

Vocational Agriculture Teachers Employment Expectations Have You Checked Your Liability?

Teaching Ideas from Poly San Luis Obispo

Larry Rathbun, Ag. Ed.

California Poly State University

Author's Note: Teachers of Vocational Agriculture assume many forms of liability. This article describes some of the more common settings in which liability may be a question. It is not the purpose of this article to provide legal opinion nor to rule what is right or what is wrong. **Rather, it is the purpose of this article to cause the local agriculture teacher to question the status of his personal liability.**

Teachers of vocational agriculture conduct instruction in a variety of settings: classroom, laboratory, shop, school farm, work experience station, home, FFA activity, etc. **The usual teacher's contract provides for instruction in the normal school setting during the regular school days and liability protection for the individual teacher is frequently, but not always, a part of the total district insurance plan.** When the Vo Ag teacher conducts instruction and provides student supervision beyond the perimeters of the regular school days and the normal school setting, liability and responsibility becomes even more questionable.

A fundamental point to determine the extent of one's liability and the possible sources of protection rest in the status under which the instruction/supervision has been provided. In what capacity and under what conditions is the instruction/supervision being provided? If a teacher standing in the classroom, in front of 25 students, observes a student to fall from his chair and break his arm, there is probably little reason to question that he is functioning as a public school

employee and teacher of that class, therefore, assuming no negligence or malice is involved, would be eligible for protection under the district insurance policy, if one is available. If a teacher was in the shop and observed a student to accidentally cut off the tip of his finger, there could be little doubt that the teacher was once again acting as a public school employee. If a teacher working with a group of students in the corrals, on the school farm, during the school day, observes a student to be accidentally kicked in the back by one of the steers, there is probably little reason to question that he is acting as a public school employee.

But what of the teacher who is supervising five students at the school farm or in the shop in or in the classroom at 4:30 in the afternoon? What about the FFA advisor who is supervising a livestock team judging practice at a local feedlot at 6:00 o' clock in the evening? Is he acting in his official capacity as an employee of the local school district or is he serving as an adult volunteer at this particular moment? Has he specific permission for this trip/activity or blanket annual permission for all similar trips/activities? Is this activity a specific provision of his employment contract or is he doing it as an assumed extra duty beyond the regular school day?

in all of the above examples liability can generally be attributed and substantiated via one of the following conditions:

1. **Negligence** - Was the student's injury a result of improper instruction? Had the teacher followed all approved safety practices and taken all possible means to minimize the potential for student injury?

If the instructor can demonstrate that the student knew the correct safety practices and had demonstrated those practices earlier, but at the time of injury was not practicing what the student knew to be safe operating practice, then

probably there is no negligence on the part of the instructor, providing that immediate and direct supervision as defined by the local county council has been provided. Immediate and direct supervision has been defined as narrowly as "within direct eyesight" and as widely as "within the proximity not to exceed 35 miles." Do you know how your district and your county define immediate and direct supervision? Are you liable if a student is operating a machine in the shop, while you are in the adjoining classroom, assisting another student with his plans for his shop project? Can a student operate a machine in your shop while you are down at the school office? May a student drive a tractor on your school farm while you are back on the main Campus, seven miles away?

Obviously there can be no uniform answer to all of these questions but it behooves you as the local teacher of vocational agriculture to discuss these questions within your department and with your school principal and perhaps the insurance carrier and develop written policies as appropriate.

2. Malice with forethought fortunately this idea of liability is rarely employed in the public school setting because few teachers plan malicious behavior on their part. It would seem rather clear that teacher liability would be very heavy if he planned, in advance, to inflict a willful injury to one of his students. In effect, we have premeditated bodily harm inflicted upon a student because a teacher acted unprofessionally. All liability resulting from this set can be avoided by simple good judgment and professional conduct.

How would a prudent, rational person have acted under a similar condition?

Obviously the determination of liability under this set must be a decision of a judge and/or a jury. If it might be shown that a prudent rational person would have acted differently than the local Vo Ag teacher had acted under similar setting then probably the liability rests with the teacher. An example of this form might be the physical restraint of a violent student. Assuming a student to attack

the teacher, is it better to ask for help or turn your back and walk away from the setting at that particular moment until the situation cooled and rational thinking can, be restored on both sides of the disagreement, or is it better to physically strike the student repeatedly until the student is unable to stand?

During the administration of a written exam in the classroom the teacher observes two students cheating: Is it better that particular moment to call both students' names a loud and shout, "Bill, Tom, stop cheating. Bring your papers up here," or is it better to quietly walk by Bill and Tom and whisper, "I wish to see you class!" Which practice is most suspect for a charge of slander and defamation of character? Which practice presents the greater liability for a local Vo Ag teacher?

The supervision of students beyond the regular school day would seem to be a topic meriting considerable discussion.

Teachers' responsibilities for supervision/instruction is generally defined in the employment contract. Teachers of vocational agriculture, due to the diversity of activities and conditions in which agricultural education is conducted, frequently are involved beyond the general statements of the employment contract. Has the local school board adopted a policy requesting the agriculture teacher to provide instruction/supervision beyond the regular school days and away from the normal school setting? Is the use of school facilities or equipment, i.e., a pick-up, specifically provided for or has the teacher assumed that since the pick-up has been assigned to the agriculture department that it is free on 24 hour call for any use as determined by the agriculture teacher? Few districts would give blanket permission for the teacher to take a 48 passenger school bus down the highway together with 48 students without specific written authorization. Why do we assume that the pick-up can be taken 100 miles down the highway without similar authorization either specific for that trip or blanket approval for the year?

While one could become overly engrossed in worry and concern for liability protection, it would seem reasonable to invest an hour or more of your time, to more clearly understand the liability implications of your activities, during both the school day and particularly in activities beyond the regular school day.