

# CASEBOOK DIARY

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Case: A counsellor receives a call from a teacher about an incident that occurred while driving a student in his car. The school principal asked a teacher to drive two students to a track and field event on a school day. The buses were full and since the teacher was going to the event anyway this would help the school and the students. The teacher was to return the students to the school at the end of the day. The student was injured on the return trip after he got out of the teacher's car. The student broke a bone as he walked around the car, slipped and fell.

The parents and the boy are now suing the teacher and the school board. The school board insurer says the teacher's car insurance should pay first, while the teacher's insurer says that the school board is responsible because the injury occurred outside of the car.

**Advice:** Public transportation or hired buses are the best ways to transport students. OECTA recommends that teachers do not use their own personal vehicles for any reason. In the case

**THE CATHOLIC TEACHERS' ASSOCIATION provides a variety of counselling and related services to help teachers deal with on-the-job problems. As a regular feature we're presenting some cases from our counsellors' files. Each is confidential so no names, schools or units are used.**

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of an emergency, teachers should call 911 for ambulance, fire department or police assistance, as appropriate.

Teachers who drive students in their vehicles place themselves at risk if a student or parent sues or complains. This is not a chance that teachers should take. The responsibility for transporting students should remain with the school board and parents.

As well as personal financial liability for costs, teachers risk professional liability if a student makes an accusation of professional impropriety during the trip. Without a witness, the student's statement must be weighed against the teacher's statement. This could lead to investigation by the school board, Children's Aid Society, police and Ontario College of Teachers.

In the past teachers used their own vehicles to transport students to various events, but as this case

demonstrates, even their best intentions can result in legal action.

**Discussion:** Because school board insurance policies usually contain ceilings on payouts, additional amounts are recovered from the teacher's insurance. In this case neither the teacher's nor the school board's insurer wants to cover the incident. All costs are being directed to the teacher.

Following an accident and claim, teachers can face cancellation of their policies or steep increases in premiums, particularly if they have not previously notified their insurer that their vehicle is used to transport students. Even if a teacher is not at fault, anyone involved may launch a civil suit and seek damages that exceed the liability coverage in a teacher's personal auto insurance coverage.

Teachers who fail to follow OECTA's direction not to transport students in their own cars, should:

(a) Ensure their own personal insurance coverage is sufficient to cover property damage or personal injury to a student passenger in case of an accident. This may increase premium costs.

(b) Get written confirmation that they are covered by the board policy covering transportation of students.

