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WORKMEN'S COMPENSATION PROVISIONS FOR PUBLIC SCHOOL EMPLOYEES

RESEARCH DIVISION

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WORKERS' COMPENSATION
PROVISIONS FOR PUBLIC
SCHOOLS



Introduction

When compared with industrial pursuits such as construction, manufacturing, or mining, with their accompanying hazards, schoolwork would seem to be among the safest of occupations. Classroom instruction hardly requires the safeguards necessary in a machine shop or textile mill. However, records of injuries sustained by school employees show that caution must be exercised, particularly in the school shops, in the science laboratories, and on athletic fields. Equipment in shop, cafeteria, and laboratory is sometimes dangerous to handle. Supervision of football, rifle practice, and other extracurriculum activities exposes the instructors to danger. School buildings may be out of repair. Moreover, since the upkeep and repair of the school plant involve carpentry, painting, and wiring, members of the maintenance staff are subject to the risks of their particular jobs. It must not be forgotten that these workmen and nurses, bus drivers, janitors, and cooks are school employees as well as are teachers and principals.

10964909, R. F. Seybold
Mutual benefit associations, group hospitalization plans, and retirement systems provide for some school employees but many do not have the opportunity to participate in any such organizations. Furthermore, since the income of the average school employee is not high enough to provide for an adequate reserve in savings, large bills for medical services often prove to be a grave hardship. It is especially important that school employees be protected by workmen's compensation provisions, since they usually have no right of common law action for damages. ^{1/}

^{1/} School districts are immune from liability, even in the face of gross negligence, unless a statute imposes such liability.

I. PHILOSOPHY UNDERLYING WORKMEN'S COMPENSATION BENEFITS

Historical Comment

Under common law principles, an injured workman's only opportunity to obtain damages for injuries sustained in the course of his work rests upon proof of the employer's negligence.

Damage suits for injuries caused by the negligence of a fellow workman were ruled out as early as 1837 when an English case set a precedent by the ruling that the injured employee was just as likely to know of any danger from his fellow's negligence as was the employer and, knowing the risk, he was under no obligation to take it since he could have refused the employment.^{1/} This theory, called the fellow servant doctrine, was long followed in England and in the United States. The employer could defend himself in a suit for damages brought by an injured workman merely by proving that the accident occurred thru the negligence of another workman. The fellow servant doctrine was held applicable even when the "fellow servant" was a superior employee or an administrative officer whom the injured workman had never seen.

Employers had a further defense in the plea of contributory negligence. Under this theory, any injury caused wholly or in part by the workman's own negligence was not the responsibility of the employer. A third defense was found for employers in the theory that since the ordinary risks of accident were considered and assumed by the workman at the time he made the wage contract, the employer was, therefore, not financially responsible for accidents arising out of such employment. This theory was known as the doctrine of assumption of risk.

In short, the employer's liability was a weak support upon which injured employees could place little faith. Just at the time when loss of wages and

^{1/} Priestly v. Fowler 3 M. & W. 1.

costs of medical attention depleted the finances of the workman's family, an expensive law suit was necessary to obtain compensation. Workmen hesitated to risk the hazards of a law suit which was based upon legal theories not designed to protect their interests. The burden of proof was upon the injured workman; it was necessary that he show conclusive evidence in court that the employer had been negligent in not establishing safe working rules, in not providing a safe place to work, in not furnishing safe appliances, or in employing incompetent workmen. If these duties had been performed, the employer could not be held liable and his duty in making such provisions was held to extend only to a reasonable degree.

Altho negligence on the part of the employer is essential to his liability at common law, modifications in common law liability have been made by statutory enactments. For example, the employer liability acts, altho they continued to recognize the necessity of fault on the part of the employer, did limit certain of the defenses previously regarded as available to him and they extended somewhat the rights of employees. Some revisions, made from time to time in employer's liability acts, strengthened them but no great improvement was made, from the point of view of the workmen, until the enactment of workmen's compensation laws.

Social-Economic Principles

The philosophy underlying workmen's compensation legislation is that industrial accidents are inevitable in modern industry and that the burden of such accidents should be borne by industry rather than by the unfortunate workmen individually. The financial loss, distributed by insurance, enters into the cost of production. Workmen's compensation laws provide benefits for workmen injured while engaged in services for the employer. Injuries arising out of and in the course of, or resulting from the workman's employment by his employer are compensated for thru the employer's insurance.

Accidents often occur during ordinary routine thru no fault of employer or employees. Carelessness of a workman may be a contributing factor or the sole cause. Unsafe appliances or dilapidated buildings expose employees to dangerous working conditions. Workmen's compensation laws are enacted with the twofold purpose of fixing (1) for the employee an expeditious remedy regardless of fault, and (2) for the employer a liability which is limited and determinate, since usually the benefits to be paid are specified in the law.

Furthermore, the common law principle, which prevents dependent survivors from bringing or continuing a law suit after a person's wrongful death, served to relieve employers of responsibility in those cases where a fatal accident made compensation most necessary to the family dependent on the deceased workman's wages. The workmen's compensation laws take care of this situation thru provisions for special death benefits.

Standard Provisions for Workmen's Compensation

Provisions in the various states differ in many details, but more and more amendments are bringing all states to a commonly accepted standard which includes the following general principles. The workmen's compensation law should:

(1) Be compulsory and apply to all injuries, including occupational diseases, suffered by the worker while at his job.

(2) Have an all inclusive coverage and except no groups of employees.

(3) Require insurance and offer to employers either a monopoly or a competitive state insurance carrier in which self-insured workers also would be permitted to insure their risks of industrial injury.

(4) Provide a "retroactive" waiting period which would eliminate cases involving trifling accidents without reducing the compensation of the worker suffering other injury.

(5) Afford full medical, hospital, and other remedial care to cure or relieve.

(6) Include a minimum compensation amount to prevent the compensation of the low-paid worker from falling below the subsistence level.

(7) Include a maximum weekly compensation high enough to scale down the compensation only of the exceptionally highly paid worker.

(8) Standardize weekly benefits at a percentage of wages high enough at least to prevent the average working family becoming dependent.

(9) Provide for the dependents left by the worker suffering fatal injury during their entire dependency period, using the family allowance method of varying the benefits with the number of dependents left.

(10) Compensate the disabled worker for the entire period of his disability with supplementary allowance for those permanently disabled and requiring an attendant.

(11) Rehabilitate as far as possible the worker whose injury stands in the way of his following his usual occupation.

(12) Provide for administration by a board or commission supported by sufficient appropriation to make possible real enforcement of the law for the benefit of the workers.

(13) Empower the administrative board to make and enforce safety orders for the prevention of industrial, accident, and occupational disease. 2/

2/ Armstrong, Barbara N. Insuring the Essentials. New York: Macmillan Co., 1932. p. 281-82.

