



Schools Protection Program (SPP)

Administrators' Handbook/Guide to SPP Coverage

2020/2021 School Year

Website address – <https://www.bcsp.org/>

Foreword

The Schools Protection Program (SPP) provides coverage to all boards of education and francophone education authorities against liability and loss; it also assists members in their identification and management of risks that may lead to loss or damage to property or harm to individuals.

This handbook should not be used as more than a general introduction to coverage available under SPP. It is not legal advice and does not modify actual coverage agreements. Not all activities or losses are covered. For specific details of coverage agreements or answers to specific questions please refer to your Secretary-Treasurer or an SPP Consultant.

If you have suggestions or would like to comment on the contents of this handbook, please call or write to:

Schools Protection Program
Risk Management
P.O. Box 3586
Victoria, BC V8W 3W6

Telephone: (250) 356-1794

Facsimile: (250) 356-6222

E-Mail: protection.program@bc spp.org

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Introduction: Why is protection needed?

School Districts, like all organizations and individuals, are exposed to legal liabilities and loss of or damage to property. Litigation against a School District, trustees, its staff or volunteers can result from many different types of situations, such as sports injuries, school yard accidents, bullying, nuisance, and even the alleged failure to meet a child's educational needs.

Just because someone is injured during a school activity does not mean the School District is responsible or legally liable.

In addition, all property is at risk at all times. Buildings, furnishings, fixtures and equipment can be damaged by fire, lightning, wind, theft, water, vandalism earthquake, or other perils.

SPP assists school districts, their trustees, staff and volunteers in responding to legal actions filed against them which are within the scope of coverage, and assists in the replacement or repair of damaged property.

1. When is Coverage available and who is covered by the Schools Protection Program Liability Coverage?

The Schools Protection Program liability coverage is primarily designed to protect the school district, and its employees while performing their duties, against liability claims.

To the extent that liability arises from their authorized duties on behalf of the school district, coverage under SPP may also extend to include the activities of:

- Trustees;
- Volunteer workers, student teachers;
- Students under certain circumstances;
- Students participating in Work Experience programs;
- Parent Advisory Councils, District Parent Advisory Councils, members and employees;
- Community School Societies, their directors, employees and volunteers.

a) What activities are covered?

All school district authorized activities are covered. Authorizations for different activities may be given by teachers, school administrators or board administrators, depending on board policy. Individuals who are responsible for providing authorization should be familiar with, and follow board policy. For activities which are not part of the regular educational program, teachers should ensure they have the authorization of the principal or district administration.

School personnel are responsible for carefully considering safety issues before planning any activity. Even if a teacher has been taking students on the same trip for many years without incident, it does not mean the trip is well planned and appropriately managed to ensure it is as safe as possible. For example, a teacher planning a canoeing trip may have 20 years of canoeing experience but may never have received formal training in water safety and may have no real ability to assess equipment requirements or emergency communications systems. We suggest that teachers who sponsor such activities ensure their knowledge is current and seek the assistance of experts if in doubt.

Questions about the appropriateness of any particular activity should be referred to the School District Secretary-Treasurer or Risk Management designate.

b) When is coverage not provided?

The liability coverage will not respond to every type of claim. These exclusions are the most common:

- job-related injuries that are covered by WorkSafeBC;
- criminal or illegal acts;
- errors and omissions arising out of professional services contracts;
- use or operation of owned or licensed automobiles.

c) Are the actions of volunteers covered under the liability coverage?

There are three commonly raised questions concerning volunteers:

1) Are the actions of volunteers performing volunteer duties on behalf of the school district covered by SPP?

Yes. Volunteers' actions are covered while participating in a school board or school authorized and supervised activity.

However, not all situations that occur during school activities will be considered part of the volunteers' approved duties. For example, if during a school band tour, a volunteer or staff member decides to go to the store to buy some personal items and as a result becomes involved in an incident causing injury to a third party, coverage will not be available because the activity was of a strictly personal nature and unrelated to the volunteer's obligations.

