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RISK MANAGEMENT ALERT

Sure Schools

SCHOOL RISK MANAGEMENT ADVISORY
Utica National Insurance Loss Control Department Bulletin

Topic: Schools have duty to provide “reasonable supervision” during early dismissals

A recent opinion of the New Jersey Supreme Court should serve as a timely reminder for schools across the United States to take a very close look at their policies and procedures with regard to supervision during dismissals and particularly during early/non-ordinary dismissal times (e.g., shortened school days, open campus lunch periods).

This Risk Management Alert is based, in part, on the syllabus from the case of *Jenkins v. Anderson* (A-49-06) provided by the Office of the Clerk for the New Jersey Supreme Court; Chief Justice Zazzali's June 14, 2007, Opinion of the Court; and on recommendations provided by Utica National's Loss Control professionals.

Points of consideration from *Jenkins v. Anderson* at a glance:

- South Main Street Elementary School (Pleasantville Board of Education), located on a busy street in a “walking district,” does not have bus service.
- The Pleasantville Board of Education declared June 15, 2001, an early-dismissal day.
- A third-grade student from the district, who usually walked to and from school with a family member, was allowed to leave school unattended by an adult at the early-dismissal time of 1:30 p.m. (customary dismissal time is 2:50 p.m.).
- Following the early dismissal, the nine-year-old student was playing with friends several blocks from the school when, at 3:50 p.m., he was struck by a car.
- The injuries sustained by the student resulted in his paralysis from the neck down.
- The school had a multi-page safety policy that included the supervision of students at dismissal.
- Parents of the injured student claimed they were not aware that June 15 was an early-dismissal day.
- School administrators said that notices—in several formats and on different occasions throughout the school year—were sent to parents, notifying them of the school's scheduled early-dismissal days.

Chief Justice James R. Zazzali wrote, in part, within the June 14, 2007, opinion of the court, “... ***schools in New Jersey must exercise a duty of reasonable care for supervising students' safety at dismissal. The duty requires school districts to create a reasonable dismissal supervision policy, provide suitable notice to parents of that policy, and effectively comply with the policy and subsequent and appropriate parental requests concerning dismissal.***”

While the Court's opinion referenced here speaks specifically to New Jersey schools, the best practices that are outlined in the opinion, along with recommendations from Utica National's Loss Control professionals, provide prudent minimum guidance for schools in all states.

Continued.

As stated in the syllabus for *Jerkins v. Anderson* referenced here, “Whether a duty of care exists is a question of law to be decided by the court.” Each state’s court system will weigh in on the particulars of suits brought within their jurisdiction. However, it is advisable to consult your school’s attorney on matters that may be specific to state law, and to follow prudent best practices to minimize the potential for students to be dismissed without appropriate supervision.

What considerations and best practices should schools take into account to better ensure reasonable supervision during dismissal times? (Includes “open campus” policies during lunch periods as well as early and end-of-day dismissals.)

- Children of varying ages may not understand risks to themselves and others when not adequately supervised. Effective supervision will minimize the risk of harm.
- Develop a comprehensive “dismissal supervision” policy that takes into account age of students and any students with disabilities. This policy should include walkers, bikers, bus riders, students who drive, and those picked up/dropped off by their parents. Parental permission forms should be required for all walkers, bikers, and students who drive.
- Develop effective *procedures* to implement the policy, and ensure that the procedures are followed for each dismissal.
- Notify parents of all dismissal policies, and explain the procedures that the school will follow. Inclusion of this information within the school’s code of conduct/student handbook is highly recommended. Students and parents should be required to sign and return an acknowledgement stating that they have received, read, and understood the code of conduct.
- Develop effective communication strategies to ensure that parents are informed of all early dismissals involving their children. Be sure to provide multiple channels for delivery of said notification to parents. It is highly recommended to include all early-dismissal days on the school-year calendar, along with contact information in the event parents have questions.
- Prior to each planned early-dismissal day, a reminder should be sent to parents, detailing the procedures that will be followed for that particular early-dismissal day.
- Determine the age(s) at which students will be allowed to be dismissed without an accompanying adult/parent. Obtain parental authorization to dismiss without an authorized accompanying adult.
- Release students *only* to those individuals authorized by the students’ parents.
- Require a building-level administrator (at minimum) to oversee all early-dismissal days, and ensure that specified age groups are not released without authorized accompanying adults.
- Develop contingency plans to ensure that children remain supervised by a school official until they are released to their authorized parent/adult.
- **Note: Utica National recommends that schools do not allow an “open campus” lunch period. Alternate strategies should be implemented when possible/practical in order to stagger lunch periods and to minimize the opportunity for students to leave campus unsupervised during the day. In the event that the school cannot implement a “closed campus” lunch procedure, consideration should be given to minimizing the number of students and grade levels allowed to leave campus for lunch.**

For more information on this topic and other safety-related matters pertaining to schools, contact your independent insurance agent. To locate your regional Utica National loss control manager, **call our Safety Hotline at 1-800-274-1914, ext. 2442, or visit our website at: www.uticanational.com** and select “risk management resources.”