II. CERTAIN PROVISIONS OF WORKMEN'S COMPENSATION LAWS COVERING SCHOOL EMPLOYEES

Public employees had no right to financial reimbursement before the enactment of workmen's compensation acts. Because school districts and other public employers were not liable at common law, even when their gross negligence could be shown, public employees had not even the meager protection which damage suits gave to workmen in private industry. However, public school employees are to some extent at least now protected by such laws in forty-two states and the District of Columbia.

Variations in the benefits provided by state workmen's compensation laws may be seen from the tabular material in succeeding pages. A few general differences in coverage may be noted as follows: some laws apply only to hazardous occupations and include only specified industries; some laws exclude agricultural workers; most laws exclude domestic service; casual workers hired on a temporary basis are generally excluded; employees who are hired at work that is not in the usual course of the employer's trade or business are often excluded. Public employees are generally included, but certain types of public employees often are not, and in some states none are.

Many states exempt employers when the number of employees is below a stated number and a few states exclude employees who earn more than a stated salary.

Further variation in coverage among the states is based upon the elective feature of some laws. In about one-third of the states, workmen's compensation provisions are compulsory. In some states the act is compulsory in certain types of employment, but elective in other types. In most states some part of the law is elective altho quite often the election takes the form of optional rejection. If no rejection is made, it is presumed that the employer is covered and he must abide by the provisions thereafter. In other elective states, election is made by positive action of the employer in accepting the provisions

of the law. When the employer accepts the act, it is presumed that the employees accept it also; the employee's signature of acceptance is required in only one state, Kentucky.

If the employer (and the employee by implication or signature) has accepted the act, damage suits are usually forbidden. In some states an employee is permitted to bring a damage suit under certain circumstances, but these provisions are not applicable to public employees since public employers are not usually liable even when the injury suffered by a workman has been caused by the employer's negligence. The only exception to this general condition obtains in New York and to a limited extent in California and Washington.

Table 1 lists the states in which workmen's compensation laws cover public school employees. All but Mississippi have a workmen's compensation law; other states not appearing in Table 1 have excluded this class of employee.^{1/} The states listed in the two columns of Table 1 have been classified solely from the point of view of the protection offered to school employees, regardless of their provisions with regard to other types of employment. For example, a law may be compulsory for private industry and for public employees generally but, if it is elective so far as school districts are concerned, the state is listed in Table 1 as having an elective law. Therefore, the table must not be interpreted as a general classification of these laws.

The limitations in coverage noted parenthetically in Table 1 are as follow: in Georgia operation of the workmen's compensation act is compulsory for cities and towns but the state supreme court decided that it was unconstitutional to

^{1/} In this connection attention may be turned to a recent Oklahoma case where a school employee was denied compensation because the school district could not come under the workmen's compensation act by implication. The state supreme court ruled that "a school district is not an employer within the workmen's compensation act. The term school district is not specifically mentioned and cannot be included under the term 'or any municipality.'" Ponce City Board of Education v. Bessley 11 P (2d) 466 (Okla. 1932).

TABLE 1. - STATES INCLUDING PUBLIC SCHOOL EMPLOYEES UNDER WORKMEN'S
COMPENSATION PROVISIONS

States whose laws are compulsory for school districts <u>a/</u>	States whose laws allow school districts the option of coverage <u>a/</u>
1	2
Arizona (3)	Alabama (16)
California	Connecticut (5)
Colorado (4)	Florida (3)
Delaware (5)	Georgia (counties) (10)
District of Columbia	Kansas (5)
Georgia (cities and towns) (10)	Kentucky (3)
Hawaii	Maine (towns) (6)
Idaho	Massachusetts
Illinois (when engaged in certain specified enterprises)	Missouri (11)
Indiana	New Hampshire (5)
Iowa	New Mexico (4)
Maine (cities)	New York (certain types of employ- ees) (4)
Michigan	Rhode Island (6)
Minnesota	Tennessee (counties and municipali- ties)
Montana	Vermont (11)
Nebraska	Washington (for employees not in- cluded under compulsory provisions)
Nevada	West Virginia
New Jersey	
New York (state only)	
North Carolina <u>b/</u> (certain types of employees)	
North Dakota	
Ohio (3)	
Pennsylvania	
South Carolina (15)	
South Dakota	
Tennessee (state only) (5)	
Utah (3)	
Virginia (11)	
Washington (certain types of employees)	
Wisconsin (3)	
Wyoming (certain types of employees)	

a/ Numbers in parentheses after certain states indicate the minimum number of employees to which the provisions apply. Districts employing fewer than the number indicated are not bound by the law altho frequently they are allowed to elect coverage.

b/ See School Machinery Act of 1939 quoted on page 10.

attempt compulsory application of the act to county governments or political subdivisions thereof, because the state constitution designates how tax money may be spent.^{2/} However, when counties elect to come under the act and insure with a casualty company, the insurance company is estopped from attempting to defeat the payment of compensation by asserting that the county boards of education were not under the compensation act by operation of law. Therefore, unless some taxpayer enjoins the board from paying the premiums on a workmen's compensation policy, the county boards of education may elect (and some have elected) to come under the provisions of the law.

In Illinois certain types of work are included regardless of whether the employment is public or private.

Provisions of the workmen's compensation law in Maine are compulsory for cities and elective for towns; we may, therefore, infer that all employees of city schools are covered and in town schools some are and some are not.

Teachers employed by the state come under the New York State Compensation Law. Those employed by municipalities or other subdivisions of the state are not covered except in New York City where teachers

... of shop work, manual training, industrial or trade subjects, mechanic arts, textiles, machine shop assistants, laboratory assistants, and teachers of any subject, trade, or employment requiring, for instruction purposes use of tools or machinery for which protective, guarding, or safety devices are required by the Labor Law, may elect to receive the benefits prescribed by this chapter provided they are not eligible for retirement under the teachers' retirement system in said city ... 3/

Washington and Wyoming restrict the compulsory coverage to certain types of school employees. In Washington, it is compulsory that those performing extra-hazardous work as carpenters, painters, manual training instructors using power-driven machinery, and school bus drivers be protected by the employing districts and districts may elect to carry insurance coverage for other employees.

2/ DeKalb County v. Grice 181 SE 704.

3/ Group 20, Subdivision 1, Section 3, of the New York Compensation Law.

In Wyoming it is compulsory for school districts to protect janitors and maintenance employees who are considered as a group to be engaged in extrahazardous work, but other employees are not covered even thru any elective feature.