Volunteers should be aware that they may have some personal legal liability exposures. These exposures may be insured under the liability section of homeowners or tenants insurance policies, or under an automobile policy. Volunteers should be advised to check with their own insurance agents.

2) Are volunteer coaches, including volunteer coaches who receive an honorarium, extended coverage?

Yes, however coverage is limited to that time during which they are participating in school district activities.

3) Are volunteers provided any medical or disability benefits if injured while volunteering?

There is no medical or disability coverage for volunteers, unless it was specifically purchased by the school district. However, if they are injured by the actions of other people, they still have the right to sue. If the injury is automobile-related ICBC may provide coverage and should be advised.

It is most important for volunteers to be advised that they are required to report all incidents to the board office or by following the procedure set in your district. This is necessary both for purposes of guidance on required procedures in the event of an accident, and for the Incident Reporting process. Please refer to Section 5 for details.

d) Are the actions of students covered under the liability coverage?

There are four issues commonly raised concerning students:

1) Are student actions against other students covered by SPP?

No. Students are not extended coverage by SPP, unless they are performing assigned duties at the request of school staff, e.g., crossing guards, classroom monitors, or acting at the specific direction of school staff.

2) Are students covered under SPP if a claim is made against them while working in a Work Experience placement at a standard work site?

Generally, yes. SPP covers the acts of students in the absence of a contrary agreement between the Work Experience employer and the school district.

3) Are students provided any coverage if they are injured while participating in a Work Experience placement?

Not by SPP. Please refer to the Ministry of Education's Work Experience Program Guide (WEX) for more information on student injury coverage while on work experience placements.

4) Are students provided any coverage if injured while at school?

SPP does not provide accident coverage to an injured student.

There may be some benefits afforded to a student, through a student accident insurance policy if made available from your district. Check with your school district on this issue.

e) Are the actions of user groups covered under the Liability coverage?

User groups are not extended coverage by SPP.

School districts should have formal policies in place regarding the use of school facilities by outside groups. User groups should be advised that they do not have protection under SPP for their use of school facilities. They are legally liable for their own actions, including bodily injury to persons and any damage to school property they or their participants may cause.

All user groups should have a written agreement with the school district regarding the use of the facilities. This agreement should have an indemnity in favour of the school district and in most cases a requirement that the user group carry their own general liability insurance. Refer to the SPP website for sample agreements, guidelines and checklists.

As outlined in the User Group Agreement, all incidents resulting in either injury or property damage, arising out of the user group's activities must be reported to the school district.

f) Are Parent Advisory Councils extended liability coverage?

Yes. SPP liability coverage extends to cover Parent Advisory Councils (PAC's), members and employees with respect to authorized activities in connection with the school district. This coverage does not apply to claims brought by a member against any other member.

School districts should ensure that PAC activities are properly authorized by the school district in accordance with board policy. Parent Advisory Councils are responsible to insure their own property and securities.

g) Are parent-sponsored events covered?

No. Parent-sponsored events are not covered. SPP only covers events that are sponsored by either the school district or by the Parent Advisory Council, if authorized by the school district. Parents are not covered as "parents". They are covered only if they are acting as "school district volunteers" or "PAC members" while participating in school district events.

An example of a parent-sponsored event that is not covered is a "Grad" event that is not sponsored by the school district or authorized by the school district as a PAC activity.

2. Field Trips

a) What should the considerations be prior to approving a Field Trip?

