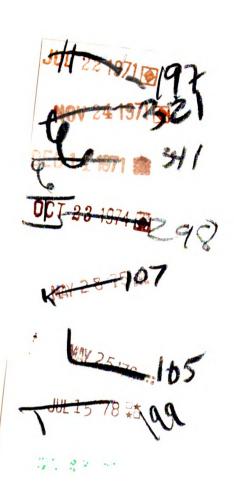
# A SURVEY OF LIABILITY INSURANCE FOR PHYSICAL EDUCATORS WITHIN THE UNITED STATES

Thesis for the Degree of M. A.
MICHIGAN STATE UNIVERSITY
Peter J. Graham, Jr.
1965

THESIS



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## A SURVEY OF LIABILITY INSURANCE FOR PHYSICAL EDUCATORS WITHIN THE UNITED STATES

Ву

Peter J. Graham, Jr.

AN ABSTRACT OF A THESIS

Submitted to Michigan State University in partial fulfillment of the requirements for the degree of

BLOTES OF ARTS

College of Education

Department of Health, Physical Education, and Recreation

APPROVED: Jale Mikles

#### ABSTRACT

### A SURVEY OF LIABILITY INSURANCE FOR PHYSICAL EDUCATORS WITHIN THE UNITED STATES

by Peter J. Graham, Jr.

## Statement of Problem

To determine the trends which are currently developing within the area of limitility insurance coverage as it pertains to physical educators.

## Methodology

The necessary information was obtained by requesting one hundred agencies to complete and return a questionnaire. The State Department of Education and the State Athletic Association of each state were the agencies involved in the study. The necessary data was obtained by the tubulation of the answers which were recorded on the returned questionnaires. The final tubulations were made using a gredetermined method.

## Conclusions

- 1. Most physical educators have insufficient liability insurance coverage, it any at all.
- 2. Most physical educators must purchase their own liability insurance policy.

- 3. Few states have, at present, a "save harmless" clause and very few anticipate the addition of such a clause to their State Educational Laws in the near future.
- 4. Most of the recorded liability suits have been judged in favor of the physical educator.
- 5. The average financial award received by the plaintiff, in the recorded cases, was \$187,800.
- 6. Most states in which previous liability suits have been initiated, find that the number and frequency of suits is increasing.
- 7. Many state agencies keep no records as to liability suits, verdicts, or awards.
- 8. The agencies which do keep records, for the most part, keep imcomplete, inadequate records.

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#### ACKNOWLEDGMENT

Grateful appreciation is extended to Dr. Gale Mikles under whose helpful guidance and assistance this study was undertaken. The writer is also grateful for the assistance given him by Dr. Wayne Van Huss, Mr. Charles E. Forsythe, and to all the state agencies which participated in the study.

F, J, G.

## DEDICATION

This thesis is respectfully dedicated to my Parents

Mrs. Mary M. and Mr. Peter J. Graham

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#### CHAPTER I

#### INTRODUCTION

Each and every day, physical education teachers, due to the nature of their work, are faced with the possibility of accidents happing within their classes. Eventually, these accidents may lead to a liability suit initiated by the injured party.

There have been many published articles pertaining to the need for safety within physical education classes and the conditions under which a physical eduction teacher may be hald liable for these accidents. I am sure that most, if not all physical education teachers, have read one or more of these articles. However, I have not been able to find any publications which deal directly with the topic of liability suits and liability insurance coverage for teachers within the field of physical education.

#### I. THE PROBLEM

## Statement of Problem

The problem of concern here is that of liability insurance coverage and the physical education teacher within the United States.

The specific problem is to attempt to discover the trends which are currently developing within this area of liability insurance coverage. It is hoped to be able to determine the following: 'the percentage of physical educators who are covered by liability insurance policies; the average amount of coverage which each individual possesses; the number of states which have a "save harmless" clause within their state educational laws; the states which anticipate the inclusion of such a clause within the next ten (10) years; the number of liability suits initiated within the past five (5) years; the annual increase of these suits; the number of verdicts against the physical education teacher; and finally, the average financial settlement awarded to the plaintiff.

## Importance of the Study

Physical education teachers are working constantly under the potential threat of liability units. It is believed that a study of this nature and the resultant findings will help teachers and their employers to become better acquainted with the problem of liabitlity, the need for liability insureance, and the subsequent measures which must be employed to protect teachers.

