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Date December, 1970

A SURVEY OF POTENTIAL TORT LIABILITY PRACTICES OF MALE PHYSICAL
EDUCATION TEACHERS IN SELECTED MONTANA HIGH SCHOOLS

by

WAYNE FRANCIS LERSBAK

A professional paper submitted to the Graduate Faculty in
partial fulfillment of the requirements for the degree

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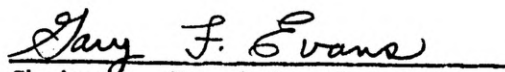
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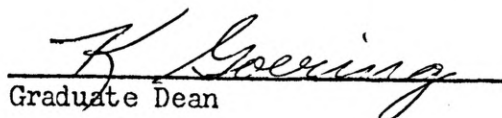
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ABSTRACT

The purpose of this study was to conduct a survey of the potential tort liability practices of male physical education teachers in selected Montana High Schools. Specifically the study attempted to identify: (1) instructor preparation and duties; (2) teaching practices that male physical education instructors were practicing; (3) supervision practices of physical education instructors; (4) first aid practices; (5) nature of equipment safety inspections; and (6) practices which could cause a liability case against the physical education instructor.

The study was delimited to high schools in Montana holding membership in the Montana High School Association for the 1969-1970 school year. It was further delimited to the male physical education instructors of the surveyed high schools.

Questionnaires were sent to 164 male physical education instructors in Montana High Schools. The questionnaire was completed and returned by 156 instructors, each representing one high school. Participation in this study of Montana High Schools holding membership in the Montana High School Association equalled 95.1 percent.

A questionnaire was developed and used by the author to collect the data needed for this study. Results from the questionnaire support the following conclusions: (1) most physical education instructors were properly prepared to teach physical education and taught from one to eight classes of physical education per day. Class AA and A instructors taught on the average of three to six classes per day while the majority of Class B and C instructors taught one or two classes per day; (2) physical educators in the smaller high schools (Class B and C) are exposing themselves to tort liability practices more than physical educators of the larger high schools (Class AA and A); (3) the majority of the physical education instructors were not adhering to sound supervision practices; (4) some physical educators were found to be playing the part of a physician when dealing with student injuries; (5) equipment safety inspections were not carried out by the majority of physical educators; (6) physical educators did not appear to be fully aware of practices that could cause a tort liability case against them; and (7) only six physical education instructors indicated that they carried at least \$100,000 worth of personal liability insurance.

CHAPTER I

STATEMENT OF THE PROBLEM

The general problem of this study was to survey potential tort liability practices of male physical education teachers in selected Montana high schools.

Specifically this study attempted to identify: (1) physical education instructors preparation and duties; (2) teaching practices that male physical education instructors were practicing; (3) supervision practices of physical education instructors; (4) first aid practices; (5) the nature of equipment safety inspections; and (6) practices which could cause a liability case against the physical education instructor.

Definitions

The following terms used in this study, were defined by the investigator for the purpose of this study only, and may not reflect the common definition for everyday usage.

Tort liability practices. Tort liability practices refers to practices in which physical injury results to a student because of instructor negligence and which might lead to court action.

Classification of schools (AA, A, B, C). Classification of schools (AA, A, B, C) surveyed in this study are noted in Appendix E.

Physical education major. Physical education major refers to the instructor that has met the minimum requirements at an

accredited institution for a major in physical education.

Physical education minor. Physical education minor refers to the instructor that has met the minimum requirements at an accredited institution for a minor in physical education.

Physical examination. A physical examination is a thorough physical examination administered to the student by a licensed physician.

Accident report form. An accident report form refers to a complete and detailed report of an accident or injury. The report is completed by the instructor after the accident occurs and is then filed for future reference.

Personal liability insurance. Personal liability insurance is insurance purchased from an insurance company to protect the person insured for the amount of coverage against a personal liability suit.

Hydrated lime. Hydrated lime is a composition that has been broken down, usually by water, so that it is not harmful to open cuts, bruises or eyes.

Delimitations

This study was delimited to high schools in Montana holding membership in the Montana High School Association for the 1969-1970 school year. It was further delimited to the physical education instructors of the surveyed schools. The study was also delimited to the male physical education instructors of these schools.

Justification of Project

Immunity was derived from the old common law rule that a sovereign got his power by divine right (could do no wrong) and therefore could not be held for his torts unless he benevolently consented to do so. This means that a school board can require a youngster to participate in various inherently dangerous activities and the school boards, even if negligent, do not have to pay a cent toward the rehabilitation of the hurt youngster.

Montana school districts can be sued for the amount of tort liability insurance coverage they have acquired. Districts that have not purchased tort liability insurance can not be sued. In the state of Montana, because of this law, the claimant will focus attention on the instructor to prove that he was negligent.

The effect of the immunity doctrine on education has been very difficult to determine because of the various actions in the courts of different states. The people in the United States are more aware of their legal rights under tort law than ever before. The parents, expecting that their children are well-supervised at school, are shocked when a tragic situation arises. They feel that legal action must be taken to justify an explanation.

This study attempted to reveal and identify potential tort liability practices, so that action may be taken to eliminate these practices. This study should be of interest to administrators,

school officers, teachers and particularly the physical education instructors.

Population

Questionnaires were sent to 164 male physical education instructors in Montana high schools. The questionnaire was completed and returned by 156 instructors, each representing one high school. Table 1.1 depicts the total number of high schools in each of the four Montana classifications and the number of high schools (95.1 percent) who participated by returning the completed questionnaire.

Table 1.1

Schools Participating in the Survey

Schools	AA	A	B	C	Total
Number of schools	10	22	38	94	164
Schools returning questionnaire	9	22	38	87	156
Percent* of return	90	100	100	92.5	95.1

*Percentages have been calculated to the nearest tenth of a point for the purpose of this study.

Data Collection

Data was obtained by a questionnaire (see Appendix A) designed and developed by the investigator. A pilot study which included twelve

physical education teachers at junior high schools in Montana, selected at random, was conducted to assist in establishing the validity of the questionnaire. The response from eight of the junior high school physical education teachers provided the insurance, to the investigator, of a successful questionnaire in terms of brevity and comprehension of the questions contained on the questionnaire. It also provided help in detecting ambiguous questions and eliminating awkward statements and statements which were not clear.

The questionnaire in its final form (see Appendix A) was mailed to the male physical education instructors of the selected Montana high schools. A stamped, self-addressed envelope was enclosed for returning the questionnaire. A return of 65.9 percent was received from the first mailing. A letter of introduction was mailed along with the questionnaire (see Appendix B).

After three weeks had elapsed for the return of the questionnaire, a second letter (see Appendix C) was mailed to the non-respondents as a reminder to return the questionnaire. The number of questionnaires received from the second mailing brought the total number of questionnaires returned to 79.4 percent.

After sufficient time had elapsed once again for the return of the second questionnaire a third mailing (see Appendix D) was forwarded to the physical education instructors. Enclosed was another copy of the questionnaire and a stamped self-addressed envelope. This was the final

letter sent by the investigator to the participating instructors. The amount of questionnaires completed and received by the investigator totaled 95.1 percent of the 164 questionnaires mailed out in this study.

Results of Data

The data collected was tabulated, totaled and percentages computed. The data was then presented in tables under the four different Montana High School classifications in this study.

The data obtained from the questionnaire was then presented in Chapter III according to five major areas: (1) instructor preparation and duties; (2) practices of teaching; (3) supervision practices; (4) first aid practices; and (5) equipment safety inspections.

