carry liability insurance?
   ____Yes ____No

2. If so, what is the coverage: per person $_____
per accident $_____
property damage $_____

3. Does your policy protect: the district ____Yes ____No
the board members ____Yes ____No
all employees ____Yes ____No

4. Does your policy carry a waiver of immunity clause?
____Yes ____No

5. Has there been any case covered by this insurance in the last five years?
____Yes ____No If so, explain briefly.
_____
_____
_____
_____

6. If so, what amount was recovered? $_____

7. What is the annual premium on this policy? $_____

8. Do you carry Workman's Compensation?
____Yes ____No Explain.

If you care to make any comment about your insurance program, please do so here.

_____
Name and title of person filling out this form (optional)

Please return to:

Marshall E. Woodell
119 Seventh Street
Ashland, Oregon

REMINDER

This is a reminder that I am very anxious to have you participate in the study of School Insurance in Oregon as requested in a recent letter. If you have not already returned the Insurance Questionnaire, will you please do so?

Response has been excellent, but the practices of your board are very much needed in order to get a truly representative summary of insurance practices in Oregon. Thank you for your reply and I hope the intended presentation of results will be of interest and value to you.

If an additional questionnaire is needed, please request it.

Marshall E. Woodell
119 7th Street
Ashland, Oregon