## Limitations of the Study

1. The number of agencies which <u>may</u> possess the desired information are limited.

- 2. Many of the agencies from which information is sought might not have the requested information.
- 3. In requesting information from these agencies, there is no way in which to check the accuracy or completeness of their records.

#### II. DEFINITIONS OF TERMS USED

Tort. Any wrongful act (not involving a breech of contract) for which civil action will lie.

<u>Liability</u>. An obligation of payment. The condition of affairs which gives rise to an obligation to do a particular thing to be enforced by court action.

Teacher liability. The legal responsibility of teachers in case of bodily injury to pupils under the following conditions: (1) corporal punishment by teachers; (2) alleged negligence of teachers.

Physical education teacher. Any individual under contract by a school system for the specific purpose of teaching physical education classes, coaching athletics, or both.

Negligence. (1) The omission of something which a reasonable man, guided by those ordinary considerations which usually regulate human affairs, would do; or the doing of something which a prudent and reasonable man would not do. (2) The violation of an absolute duty, or

the failure to take into consideration the interests of others thus resulting in injury.

<u>Plaintiff</u>. The inhured individual who initiates the liability suit.

"Save harmless." The reverting of the payment of plaintiff awards from the teacher to the employing school district, so long as the injury occured while the teacher was performing the duties for which he was employed.

#### III. PURPOSE AND NEED

## Purpose of the Study

The purpose of this study is to make availabe to all physical education teachers a guide-line to be used when determining the need for a liability insurance policy and the amount of coverage for which the policy should provide. Also, to attempt to determine the trends and developments within this area.

## Need for the Study

There is a need for a study of this nature simply because little, if anything, has been written or compiled which deals directly with this proposed study. In view of the fact that physical education teachers are faced with the possibility of being involved with a liability suit each day, it is felt that these teachers should be provided with information pertaining to the recent developments in this area.

There have been many articles published which relate to the prevention of accidents and the subsequent legal suits, yet, the teacher has not been given a guide-line to follow when in the process of protecting himself against the possibility of being required to personally pay an award given to the injured party.

The author feels that this study will help fill this apparent void.

#### CHAPTER II

#### REVIEW OF THE LITERATURE

The related literature concerning physical educators and liability insurance is aimed basically at safety, health, and the liability of teachers for accidents, rather than the actual facts and figures pertaining to liability suits, awards, and insurance coverage.

Brown<sup>1</sup> states that the number of accidents at home and at school are about equal. He further reports that boys are twice as susceptable to accidents as are girls. Also, that accidents are more frequent in areas than are congested and which have little play space available.

Doscher and Walke<sup>2</sup> report that in the past schools were not held liable for accidents resulting out of negligence, but that this precedent was undergoing a rapid metamorphosis. Presently, most courts hold teachers and schools liable. The authors point out that, in their opinion, this trend results in forcing physical education

H. E. Brown, "Safety in Elementary and Junior High Schools of New York City," Research Quarterly (May 1940), pp. 80-85.

<sup>&</sup>lt;sup>2</sup>N. Doscher and N. Walke, "The Status of School Liability for School Physical Education Accidents and Its Relationship to the Health Program," Research Quarterly (March 1942), pp. 280-294.

to apply principles of safety to all its teachings or face the danger of elimination, wholly or in part from the health program.

#### CHAPTER III

#### METHODOLOGY

To obtain the necessary information, one hundred (100) agencies were requested to complete a questionnaire. Two (2) agencies in each of the fifty (50) states were contacted in an effort to gain the desired information. In each of the states, the agencies involved were the State Department of Education and the State Athletic Association.

These particular agencies were selected because it was felt that they would be in a position to supply the necessary information due to their close relationship to the topic.

The necessary data were obtained by the tabulating of the answers indicated on the returned questionnaires. Due to the inaccurate records kept by many agencies, the following procedures were employed in the tabulation of the answers:

Questions 1, 3, 5, 6, 7, and 8.

In the event that the answers received from the two (2) states agencies differed, the higher figure was recorded. However, in the case where one agency did not submit an answer, then that submitted by the second agency was recorded.

Questions 2, 4A, and 4B.