The North Carolina School Machinery Act of 1939 contains the following provision:

Workmen's Compensation and Sick Leave. The provisions of the Workmen's Compensation Act shall be applicable to all school employees, and the State School Commission shall make such arrangements as are necessary to carry out the provisions of the Workmen's Compensation Act as are applicable to such employees as are paid from State school funds. Liability of the State for compensation shall be confined to school employees paid by the State from State school funds for injuries or death caused by accident arising out of and in the course of their employment in connection with the State operated eight months school term. The State shall be liable for said compensation on the basis of the average weekly wage of such employees as defined in the Workmen's Compensation Act, whether all of said compensation for the eight months school term is paid from State funds or in part supplemented by local funds. The county and city administrative units shall be liable for Workmen's Compensation for School employees whose salaries or wages are paid by such local units from local funds, and such local units shall likewise be liable for Workmen's Compensation of school employees employed in connection with teaching vocational agriculture, home economics, trades and industrial vocational subjects, supported in part by State and Federal funds, which liability shall cover the entire period of service of such employees. Such local units are authorized and empowered to provide insurance to cover such compensation liability and to include the cost of such insurance in their annual budgets. 4/

In the states where coverage of school employees is determined by local election of the provisions of the state workmen's compensation law, it is impossible to discover the extent to which the law protects school employees. Missouri reports that no school districts have elected to go under the act; Connecticut reports that no school districts or towns have rejected the provisions of the act and, therefore, all school employees are covered. The Florida law, nominally elective, is reported to be virtually compulsory in actual operation.

The situation in Montana deserves special mention. A few school districts have refused to pay the insurance premiums due for their teachers and the status

4/ 1939 School Machinery Act Enacted by the General Assembly of North Carolina, Section 22.

of these teachers has never been settled in court. The majority of the schoolboards have not objected and the teachers are covered. There are, however, a few teachers not covered even tho the law makes it compulsory for all public employees to be covered under the state insurance fund. According to the law these employees have the right to bring damage suits in which the employer cannot employ the usual common law defenses. However, school employees cannot sue the schoolboard or school district. Therefore, the situation in Montana is enigmatic until a test case decides the legal status of the employees of these particular school districts.

Tables 2 to 6 report the benefits available to school employees as a class under the state laws providing workmen's compensation benefits to them on either a compulsory or elective basis.

TABLE 2. - MEDICAL, SURGICAL, AND HOSPITAL AID PROVIDED BY
WORKMEN'S COMPENSATION ACTS

State	Provisions
1	2
Alabama	Reasonable medical, surgical, and hospital services for 90 days. Maximum \$200.
Arizona	All necessary first aid; medical, surgical, and hospital services for 90 days. Commission may extend time to one year.
California	Reasonable medical, surgical, and hospital services. One change of physician permitted. Entitled to services of consulting physician.
Colorado	Reasonable medical, surgical, and hospital services for four months. Maximum \$500. Additional allowance for dental service \$100.
Connecticut	Reasonable services.
Delaware	Reasonable medical, surgical, and hospital treatment for 30 days; longer if ordered by Industrial Accident Board. Maximum \$150.
District of Columbia	Such medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for such period as the nature of the injury or the progress of recovery may require.
Florida	Medical services maximum \$250. Medical and surgery \$500 maximum.
Georgia	Reasonable medical, surgical, and hospital services for 10 weeks. Maximum \$500. Further treatment within discretion of Department of Industrial Relations. Refusal to accept treatment bars further compensation.
Hawaii	Medical, surgical, and hospital services such as the nature of the injury requires.
Idaho	Reasonable medical, surgical, and hospital services. Hospital benefit funds permitted in lieu thereof.
Illinois	Necessary medical, surgical, and hospital services; full hospital services during compensation; additional medical and surgical aid as long as hospital treatment is required.

TABLE 2. - MEDICAL, SURGICAL, AND HOSPITAL AID PROVIDED BY
WORKMEN'S COMPENSATION ACTS (Cont.)

State	Provisions
1	2
Indiana	Necessary medical, surgical, and hospital service for 90 days.
Iowa	Reasonable medical, surgical, osteopathic, chiropractic, nursing and hospital services and supplies. Maximum \$600.
Kansas	Reasonable medical, surgical, and hospital services for 60 days. Maximum \$100. Commission may increase maximum to \$500 in extreme cases.
Kentucky	Reasonable medical, surgical, and hospital services for 90 days. Maximum \$200 unless board fixes other period, when maximum is \$400.
Maine	Reasonable medical, surgical, and hospital services for 30 days. Maximum \$100. Additional services in discretion of commission.
Massachusetts	Reasonable medical, surgical, and hospital services for two weeks or longer at discretion of board.
Michigan	Reasonable medical and hospital services for 90 days.
Minnesota	Reasonable medical and surgical treatment.
Missouri	Reasonable medical, surgical, and hospital services for 90 days. Maximum \$750. Thereafter such additional treatment as commission shall direct.
Montana	Reasonable medical and hospital services for six months. Maximum \$500 unless there is a hospital fund.
Nebraska	Reasonable medical and hospital services.
Nevada	Reasonable medical, surgical, and hospital treatment and supplies, crutches, apparatus, artificial members, for six months; may be extended up to one year by commission. Transportation furnished.
New Hampshire	Reasonable medical and hospital services for 30 days.
New Jersey	Reasonable medical and hospital services. Maximum \$100. In cases requiring unusual treatment bureau may increase maximum.

TABLE 2. - MEDICAL, SURGICAL, AND HOSPITAL AID PROVIDED BY
WORKMEN'S COMPENSATION ACTS (Cont.)

State	Provisions
1	2
New Mexico	Reasonable medical, surgical, and hospital services. Maximum \$400 unless employer furnishes such facilities.
New York	Such medical, surgical, and hospital treatment as nature of injury requires. Only physicians authorized by commission may treat such cases. Commission may establish medical bureaus licensed for diagnosis and treatment of compensation cases.
North Carolina	Reasonable medical, surgical, and hospital and other treatment and supplies. Maximum 10 weeks from date of injury. Additional time in discretion of commission. Artificial members are to be furnished by employer.
North Dakota	Such medical, surgical, and hospital treatment as the nature of the injury requires.
Ohio	Such medical and hospital treatment as department deems proper. Maximum \$200 except in unusual cases.
Pennsylvania	Reasonable medical, dental, surgical, and hospital services for three months and such further period as board may require. Maximum \$200 except in hospital cases.
Rhode Island	Reasonable medical, dental, and hospital services when needed. Maximum for medical and dental services \$250. Maximum for hospital \$3 day.
South Carolina	Reasonable charges to effect a cure for period of maximum 10 weeks but commission may extend time in its discretion.
South Dakota	Necessary medical, surgical, and hospital services for 12 weeks. Maximum medical \$100. Maximum hospital \$100.
Tennessee	Reasonable medical, surgical, and hospital services for 30 days, longer at option of employer. Maximum medical \$100; hospital \$100.
Utah	Reasonable medical and hospital services. Maximum \$500, more if found necessary. Hospital benefit fund permitted in lieu thereof.

TABLE 2. - MEDICAL, SURGICAL, AND HOSPITAL AID PROVIDED BY
WORKMEN'S COMPENSATION ACTS (Cont.)