Specific practices that may cause tort liability suits against instructors are presented in Chapter IV. Although it is the courts responsibility to decide if the instructor was negligent, practices explained in Chapter IV should be alleviated whenever possible.

From the data obtained in the survey and with background from the Review of Literature, a summary, conclusions and recommendations were made in the final chapter as how to alleviate the questionable practices, therefore, reducing the possibility of instructor negligence and making the physical education program more accident and injury free.

CHAPTER II

SURVEY OF RELATED LITERATURE

A comprehensive study by Marshall (1963) concerned liability of teachers for acts or omissions when teachers have direct supervision or authority over students in the classroom, building, grounds, and going home from school.¹ The following conclusions were obtained from the cases studied involving the teacher in normal functions during the regular school day: (1) the teacher's duty and responsibility for the supervision of his pupils extends from the time the child leaves home until he returns. Control extends after the child has reached home in acts which influence the moral and discipline of the school; (2) the teacher must be aware of the danger of acting beyond the scope of his authority. He does not stand in loco parentis in all matters, (3) the teacher increases the risk of legal action when he assigns pupils tasks not directly associated with the course of study, (4) while the school board is primarily responsible for the safety of equipment, the teacher is expected to see that the equipment is used in a safe and prudent manner and to take all necessary steps to protect the pupil, (5) the teacher must exert reasonable care to avoid injury to pupils. He is expected to foresee the danger of injury

¹Marshall, Robert James, "The Duties and Liabilities of Public School Teachers as Evidenced by Court Decisions," Doctor's Thesis, University of Pittsburgh, Pittsburgh, Pennsylvania, 1963, p 176

as a normal person would, (6) if dangerous activities are to be performed by students, the teacher is expected to increase the amount of care exercised, (7) the teacher must report any unsafe conditions to the proper authorities, (8) the teacher increases the risk of liability when he leaves students unattended, and (9) the teacher increases the risk of legal action when he uses corporal punishment. However, in most states corporal punishment is supported if administered in a reasonable manner.

The immunity doctrine has been established in this country for years, but cases in this area are becoming more and more numerous each year. The immunity doctrine refers to the field of law called tort. A tort is a legal wrong resulting in direct or indirect injury to another individual or property wherein damages can be collected through court action.² For example, if a pupil slipped on a slippery gym floor this might result in tort if the physical education instructor was found to be negligent.

In recent years, an increased number of court decisions have held that the physical education instructor was responsible for injuries suffered by pupils under his instruction.³ There is at the

²Bucher, Charles A., Administration of School and College Health and Physical Education Programs, 4th Ed., Saint Louis, C. V. Mosby Company, 1967, p 223

³Bula, Michael R., "The Personal Liability of the Coach and Physical Education Teacher," The Athletic Journal, June 1965, p 46

present time great concern about the immunity doctrine. The National Safety Council estimated that there were in excess of 300,000 pupil injuries in elementary and secondary physical education classes during the 1968-1969 school year.⁴ Court decisions in about one-fourth of the states come to the aid of the teachers who face the burden of paying school-related damage claims.⁵ Public opinion, however, is generally against suing teachers, unless an individual students' rights have been flagrantly violated.⁶

It appears as though the present attitude toward transportation is much more liberal than it has been in previous years. State statutes vary in many ways where school transportation is involved.⁷ Three areas of safety precaution which the supervisor should consider when making arrangements for school transportation are: (1) students be allowed to travel in only bonded common carriers of school-owned vehicles, (2) if students are allowed to travel in private cars, the school administrator should adhere to the liability law requirements of

⁴Bird, Patrick J., "Tort Liability," Journal of Health Physical Education and Recreation, 41:1, January 1970, p 38

⁵Sharipo, Frieda S., "Your Liability for Student Accidents," National Education Association Journal, 54:46, March 1965, p 46

⁶Bula, op. cit., p 46

⁷Grieve, Andrew, "Legal Aspects of Transportation for Athletic Events," Athletic Journal, 47:7, March 1967, p 68

his state, and (3) students should not be allowed to transport other students unless they are authorized drivers of school vehicles. Students who drive private cars used in transporting students is considered very undesirable from the standpoint of liability.

The protective cloak of governmental immunity was ripped in 1959 when the Illinois supreme court overruled the doctrine.⁸ Subsequently the state supreme courts of Wisconsin, Arizona and Minnesota took similar action. The effect of the immunity doctrine on education has been somewhat difficult to determine. The superintendent of an institution does not set up the curriculum with the thought in mind that he might be sued as a result. For example, the superintendent may feel that he is doing an adequate job by requiring waivers and consent slips in the physical education program. However, waivers and consent slips are not synonymous. A waiver is an agreement whereby one party waives a particular right. On the other hand, a consent slip is an authorization, usually signed by the parent, permitting a child to take part in some activity.⁹ In respect to a waiver, a parent cannot waive the rights of a child who is under 21 years of age. When a parent signs such a slip, he is merely waiving his right to sue for damages. A parent can sue in two ways,

⁸Sharipo, op. cit., p 46

⁹Bucher, op. cit., p 236

from the standpoint of his rights as the parent and from the standpoint of the child's own rights that he has as an individual, irrespective of the parent. A parent cannot waive the right of the child to sue as an individual.

Consent slips offer peace of mind and show that the child has the parent's permission to engage in an activity.

In areas where the court cases have been decided education has been affected tremendously. As cases come before the courts throughout the nation, more changes are bound to be made. Schools are getting larger and larger and activities such as physical education, shop, field trips, and bussing are becoming more and more complicated. As a result of this, schools are being brought into the legal arena more and more.

With the increase in any human activity the chances of an accident increases. Possible legal action becomes a fact of life. No longer can physical education instructors assume that schools' immunity will always be the law as this particular law is in the process of change.

Recent legislative trends in regard to teacher-student relationships in injury permitted school boards to purchase liability insurance. Coverage by an insurance policy, however, does not relieve the school district or the teacher of the necessity for

precedence.¹⁰

The tort liability of school districts in the United States depends upon the common law, state statutes, and judicial rulings.¹¹ Many administrators have arbitrarily "dropped" an activity from school programs following a fatality or serious injury in the activity.¹² Accidents will happen, but for the power of the public at large to scrutinize, censure, and control school activities as a result of a few accidents is to hinder the total educational process. Parents may neither compel the local board of education to discontinue physical education that is prescribed by state law nor compel the board to offer physical education if not prescribed by state law. The board has no right to make a student take physical education if it violates his or her parents constitutional rights. This student cannot be expelled or suspended because of his refusal to take physical education.¹³ A diploma may be denied however, by the school district if a student fails to participate in the physical education program as required by

¹⁰Truesdale, John C., "So You're a Good Samaritan," Journal of the American Association for Health, Physical Education, and Recreation, 25:25, February 1954, p 27

¹¹Leibee, Howard C., Tort Liabilities for Injuries to Pupils, Ann Harbor, Campus Publishers, 1965, p 97

¹²Ibid

¹³Shroyer, George F., "Legal Implications of Requiring Pupils to Enroll in Physical Education," Journal of Health Physical Education and Recreation 35, May 1964, p 55

state law.

