



Injuries in the Classroom: Are you Protected?

Author **W. H. "Jack" Breazeale, PhD.**



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Science educators, especially chemistry faculty, are keenly aware of the unique challenges facing their profession, such as the duty to maintain a safe environment for learning.

As most science educators know, however, accidents can happen at any time, both in the laboratory and the science classroom. It is therefore important to know that you, as a chemical educator, will be defended and financially protected from a lawsuit if an accident occurs on your watch. Do not make the mistake of waiting until after the accident before confirming that you are insured for your Chemical Educator's Legal Liability.

A case in point: in 2008, a UCLA employee, Sheharbano "Sheri" Sangji, died because of a laboratory accident. The accident occurred when pyrophoric t-butyl lithium, a highly air-sensitive, flammable chemical, suddenly ignited when being improperly handled. The resulting fire quickly spread to her clothing, resulting in severe burns over nearly half of her body. What initially began as a tragedy quickly turned into a major safety investigation by Cal-OSHA. UCLA was fined by Cal-OSHA for failing to ensure that appropriate safety and procedural training was given to Sangji. Additionally, there was no evidence of enforcement by UCLA to ensure that she was wearing the appropriate Personal Protective Equipment (PPE). The Los Angeles County District Attorney's office, reacting to the findings of Cal-OSHA, charged Professor Patrick Harran with violating California occupational health and safety standards. Professor Harran thus found himself the target of criminal, and likely, civil penalties.

Do you have appropriate Chemical Educator's Legal Liability to protect you if you find yourself in a situation similar to that of Professor Harran? While many chemical educators may assume that they are covered under their employers' policies, this may not be true. Many educator liability policies specifically exclude coverage for claims involving bodily injuries.



“Do not make the mistake of waiting until after the accident before confirming that you are insured...”



“Consider these additional scenarios where science educators may find themselves as the unwitting subject of a lawsuit...”



An employer’s insurance may also not provide coverage for additional risks faced by individual chemical educators. Worse yet, an employer’s insurer may disclaim coverage if it finds an educator to be in conflict with the insured employer’s laboratory safety policies. You should verify your coverage with your educational institution’s risk management department and become familiar with the policy and any exclusions which may pertain to you. It is imperative that you carry Chemical Educator’s Legal Liability insurance that will respond for you as an individual in a moment of crisis. Consider these following scenarios where chemical educators may find themselves as the unwitting subject of a lawsuit.



Head of Chemistry Department

A chemical explosion has occurred during a laboratory experiment at a university. Because of the explosion, a student sustained severe chemical burns because of not wearing the required Personal Protective Equipment (PPE). The student and family file suit against the university and the professor who was responsible for supervising the laboratory. However, in addition, they also sue the chair of the chemistry department personally, claiming that the chair is responsible for the laboratory injury, even though the chair neither supervised nor designed the experiment. However, it will be claimed that the chair is responsible for ensuring safety training has occurred and that safety rules are enforced throughout the department.



Failure to Enforce Safety Guidelines

A group of high school students are working on a laboratory experiment involving chemicals that can damage the eyes upon contact. One student comes to the laboratory experiment without safety goggles. The teacher tells the student that safety goggles must be worn to directly perform the laboratory experiment. But, the student is allowed to stand by and observe another group. While the student is observing, a chemical reaction occurs and a small amount of the chemicals is spewed into the student's eyes, causing permanent damage. The family files suit against the teacher, alleging that the teacher failed to enforce safety guidelines, which require all students to wear proper safety goggles when working in the laboratory.



Failure to Train

A graduate student is supervising an undergraduate laboratory experiment involving several chemicals that can create hazardous fumes if improperly mixed together. One group knocks over a rack of test tubes. The chemicals spill, mix, and create hazardous fumes. The graduate student has not been trained on how to react to hazardous fumes nor on what to do in case of a hazardous spill. The students are instructed to stay in the laboratory and simply wipe up the chemicals with a paper towel. The students breathe in the hazardous fumes for several minutes and later complain of severe chest pains and headaches. The professor is sued on behalf of the class for negligently failing to train the graduate student on how to properly protect against hazardous fumes and how to clean up chemical spills. The graduate should have received training concerning the importance of preventing exposure to hazardous fumes. The students should have not been instructed to clean up the hazardous spill. The students should have been evacuated from the laboratory. Additionally, experiments potentially involving hazardous fumes should be performed in a properly operating fume hood.

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Sexual Misconduct

A college professor routinely holds one-on-one tutoring sessions with students who are struggling in his class. On one occasion, he holds a tutoring session with a student, who simply does not grasp the material. After the student fails the course, she files suit, falsely claiming that the professor had solicited sexual favors from her. The professor has a defense: another student who was waiting outside of the classroom for her tutoring session heard their entire conversation and will testify that the professor never made any such statement. Without a full attorney investigation, however, the professor may never know of this strong defense.



Wrongful Employment Practice

The chair of the chemistry department at a major university is responsible for hiring teaching assistants and giving them course assignments. He hires a pregnant teaching assistant and assigns her to a lower-level chemistry course where much less hazardous chemicals are usually used. The teaching assistant links the assignment to a lower-level course to a comment made during the hiring process, when the chair noted “you’re going to have your hands full when that baby is born.” She took this to mean that he thought she was intellectually incapable of teaching a higher-level course because she was pregnant. The teaching assistant hires an aggressive local employment attorney to litigate her case in the public eye in the hope of obtaining a large settlement by threatening to besmirch the chair’s reputation. The chair desperately needs an attorney who can rise to the task of litigating a case in the public eye.



“The teaching assistant hires an aggressive local employment attorney to litigate her case in the public eye...”



Pollution

A high school chemistry teacher conducts a class in a laboratory setting. The routine practice is to leave chemical ingredients and concoctions in progress on a table near one of the students. During class one day, the student feels dizzy and falls out of the chair to the floor. The student is taken to the hospital where examination identifies a small brain tumor. The student tells the parents that strange feelings started a few weeks after beginning the chemistry class. The claim was made the smell of and exposure to certain chemicals had caused the brain tumor. The parents file suit against the school and the teacher, claiming the vapors from the chemicals left near the student's desk caused the tumor. The school's attorney cannot represent the teacher because the school intends to blame the teacher for ignoring safety guidelines. The teacher thus needs help locating an attorney who can protect the teacher's interests.

These are only a few of the hypothetical situations a chemistry teacher could encounter in which an urgent defense is needed. The ACS endorsed Chemical Educator's Legal Liability insurance coverage, underwritten by Lloyd's of London and offered to ACS and AACT members through Hays Companies, is dedicated to defending and financially protecting individual educators in just these types of moments. Whether it is a laboratory accident that injures a student, or a teaching demonstration gone awry, this policy, endorsed by the ACS Member Insurance Board of Trustees, will provide educators with the peace of mind they need in today's litigious society where a small accident can lead to a multi-million-dollar lawsuit against an educator without the resources to defend and pay for a defense to the lawsuit.

It is recommended that chemical educators at all levels contact the ACS Program Administrator for the Member Insurance Program today to apply for Chemical Educators Legal Liability coverage or to learn more about the program. At the ACS Member Insurance website, you will find more information about the benefits that such coverage will provide if you find yourself the target of a claim alleging liability for an accident that occurred under your watch.

**For more information
or to apply visit:**

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