In the event that the answeres received from the two (2) state agencies differed, the answer indicated by the State Department of Education was accepted and recorded due to the fact that they were in the best position to answer these questions. However, if the State Athletic Association produced the only response to the question, then their answer was recorded.

The questionnaire was mailed to all the one hundred (100) agencies which were used in the sample. Included with the questionnaire was a letter of introduction and a self-addressed, stamped, return envelope. (A sample of the questionnaire and the letter of introduction may be found in the appendix.)

If the questionnaire had not been returned after three (3) weeks from the original mailing, a follow up letter along with a second questionnaire was sent out.

#### CHAPTER IV

#### ANALYSIS AND PRESENTATION OF DATA

This study was undertaken in an effort to determine the trends developing in the area of liability insurance and the physical education teacher. All of the one hundred (100) agencies in the sample were mailed a questionnaire and requested to complete and return it to the author.

Ninety-six (96) of the one hundred (100) questionnaires were returned. There was at least one questionnaire returned from each of the fifty states. Therefore, each of the fifty states were represented in the final tabulations due to the recording procedures established.

Table I represents the one hundred agencies requested to participate in the study and indicates those agencies which responded.

Table II represents the tabulation of answers to question number one (1), How many of the individuals involved in physical education within your state are protected by liability insurance policies? Only eight states indicated that 100% of their physical education teachers were protected by liability insurance. Nine states replied that 75% or more were protected; three reported that 50% or more had coverage; one indicated that less than

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50% possessed coverage; and, twenty-nine states reported that the extent of coverage was unknown.

Table III represents the tabulation of answers to question number two (2), Who purchases the liability policy? Twenty-seven states reported that the individual teacher purchased the policy. In eleven states the school district purchased the policy. Three states reported that they, the state, purchased the policy for their teachers, whereas nine states reported that they had no available information as to who purchased the liability policies.

Table IV represents the tabulation of answers to questions number three (3), What is the AVERAGE amount of coverage which each policy holder purchases? In reply to this question, three states indicated that the average policy was for more than \$100,000. One state replied that \$50,000 or more was the average; six stated that \$25,000 or more was average; eight indicated that \$10,000 or more was the average; three replied that less than \$10,000 was average; and finally, twenty-nine states replied that they had no available information.

Table V represents the replies to question four part A (4A), Does your state have a "save harmless" clause within the State Educational Laws? Seven states replied that they did have such a clause. However, thirty-four states indicated that they did not have such a clause and nine states answered that they did not have any information available.

TAHLE IV

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Florida		No	information	_		2	No inf	information	c			No infor	1nformation	_	
Georgia		No	information	_		2	No inf	information	ε			No Infor	information	_	
Hawaii		No	information	-		~	No inf	information	E			No infor	information		
Idaho				×				×					×		
Illinois		ON	information	• _		2	No inf	information	e.			No infor	information		
Indiana		0.5	information	-		Z	No inf	information	c			No infor	information	_	
Iowa				×		2	No inf	informaticn	=					×	
Kansas		ON	No information	_		2	No inf	information	e			No infor	information	_	
Kentuoky								×					×		
Louisiana		02	No information			Z	o infe	No information	a			No infor	information		
Maine			×					×					×		
Maryland				×					×						×
Massachusetts		0	No information			Z	o infe	No information	σ.			No infor	information		
Michigan		No.	information	-		2	No inf	information	17			No infor	information		
Minnesota				×		2	No inf	information	æ					×	
Missicsippi					*					×					×
Missouri		0 .	information	~		2	o infe	No information	.e:			No infor	information		
Montana		0 Z	information	-		Z	No inf	information	z			No infor	Information		

Nebraska	No information	No information	No information
Nevada	×	No information	×
New Hampsnire	No information	No information	No information
New Jersey	*	No information x	
New Mexico	*	×	×
New York	No information	No information	No information
North Carolina	No information	×	×
North Dakota	No information	No information	No information
Ohio	No information	No information	No information
Oklanoma	×	No information	×
Oregon	×	×	×
Pennsylvania	No information	No information	No information
Rhode Island	No information	No information	No information
South Carelina	No information	No information	No information
South Dakota	No information	No information	No information
Tennessee		No information	No information
Texas	. ×	×	×
Utan	×	No information	×
Vermont	ĸ	No information	×
Virginia	×	No information	×
Washington	No information		No information
West Virginia	×	No information	×
Wisconfin	No information		No information
Wyoming	×	×	×