- 1) Refer to your school district's Field Trip Policy for your required approval process;
- 2) Risk should always be assessed prior to approval and where the activity involves moderate or high-risk exposures, one should ensure that the controls are in place to manage or eliminate the risk. If you are unsure as to whether or not the proposed activity is moderate or high risk, contact your Secretary-Treasurer, board office or SPP;
- 3) Depending on the level of risk and whether the activity is a curricular or extra-curricular activity, a permission form or detailed informed consent may be required. Check with your Secretary-Treasurer;
- 4) Extended Field Trips may have special requirements, such as the requirement to purchase out-of-province medical coverage.

b) Screen your volunteers

See the "Volunteers" article on the website –<https://www.bcspp.org/>

c) **Transportation**

Any vehicle with a seating capacity of more than ten persons including the driver is defined by the *Motor Vehicle Act* as a bus. A “bus” used to transport students is required to have a valid school bus permit.

d) **Student Volunteer Drivers**

Refer to 3 (c) following.

3. **Automobile Use**

a) **What does an employee or a volunteer need to know about driving their own or a borrowed vehicle for school activities?**

SPP **does not** provide primary automobile liability coverage for motor vehicles either owned and licensed by the district or used in the business of the district. The owner of the vehicle is required to carry a minimum limit of \$1,000,000 primary automobile liability coverage on vehicles, with the exception of buses (i.e., a motor vehicle designed to carry more than ten (10) persons), which requires a minimum \$10,000,000 limit.

When an employee or authorized volunteer driver has an accident while operating an owned or borrowed licensed vehicle for an approved school activity, SPP provides automobile liability coverage in excess of the owner’s primary automobile liability limit. **The vehicle owner’s automobile liability is always the primary coverage to the full extent of the limit of coverage carried.** For an additional layer of protection, SPP has in place with ICBC a Special Excess Third Party Liability Policy that bridges the gap that may exist between the owner’s primary automobile liability limit and \$1,000,000.

As of May 1, 2021, ICBC will change to a no-fault liability model and introduce Enhanced Care. If an individual is injured in a vehicle accident while on a school approved activity, to the extent they are not able to work, ICBC’s Enhanced Care will cover their daily costs and bills by paying 90% of their net income up to \$100,00 in gross income. If the individual earns above \$100,000 and does not have any other income replacement coverage, they can buy additional optional coverage from ICBC to top up the amount of wage loss provided by ICBC’s Enhanced Care benefit. However, this ICBC coverage will be secondary to any disability insurance from another insurance provider, i.e. WorkSafeBC.

With the above change, ICBC will also phase out liability coverage under its basic insurance for non-standard vehicles¹ (i.e. golf carts, 'gators', etc.) for off-highway² usage on the expiry of these insurance policies. ICBC will offer an Optional Off-Highway Third Party Liability product for non-standard vehicles. As employees and volunteers are afforded SPP Excess Automobility Liability coverage when using their own vehicles for school approved activities, it is recommend that that employees/volunteers be encouraged to purchase "off-highway" liability coverage as the employee/volunteer will not be covered for this exposure when using a non-standard vehicle for personal use "off-highway".

Note: The minimum limits for primary automobile liability are SPP requirements. Districts should not be recommending that employees or volunteers only carry \$1,000,000 automobile liability on their vehicles as there may be many circumstances where an employee or volunteer is using their vehicle for personal use and they would not be afforded excess automobile liability coverage from SPP. Employees and Volunteers should place automobile liability limits on their vehicles in line with their own risk tolerance.

There are circumstances, which will disqualify the driver and/or vehicle owner under SPP:

- 1) Where the vehicle is used for a purpose other than what it is insured for;
- 2) When the vehicle is operated in violation of any motor vehicle regulation or section of the criminal code.

Personal belongings contained within a vehicle are not insured by ICBC or SPP. The driver should look to their homeowners/tenants insurance for this coverage.

More details and further recommendations may be found in the Automobile Coverage and Rental Vehicle Insurance Coverage articles as available on the SPP website.

b) What happens if there is physical damage to an employee's or volunteer's owned or borrowed vehicle?

SPP does not provide any insurance for physical damage to employees' or volunteers' owned vehicles. It is the responsibility of the vehicle owner to insure physical damage directly with an insurer.

