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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.

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

By

Peter J. Graham, Jr.

AN ABSTRACT OF A THESIS

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

MAJOR OF ARTS

College of Education

Department of Health, Physical Education, and Recreation

1967

APPROVED:

Gale McKles

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 liability 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 tabulation of the answers which were recorded on the returned questionnaires. The final tabulations were made using a predetermined method.

Conclusions

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

Peter J. Graham, Jr.

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 incomplete, inadequate records.

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F. J. G.

DEDICATION

This thesis is respectfully dedicated
to my Parents

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

TABLES OF CONTENTS

CHAPTER	PAGE
I. INTRODUCTION TO THE PROBLEM.	1
The Problem	1
Statement of the problem	1
Importance of the study.	2
Limitations of the study	2
Definitions of Terms Used.	3
Purpose and Need	4
Purpose of the study	4
Need for the study	4
II. REVIEW OF THE LITERATURE	6
III. METHODOLOGY.	8
IV. ANALYSIS AND PRESENTATION OF DATA.	10
V. SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS. . .	31
Summary.	31
Conclusions.	31
Recommendations.	32
BIBLIOGRAPHY	34
APPENDIX	36

LIST OF TABLES

TABLE	PAGE
I. The Tabulation of Agencies Participating in the Study.	11
II. The Tabulation of Answers to Question Number One, How Many of the Individuals Involved in Physical Education Within Your State are Protected by Liability Insurance Policies?	12
III. The Tabulation of Answers to Question Number Two, Who Purchases the Liability Policy?	15
IV. The Tabulation of Answers to Question Number Three, What is the AVERAGE Amount of Coverage Which Each Policy Holder Purchases?.	17
V. The Tabulation of Answers to Question Number Four A, Does your State Have a "Save Harmless" Clause Within the State Educational Laws?	19
VI. The Tabulation of Answers to Question Number Four B, If the Answer is NO, Do You Anticipate the Inclusion of Such a Clause Within the Next Ten (10) Years?	22

VII.	The Tabulation of Answers to Question Number Five, How Many Liability Suits, Directly Pertaining to Physical Education, Have Been Initiated Within Your State in the Past Five (5) Years?	24
VIII.	The Tabulation of Answers to Question Number Six, Has There Been An Annual Increase in the Number of Suits Within the Past Five (5) Years?	26
IX.	The Tabulation of Answers to Question Number Seven, How Many of These Suits Have Been Decided Against the Physical Educator Within the Past Five (5) Years? . . .	29
X.	The Tabulation of Answers to Question Number Eight, What Was the Average Financial Award to the Injured Party (Referring to Question Seven).	30

CHAPTER I

INTRODUCTION

Each and every day, physical education teachers, due to the nature of their work, are faced with the possibility of accidents happening 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 education teacher may be held 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 suits. 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 liability, the need for liability insurance, and the subsequent measures which must be employed to protect teachers.

Limitations of the Study

1. The number of agencies which may 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 breach of contract) for which civil action will lie.

Liability. 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.

Plaintiff. The injured 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 occurred 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 available 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.

Brown¹ states that the number of accidents at home and at school are about equal. He further reports that boys are twice as susceptible 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 Walke² 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

¹H. E. Brown, "Safety in Elementary and Junior High Schools of New York City," Research Quarterly (May 1940), pp. 80-85.

²N. 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 answers 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

TABLE I

QUESTIONNAIRE RETURNED

Name of State	State Dept. of Education	State Athletic Association	Name of State	State Dept. of Education	State Athletic Association
Alabama	X	X	Montana	X	X
Alaska	X	X	Nebraska	X	X
Arizona	X	X	Nevada	X	X
Arkansas	X	X	New Hampshire	X	X
California	X	X	New Jersey	X	X
Colorado	X	X	New Mexico	X	X
Connecticut	X	X	New York	X	X
Delaware	X	X	North Carolina	X	X
District of Columbia	X	X	North Dakota	X	X
Florida	X	X	Ohio	X	X
Georgia	X	X	Oklahoma	X	X
Hawaii	X	X	Oregon	X	X
Idaho	X	X	Pennsylvania	X	X
Illinois	X	X	Rhode Island	X	X
Indiana	X	X	South Carolina	X	X
Iowa	X	X	South Dakota	X	X
Kansas	X	X	Tennessee	X	X
Kentucky	X	X	Texas	X	X
Louisiana	X	X	Utah	X	X
Maine	X	X	Vermont	X	X
Maryland	X	X	Virginia	X	X
Massachusetts	X	X	Washington	X	X
Michigan	X	X	West Virginia	X	X
Minnesota	X	X	Wisconsin	X	X
Mississippi	X	X	Wyoming	X	X
Missouri	X	X			
Montana	X	X			
Nebraska	X	X			
Nevada	X	X			
New Hampshire	X	X			
New Jersey	X	X			
New Mexico	X	X			
New York	X	X			
North Carolina	X	X			
North Dakota	X	X			
Ohio	X	X			
Oklahoma	X	X			
Oregon	X	X			
Pennsylvania	X	X			
Rhode Island	X	X			
South Carolina	X	X			
South Dakota	X	X			
Tennessee	X	X			
Texas	X	X			
Utah	X	X			
Vermont	X	X			
Virginia	X	X			
Washington	X	X			
West Virginia	X	X			
Wisconsin	X	X			
Wyoming	X	X			
Total				Total	