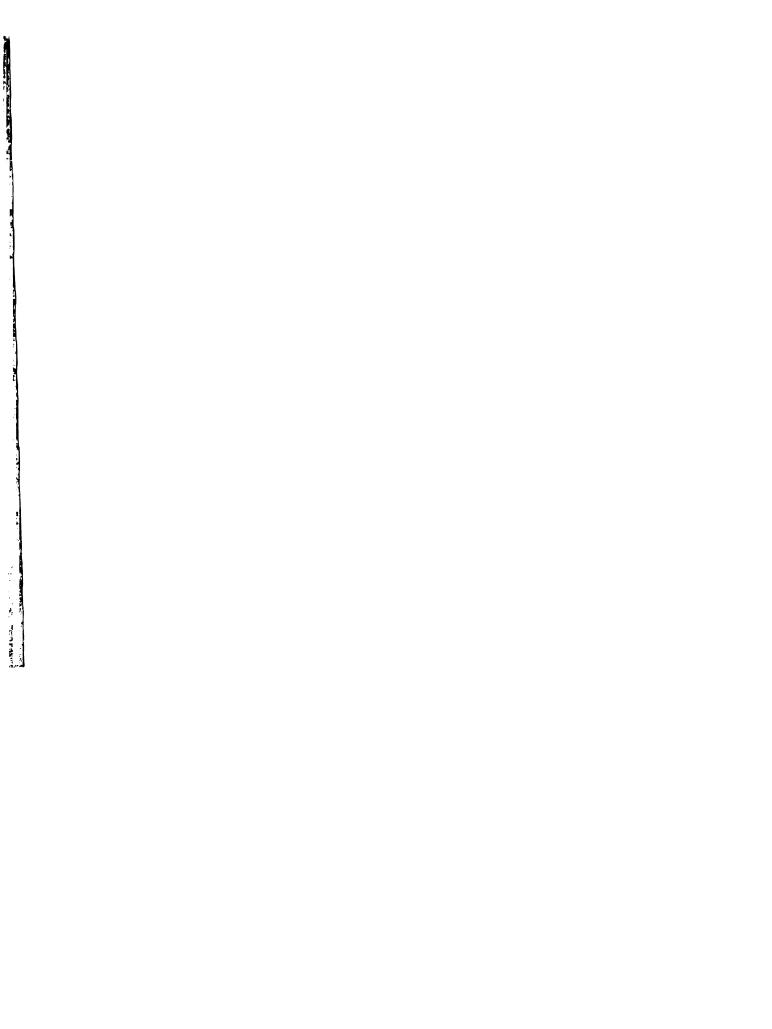


TABLE VII

HOW MANY BLAFFILLS COTTE, FIRECTLY PERTAINING TO PHYSICAL EDUCATION HAVE BEEN IN. LATES WITHIN YOUR STATE IN THE PART FIVE (5) YEARS?

State	State Lett. of Education	State Athletic Association	Tabulation
Alabama	No infermation	0	0
Alaska	ξΛ	2	2
Arizona	7	No information	٦
Arkansas	0	0	0
California '	No information	No information	No information
Colorado	No information	0	0
Connecticut	No information	No information	No information
Delaware	0	No information	0
Florida	No information	No information	No information
Georgia	0	0	0
Hawaii	0	0	0
Idaho	0	0	0
Illinois	No information	No information	No information
Indiana	No information	No information	No information
lowa	No information	No information	No information
Kansas	. 0	0	0
Kentucky		1	
Louisiana	No information	No information	No information
Maine	0	0	0
Maryland	No information	0	ပ
Massachusetts	No information	No information	No information
Michigan	Ne lifermatien	No information	No information
Minnesota	m	No infermation	m
Mississippi	C	0	6,5
Minsouri	No Information	No information	No infermation
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ere - A	5.	No information	ζ.,
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		No information	

New Mexico		· · · · · · · · · · · · · · · · · · ·	0
New York	No infermation	No information	No information
North Carolina	۵ 1	0	C
North Dakota	0	ō	0
Ohio	0	. 0	0
Oklahoma	5	0	0
Oregon	न	П	7
Pennsylvania	No information	No information	No information
Rhode Island	No information	No information	No information
South Carolina	0	0	0
South Dakota	No information	No information	No information
Tennessee		0	0
Техаѕ	Lo information	0	0
Utah	•	No information	0
Vermont	Ĉi,	Ne information	6.3
Virginia	No infermation	No information	No information
Washington	No infermation		No information
West Virginia	No information	No infermation	No information
Wisconsin	Me information		No information
Wyoming	c	0	0

Potals--23 reported none (v) 9 reported 1 or more 18 no information

five (5) years? Of the fifty states involved, six answered YES, twenty-nine replied NO, and fifteen states indicated that there was no available information.