In the area of physical education, which includes physical education classes, intramural athletics, and interscholastic athletics, accidents are more numerous than any other area within the school system. This is due in part, to the necessity of conducting numerous vigorous activities within limited areas. Whenever, any group, participating in rigorous competitive activity, moves within limited space, some collisions and accidents are bound to occur. Improper segregation of students as to size and ability, faulty equipment or unsuitable curriculum are other reasons for accidents in physical education courses. Failure on the part of the physical education instructor to anticipate injury has been another source for court action. It is the responsibility of the physical education teacher to include not only reasonable activities in the program, but to assume the responsibility of providing protection in the proper places.¹⁴

Montana school districts are permitted to purchase liability insurance with immunity waived up to the amount of insurance held against acts of negligence resulting in pupil injury.¹⁵ If negligence is proven against the instructor, school immunity cannot be applied, and the instructor can be brought to court and sued. Every individual is personally liable in damages for his own negligence, whether it occurs

¹⁴Bula, op. cit., p 49

¹⁵Bird, op. cit., p 39

in private life or his professional capacity. In teacher-pupil relationships, the teacher has the duty to take reasonable precaution to protect each student. The idea of involvement coming from the lack of proper supervision or adequate instruction. The result of a tort liability case if found negligent, the adjustment will have to come out of his own pocket unless covered by liability insurance or unless teaching in a state where by statute or judicial decision, the employing school board is liable for the damages.¹⁶

It is a well established fact that more injuries occur in physical education than anywhere else within the school curriculum. Physical education programs throughout the nation are involved in a tremendous growth period and because more students are involved there has been an increase in the number of injuries and the problem involving legal liability. Every teacher must be more aware of their responsibility to liability for any accident because the very nature of physical activity involves a certain amount of risk and hazard. It is the responsibility of the physical education instructor to conduct his program in such a way that there will never be an occasion for legal action.¹⁷

¹⁶Sharipo, op. cit., p 46

¹⁷Grimsley, Jimmie R., "Legal Liability of Injured Pupil," The Physical Educator, 26:3, October 1969, p 104

The key element is the foresee-ability of anticipation of consequences. The teacher must be certain that equipment is not faulty through periodic inspections. The teacher must not authorize the use of dangerous equipment without first instructing the students as to the proper use of the equipment and warning them of the dangers involved. Teachers should supervise the use of dangerous equipment and prevent the unauthorized use of such equipment.¹⁸

The surest way to avoid liability is to plan carefully to eliminate unnecessary hazards, prepare to provide all legitimate care if injury does occur; select only trained personnel for the functions to be performed; exercise strict control over those persons handling emergency care and be sure that they do not exceed their legitimate limits; and provide close supervision and control of all such services and personnel by a licensed practitioner.¹⁹

Because of the variance between state liability laws it would seem only fitting that all school personnel become familiar with the laws concerning legal liability in the particular state in which they are employed. Local attorneys are one of the best sources of information regarding legal questions which arise.

¹⁸Ibid., p 105

¹⁹Truesdale, op. cit., p 25

CHAPTER III

ANALYSIS OF DATA

This chapter presents and analyzes the results from the study. The data was collected, tabulated, totaled and percentages computed. The data was then presented in tables under the four different Montana High School classifications.

The data obtained from the questionnaire (see Appendix A) was then presented in the five major areas: (1) instructor preparation and duties; (2) practices of teaching; (3) supervision practices; (4) first aid practices; and (5) equipment safety inspections.

Completed and returned questionnaires represented 95.1 percent of the high schools holding membership in the Montana High School Association for the 1968-1969 school term. The high percentage of returned questionnaires indicated the trends of physical education instructors in the five major areas on the questionnaire.

A list of the schools included in the survey are shown in Appendix E.

Instructor Preparation and Duties

Instructor preparation. Table 3.1 indicates the number of physical education instructors that have majored in physical education, minored in physical education and those presently teaching physical education that have not majored or minored in physical education. The table shows that 5.8 percent of instructors presently teaching physical education have not majored or minored in physical education. All of the instructors in Class AA and A high schools had majored or minored in physical education. Instructors not having a major or minor in physical education were located in the Class B and C high schools.

Table 3.1
Instructor Preparation

Preparation	AA	A	B	C	Percentage Total
Majored in PE	7	20	31	51	69.9
Minored in PE	2	2	4	30	24.3
Major or Minor is not in PE			3	6	5.8
Percent of certified instructors	100	100	92.1	93.1	94.2

Teaching load. Table 3.2 indicates the number of physical education classes instructors were required to teach per day. The table shows that 52.9 percent of the physical education instructors taught 1 or 2 classes per day while 27.7 percent of the instructors taught 4 or 5 classes per day. The table below also shows that 51.6 percent of the Class B and C high school instructors were teaching the 1 or 2 classes of physical education per day.

Table 3.2
Teaching Load

Number of Classes Per Day	AA	%	A	%	B	%	C	%	Percentage Total
1					10	26.3	28	32.6	24.5
2			2	9.1	8	21.1	34	39.5	28.4
3	1	11.1	3	13.6	7	18.4	11	12.8	14.3
4	2	22.2	5	22.7	7	18.4	7	8.1	13.5
5	4	44.5	8	36.4	3	7.9	4	4.7	12.3
6	2	22.2	4	18.2			2	2.3	5.2
7					2	5.3			1.3
8					1	2.6			.7

Teaching Practices

Safety instruction. Table 3.3 indicates that 9.6 percent of the instructors allowed students to participate in a new activity before safety factors were stressed and the students were warned of the hazards involved in the new activity. The table also shows that 90.4 percent of the instructors stressed the safety factors and hazards involved before allowing students to participate. The table below indicates that 100 percent of the Class AA high school instructors stressed safety factors and warned students of the hazards involved before allowing them to participate in a new activity.

Table 3.3
Safety Instruction

Safety Instruction	AA	A	B	C	Percentage Total
Stressed safety and told students of hazards before participation	9	18	34	80	90.4
Allowed students to participate before stressing safety and warning of hazards involved		4	4	7	9.6
Percent of instructors using safety instruction	100	77.8	89.5	92	90.4

Marking playground hazards. Playground marking is shown in the following table. The table indicates that 33.1 percent of the schools never mark hazards on their playground. Table 3.4 also shows that 21.8 percent of the schools always mark playground hazards. The table below indicates that 33.1 percent of Class A, B and C high schools never marked playground hazards.

Table 3.4
Marking Playground Hazards

Marked Hazards	AA	A	B	C	Percentage Total
Always	4	3	7	17	21.8
Frequently	4	7	7	12	21.2
Seldom	1	2	13	18	23.9
Never		6	8	33	33.1
Percent of schools that always marked playground hazards	44.4	16.7	29	21.3	21.8

Hydrated lime for marking playgrounds. Hydrated lime as shown in table 3.5 is being used by 21.4 percent of the schools when marking their playgrounds. None of the Class A high schools used hydrated lime.

Table 3.5

Hydrated Lime Used For Marking Playgrounds

Hydrated Lime Used For Marking Playgrounds	AA	A	B	C	Percentage Total
Always	1		3	4	5.2
Frequently	2		1	2	3.3
Seldom	1		1	4	3.9
Never	4	22	32	76	87.6
Percent of schools using hydrated lime	44.4		13.5	11.6	21.4

Adapted program. Table 3.6 indicates that 18.1 percent of the high schools surveyed have an adapted program. A total of 81.9 percent of the high schools indicated that they did not have an adapted program.