State	Provisions
1	2
Vermont	Reasonable medical and surgical treatment for 14 days; maximum \$50. Reasonable hospital service for 30 days; maximum \$150 additional.
Virginia	Necessary medical, surgical, and hospital service for 60 days, longer if ordered by commission but not in excess of 180 days.
Washington	Necessary medical, surgical, and hospital service and transportation. Employees bear one-half cost. Employer may provide own hospital and medical service and require employees to contribute - subject to approval of supervisor of industrial insurance.
West Virginia	Reasonable medical, surgical, and hospital service. Maximum \$800. In permanent disability cases, where disability can be materially reduced additional \$800.
Wisconsin	Reasonable medical, surgical, and hospital service not to exceed period for which indemnity is payable; also necessary artificial members. Christian Science treatment permitted unless employer refuses by filing written notice.
Wyoming	Medical and hospital services. Maximum \$300. May be increased to \$600 under court order.

TABLE 3. - BENEFITS PROVIDED DURING TEMPORARY TOTAL DISABILITY (IN ADDITION TO MEDICAL, SURGICAL, AND HOSPITAL AID SHOWN IN TABLE 2)

State	Percent of wages	Maximum weekly benefits	Minimum weekly benefits	Maximum period of time benefits are paid	Miscellaneous additional provisions
1	2	3	4	5	6
Alabama	55-65	\$18	^{a/} \$5	300 weeks	...
Arizona	65	...	...	100 months	If there is a dependent in U. S., additional \$10 a month is paid
California	65	of \$38.46 wage	of \$6.41 wage	240 weeks	Maximum total three years' earnings
Colorado	50	14	5	...	...
Connecticut	50	21	7	520 weeks	...
Delaware	50	15	^{a/} 5	475 weeks	Maximum total \$4000
District of Columbia	66 2/3	25	8	During disability	Maximum total \$7500
Florida	50-60	18	^{a/} 6	350 weeks	Maximum total \$5000
Georgia	50	20	^{a/} 4	350 weeks	Maximum total \$7000
Hawaii	60	20	^{a/} 5	312 weeks	Maximum total \$5000
Idaho	55	12	6	400 weeks	If married additional benefits; if there are dependent minor children, more for children
Illinois	50-65	15-20	7.50-11	...	Maximum total \$5500
Indiana	55	of \$30 wage	of \$16 wage	500 weeks	Maximum total \$5000
Iowa	60	15	6	300 weeks	...
Kansas	60	18	6	8 years	...
Kentucky	65	15	5	8 years	Maximum total \$6000

^{a/} Or wages.

TABLE 3. - BENEFITS PROVIDED DURING TEMPORARY TOTAL DISABILITY (IN ADDITION TO MEDICAL, SURGICAL, AND HOSPITAL AID SHOWN IN TABLE 2)
(Cont.)

State	Percent of wages	Maximum weekly benefits	Minimum weekly benefits	Maximum period of time benefits are paid	Miscellaneous additional provisions
1	2	3	4	5	6
Maine	66 2/3	\$18	\$6	500 weeks	Maximum total \$6000
Massachusetts	66 2/3	18	^{b/} 9	500 weeks	Maximum total \$4500
Michigan	66 2/3	18	7	500 weeks	Maximum total \$9000
Minnesota	66 2/3	20	^{a/} 8	300 weeks	...
Missouri	66 2/3	20	6	400 weeks	...
Montana	50-66 2/3	21	8	300 weeks	...
Nebraska	66 2/3	15	6	300 weeks	...
Nevada	60	72 (a month)	30 (a month)	100 months	If there is a dependent in U. S., additional \$10 a month is paid. Maximum total \$7200.
New Hampshire	50	17	7	300 weeks	...
New Jersey	66 2/3	20	^{a/} 10	300 weeks	...
New Mexico	60	18	^{a/} 10	550 weeks	...
New York	66 2/3	25	^{a/} 8	...	Maximum total \$5000
North Carolina	60	18	7	400 weeks	Maximum total \$6000
North Dakota	66 2/3	20	^{a/} 6		Maximum total \$15,000
Ohio	66 2/3	18.75	^{a/} 8	6 years	Maximum total \$3750
Pennsylvania	65	18	12	500 weeks	...
Rhode Island	50	20	7	1000 weeks	Maximum total \$10,000
South Carolina	60	25	5	500 weeks	Maximum total \$6000

^{a/} Or wages.

^{b/} If wages are less than \$9, wages are paid as benefit with minimum of \$7 if employed at least 15 hours a week.

TABLE 3. - BENEFITS PROVIDED DURING TEMPORARY TOTAL DISABILITY (IN ADDITION TO MEDICAL, SURGICAL, AND HOSPITAL AID SHOWN IN TABLE 2)
(Cont.)

State	Percent of wages	Maximum weekly benefits	Minimum weekly benefits	Maximum period of time benefits are paid	Miscellaneous additional provisions
1	2	3	4	5	6
South Dakota	55	\$15	\$7.50 ^{a/}	6 years	...
Tennessee	50	16	5 ^{a/}	300 weeks	...
Utah	60	16	7 ^{a/}	6 years	More for dependent children. Maximum total \$5000 or \$6250 if there are dependent children.
Vermont	50	15	7 ^{a/}	260 weeks	Maximum total \$4000
Virginia	55	16	6	500 weeks	Maximum total \$6000
Washington	\$35 a month if single; \$40 if spouse is invalid; if worker is married woman whose husband is not invalid \$20. \$12.50 for one child; \$7.50 for next youngest; \$5 for each other child under 16; \$25 month for attendant if needed. Schedule may be increased for six months in certain cases of temporary disability.				
West Virginia	66 2/3	16	8	52 weeks	May be paid 78 weeks in certain cases
Wisconsin	70	of \$30 wage	of \$10.50 wage	...	Maximum total four years' earnings
Wyoming	\$50 a month if single; \$60 if married; \$7.50 for each child under 18; maximum \$90 a month. If dependent children are nonresident aliens only one-third of the allowance is paid for children.				

^{a/} Or wages.

TABLE 4. - PERMANENT TOTAL DISABILITY BENEFITS

State	Percent of wages	Maximum weekly benefits	Minimum weekly benefits	Maximum period of time benefits are paid	Miscellaneous additional provisions
1	2	3	4	5	6
Alabama	55-65	\$18	\$5 ^{a/}	400 weeks	Thereafter maximum \$5 for 150 weeks in certain areas
Arizona	65	...	...	Life	...
California	65	of \$38.46 wage	of \$6.41 wage	240 weeks	Thereafter 40 percent for life
Colorado	50	14	5	Life	...
Connecticut	50	21	7 ^{a/}	520 weeks	...
Delaware	50	15	5 ^{a/}	475 weeks	Maximum total \$4000
District of Columbia	66 2/3	25	8	During disability	Maximum total \$7500
Florida	50-60	18	6 ^{a/}	350 weeks	Maximum total \$5000
Georgia	50	20	4 ^{a/}	350 weeks	Maximum total \$7000
Hawaii	60	20	5	312 weeks	Maximum total \$5000
Idaho	55	12	6	400 weeks	Thereafter \$6 week. If married, additional benefits are paid, and more if there are dependent children.
Illinois	55-65	15-20	7.50-11	8 years	Thereafter 8 percent of death benefits for life; minimum \$10 a month
Indiana	55	of \$30 wage	of \$16 wage	500 weeks	Maximum total \$5000
Iowa	60	15	6 ^{a/}	400 weeks	...
Kansas	60	18	6	8 years	...
Kentucky	65	15	5	8 years	Maximum total \$6000

^{a/} Or wages.