Table IX represents the tabulation of answers to question number seven (7), How many of these suits have been decided against the physical educator within the past five (5) years? Of the thirty-four cases reported, only four of these cases were judged in favor of the plaintiff. The one case reported by Arizona was still unsettled. Those states in which the plaintiff received the verdict were Minnesota, New Jersey, and Oregon.

eight (8), What was the average financial award to the injured party (refering to question number [7])? Minnesota reported one case in which the physical educator was held liable for payment. In this instance the award was \$150,000. However, in New Jersey, two cases resulted in the physical educator being held liable with the average award being set at \$300,000. The fourth and final case in which a physical educator was held liable is reported by the state of Oregon. In this suit, the award was only \$1,200. The average award of these four cases amounts to the sum of \$187.800.

TABLE IX

HOW MANY OF THESE SUITS HAVE BEEN DECIDED AGAINST THE PHYSICAL EDUCATOR WITHIN THE PAST FIVE (5) YEARS?

Alaska Arizona Arizona Kentucky Minnesota Noctana New Hampshire No information	No information No information	0 Unsett <b>le</b> d
Sona Choky Desota Pana Hampshire No	No information	Unsettled
CHOKY Desots Cana Hamoshire	¢	
Gesota Pana Hampshire No	<b>O</b>	0
ana Hamoshire No	No information	
Hampshire No	No information	0
	ion 0	0
New Jeraes	No information	(V
୍ଦ୍ର	No information	П
Vermont	No information	0

Total 4 Unsettled 1

TABIE X

WHAT WAS THE AVERAGE FINANCIAL AWAND TO THE INJURED PARTY?

State	State Dept of Education	State Athletic Association	Tabulation
Timesolu	\$170.000	No information	\$150,000 (1 case)
New Jersey	\$300 <b>,</b> 000	No information	#300,000 (2 cases)
Cregor.	41,800	No information	\$1,200 (1 cases)

oda, 1974 فالاستخرين † 1874 وكالم 1975. الاجتماع 1976 فالمستق

#### CHAPTER V

## SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

This study was undertaken for the purpose of determining the developing trends in the area of liability insurance coverage and liability suits as they pertain to the physical education teacher.

## Summary

Each of the fifty State Departments of Education and the State Athletic Associations were sailed a questionnaire which they were requested to complete and return to the author. Of the one hundred agencies involved in the study, ninety-six returned their questionnaire. However, at least one questionnaire was returned from each state. Therefore, due to the established recording procedure, each of the fifty states are represented in the final tabulation.

#### Conclusions

The following accordingions seem justified upon the basis of the tabulations compiled from the returned questionnaires:

1. Most physical educators have insufficient liability insurance coverage, if any at all.

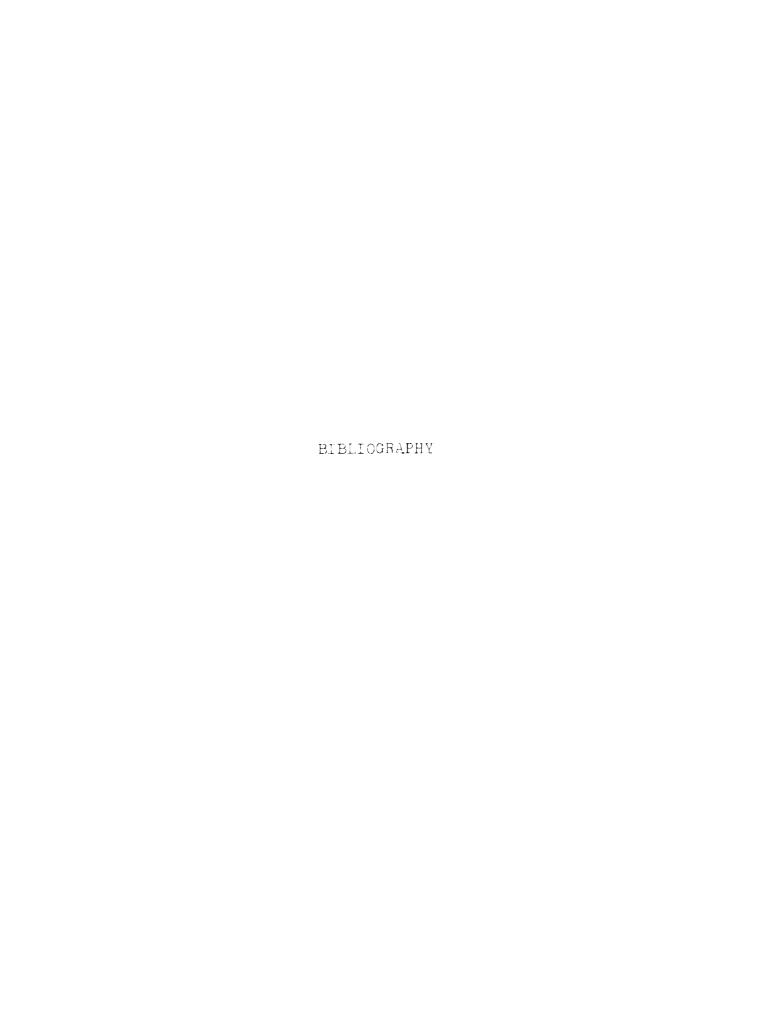
- 2. Most physical educators must purchase their own liability insurance policy.
- 3. Few states have, at present, a "save harmless" clause and very few anticipate the addition of such a clause to their State Educational Laws in the near future.
- 4. Most of the recorded liability suits have been judged in favor of the physical educator.
- 5. The average financial award received by the plaintiff, in the resolded cases, is \$187,800.
- 6. Most states in which previous limbility suits have been initiated, find that the number and frequency of suits is increasing.
- 7. Early states agencies been no recommon as to linebility insurance coverage, limbility suits, verdicts, or amanas.
- 2. The agencies which we keep to come, the the most gart, heep income e.g. indepare securos.

## Recommendations

The following resonantians are made as a result of this study:

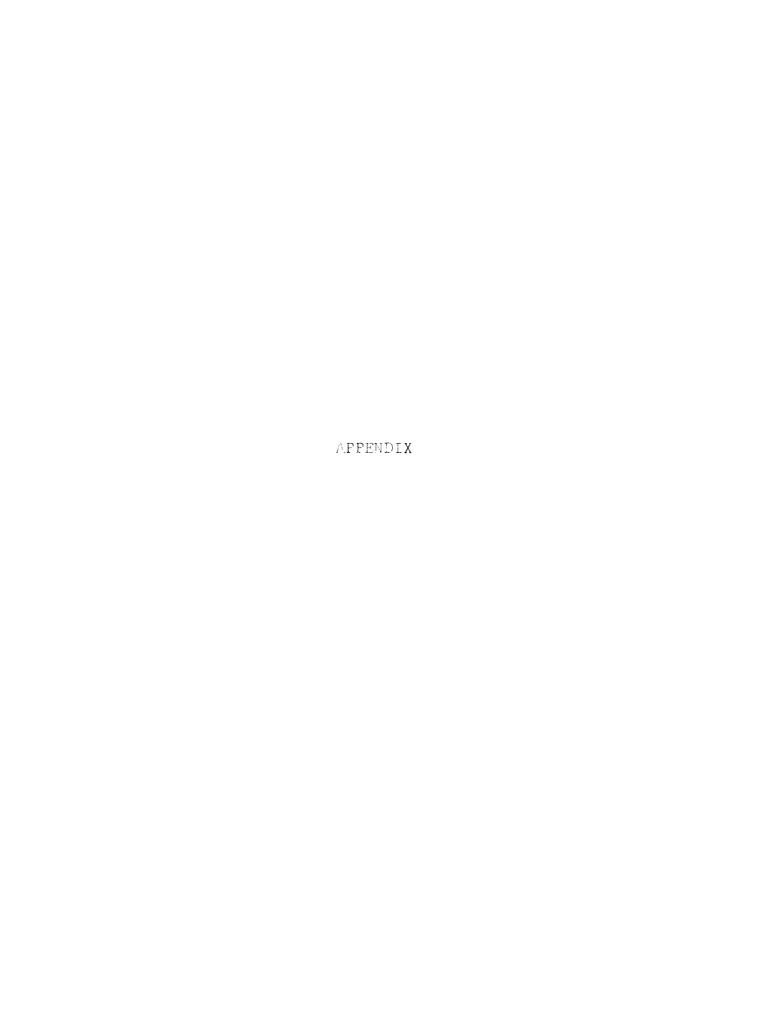
- 1. All physical educators should have a minimum liability insurance coverage of 201,000.
- 2. Physical educators should seek liability insurance to be included as part of their conteast. The