QUESTIONS: 1. How many returned? 2. How many returned by mail? 3. How many returned by hand? 4. How many returned by other means?

TABLE I

PERCENT OF COLLEGIATE FOOTBALL PLAYERS BY STATE EDUCATION
 SOURCE: NATIONAL COLLEGIATE FOOTBALL ASSOCIATION
 FOOTBALL PLAYERS, 1950-1951
 (Percentages rounded to nearest 10%)

State	State Dept. of Education		State Athletic Association		Tasulation	
	1950-51	1951-52	1950-51	1951-52	1950-51	1951-52
Alabama			x			x
Alaska			x			x
Arizona	x		x	x		
Arkansas		x	x		x	
California			x			x
Colorado			x			x
Connecticut			x			x
Delaware			x			x
Florida			x			x
Georgia			x			x
Hawaii			x			x
Idaho			x	x		
Illinois			x			x
Indiana			x			x
Iowa	x		x	x		
Kansas			x			x
Kentucky			x			x
Louisiana			x			x
Maine	x		x			
Maryland		x		x		
Massachusetts	x		x	x		
Michigan			x			x
Minnesota	x		x		x	
Mississippi	x		x	x		
Missouri			x			x
Montana			x			x
Nebraska			x			x
Nevada	x				x	
New Hampshire			x			x

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.

TABLE IV

WHAT IS THE AVERAGE AMOUNT OF COVERAGE
WHICH EACH POLICY HOLDER PURCHASES?

State	State Dept. of Education					State Athletic Association					Tabulation				
	\$100,000+	\$50,000+	\$25,000+	\$10,000+	Less than \$10,000	\$100,000+	\$50,000+	\$25,000+	\$10,000+	Less than \$10,000	\$100,000+	\$50,000+	\$25,000+	\$10,000+	Less than \$10,000
Alabama		No information				No information	No information	No information	No information	No information		No information	No information		
Alaska		No information				No information	No information	No information	No information	No information		No information	No information		
Arizona	x					No information	No information	No information			x				
Arkansas					x	No information	No information	No information	No information	No information		No information	No information		x
California		No information				No information	No information	No information	No information	No information		No information	No information		
Colorado		No information				No information	No information	No information	No information	No information		No information	No information		
Connecticut		No information				No information	No information	No information	No information	No information		No information	No information		
Delaware		No information				No information	No information	No information	No information	No information		No information	No information		
Florida		No information				No information	No information	No information	No information	No information		No information	No information		
Georgia		No information				No information	No information	No information	No information	No information		No information	No information		
Hawaii		No information				No information	No information	No information	No information	No information		No information	No information		
Idaho				x		No information	No information	x	No information	No information		No information	No information	x	
Illinois		No information				No information	No information	No information	No information	No information		No information	No information		
Indiana		No information				No information	No information	No information	No information	No information		No information	No information		
Iowa				x		No information	No information	No information	No information	No information		No information	No information		x
Kansas		No information				No information	No information	No information	No information	No information		No information	No information		
Kentucky		No information				No information	No information	x	No information	No information		No information	No information		
Louisiana		No information				No information	No information	No information	No information	No information		No information	No information		
Maine			x			No information	No information	x	No information	No information		No information	No information		
Maryland				x		No information	No information	No information	No information	No information		No information	No information		x
Massachusetts		No information				No information	No information	No information	No information	No information		No information	No information		
Michigan		No information				No information	No information	No information	No information	No information		No information	No information		
Minnesota				x		No information	No information	No information	No information	No information		No information	No information	x	
Mississippi					x	No information	No information	No information	No information	No information		No information	No information		
Missouri		No information				No information	No information	No information	No information	No information		No information	No information		
Montana		No information				No information	No information	No information	No information	No information		No information	No information		

Nebraska		No information	No information	No information	
Nevada	x	No information	No information	x	
New Hampshire		No information	No information		
New Jersey	x	No information	No information	x	
New Mexico	x	No information	No information	x	
New York		No information	No information		
North Carolina		No information	No information		
North Dakota		No information	No information		
Ohio		No information	No information		
Oklahoma		No information	No information		
Oregon		No information	No information		
Pennsylvania		No information	No information		
Rhode Island		No information	No information		
South Carolina		No information	No information		
South Dakota		No information	No information		
Tennessee		No information	No information		
Texas	x	No information	No information		
Utah	x	No information	No information		
Vermont	x	No information	No information		
Virginia		No information	No information		
Washington		No information	No information		
West Virginia	x	No information	No information		
Wisconsin		No information	No information		
Wyoming		No information	No information		

Total 3 1 6 8 3
No information 29

TABLE VII

HOW MANY LEARNERS' VOTES, DIRECTLY PERTAINING TO PHYSICAL EDUCATION HAVE BEEN RECEIVED WITHIN FOUR STATE IN THE PAST FIVE (5) YEARS?