¹ BC Legislation Bill 11 defines a non-standard vehicle as a motor vehicle that, as manufactured, does not conform to Canadian standards for motor vehicles for on-highway use, but could be licensed for limited on-highway use in BC. Some examples include forklifts, farm tractors, logging machinery, golf carts, and off-road vehicles.

² Per the BC *Motor Vehicle Act*: Highway includes (a) every highway within the meaning of the Transportation Act, (b) every road, street, lane or right of way designed or intended for or used by the general public for the passage of vehicles, and (c) every private place or passageway to which the public, for the purpose of the parking or servicing of vehicles, has access or is invited; but does not include an industrial road.

c) Should students be permitted to act as volunteer drivers?

As students have limited driving experience, SPP does not recommend the use of student volunteers. However, for some types of activities, or in some districts, students may be required or permitted to make their own arrangements for transportation. In this case, it may be inevitable that students may choose to ride with one another. This is not a preferred practise for transporting students. It should be made clear to parents and students in a consent form that transportation is the responsibility of the parent/guardian to arrange. Refer to the Secretary-Treasurer or Risk Management designate regarding the school district's policies on student drivers.

4. What Property is covered by the Schools Protection Program Property Coverage?

All property, which is owned by the school district, or leased, rented or borrowed property required for the provision of education services and programs, is covered. There are some exclusions, such as artwork and property transported outside Canada or the United States of America, so check with your Secretary-Treasurer/Risk Management designate or SPP.

a) Is employees' personal property covered under SPP?

Employees' personal property (excluding vehicles), used for authorized instructional or employment purposes, is covered up to a maximum of \$3,000, but only in excess of their personal insurance coverage. This means that employees who have something stolen or damaged can only place a claim through SPP if:

- 1) they can show that the property was being used for instructional or employment purposes;
- 2) they have coverage and have first claimed upon, and exhausted, their own personal insurance.

Excluded from this coverage is money, valuables, or any other personal property except such items that are specifically used for instructional or employment purposes. For example, personal items, such as purses, wallets, or clothing are not within the scope of this coverage.

Because all property claims are subject to a \$10,000 deductible per incident, employees should review the provisions of their personal home/tenants insurance. *It is likely that the employee is required to notify their insurer if their property is being used away from their residence and for employment purposes.* The SPP deductible, in combination with the maximum limit, can severely reduce any claim an employee might make. For example, an employee's computer is stolen from the staff room; here is how the claim would proceed:

- 1) School confirms that the computer was being used for instructional/employment purposes;
- 2) The employee checks to determine if personal insurance will cover the loss;
- 3) If the personal insurance does not respond or is not in effect, the employee makes a claim under SPP (Incident Report);
- 4) The employee provides proof to establish amount of the loss at \$4,000;
- 5) Maximum coverage is \$3,000 less the deductible of \$10,000, which means there is no claim.

If the claim involved the property of other employees, and perhaps also school equipment at the same time, one single deductible would apply over the total loss, and not per employee. This would allow the school district to consider apportioning the deductible over all parties whose property was involved, but would not affect the total maximum coverage per employee of \$3,000.

b) Is students' personal property covered under SPP?

No, a students' personal property is not covered under SPP.

c) Is leased, rented or borrowed property covered?

Effective July 1, 2010, leased, rented or borrowed property required for the provision of education services and programs, except artwork, is covered subject to a deductible and standard exclusions. Please contact your Secretary-Treasurer or Risk Management designate prior to taking possession of artwork, to arrange coverage under the BC Optional Property Program.

5. Reporting of Incidents/Claims

Prompt notice must be given to SPP of any event/incident likely to give rise to a claim and every incident of the types described below. Serious incidents should be reported immediately to SPP by telephone (250-356-1794) or fax (250-356-0661).

a) Reporting of Accidents/Incidents and Property Loss/Damage Claims

Report every incident of the types described below, whether it took place during school hours or not. If in doubt, call SPP for directions.