TABLE 4. - PERMANENT TOTAL DISABILITY BENEFITS (Cont.)

State	Percent of wages	Maximum weekly benefits	Minimum weekly benefits	Maximum period of time benefits are paid	Miscellaneous additional provisions
1	2	3	4	5	6
Maine	66 2/3	\$18	\$6	500 weeks	Maximum total \$6000
Massachusetts	66 2/3	18	^{b/} 9	500 weeks	Maximum total \$4500
Michigan	66 2/3	18	7	500 weeks	Maximum total \$9000
Minnesota	66 2/3	20	^{a/} 8	...	Maximum total \$10,000
Missouri	66 2/3	20	6	300 weeks	Thereafter 25 percent for life
Montana	50-66 2/3	15	8	500 weeks	Additional benefits if dependents
Nebraska	66 2/3	15	^{a/} 6	300 weeks	Thereafter 45 percent, maximum \$10, minimum \$4.50 or wages
Nevada	60	60 (a month)	30 (a month)	Life	\$30 month additional for services of constant attendant if needed
New Hampshire	50	17	7	300 weeks	...
New Jersey	66 2/3	20	^{a/} 10	400 weeks	Period may be extended
New Mexico	60	18	^{a/} 10	550 weeks	...
New York	66 2/3	25	^{a/} 15	...	...
North Carolina	66 (average)	18	7	400 weeks	Maximum total \$6000
North Dakota	66 2/3	20	^{a/} 6	During disability	Maximum total \$15,000
Ohio	66 2/3	18.75	^{a/} 8	Life	...
Pennsylvania	65	18	12	500 weeks	Thereafter \$30 a month during disability

^{a/} Or wages.

^{b/} If wages are less than \$9, wages are paid as benefit with minimum of \$7 if employed at least 15 hours a week.

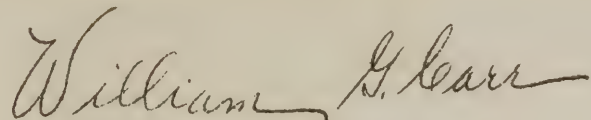
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To Members of the State School
Legislative Reference Service

We are pleased to send you herewith a copy of the mimeographed bulletin "Workmen's Compensation Provisions for Public School Employees." This publication is sent to you as a part of the program of the State School Legislative Reference Service. We believe that the facts reviewed will be helpful to those interested in the improvement of workmen's compensation legislation, particularly as related to school systems.

Cordially yours,



Frank W. Hubbard
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This material is sent to you as a part of the State
School Legislative Reference Service, inaugurated
by the Legislative Commission,
National Education Association
Sidney B. Hall, Chairman

TABLE 4. - PERMANENT TOTAL DISABILITY BENEFITS (Cont.)

State	Percent of wages	Maximum weekly benefits	Minimum weekly benefits	Maximum period of time benefits are paid	Miscellaneous additional provisions
1	2	3	4	5	6
Rhode Island	50	\$20	\$7	1000 weeks	Maximum total \$10,000
South Carolina	60	25	5	500 weeks	Maximum total \$6000
South Dakota	55	15	7.50	During disability	Total not to exceed death benefits
Tennessee	50	16	^{a/} 5	400 weeks	Thereafter maximum \$5 week for 150 weeks. Maximum total \$5000.
Utah	60	16	7	5 years	More for children. After 5 years 45 percent for life.
Vermont	50	15	^{a/} 7	260 weeks	Maximum total \$4000
Virginia	55	16	6	500 weeks	Maximum total \$6000
Washington	\$35 a month if single; \$40 if spouse is invalid; if worker is married woman whose husband is not invalid \$20. \$12.50 for one child; \$7.50 for next youngest; \$5 for each other child under 16. \$25 a month for attendant if needed.				
West Virginia	66 2/3	16	8	Life	...
Wisconsin	70	of \$30 wage	of \$20 wage	Life	...
Wyoming	Lump sum of \$5000 payable in monthly awards of \$50 if single, \$70 if married; plus \$180 year for each child under 18				

^{a/} Of wages.

TABLE 5. - BENEFITS PROVIDED FOR PARTIAL DISABILITY

State	Provisions	
	In general	In specified permanent partial injuries
1	2	3
Alabama	55-65 percent of wage loss during disability; maximum 300 weeks.	55 percent of wages for fixed periods; maximum 300 weeks; maximum benefit \$18, minimum \$5 or wages.
Arizona	65 percent of wage loss during disability; maximum 60 months.	55 percent of average monthly wage for fixed periods.
California	If <u>permanent</u>, 65 percent of wages for periods proportionate to disability, then reduced rate for life if 70 percent or more disabled. If <u>temporary</u>, 65 percent of wage loss during disability; maximum 240 weeks; maximum 3 years' earnings.	
Colorado	If <u>temporary</u>, 50 percent of impairment of earning capacity during disability; maximum \$14; maximum total \$1820. If <u>permanent</u>, sum proportionate to total disability benefit; maximum total \$3640.	50 percent of wages; maximum \$14; minimum \$5.
Connecticut	50 percent of wage loss during disability; maximum 520 weeks; maximum \$21. In addition to temporary total disability benefits.	50 percent of wages for fixed periods; maximum \$21, minimum \$7. In addition to temporary total disability benefits.
Delaware	50 percent of wage loss during disability; maximum 285 weeks, maximum \$15.	50 percent of wages for fixed periods; maximum \$15, minimum \$5 or wages.
District of Columbia	If <u>temporary</u>, two-thirds of wage loss during continuance of disability; maximum 5 years. If <u>permanent</u>, 66 2/3 percent of average weekly wages for fixed periods, in addition to compensation for temporary total disability; maximum total \$7500.	
Florida	50-60 percent of wage loss during disability; maximum 350 weeks if <u>permanent</u> or 5 years if <u>temporary</u> . Maximum \$18, minimum \$6 or wages; maximum total \$5000.	50-60 percent of wages for fixed periods.

TABLE 5. - BENEFITS PROVIDED FOR PARTIAL DISABILITY (Cont.)