Table 3.6
Adapted Programs in High Schools

Adapted Program	AA	A	B	C	Percentage Total
Yes	3	4	5	16	18.1
No	6	18	33	70	81.9
Percent of schools with an adapted program	33.3	18.2	13.2	18.6	18.1

Physical examinations. Physical examinations were required at the beginning of each school term by 26.3 percent of the schools surveyed. Table 3.7 shows that 59.5 percent of the high schools never required their students to receive a physical examination. The table below also indicates that 14.3 percent of Class AA high schools required students to have a physical examination each year, as compared to 28.6 percent of the Class C high schools.

Table 3.7
Physical Examinations

Physical Examinations	AA	A	B	C	Percentage Total
Every year	1	5	9	24	26.3
Beginning of high school	2	2	3	9	10.8
Beginning of junior high school		1	1	3	3.4
Never	4	12	24	48	59.5
Percent of schools that required a physical examination each year	14.3	25	24.3	28.6	26.3

Gymnastic mats availability. A sufficient number of mats were available for use at 66.5 percent of the high schools. Table 3.8 reveals that 33.5 percent of the high schools did not have a sufficient number of mats available for a gymnastics unit. One high school in Class AA and one high school in Class A indicated that they did not have the proper amount of mats available when teaching a gymnastics unit.

Table 3.8

Gymnastics Mats Availability

Sufficient Number	AA	A	B	C	Percentage Total
Yes	8	21	21	53	66.5
No	1	1	17	33	33.5
Percent of schools having a sufficient number of mats	88.9	95.4	55.3	61.6	66.5

Accident report form. An accident report form was required to be completed after each accident or injury to students at 55.6 percent of the high schools. Table 3.9 indicates that 44.4 percent of the high schools did not require an accident report form. The table below also shows that 31.6 percent of the Class B high schools required an accident report form to be completed while 77.8 percent of the Class AA high schools required the same form.

Table 3.9
Accident Report Form

Require Accident Report Form	AA	A	B	C	Percentage Total
Yes	7	11	21	46	55.6
No	2	10	17	39	44.4
Percent of schools that require an accident report form	77.8	52.4	31.6	54.1	55.6

Waivers. Table 3.10 depicts the number of high schools that required parents to sign a waiver, waving the right of the parent to sue. Class A high schools never required a waiver while 8.7 percent of the remaining high schools required parents to sign a waiver. The table below also indicates that 86.6 percent of the Class C high schools never required parents to sign a waiver.

Table 3.10

Waivers

Require Waiver	AA	A	B	C	Percentage Total
Always				3	2
Frequently				4	2.7
Seldom	1		1	4	4
Never	8	21	36	71	91.3
Percent of schools that require a waiver	11.1		2.7	13.4	8.7

Permission slips. Table 3.11 shows that 69.9 percent of the high schools did not require written permission from the student's parents for participation in the physical education program. The table below also depicts 8.4 percent of the high schools that did require written permission from the parents before the student participated in physical education. None of the Class AA high schools required permission slips all of the time. Class C high schools that never required permission slips equalled 64.7 percent.

Table 3.11
Permission Slips

Require Permission	AA	A	B	C	Percentage Total
Always		2	3	8	8.4
Frequently		1	4	1	3.9
Seldom	2	3	6	21	20.8
Never	7	16	25	55	66.9
Percent of schools that always require parents written permission		9.1	7.9	9.4	8.4

Transportation to medical facilities. Table 3.12 indicates that 17.4 percent of the schools never provided transportation to medical facilities in the case of student injury. The table below also shows that 28.4 percent of the high schools always provided transportation to medical facilities while 54.2 percent provided transportation at one time or another. Class A high schools always provided transportation to medical facilities 50 percent of the time. Class B high schools always provided transportation to medical facilities only 10.5 percent of the time.

Table 3.12

Transportation to Medical Facilities

Transportation Provided	AA	A	B	C	Percentage Total
Always	3	11	4	26	28.4
Frequently	4	8	12	32	36.1
Seldom	1	2	10	15	18.1
Never	1	1	12	13	17.4
Percent of schools that always provide transportation	33.3	50	10.5	20.3	28.4

Personal liability insurance. Table 3.13 indicates that 64.5 percent of the instructors did not carry personal liability insurance. Instructors carrying \$100,000 or more worth of insurance equalled 4 percent of the total. Indicating membership in the Montana Education Association-National Education Association were 12.5 percent of the instructors. The table below indicates that 66.6 percent of the Class AA instructors carried personal liability insurance as compared to 77.3 percent of the Class A instructors that carried no personal liability insurance.

Table 3.13

Personal Liability Insurance

Amount of Insurance	AA	A	B	C	Percentage Total
10,000 to 90,000	2	2	9	16	19.1
100,000 or more	3		1	2	4
MEA - NEA	1	3	6	9	12.5
No insurance	3	17	22	56	64.4
Percent of instructors with insurance	66.6	22.7	42.1	32.5	35.6

Supervision Practices

Student leaders. Table 3.14 indicates that 10.3 percent of the instructors did not utilize student leaders in their physical education program. The table also shows that 26.3 percent of the instructors indicated that they always used student leaders in the physical education program. None of the Class A schools utilized student leaders while the table below shows that 33.3 percent of the Class AA high schools did utilize student leaders in their physical education program.

Table 3.14

Schools Utilizing Student Leaders

Student Leaders	AA	A	B	C	Percentage Total
Always	3	7	10	21	26.3
Frequently	3	10	19	39	45.5
Seldom	1	5	6	16	17.9
Never	2		3	11	10.3
Percent of schools always utilizing student leaders	33.3	31.8	26.3	24.1	26.3

Pre class activity. Table 3.15 indicates that 47.4 percent of the instructors allowed students to participate in activity before the official beginning of class. The table also shows that 52.6 percent of the instructors never allowed students to participate in activity before class officially started. Almost all of the Class AA high schools allowed student activity as shown in the table below while 51.2 percent of the Class C high schools never allowed student activity before class began.

Table 3.15
Pre Class Activity

Pre Class Activity	AA	A	B	C	Percentage Total
Always	1		2	6	6
Frequently	2	4	10	10	17.1
Seldom	1	3	8	25	24.3
Never	5	14	18	43	52.6
Percent of schools that allow participation before class begins	44.4	33.3	52.6	48.8	47.4

Leave class to answer telephone. Table 3.16 reveals that 61 percent of the instructors leave their class while in session to answer the telephone. A total of 39 percent of the high school physical education instructors never left class to answer the telephone. The table below reveals that one half of the instructors in Class AA, A and B high schools leave class to answer the telephone as compared to 67.4 percent of the Class C instructors.

Table 3.16

Leave Class To Answer Telephone

Instructor Leaves Class To Answer Telephone	AA	A	B	C	Percentage Total
Always			1	7	5.1
Frequently	2	4	4	8	11.7
Seldom	3	6	16	43	44.2
Never	4	11	17	28	39
Percent of instructors that leave class to answer the telephone	55.6	47.6	55.3	67.4	61

Telephone location. Table 3.17 shows that 30.3 percent of the instructors had a telephone in their office. All Class AA high schools had a telephone in the physical education office except one. A total of 26.3 percent and 18.6 percent of Class B and Class C high schools respectively had telephones located in their physical education office.

Table 3.17
Telephone Location

Telephone Location	AA	A	B	C	Percentage Total
Telephone is located in the PE office	8	13	10	16	30.3
Telephone is located elsewhere	1	9	28	70	69.7
Percent of schools that had a telephone in the PE office	88.9	59.1	26.3	18.6	30.3

Shower and locker room supervision. Table 3.18 reveals that 5.2 percent of the instructors never personally supervised shower and locker rooms. The table also indicates that 21.6 percent of the instructors supervised showers and locker rooms once in a while and that 73.2 percent supervised these areas at all times. The table below also shows that of all high schools surveyed between 72.1 and 77.7 percent of the instructors supervised their shower and locker rooms all of the time.

