



## PROTECT YOUR SCHOOL'S REPUTATION AND FINANCES FROM WRONGFUL ACT EXPOSURES.

### MAKE A PLAN AND SHARE IT WITH YOUR ATTORNEY.

Having strong policies and procedures in place are key to preventing wrongful act exposures. It's recommended that you review all policies and procedures with your attorney.



Educators Professional Choice<sup>SM</sup> (EPC) insurance, sometimes referred to as Educators Legal Liability (ELL), is an important tool to protect an educational institution from claims alleging “wrongful acts” committed by a school’s officials, representatives, employees or volunteers. These types of claims can include:

- Improper use of school funds
- Negligent hiring
- Failure to follow tenure procedures
- Violation of an individual’s civil rights

And they can be devastating to both a school’s reputation and its bank account.

## A SOLID STRATEGY OF PROTECTION

EPC is a coverage that comprises three parts: directors & officers liability (D&O), employment practices liability (EPL), and educators errors & omissions liability (E&O).

- **D&O coverage** is offered to protect individual directors’ and officers’ personal assets from lawsuits arising out of their breach of duty, neglect, error, misstatement or omission while performing their job duties.
- **EPL coverage** is offered to protect a school against allegations of discrimination, breach of employment contract, sexual harassment and other employment-related wrongful acts. Failure to grant tenure allegations are covered under this category.
- **E&O coverage** pertains to injury or damage arising out of an insured’s rendering, or failure to render, service within the scope of the insured’s facilities or operations. It’s for financial claims only. An educators E&O policy is specifically designed to protect a school against a failure to render educational services.

## IS YOUR SCHOOL VULNERABLE TO THESE LIABILITY ISSUES?

EPC claims involve employment or contract issues, improper use of school funds, negligent hiring or supervision, negligent retention or failure to educate. Some specific examples may include:



- Wrongful discharge of an employee
- Failure to follow tenure procedures
- Failure to supervise students
- Misdiagnosis of a learning disorder
- Violations of individuals’ civil rights

## REDUCE LIABILITY EXPOSURES WITH PROVEN RISK MANAGEMENT TECHNIQUES

### 1. Document and retain appropriate employment records

To reduce the negative effects of a potential lawsuit, document and maintain records of your operations. Appropriate documentation includes:

- Employment policies and procedures
- Individual employment records, including employee performance reviews
- Employee/volunteer training records
- Complaint files

Once you have established a written policy, it’s important to follow it. Not doing so could constitute negligence and result in a lawsuit. If your school must defend itself in court, adequate records can help prove that you had appropriate policies and procedures in place. However, if they aren’t followed and documented in writing, your school could have a difficult time defending its position.

### 2. Educate your staff about EPL exposures and be consistent with policies

- Establish formal policies and procedures in writing, and distribute them to all employees and volunteers. Formal policies should include:
  - » Employee discipline
  - » Sexual harassment
  - » Employment-related disputes or complaints
  - » Terminations
  - » Performance evaluations
  - » Equal Employment Opportunity
  - » Americans with Disabilities Act
- Develop and implement training programs for all employees and volunteers
  - » Be consistent across all departments.
  - » Include your formal policies and procedures.

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### 3. Put guidelines around your tenure process and follow them

Schools are vulnerable to claims from faculty for not granting tenure. Claims generally arise when the school doesn't follow the tenure process.

- Put your tenure policy in writing and distribute it to all employees.
- Follow your written tenure guidelines for all tenure eligibilities.

### 4. Put rules in place to govern your board of directors

A school can reduce its D&O risk by having a handbook in place for its board of directors.

- The handbook should include guidelines specifying how the board operates and any conflict of interest procedures.
- Having guidelines and procedures can reduce your risk for directors' and officers' claims by giving the board members a baseline for how they are expected to operate and conduct themselves.

### 5. Define your requirements for handling finances

- Require finances and endowment funds to go through external audits by a third party.
- Have strong student loan practice policies in place addressing items such as gifts, revenue sharing and preferred lender status.

### 6. Develop a consistent policy for disability and individualized education plan (IEP) implementation

An IEP is a plan for children requiring individualized education to help them catch up to their grade level. Schools that are required to implement IEPs can have a significant exposure for E&O claims if children are misdiagnosed or their IEPs are not carried out in an appropriate manner. Putting guidelines and rules in place surrounding the IEP process can help eliminate some of your school's E&O exposure.

- Make sure everyone involved in diagnosing a child with special needs knows his/her role in the process.
- Be open and transparent with the parents on the process and any findings or action plans.
- Make sure that all parties are aware of the IEP and the due process hearing.
- Make sure to communicate all federal and state IEP and reporting guidelines to your staff.

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## 7. Consistently apply student policies and student codes of conduct

Inconsistent or inadequate student policies can lead to students being treated differently for the same offenses. This can open the window for E&O claims filed by parents and students against the school. You should consider including some of the subsequent policies and following them consistently for all students.

- Use of alcohol
- Threats of violence
- Physical abuse or harassment, including bullying (in person and online)
- Academic achievement and performance
- Disciplinary actions, including suspension, expulsion, dismissal and appeals of any disciplinary action
- Acceptance and admittance requirements and policies
- Transfers to and from other schools
- Appropriate student/faculty interactions

### LEARN MORE.

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