State	Provisions	
	In general	In specified permanent partial injuries
1	2	3
Georgia	50 percent of wage loss, maximum \$12; maximum 300 weeks including period of total disability, if any.	50 percent of wages for fixed periods after maximum of 10 weeks' allowance for total disability: maximum \$15, minimum \$4 or wages.
Hawaii	50 percent of wage loss during disability; maximum 312 weeks; maximum \$12; maximum total \$5000.	50 percent of wages for fixed periods in addition to temporary total disability benefit.
Idaho	If <u>temporary</u> , 55 percent of wage loss; maximum 150 weeks; maximum \$16. If <u>permanent</u> , proportionate to benefits for specified injuries; maximum \$16.	55 percent of wages for fixed periods in addition to other compensation.
Illinois	50-65 percent of wage loss during disability; maximum 8 years; maximum \$15-\$20.	50-65 percent of wages for fixed periods; maximum \$15-\$20, minimum \$7.50-\$11; in addition to temporary total disability benefits.
Indiana	55 percent of wage loss; maximum 300 weeks including period of total disability, if any. Basic wage maximum \$30; minimum \$16.	55 percent of wages for fixed periods; basic wage maximum \$30; minimum \$16.
Iowa	Proportionate to benefits for specified injuries; maximum \$15, minimum \$6 or wages.	60 percent of wages for fixed periods; maximum \$15, minimum \$6 or wages.
Kansas	60 percent of wage loss during disability; maximum 415 weeks.	60 percent of wages for fixed periods; maximum \$18.
Kentucky	If <u>temporary</u> , 65 percent of wage loss; maximum 333 weeks; maximum \$15; maximum total \$4000. If <u>permanent</u> , a percent of total disability benefits.	65 percent of wages for fixed periods; maximum \$12, minimum \$5.
Maine	66 2/3 percent of wage loss; maximum \$18; maximum 300 weeks.	66 2/3 percent of wages for fixed periods; thereafter a total or partial disability benefit; maximum 300 weeks in all.
Massachusetts	66 2/3 percent of wage loss; maximum \$18; maximum total \$4500.	\$10 a week for fixed periods in addition to all other compensation.

TABLE 5. - BENEFITS PROVIDED FOR PARTIAL DISABILITY (Cont.)

State	Provisions	
	In general	In specified permanent partial injuries
1	2	3
Michigan	66 2/3 percent of wage loss during disability; maximum 500 weeks; maximum \$18.	66 2/3 percent of wages for fixed periods; maximum \$18, minimum \$7.
Minnesota	66 2/3 percent of wage loss during disability; maximum 300 weeks; maximum \$20.	66 2/3 percent of wages for fixed periods in addition to 66 2/3 percent of wage loss, during healing period; maximum 10 weeks; maximum \$20, minimum \$8 or wages.
Missouri	66 2/3 percent of wage loss; maximum \$20; maximum 100 weeks if <u>temporary</u> .	66 2/3 percent of average earnings for specified periods; maximum \$20, minimum \$6.
Montana	50-66 2/3 percent of wage loss, maximum \$21; maximum 500 weeks if <u>permanent</u> , 50 weeks if <u>temporary</u> .	50-66 2/3 percent of wages for fixed periods; maximum \$21, minimum \$8.
Nebraska	66 2/3 percent of wage loss; maximum 300 weeks; maximum \$15.	66 2/3 percent of wages for fixed periods in addition to temporary total disability benefits; maximum \$15, minimum \$6 or wages.
Nevada	60 percent of wage loss; maximum 60 months; maximum \$40 month. If <u>permanent</u> , 50 percent of wages for periods proportionate to disability; maximum \$60 month; maximum 60 months.	50 percent of wages for fixed periods in addition to temporary total disability benefits; maximum \$60 month, minimum \$30 month.
New Hampshire	50 percent of wages; maximum 300 weeks; maximum \$17, minimum \$7; compensation not to exceed wage loss.	
New Jersey	If <u>temporary</u> , 66 2/3 percent of wages, maximum 300 weeks; maximum \$20, minimum \$10 or wages; if <u>permanent</u> , 66 2/3 percent of wages for periods proportionate to disability; maximum 500 weeks. Compensation for permanent injuries is in addition to payment for temporary.	66 2/3 percent of wages for fixed periods, maximum \$20, minimum \$10 or wages. Compensation for permanent injuries is in addition to payment for temporary.
New Mexico	If permanent, compensation measured by extent of disability.	60 percent of wages for fixed periods in addition to temporary total disability benefit; maximum \$18, minimum \$10 or wages.

TABLE 5. - BENEFITS PROVIDED FOR PARTIAL DISABILITY (Cont.)

State	Provisions	
	In general	In specified permanent partial injuries
1	2	3
New York	66 2/3 percent of wage loss during disability; total maximum \$4000 if <u>temporary</u> .	66 2/3 percent of wages for fixed periods plus fixed healing time in certain cases; maximum \$20, minimum \$8 or wages.
North Carolina	60 percent of wage loss; maximum 300 weeks; maximum \$18. Period of total disability deducted from period allowed for partial disability.	60 percent of wages for fixed periods, maximum \$18, minimum \$7. Period of total disability deducted from period allowed for partial disability.
North Dakota	If <u>temporary</u> , 66 2/3 percent of wage loss; maximum \$20. If <u>permanent</u> , for fixed periods according to schedule of percent of disability.	
Ohio	66 2/3 percent of wage loss; maximum \$18.75; maximum total \$4000.	66 2/3 percent of wages for fixed periods in addition to temporary total disability benefits; maximum \$18.75.
Pennsylvania	65 percent of wage loss; maximum 400 weeks; maximum \$18.	65 percent of wages for fixed periods; maximum \$18, minimum \$12.
Rhode Island	50 percent of wage loss; maximum 700 weeks; maximum \$13.	50 percent of wages for fixed periods in addition to all other compensation; maximum \$20, minimum \$8.
South Carolina	60 percent of wage loss; maximum 300 weeks; maximum \$25.	60 percent of wages for fixed periods; maximum \$25, minimum \$5.
South Dakota	50 percent of wage loss; maximum 6 years; maximum \$15.	55 percent of wages for fixed periods in addition to temporary total disability benefits; maximum \$15, minimum \$7.50 or wages.
Tennessee	50 percent of wage loss; maximum 300 weeks; maximum \$16, minimum \$5 or wages.	50 percent of wages for fixed periods; maximum \$16, minimum \$5 or wages.
Texas	60 percent of wage loss; maximum 300 weeks (401 weeks if partial follows total disability); maximum \$20.	60 percent of wages for fixed periods; maximum \$20, minimum \$7.
Utah	60 percent of wage loss; maximum 6 years; maximum \$16.	60 percent of wages for fixed periods in addition to temporary total disability benefits; maximum \$16. Additional 5 percent for each dependent minor child; maximum \$20; maximum total \$6250.

TABLE 5. - BENEFITS PROVIDED FOR PARTIAL DISABILITY (Cont.)