- policy to be paid for by the school or school district.
- 3. Physical educators, and all other teachers, should work towards the inclusion of a "save harmless" clause within their State Educational Laws, if one is not already incorporated within the Laws.
- 4. Physical educators, and all teachers, should demand that the various state agencies keep complete and accurate records pertaining to liability insurance coverage, liability suits, verdicts, and awards.



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- Brown, H. E., "Safety in Elementary and Junior High Schools of New York City," Research Quarterly (May, 1940), pp. 80-85.
- Doscher, N. and N. Walke, "The Status of School Liability for School Physical Education Accidents and Its Relationship to the Health Program," Research Quarterly (March, 1942), pp. 280-294.



## LIABILITY INSURANCE QUESTIONNAIRE

Please answer the following questions with as much accuracy as possible.

3,0000.13,000	as possible to	
<pre>education</pre>	How many of the individuals involved in physical within your state are protected by liability e policies?	
	100%	
	75% or more	-
	50% or more	
	Less than 50%	
	Unknown	
2.	Who purchases the 1:	Lability policy?
	Individual	
	School District	
	State	
	What is the AVERIUS liter parchases?	wron't of movernge which each
	\$100,000 or more	
	\$50,000 or move	
	\$25,000 or more	
	\$10,000 or mode	\$400 Carried C
	Les than \$10,000	
	Does your state have e State Educational :	e a "abve hardless" clause Laws?
	Yes	
	No	

inclusion		, do you anticipate the thin the next ten (10) years?
	Yes	-
	No	The state of the s
physical e		suits, directly pertaining to initiated within your state
	Has there been an a within the pas five	nnual increase in the number (5) years?
	Yes	
	No	
		uits have decided against the past five (5) years?
8. What was the average financial award to the injured party (referring to question 7)?		
Thar	nk you for your coop	eration. Would you kindly

return this questionnaire using the enclosed, stamped,

Peter J. Graham

Lensing, Michigan

207 1/2 S. Eight Avenue

return envelope.

207 1/2 S. Eight Avenue Lansing, Michigan March 4, 1965

#### Dear Sir:

I am requesting your assistance for information which will enable me to complete my research work towards the writing of my Master's Degree Thesis.

I am a graduate student at Michigan State University and my topic concerns liability insurance and the physical education teacher.

I am conducting my study on a nation-wide basis, hoping to discover the trends which are developing in this area. In my final analysis, I hope to be able to set forth guide lines for physical educators to follow in regards to physical education and liability insurance coverage.

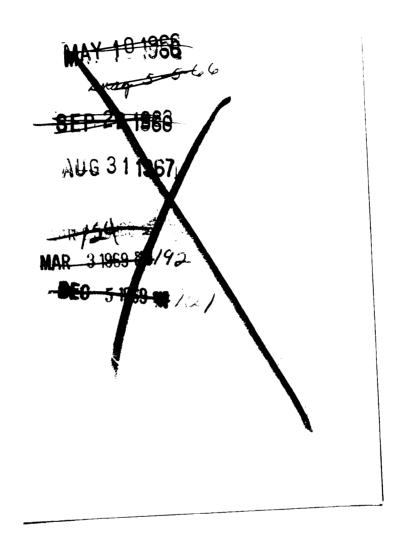
I would appreciate any information which you might render pertaining to the subject. Enclosed is a <u>short</u> questionnaire and a pre-addressed, stamped envelope.

I will be grateful for your cooperation in this matter and look forward to receiving the completed questionnaire as soon as possible, as time is of the essence.

Sincerely,

Peter J. Graham

PJG: cmw



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