

## **IX. Employee Liability**

Educational employees often express concern whether they can be held personally liable for injuries occurring to students or other employees in the course of their work. There are a number of ways in which employees are protected from such liability.

A video by IEA Deputy General Counsel Paul Klenck explaining employee liability protections and the NEA EEL policy is available for members only on the IEA Learning Portal: [Liability and Criminal Defense Protection](#)

### **A. Indemnification**

School districts and community colleges are required to indemnify (hold harmless) teachers and other employees against liability arising out of civil rights claims, death and bodily injury, and property damage claims sought for negligent or wrongful acts occurring during the scope of employment or under the direction of the board. The protection includes the cost of defending such actions as well as any damages which might actually be awarded. This protection includes extracurricular activities as well as events occurring during normal school hours.

### **B. Educators' Liability Insurance**

In addition to this statutory protection, IEA-NEA members are covered by Educators' Employment Liability (EEL) insurance, which provides additional coverage of one million dollars and monitoring of the legal defense provided by the school. Although a few activities are excluded, all IEA-NEA members and fee payers have professional and personal liability protection underwritten and administered by Nautilus Insurance Company.

This same EEL protection extends to members who must defend themselves against criminal charges by reimbursing attorney fees and legal costs up to \$35,000 when the member is found innocent of such charges. Some additional coverage is provided for posting bail or for damage to personal property when assaulted at school. This policy protects IEA-NEA members only for legal actions that arise out of the member's educational employment and is subject to some restrictions and exclusions.

In addition, health-related fields such as nursing may purchase additional liability insurance at a low cost through NEA.

A copy of the policy and more information on EEL protection is available on the members' only section of the IEA website at Benefits/Educators Employment Liability Insurance.

## **C. Standard of Proof**

A student who sues a school district or school employee for injuries incurred in the course of school activities must prove more than mere negligence. The student must prove that the school employee was guilty of willful and wanton misconduct. This means a course of action that shows an actual or deliberate intention to cause harm or an utter indifference to or disregard for the safety of others. Therefore, mere carelessness is not sufficient to recover damages.

This high standard of proof makes it difficult to recover damages except in the most egregious circumstances. As stated earlier, the school board will be required to pay any damages assessed unless they include punitive damages. Even here, your IEA-NEA Educators' Employment Liability insurance provides some protection for such damages.