State	Provisions	
	In general	In specified permanent partial injuries
1	2	3
Vermont	50 percent of wage loss; maximum 260 weeks; maximum \$10.	50 percent of wages for fixed periods in addition to temporary total disability benefits; maximum \$15, minimum \$6 or wages. 55 percent of wages for fixed periods; maximum \$16, minimum \$6.
Virginia	55 percent of wage loss; maximum 300 weeks; maximum \$16.	
Washington	Proportionate amounts based on loss of earning capacity; maximum total \$2400.	Fixed sum for each type of specified injuries.
West Virginia	If disability exceeds 85 percent, period of benefits is life; otherwise 66 2/3 percent of wages for fixed periods; maximum \$16, minimum \$8.	
Wisconsin	If <u>temporary</u> , proportionate to total disability rate as wage loss is to average weekly wage. If <u>permanent</u> , proportionate to total disability rate for 280-1000 weeks depending on injury and age of worker; maximum basic average weekly wage \$30, minimum \$20.	65-70 percent of wages for fixed periods.
Wyoming	If permanent, proportionate amount based upon the schedule to be paid in monthly installments of \$50 month, if single; \$70 if married. Court may award lump sum if necessary. Maximum total \$2500.	Fixed lump sum paid monthly in addition to temporary total disability benefits.

TABLE 6. - DEATH BENEFITS PAID THRU PROVISIONS OF
WORKMEN'S COMPENSATION ACTS

State	Payable to deceased worker's dependents	Death benefits if worker has no dependents
1	2	3
Alabama	Burial expenses, maximum \$125. 25 to 65 percent of wages, maximum 300 weeks; maximum \$18, minimum \$5 or actual wages.	Last sickness expenses and burial included, maximum \$125.
Arizona	Burial expenses, maximum \$150; per- cent of wages depends on degree of consanguinity and degree of de- pendency. Burial expenses of de- pendent, if death occurs during eligibility, maximum \$150.	Burial expenses, maximum \$150; \$850 into rehabilitation fund.
California	Burial expenses, maximum \$150. 65 percent of wages to equal three years' earnings; maximum \$5000, minimum \$1000. If partial dependent, benefit equals three times amount donated annually by deceased.	Burial expenses, maximum \$150.
Colorado	Burial expenses, maximum \$125. 50 percent of wages, maximum 6 years; maximum \$14, minimum \$5, total \$4375.	\$125 flat for burial expenses.
Connecticut	Burial expenses, maximum \$200. 50 percent for 312 weeks; maximum \$21, minimum \$7.	\$200 flat for burial expenses.
Delaware	If death results from the injury with- in one year, expenses of last sick- ness and burial, maximum \$100; 15-60 percent of wages for 285 weeks; basic wage maximum \$30, minimum \$10.	If death results from the injury within one year, ex- penses of last sickness and burial, maximum \$100.
District of Columbia	Funeral expenses, maximum \$200. 35 percent of average weekly wage to sur- viving wife or husband plus 10 per- cent for each child. In case of re- marriage, two years' compensation in one sum and 15 percent to each child; total maximum, 66 2/3 percent of wages. (Also benefits for dependent grandchildren, brothers or sisters.) Basic weekly wages, maximum \$37.50, minimum \$12. Maximum total \$7500.	Funeral expenses, maximum \$200 (\$1000 to second injury fund).

TABLE 6. - DEATH BENEFITS PAID THRU PROVISIONS OF
WORKMEN'S COMPENSATION ACTS (Cont.)

State	Payable to deceased worker's dependents	Death benefits if worker has no dependents
1	2	3
Florida	Burial expenses, maximum \$150. Per- cent of wages depends on degree of consanguinity; total maximum percent 60; maximum \$18, minimum \$6 or actual wages; total maximum \$5000.	Burial expenses, \$150 maximum. \$500 to Industrial Compensation Board for administrative ex- penses.
Georgia	Burial expenses, maximum \$100. 85 percent of total disability benefit for 300 weeks; maximum \$12.75, total maximum \$5000.	Last sickness and burial ex- penses, \$100 maximum.
Hawaii	Burial expenses, maximum \$100. 25-60 percent for maximum 312 weeks; basic wage, maximum \$36, minimum \$5; total maximum \$5000.	\$100 flat for burial expenses; \$500 to second injury fund.
Idaho	Burial expenses, maximum \$200. 45 percent of wages during widowhood or 400 weeks; 55 percent if children; maximum \$12, minimum \$6 or actual wages. Minimum \$8 or wages if widow with more than one dependent child.	Burial expenses, \$200 maximum; \$1000 to Industrial Compensa- tion Board for administrative expenses.
Illinois	50-65 percent until four years' earn- ings are paid; percent depends on status of beneficiary; maximum \$4000, minimum \$2500. If children under 16, maximum \$5500.	Burial expenses, \$150 maximum; \$600 to second injury fund.
Indiana	Burial expenses, maximum \$150. 55 percent of wages for 300 weeks; basic wage, maximum \$30, minimum \$16; maxi- mum total \$5000.	Burial expenses, maximum \$150.
Iowa	Burial expenses, maximum \$150. 60 percent for 300 weeks; maximum \$15, minimum \$6 or full wages.	Last sickness and burial ex- penses, maximum \$250.
Kansas	Three years' earnings, maximum \$4000, minimum \$1400.	Burial expenses, \$150 maximum.
Kentucky	Burial expenses, maximum \$150. 65 percent for period between death and 335 weeks after accident, or until end of dependency; maximum \$12, minimum \$5, total maximum \$4000.	Burial expenses, \$150 maximum; \$100 to representative of deceased.

TABLE 6. - DEATH BENEFITS PAID THRU PROVISIONS OF
WORKMEN'S COMPENSATION ACTS (Cont.)

State	Payable to deceased worker's dependents	Death benefits if worker has no dependents
1	2	3
Maine	66 2/3 percent of wages for 300 weeks; total maximum \$4000, maximum \$18, minimum \$6. Partial dependents according to dependency.	Burial expenses, \$300 maximum.
Massachusetts	\$10 to widow and \$2 for each child to age 18 for 40 weeks, maximum \$18; total maximum \$6400; to other dependents 66 2/3 percent for 500 weeks, maximum \$10, minimum \$4, total maximum \$4000.	Burial expenses, \$150 maximum; \$1000 to second injury fund.
Michigan	Expenses of last sickness and burial, maximum \$200. 66 2/3 percent of wages for 300 weeks; maximum \$18, minimum \$7.	Expenses of last sickness and burial, maximum \$200.
Minnesota	Burial expenses, maximum \$150; 66 2/3 percent of wages; maximum \$20, minimum \$8 or actual wages; total maximum \$7500.	Burial expenses, \$150 maximum; \$300 to second injury fund.
Missouri	Burial expenses, maximum \$150 if authorized by next of kin, personal representative, or employer; last sickness expenses, maximum \$250 in certain cases; 66 2/3 percent of average weekly wage for 300 weeks less payments for disability resulting in death; maximum \$20, minimum \$6.	Reasonable expenses of last sickness plus \$150 maximum for burial expenses.
Montana	Burial expenses, maximum \$150. 30-66 2/3 percent for 400 weeks; maximum \$21, minimum \$8.	Burial expenses, maximum \$150.
Nebraska	Burial expenses, maximum \$150; 66 2/3 percent for 325 weeks; maximum \$15, minimum \$6 or actual wages.	Burial expenses, \$150 maximum.
Nevada	Burial expenses, maximum \$150; 30 percent to widow during widowhood, 15 percent for each child; total maximum 66 2/3 percent; maximum basic wage \$120 month. Burial expenses of dependent, maximum \$150.	Burial expenses, \$150 maximum.