Table 3.18

Shower and Locker Room Supervision

Supervise Showers and Locker Rooms	AA	A	B	C	Percentage Total
Always	7	16	27	62	73.2
Frequently	1	6	8	15	19.6
Seldom				3	2
Never			2	6	5.2
Percent of instructors that always supervise showers and locker rooms	77.7	72.7	72.9	72.9	73.2

Office availability. Table 3.19 indicates that 14.7 percent of the instructors did not have an office available for their use. The table below also indicates that all Class AA instructors had an office while 81.6 and 82.8 percent of Class B and Class C high school instructors respectively had an office available for their use in their physical education program.

Table 3.19
Office Availability

Office Available	AA	A	B	C	Percentage Total
Yes	9	21	31	72	85.3
No		1	7	15	14.7
Percent of schools that had PE office space	100	95.5	81.6	82.8	85.3

Office location. Table 3.20 indicates the instructors that had an office which was located in the gym. The table shows that 47.5 percent of the instructor's offices were located in the gym while 52.5 percent were not located in the gym.

Table 3.20
Office Location

Office in the Gym	AA	A	B	C	Percentage Total
Yes	4	9	16	38	47.5
No	4	11	18	41	52.5
Percent of offices located in gym	50	45	47	48	47.5

Table 3.21 shows that 56.7 percent of the instructor's offices were located in the locker room. The table below also indicates that 77.8 percent of Class AA high schools had their physical education office located in the locker room while only 48.2 percent of the Class C high schools had their physical education office located in the locker room.

Table 3.21

Office Located in the Locker Room

Office Located in Locker Room	AA	A	B	C	Percentage Total
Yes	7	16	24	40	56.7
No	2	9	12	43	43.3
Percent of offices in locker rooms	77.8	64	66.7	48.2	56.7

First Aid Practices

Nurse availability. Table 3.22 shows the amount of time a nurse was available for consultation and first aid practices in the high schools. A total of 67.8 percent of the high schools did not have immediate access to a nurse while only 7.4 percent had a nurse available full time. The table below indicates that 18.1 percent of Class A high schools had a full time nurse and only 5.5 percent of the Class B high schools had a full time nurse. Seven of the Class AA high schools had part time access to a nurse along with twenty of the Class C high schools.

Table 3.22
Nurse Availability

Amount of Time	AA	A	B	C	Percentage Total
Full time	1	4	2	4	7.4
3/4 time				1	.7
1/2 time	4	2		2	5.4
1/4 time	3	4	4	17	18.8
Not at all	1	12	30	58	67.8
Percent of schools that have a nurse full time	11.1	18.1	5.5	4.1	7.4

First aid card holders. Table 3.23 indicates that 42.3 percent of the instructors held current first aid cards. The table below also shows that 36.4 percent of the Class A high school instructors held a first aid card. The table indicates that 55.6 percent of Class AA high school physical education instructors held current first aid cards.

Table 3.23

First Aid Card Holders

First Aid Card	AA	A	B	C	Percentage Total
Yes	5	8	18	35	42.3
No	4	14	20	52	57.7
Percent of instructors that had a first aid card	55.6	36.4	47.4	40.2	42.3

First aid kits. Table 3.24 indicates that 79.1 percent of the instructors had a first aid kit available in the physical education office. The table below also shows that twenty Class A high schools and eight Class AA high schools had a first aid kit located in the physical education office as compared to 68.4 percent of the Class B high schools.

Table 3.24
First Aid Kits

Located in PE Office	AA	A	B	C	Percentage Total
Yes	8	20	26	67	79.1
No	1	2	12	17	20.9
Percent of first aid kits in the PE office	88.9	90.9	68.4	79.8	79.1

Students returning to class after injury without physician's acknowledgement. Table 3.25 shows that 39.2 percent of the instructors always let students return to class participation after accident or injury without a physician's acknowledgement. A total of 13.7 percent of the instructors never let students return to class after an accident or injury before the doctor gave his permission. Letting students into class now and then after accident or injury and before a physician's acknowledgement was practiced by 47.1 percent of the instructors.

Table 3.25

Students Returning to Class After Accident or
Injury Without Physician's Acknowledgement

Allowed to Return Without Physician's Acknowledgement	AA	A	B	C	Percentage Total
Always	5	8	12	35	39.2
Frequently	2	8	15	32	37.3
Seldom	1	3	4	7	9.8
Never	1	3	6	11	13.7
Percent of instructors that always let students return without doctor acknowledgement	55.6	36.4	32.4	41.2	39.2

Aspirin administered to students. Table 3.26 indicates that aspirin were administered to students by 6.6 percent of the instructors all of the time when needed. A total of 54.9 percent of the instructors administered aspirin to students at one time or another. Instructors that never gave students aspirin equalled 38.4 percent. None of the Class AA and A high schools administered aspirin to students all of the time. However, nine of these high schools did administer aspirin to students at one time or another. Ten of the Class B and C high schools always administered aspirin to students.

Table 3.26

Instructors that Administer Aspirin

Administer Aspirin	AA	A	B	C	Percentage Total
Always			3	7	6.6
Frequently		3	9	21	21.8
Seldom	1	5	11	33	33.1
Never	8	14	15	21	38.4
Percent of instructors that always administer aspirin			7.9	8.5	6.6

Physical forces to promote healing. Table 3.27 indicates that physical forces such as heat was applied to an injury all of the time to promote healing by 7.3 percent of the instructors surveyed. A total of 62.9 percent of the instructors applied heat to promote healing of an injury part of the time. Seven of the Class B and C high schools always taped or strapped an injury before a doctor had the opportunity to make an injury diagnosis.

Table 3.27

Applied Heat to Promote Healing of an Injury

Applied Heat	AA	A	B	C	Percentage Total
Always	1	1	4	5	7.3
Frequently	2	8	13	49	47.7
Seldom	2	3	19	9	15.2
Never	4	10	12	19	29.8
Percent of instructors that always applied heat	11.1	4.5	10.5	6.1	7.3

Table 3.28 indicates that 41.1 percent of the instructors surveyed applied cold treatment to an injury before a doctor diagnosis of the injury was able to be performed. Instructors that never applied cold treatment to injuries before doctor diagnosis equalled 5.5 percent of the total. The range between 36.1 percent of Class B instructors and 55 percent of the Class A instructors always applied cold treatment to student injuries when needed.

Table 3.28

Applied Cold Treatment to Injuries
Before a Doctor Diagnosis

Applied Cold	AA	A	B	C	Percentage Total
Always	3	11	13	33	41.1
Frequently	2	7	16	39	43.8
Seldom	2		5	7	9.6
Never	1	2	2	3	5.5
Percent of instructors that always applied cold to injury	37.5	55	36.1	40.2	41.1

Taping or strapping injuries before doctor diagnosis. An injured student was taped or strapped before a physician made the diagnosis by 4.6 percent of the instructors answering the questionnaire. A total of 69.1 percent of the instructors taped or strapped an injury at one time or another before a physician had made the diagnosis as shown in the following table. None of the Class AA or Class A high school physical education instructors always taped or strapped student injuries before a physician had made a diagnosis of the injury.

