

LEGAL and GOVERNANCE CORNER

Questions

Are parents subject to liability for the actions of their students?

Are volunteers covered by our liability insurance?

Response

Under the *School Act*, parents are deemed to be jointly and severally liable for damage caused by a student. This means that where a student is found negligent for damage that a parent may be held responsible for the actions of their student.

For instance, in *Nanaimo-Ladysmith School District No. 68 v. Dean*, 2015 BCSC 11, a 14 year old student caused \$48,000 dollars damage to school by tampering with the sprinkler system as a prank. The District's insurer made a claim against the student and his parents for the damages pursuant to section 10 of the *School Act*.

The court held that the student, based on his age, should have known the damage that he would cause and therefore the action was intentional. It also found he owed a duty of care to the District in respect of its property. Applying section 10 of the *School Act* the court held that the parents were jointly liable for the damage caused.

The *School Act*, however, also contains a provision that prevents a damage claim against a volunteer except where the volunteer has been found to be dishonest, malicious, acted with gross negligence or alternatively faces a claim of libel or slander.

This means that the volunteer activities of a PAC for a school purpose (e.g. a dance or field trip) would fall under the limitation of liability provisions of the *School Act* except where one of the exceptions arise (e.g. behaving in a grossly negligent manner). Essentially, where a volunteer performs the duties of the volunteer in a reasonable manner and in good faith they are not subject to a claim.

If the volunteer's child was to cause intentional damage to Board property during the same event (a dance or field trip) and was found negligent a parent could still be held liable even if they were volunteering. This liability, however, stems from the actions of the child and not the parent as a volunteer.

I have not addressed what would constitute "gross negligence", "malicious" or "dishonest" conduct as such an analysis would require further research beyond your current request. Moreover, any situation would be fact specific.

It is also important to note that our employees while volunteering as coaches and club sponsors would be covered by insurance do liability and by Worksafe for their own injury as long as they are in a supervisory capacity. This fact is important as during previous job actions rumours were spread that

Worksafe coverage would not apply with the intention of discouraging staff from participating in extracurricular activities.

Conclusion

The *School Act* deems that parents are jointly and severally liable for the negligent actions of children with respect to District property. Conversely, the *Act* also specifically protects volunteers against claims of damages when volunteering for school events.