State	State Dept. of Education	State Athletic Association	Tabulation
Alabama	No information	0	0
Alaska	2	2	2
Arizona	1	No information	1
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
Iowa	No information	No information	No information
Kansas	0	0	0
Kentucky		1	1
Louisiana	No information	No information	No information
Maine	0	0	0
Maryland	No information	0	0
Massachusetts	No information	No information	No information
Michigan	No information	No information	No information
Minnesota	3	No information	3
Mississippi	0	0	0
Missouri	No information	No information	No information
Montana	1	No information	1
Nebraska	No information	0	0
Nevada	0	No information	0
New Hampshire	0	0	0
New Jersey		No information	0

New Mexico	0	No information	0	No information	0
New York					
North Carolina	0	No information	0	No information	0
North Dakota	0	No information	0	No information	0
Ohio	0	No information	0	No information	0
Oklahoma	0	No information	0	No information	0
Oregon	4	No information	1	No information	4
Pennsylvania					
Rhode Island	0	No information	0	No information	0
South Carolina	0	No information	0	No information	0
South Dakota					
Tennessee	0	No information	0	No information	0
Texas					
Utah	0	No information	0	No information	0
Vermont	2	No information	2	No information	2
Virginia					
Washington	0	No information	0	No information	0
West Virginia	0	No information	0	No information	0
Wisconsin					
Wyoming	0	No information	0	No information	0

Totals--23 reported none (0)
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.

Table X represents the replies to question number eight (8), What was the average financial award to the injured party (referring 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?

State	State Dept of Education	State Athletic Association	Tabulation
Alaska	0	No information	0
Arizona	Unsettled	No information	Unsettled
Kentucky		0	0
Minnesota	1	No information	1
Montana	0	No information	0
New Hampshire	No information	0	0
New Jersey	2	No information	2
Oregon	1	No information	1
Vermont	0	No information	0
Total			4
Unsettled			1

TABLE X

WHAT WAS THE AVERAGE FINANCIAL AWARD
TO THE INJURED PARTY?

State	State Dept of Education	State Athletic Association	Tabulation
Minnesota	\$150,000	No information	\$150,000 (1 case)
New Jersey	\$300,000	No information	\$300,000 (2 cases)
Oregon	\$1,200	No information	\$1,200 (1 cases)
Total			\$751,200
Average per award			\$187,800

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 mailed 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 conclusions 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 recorded cases, is \$137,300.
6. Most states in which previous liability suits have been initiated, find that the number and frequency of suits is increasing.
7. Many states agencies keep no records as to liability insurance coverage, liability suits, verdicts, or awards.
8. The agencies which do keep records, for the most part, keep incomplete, inadequate records.

Recommendations

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

1. All physical educators should have a minimum liability insurance coverage of \$200,000.
2. Physical educators should seek liability insurance to be included as part of their contract. 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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BIBLIOGRAPHY

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.

APPENDIX

LIABILITY INSURANCE QUESTIONNAIRE

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

1. How many of the individuals involved in physical education within your state are protected by liability insurance policies?

100% _____

75% or more _____

50% or more _____

Less than 50% _____

Unknown _____

2. Who purchases the liability policy?

Individual _____

School District _____

State _____

3. What is the AVERAGE amount of coverage which each policy holder purchases?

\$100,000 or more _____

\$50,000 or more _____

\$25,000 or more _____

\$10,000 or more _____

Less than \$10,000 _____

4. Does your state have a "save harmless" clause within the State Educational Laws?

Yes _____

No _____

If the answer is NO, do you anticipate the inclusion of such a clause within the next ten (10) years?

Yes

No

5. How many liability suits, directly pertaining to physical education, have been initiated within your state in the past five (5) years?

6. Has there been an annual increase in the number of suits within the past five (5) years?

Yes

No

7. How many of these suits have decided against the physical educator within the past five (5) years?

8. What was the average financial award to the injured party (referring to question 7)?

Thank you for your cooperation. Would you kindly return this questionnaire using the enclosed, stamped, return envelope.

Peter J. Graham
207 1/2 S. Eight Avenue
Lansing, Michigan

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 short 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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