Table 3.29

Taping or Strapping Injuries Before
Doctor Made Diagnosis

Taped or Strapped Injury	AA	A	B	C	Percentage Total
Always			4	3	4.6
Frequently	5	7	12	34	38.2
Seldom	3	6	10	28	30.9
Never	1	9	12	18	26.3
Percent of instructors that always taped or strapped student injuries			10.5	3.6	4.6

Instruments used on growths. Instruments (knives or razor blades) were used on callouses, corns, blisters or ingrown nails by 1.3 percent of the instructors in all cases. Table 3.30 below also shows that 73.8 percent of the instructors never used instruments on callouses, corns, blisters or ingrown nails. Two Class C high schools always used instruments on callouses, corns, blisters or ingrown nails, while seven of the Class B high schools indicated that they seldom did this.

Table 3.30

Knives or Razor Blades were Used on
Callouses, Corns, Blisters or Ingrown Nails

Instruments Used	AA	A	B	C	Percentage Total
Always				2	1.3
Frequently	2	1		6	5.9
Seldom	4	2	7	16	19
Never	3	17	31	62	73.8
Percent of instructors that always used instruments				2.3	1.3

Ammonia used to revive unconscious students. Instructors indicated that 2.6 percent of them used ammonia all of the time to revive unconscious students. A total of 62.1 percent of the instructors never use ammonia as shown in table 3.31 below. One Class AA high school and three Class C high schools indicated they always used ammonia to revive unconscious students.

Table 3.31

Ammonia Used to Revive Unconscious Students

Use Ammonia	AA	A	B	C	Percentage Total
Always	1			3	2.6
Frequently		2	5	7	9.2
Seldom	3	6	7	24	26.1
Never	5	14	26	50	62.1
Percent of instructors that always use ammonia	11.1			3.6	2.6

Equipment Safety Inspections

Table 3.32 indicates that 21.5 percent of the instructors performed equipment safety inspections weekly. The table also shows that 58.3 percent of the instructors held yearly equipment safety inspections. The table below indicates that 33.3 percent of Class AA high schools inspects their equipment weekly. Weekly inspections were also practiced by 11.8 percent of the Class B high schools. One Class A high school and two Class C high schools indicated that they never held equipment safety inspections.

Table 3.32
Equipment Safety Inspections

Inspected Equipment	AA	A	B	C	Percentage Total
Weekly	3	4	4	20	21.5
Monthly	1		3	9	9
Each Semester		2	4	7	9
Yearly	5	12	23	44	58.3
Never		1		2	2.2
Percent of Weekly inspections	33.3	21	11.8	24.4	21.5

CHAPTER IV

IDENTIFICATION OF POTENTIAL TORT LIABILITY PRACTICES

The purpose of Chapter IV is to present physical education instructor practices that could cause liability against them. Only through competent physical educator practices can we provide a safe environment for student activity, the type of activity needed in an excellent physical education program.

Instructors that are doing practices mentioned in this chapter should seek additional information and change behavior to prevent possible injury to the students in their physical education program.

Before these dangerous practices are identified, a short explanation of what is expected of physical education instructors and their professional preparation may be in order.

Instructor Expectations

Each individual is personally liable in damages for his own negligence, whether it occurs in private life or in his professional capacity. In teacher-pupil relationships, the teacher is expected to take reasonable precaution to protect each student.

The instructor at all times must act as a reasonable and prudent person. The instructor must assume the responsibility of providing the proper protection in the proper places at the proper time.

It is the responsibility of the physical education instructor to conduct his program in such a way that there will never be an occasion

for legal action.

Instructor Preparation

Physical education instructors must be prepared to teach physical education by meeting the minimum standard requirements set forth by the governing body and should possess certain natural characteristics which enables a true alliance in the performance of his occupation.

The physical education program, consisting of inherently dangerous activities must employ personnel with high moral and maturity characteristics, and people who have had the proper training and have met minimum educational requirements.

Qualified physical education instructors have been taught the proper teaching methods and techniques for administering a physical education program. These instructors have proven their skill and knowledge in physical education. Their natural characteristics and interest are relevant to the program.

Benefits to the school district, instructor and students are questionable when an instructor teaches outside his field. Instructors teaching physical education who are not prepared to do so are increasing the chances of tort liability.

Identification of Dangerous Practices

Participation of instructors in any of the following questionable practices may result in an unnecessary tort liability case.

The instructor may be found negligent if student injury occurred during or as a result of the following:

1. Teaching a field which the instructor is not prepared and certified.
2. Failure to stress safety factors and warn students of the hazards involved before allowing them to participate.
3. Failure to mark playground hazards.
4. Marking playing fields using pure lime.
5. Failure to segregate students according to size and capabilities.
6. Failure to require a physical examination of each student at the beginning of each new school year.
7. Teaching a gymnastics unit without a sufficient number of mats.
8. Transporting students in private automobiles.
9. Allowing students to participate in activity before official beginning of class.
10. Leaving class to answer the telephone.
11. Failure to personally supervise shower and locker rooms.
12. Allow students to return to class after injury and before a physician's acknowledgement.
13. Administering aspirin to students.
14. Applying hot or cold forces when dealing with student injuries.

15. Taping or strapping student injuries.
16. Using instruments on callouses, corns, blisters or
ingrown nails.
17. Using ammonia to revive unconscious students.
18. Failure to hold frequent equipment safety inspections.

CHAPTER V

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

Summary

The purpose of this study was to survey potential tort liability practices of male physical education teachers in selected Montana high schools. Specifically this study attempted to identify: (1) physical education instructors preparation and duties; (2) teaching practices that male physical educators were practicing; (3) supervision practices of physical education instructors; (4) first aid practices; (5) nature of equipment safety inspections; and (6) practices which could cause a liability case against the physical education instructors.

This study was delimited to high schools in Montana holding membership in the Montana High School Association for the 1969-1970 school year. It was further delimited to the male physical education instructors of the surveyed high schools.

A questionnaire was developed by the author and used to collect the data for this study. Participation in the study equalled 95.1 percent of the high schools that hold membership in the Montana High School Association. The data was then tabulated, totaled and percentages computed for presentation in table form.

The questionnaire response, review of related literature and the author's background provided the basis for drawing conclusions and making recommendations for the alleviation of the questionable practices.

A summary of the findings follows:

A. Instructor Preparation and Duties.

1. Nine Class B and C high schools have instructors teaching physical education that do not have a major or minor in physical education. All of the instructors teaching physical education in Class AA and A high schools had a major or minor in physical education.

2. Over 50 percent of the Class B and C physical education instructors teach one or two physical education classes per day. The majority of Class AA and A physical education instructors taught from three to six classes of physical education per day.

B. Teaching Practices.

1. All of the Class AA instructors stressed safety and informed students of the hazards involved before allowing students to participate in a new unit. Only 9.6 percent of all the instructors did not adhere to stressing safety and warning their students of the hazards involved before allowing them to participate.

2. Playground hazards were never marked by 33.1 percent of the instructors. Class AA high schools marked playground hazards consistently more than the other high schools.

3. Hydrated lime was never used by 87.6 percent of the instructors. Class AA, B and C high schools used hydrated lime at one time or another while Class A high schools never used it.

4. Adapted programs were found in existence at 18.1 percent of the high schools.

5. A physical examination was not required of students each year by 59.5 percent of the high schools.

6. The survey indicated only 66.5 percent of the high schools had a sufficient number of mats available for use when teaching a gymnastics unit.