- 1) An injury is suffered by a student, parent, volunteer, or visitor while on school property or during a school activity;

- 2) Medical/first aid attention is required by a person at school or during a school activity;
- 3) Loss or damage to property of others occurs with a value in excess of \$2,000; or where the owner has indicated they will make a claim;
- 4) There is any indication that a claim may be made. For example, a demand for compensation is received, there is an indication that a person has retained a lawyer, or a legal action is threatened;
- 5) Reports are also required for incidents that occur during PAC activities and during a user group's rental of district facilities. User group contracts should require that incidents that occur during the group's activities be reported to the district;
- 6) There is a motor vehicle accident resulting in physical damage (i.e., collision and comprehensive) to a district owned or licensed vehicle. Please refer to the Automobile section of the SPP website for more information;
- 7) An allegation of discrimination is made or a claim is threatened for emotional distress, shock, or mental suffering;
- 8) Incidents resulting in damage to or loss of school property with a value in excess of \$10,000 or where there is uncertainty around remediation costs;
- 9) Crime, theft, or burglary losses;
- 10) Advise SPP immediately if legal documents are served (i.e. a Notice of Civil Claim) or if any correspondence is received from the Human Rights Tribunal (i.e. a Human Rights Complaint).

STEPS TO TAKE WHEN AN INCIDENT OCCURS

When an incident happens, the following steps should be taken promptly:

All Incidents:

- Complete an Online Incident Report Form (see 5 (b) below). **In the case of a serious incident (involving either injury to a person or property damage), do not fill in an Online Incident Report form. Instead, immediately notify the School District office (Secretary-Treasurer or Risk Management Designate) and the SPP Claims Department by telephone (250) 356-1794 or fax 250-356-0661;**
- Steps should be taken to secure and preserve any evidence, equipment or machinery involved in the incident. Call SPP for direction.

Advise the RCMP or local police if there is:

- damage to school property by vehicles unknown (hit and run) or suspected arson;
- theft of contents; or
- vandalism to school property.

And retain the file number as this will be required by SPP.

- For specific instructions on reporting automobile claims, please refer to the automobile section of the SPP website or the Automobile Claims Reporting Guidelines card which should be found in the glovebox of all district fleet vehicles. A reference copy of this card is also available on the website.

b) Online Incident Reporting through <https://www.incident-request.org/>

The Online Incident Reporting System allows for the completion and submission of school incident reports to SPP electronically.

To obtain your schools district's unique user name and password for the Online Incident Reporting system please contact your Secretary-Treasurer/School Board Office or call SPP at (250) 356-1794.

- **PLEASE NOTE: Information on the reporting form should be concise and factual. Reports should not contain opinions regarding fault or responsibility.**
- **Should you receive a request for a copy of an incident report, please call SPP for direction.**

6. Memorandum of Coverage and Certificates of Insurance

a) Memorandum of Coverage

On April 1, 2018, SPP adopted the use of a Memorandum of Coverage (MoC) that evidences that School Districts carry \$5,000,000 general liability coverage and that Additional Interest status is automatically granted to the counterparty, if required by contract.

This means that School Districts will no longer need to submit requests to SPP for Certificates of Coverage evidencing liability coverage of \$5,000,000 or less, and/or granting Additional Interest status to a counterparty.

The MoC is posted on the SPP website (<https://www.bcspp.org/>) and is publicly available for view 24/7, subject to internet availability. School Districts are encouraged to refer

counterparties to the SPP website as they may access the MoC and review the posted Frequently Asked Questions.

b) When should I request a Certificate of Insurance from others?

Any time you have entered into a contract which requires the other party to carry liability insurance including, for example, commercial user groups and service providers.

7. How do I get more information on issues not covered in this handbook?

All matters should be referred through the school district Secretary-Treasurer or Risk Management designate.

Check the SPP website: <https://www.bcspp.org/>