7. Seven of the nine Class AA high schools required an accident report form to be completed after each injury to a student, while 31.6 percent of Class B high schools required an accident report form.

8. Over 90 percent of the high schools never required a student's parents to sign a waiver, waiving the right to sue.

9. Two Class AA high schools seldom required written permission from parents for their child to participate in the physical education program at school. A total of 66.9 percent of the high schools never required permission slips.

10. Transportation to medical facilities was provided by 82.6 percent of the high schools at one time or another.

11. Personal liability insurance is carried by only 35.6 percent of the physical educators. Six of them indicated that they carried coverage of \$100,000 or more.

C. Supervision Practices.

1. All Class A high schools utilized student leaders in their physical education program at one time or another, while 10.3 percent of the Class AA, B and C high schools never utilized student leaders.

2. Pre class activity by students was allowed by 47.4 percent of the instructors.

3. Instructors that left their class while in session to answer the telephone equalled 61 percent of the instructors surveyed.

4. Eight of the nine Class AA high schools have a telephone in their physical education office while only 18.6 percent of the Class C high schools had a telephone in their physical education office.

5. The survey indicated that 94.8 percent of the instructors supervised the shower and locker room once in a while. A total of 73.2 percent of instructors always supervised the shower and locker room.

6. All Class AA instructors have an office available for their use. One instructor in Class A, seven in Class B and fifteen in Class C high schools do not have an office available for their use.

7. Approximately half of the high schools have a physical education office located in the locker room while the rest of the offices are located in the gym.

D. First Aid Practices.

1. The survey indicated 67.8 percent of the high schools did not have a nurse available at any time during the day. Eight of the Class AA high schools had a nurse available at one time or another.

2. A total of 55.6 percent of the Class AA physical education instructors held a first aid card. Eight Class A, eighteen Class B and thirty-five Class C instructors had a first aid card.

3. First aid kits are available in the physical education office in 79.1 percent of the high schools.

4. A total of 86.3 percent of the instructors allowed students to return to class after an injury and before a physician's acknowledgement.

5. Aspirin were never administered by eight of the Class AA instructors. Ten Class B and C instructors always administered aspirin to students.

6. A total of 70.2 percent of the instructors applied heat to promote healing of an injury while 94.5 percent of the instructors applied cold forces to injuries before a physician's acknowledgement.

7. A total of 69.1 percent of the instructors taped or strapped an injury at one time or another before a physician had made the diagnosis.

8. Instructors that never used instruments on callouses, corns,

blisters or ingrown nails equalled 73.8 percent. Seven Class B instructors seldom used instruments.

9. Ammonia was never used to revive students by 62.1 percent of the instructors. Only four high schools always used ammonia to revive students.

E. Equipment Safety Inspections.

1. A total of 21.5 percent of the instructors held a weekly safety inspection of their equipment which was used in the physical education program. Three instructors never held an equipment safety inspection.

Conclusions

Since only a small number of Montana high schools did not participate in this study, the probability of these high schools having a great variance of potential tort liability practices is almost nil.

Data received from the questionnaire seems to support the following conclusions of physical education programs in Montana high schools:

1. Some Class B and C high schools employ physical education instructors that are not prepared to teach physical education.

2. Physical education instructors are often hired by Class B and C high schools to teach physical education as their secondary field.

3. Too many instructors are not stressing safety factors and warning students of the hazards involved before allowing the students to participate in a new unit.

4. Playground hazards are never marked by many Class A, B and C high schools.

5. Very few high schools in Montana have an adapted program.

6. The majority of high schools did not require a complete physical examination of their students every year.

7. Half of the high schools did not require an accident report to be completed after each student injury.

8. The majority of high schools never required parents to waive the right to sue the school district or instructor in the event their child was injured.

9. Written permission by parents for students to participate in physical education was not required by most high schools.

10. High schools did not consistently provide a student with transportation to medical facilities in the event of injury.

11. Few instructors were aware that they had personal liability insurance automatically while holding membership in the MEA-NEA. Only a few instructors had coverage of \$100,000 or more of personal liability insurance.

12. Supervision practices were not adhered to by a majority of the high school physical education instructors.

13. Physical education instructors did not utilize student leaders at many high schools.

14. Pre class activity was allowed by a majority of instructors.

15. Instructors left their class to answer the telephone.

16. Not enough high schools have telephones located in the physical education office.

17. The majority of instructors were supervising the shower and locker rooms.

18. Not all Class B and C high schools had an office for their physical education instructors.

19. About half of the physical education offices are located in the locker rooms.

20. Nurses were quite scarce in Montana high schools.

21. The majority of physical education instructors did not hold a first aid card.

22. First aid kits were located in a majority of physical education offices.

23. Students were allowed to return to class after injury and before a physician's acknowledgement.

24. Instructors were administering aspirin to students.

25. Hot and cold forces were being used by instructors when dealing with student injury.

26. Instructors were taping and strapping injuries before a physician had the opportunity to make a diagnosis.

27. Physical education instructors were playing the role of a physician when dealing with injured students.

28. Instructors were using instruments on callouses, corns, blisters and ingrown nails.

29. Ammonia was used to revive injured students.

30. The majority of physical education instructors did hold periodic equipment safety inspections.

31. Instructors in smaller high schools (Class B and C) were exposing themselves to questionable liability practices more so than the instructors of the larger high schools (Class AA and A).

Recommendations

The author proposes the following recommendations based on the results of this study:

1. Montana high school administrators hire only physical education instructors that are prepared to teach physical education.

2. Class B and C high schools give students the opportunity to enroll in more physical education classes.

3. Instructors of physical education should stress safety factors and warn students of the dangers involved before allowing them to participate in a new unit.

4. Playground hazards should be marked whenever they arise.
5. Hydrated lime or a similar substance should be used when marking playing fields.
6. Each high school in Montana should incorporate at least one adapted class in their physical education program.
7. Students should be required to complete a physical examination at the beginning of each school year.
8. Gymnastic units should not be taught without a sufficient amount of mats.
9. Accident report forms provide an excellent source of reference when past accident cases arise.
10. Waivers, since worthless, need not be required by high schools.
11. Permission slips should be required by the high school.
12. Only bonded carriers be used when transporting students.
13. Instructors carry at least \$100,000 worth of personal liability insurance.
14. Student leaders should be utilized whenever possible in the physical education program.
15. Students not be permitted to engage in pre class activity.
16. Instructors answer the telephone during class only in extreme emergencies.
17. A telephone be installed in the physical education office.

18. Closer supervision of the shower and locker room by instructors.

19. An office be available to all physical education instructors.

20. Physical education instructors hold a current first aid card.

21. Physical education instructors practice first aid only on injured students, leaving diagnosis to a physician.

22. First aid kits be located in the physical education office.

23. Students not be allowed to return to class before a physician's acknowledgement after injury.

24. Instructors should inspect equipment periodically to determine whether or not they are safe for use.

25. A study be done to find potential tort liability practices of female physical education instructors in Montana high schools.

26. A study should be made of court decisions concerning school district and instructor liability cases.

27. A study of physical education instructor attitudes toward personal liability.

28. A study to determine the number of Montana school districts that have tort liability insurance and the amount of coverage.

29. A study be done to determine personal qualifications of physical education instructors.

30. A study be done to determine potential tort liability practices of athletic coaches.

31. Physical education instructors anticipate the dangers which should be apparent to a trained, intelligent person.

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APPENDICES

APPENDIX A

QUESTIONNAIRE

Place an X in the appropriate space:

1. Major in P.E.____ Minor in P.E.____ Major or Minor is not in P.E.____
2. AA____ A____ B____ C____
Classification of school completing form
3. 1____ 2____ 3____ 4____ 5____ 6____ 7____ 8____
The number of P.E. classes you teach per day
4. 1/4 time____ 1/2 time____ 3/4 time____ full time____ not at all____
The amount of time a nurse is available in your building
5. Yearly____ Semester____ Monthly____ Weekly____
How often are equipment safety inspections performed
6. Every year____ Beginning of high school____ Beginning of junior high____
Never____
When is a physical examination required for each student

Circle yes or no:

- | | | | |
|-----|----|-----|---|
| Yes | No | 7. | Do you hold a current First Aid Card |
| Yes | No | 8. | Is there an office available for your use |
| Yes | No | 9. | Your office is located in the locker room |
| Yes | No | 10. | Your office is located in the gym |
| Yes | No | 11. | There is a telephone in your office |
| Yes | No | 12. | There is a First Aid Kit in your office |
| Yes | No | 13. | An Accident Report Form is required to be completed after each accident or injury |
| Yes | No | 14. | There is an adaptive program for inferior skilled students in your physical education classes |

Yes No 15. There are a sufficient number of mats available and used when teaching a gymnastics unit

Yes No 16. Do you carry Personal Liability Insurance
If answer is yes, how much _____

Place an X in the space under the appropriate heading of each column:

Always	Frequently	Seldom	Never	
				17. Students are allowed to return to your class after illness without physician's acknowledgment
				18. Adequate space is available for skill activities
				19. Hydrated lime is used to mark playgrounds
				20. Asprin are administered by you to students
				21. Hazards are marked on the playground
				22. Students have to cross a street when going to playgrounds from the gym
				23. Parents are required to waive the right to sue before their child participates in your P.E. classes
				24. Students are allowed to participate in activities before class begins
				25. Classes are left without proper supervision while you answer the telephone
				26. Apply physical forces such as heat to promote healing of an injury
				27. Student leaders are utilized during class sessions
				28. The school provides transportation to medical facilities in the case of an accident

Always	Frequently	Seldom	Never	
				29. An injury may be taped or strapped before a physician makes a diagnosis
				30. Instruments (knives or razor blades) are used on callouses, corns, blisters, or ingrown nails
				31. You personally supervise showers and locker rooms after class
				32. Written permission from the parents is required in your P.E. classes before students are allowed to participate
				33. Ammonia is used to recover unconscious students
				34. Cold treatment is applied immediately after injury occurs and before a doctor diagnose the injury

Rank the following points in order (1, 2, 3, etc) the way you introduce a new unit in physical education classes:

35. ___ a. Demonstrate the skill of the new activity
 ___ b. Introduction of the new activity
 ___ c. Teach proper methods involved
 ___ d. Participation of students
 ___ e. Stressing the safety factors involved
 ___ f. Warn students of the hazards involved
 ___ g. Motivation

APPENDIX B

Physical Education Instructors
High Schools
State of Montana

Dear Physical Educators:

Enclosed please find a Physical Education Questionnaire. The questionnaire has been designed to survey physical education practices and working conditions in your teaching situation. It will also provide a summary of physical education habits in Montana High Schools.

The survey is partial requirement for my Masters Degree in Physical Education at Montana State University. No individual names or school names will be associated with the results, nor will the questionnaire serve as an evaluation of your program. The questionnaire will take only a few minutes of your time.

Thank you for your prompt attention given this matter, and your anticipated cooperation. Please return the questionnaire in the enclosed self-addressed envelope by March 11, 1970.

Sincerely,

Wayne F. Lersbak
Graduate Student
Physical Education

Gary F. Evans, Ed. D., Coordinator
Graduate Study
Physical Education

Enc.

APPENDIX C

Physical Education Instructors
High Schools
State of Montana

Dear Physical Educator:

Two weeks have elapsed since the deadline for returning the Physical Education Questionnaire. This is a very busy time of the year and you probably set the questionnaire aside for completion at a later date.

I have enclosed another Physical Education Questionnaire in the event you did not receive a copy or if the original has been misplaced. Please return the completed questionnaire in the near future.

The survey results have been excellent thus far and only a few remain unanswered. It is my hope that the questionnaire will soon be received, in order that a valid study of Montana High Schools can be achieved.

Thank you for your time and consideration given this matter.

Sincerely,

Wayne F. Lersbak
Graduate Student
Physical Education

Gary F. Evans, Ed. D., Coordinator
Graduate Study
Physical Education

Enc.

APPENDIX D

Physical Education Instructors
High Schools
State of Montana

Dear Physical Educator:

This is another effort to gain your support in the Physical Education survey. Results have not exceeded 85%, but your participation is important so that the study will have encompassed the entire state of Montana.

Please complete and return the enclosed questionnaire today.

Thank you very much for your anticipated cooperation.

Sincerely,

Wayne F. Lersbak
Graduate Student
Physical Education

Gary F. Evans, Ed. D., Coordinator
Graduate Study
Physical Education

Enc.

APPENDIX F

CLASSIFICATION OF HIGH SCHOOLS

Class AA

Billings Senior	Great Falls	C. M. Russell (Gt. Falls)
Billings West	Great Falls Central	Hellgate (Missoula)
Butte	Helena	Sentinel (Missoula)
Kalispell		

Class A

Glasgow	Miles City	Anaconda Central
Deer Lodge	Glendive	Sidney
Columbia Falls	Dillon	Havre
Wolf Point	Hamilton	Libby
Lewistown	Helena Central	Whitefish
Anaconda	Bozeman	Laurel
Billings Central	Butte Central	Livingston
Hardin		

Class B

Choteau	Fort Benton	Big Sandy
Harlem	Chinook	Malta
Browning	Havre Central	Conrad
Shelby	Chester	Sunburst
Cut Bank	Fairfield	Valier
Baker	Plentywood	Absarokee
Lodge Grass	Circle	Poplar
Big Timber	Red Lodge	Fairview
Scobey	Columbus	Roundup
Nashua	Forsyth	Worden
Corvallis	Polson	St. Ignatius
Eureka	Ronan	Stevensville
Loyola (Missoula)	Thompson Falls	

Class C

Bainville	Broadus	Busby
Culbertson	Ekalaka	Colstrip
Bridger	Flaxville	Sacred Heart
Custer	Edgar	Froid
State Industrial	Hysham	Fromberg
Medicine Lake	Terry	Rosebud
Joliet	Opheim	Wibaux
St. Labre's Mission	Park City	Richey
Shepherd	Westby	Geyser
Denton	Box Elder	Augusta
Grass Range	Geraldine	Dodson
Belt	Highwood	Hobson
Gildford	Brady	Judith Gap
Moore	Inverness	Cascade
Roy	St. Leo's	Joplin
Dutton	Winifred	Stanford
Kremlin	Power	Winnett
Rudyard	Sand Coulee	Simms
Belgrade	Arlee	Alberton
Ennis	Clyde Park	Bigfork
Darby	Lima	Gardiner
Charlo	Florence-Carlton	Sheridan
Manhattan	Dixon	Frenchtown
Three Forks	Rosary	Hot Springs
Philipsburg	Twin Bridges	Townsend
Plains	St. Regis	West Yellowstone
Wh. Sul. Springs	Seeley-Swan	Superior
Whitehall	Wilsall	Troy
Victor		