TABLE 6. - DEATH BENEFITS PAID THRU PROVISIONS OF
WORKMEN'S COMPENSATION ACTS (Cont.)

State	Payable to deceased worker's dependents	Death benefits if worker has no dependents
1	2	3
New Hampshire	150 times weekly earnings; maximum \$4500.	Expenses of medical attention and burial, maximum \$200.
New Jersey	Burial expenses, maximum \$150. Expenses of last sickness, maximum \$100. 35-60 percent for 300 weeks; maximum \$20, minimum \$10 or actual wages.	Expenses of last sickness, maximum \$100; plus burial expenses, maximum \$150.
New Mexico	Burial expenses maximum \$150. 20-60 percent for maximum 300 weeks; maximum \$18, minimum \$5.	Expenses of disability plus expenses of burial, maximum \$150.
New York	Burial expenses, maximum \$200. 30 percent during widowhood if no dependent children; upon remarriage of widow, two years' compensation in lump sum; 10 percent additional for each child dependent, to be increased to 15 percent upon death or remarriage of widow; total maximum 66 2/3 percent or basic wage, maximum \$150 month.	Burial expenses, maximum \$200. \$1000 for second injury and rehabilitation fund.
North Carolina	Burial expenses, maximum \$200. 60 percent average weekly wages for 350 weeks from date of injury; maximum \$18, minimum \$7, total maximum \$6000 less disability payments. Proportionate amount for partial dependents.	An amount commuted under section 8081 (tt) divided between next of kin and second injury fund.
North Dakota	Burial expenses, maximum \$200. 35 percent during widowhood, 10 percent additional for each child; total maximum 66 2/3 percent; basic wage, maximum \$30, minimum \$18. No compensation to exceed wages; total maximum \$15,000.	Burial expenses, \$200 maximum.
Ohio	Burial expenses, maximum \$200. 66 2/3 percent for eight years; maximum \$18.75; total maximum \$6500, minimum \$2000.	Burial expenses, \$200 maximum.
Pennsylvania	Burial expenses, maximum \$200. 15-65 percent of wages for 500 weeks or for life if widow does not remarry; to children to age 18; maximum \$18.50.	Burial expenses, maximum \$200. \$1500 for Federal Rehabilitation Fund and second injury fund.

TABLE 6. - DEATH BENEFITS PAID THRU PROVISIONS OF
WORKMEN'S COMPENSATION ACTS (Cont.)

State	Payable to deceased worker's dependents	Death benefits if worker has no dependents
1	2	3
Rhode Island	50 percent for 500 weeks; maximum \$12, minimum \$8; maximum \$16 if dependent children survive.	Expenses of last illness and burial, maximum \$300.
South Carolina	Burial expenses, maximum \$200. 60 percent for maximum 350 weeks; maximum \$25, minimum \$5; distributed pro rata, for partial dependents, proportionate amount contributed by employee to dependents.	One half of commuted amount allowed dependents, less burial expenses, is paid to next of kin. If none, amount is paid to Industrial Commission for special fund.
South Dakota	50 percent of wages to equal four times annual earnings; maximum \$3000, minimum \$1650.	Burial expenses, maximum \$150.
Tennessee	Burial expenses, maximum \$100. 20-50 percent of wages, maximum 400 weeks; maximum \$16, minimum \$5 or wages. Maximum total \$5000.	Burial expenses, maximum \$100.
Texas	60 percent for 360 weeks; maximum \$20, minimum \$7 to legal beneficiaries regardless of dependency.	Expenses of last sickness plus burial expenses, maximum \$250.
Utah	Burial expenses, maximum \$150; 60 percent for six years; maximum \$16, maximum \$7500, minimum \$2000. Additional 10 percent for each dependent minor child up to five children.	Burial expenses, \$150 maximum; 20 percent of a total dependency benefit to a second injury fund.
Vermont	Burial expenses, \$100 maximum. 15-50 percent for 260 weeks; minimum basic wage \$5; total maximum \$3500.	Burial expenses, maximum \$100.
Virginia	Burial expenses, maximum \$150. 55 percent for 300 weeks; maximum \$16, minimum \$6, total maximum \$5000.	Burial expenses, maximum \$150.
Washington	Burial expenses, maximum \$100 if single, \$150 if married; \$35 month to widow until death or remarriage; varying amounts to children under 16 depending on size of family. Orphan children receive \$25 month each, maximum \$75, other dependents receive 50 percent average monthly support from deceased, maximum \$20 month. Parents receive \$20 month until worker would have been 21. Benefits also in case surviving spouse dies leaving children under 16.	Burial expenses, maximum \$100.

TABLE 6. - DEATH BENEFITS PAID THRU PROVISIONS OF
WORKMEN'S COMPENSATION ACTS (Cont.)

State	Payable to deceased worker's dependents	Death benefits if worker has no dependents
1	2	3
West Virginia	Burial expenses, maximum \$150. \$30 month during widowhood; \$5 additional for each child under 16.	Burial expenses, \$150 maximum.
Wisconsin	Burial expenses, maximum \$200. 50 percent to equal four years' earnings, not to exceed 70 percent for 280 to 1000 weeks, depending on age of worker; additional benefits for children. If no total dependents, parents receive death benefit of \$1200. In discretion of commission in other cases of partial dependency, except not to exceed twice average earnings of deceased or four times contributions of deceased to dependents' support.	Burial expenses, maximum \$200; sum equal to death benefit payable to a person or persons wholly dependent is payable to the state treasury, maximum \$2000.
Wyoming	Burial expenses, maximum \$250. Lump sum of \$3000 in monthly awards to widow - special provisions in case of remarriage; \$180 a year for each child under 18 aggregate not to exceed \$5000.	Burial expenses, maximum \$250.

III. WORKMEN'S COMPENSATION CASES INVOLVING SCHOOL EMPLOYEES

In a former report ^{1/} fifty cases were annotated to present the types of workmen's compensation questions which school employees bring before the courts. The issues in these cases were classified as dealing with the following questions:

1. Who are considered "employees" of the schoolboard?
2. When does injury arise "out of" and "in the course of" employment?
3. What tasks are included in the "usual business" of a school district?
4. When is an employment "hazardous"?
5. Are boards of education liable when their employees sustain injuries?

These same questions are still recurring as may be seen in the following digests of thirty-one cases which have been decided since the 1933 report. Seven cases dealt with the scope of employee: whether or not the injured was really an employee of the schoolboard; twelve cases dealt with the question as to the scope of employment: whether the injury arose out of or in the course of the employment. One case was concerned with the tasks included in the usual business of a school and one revolved around the question of when an employment is hazardous. Nine cases were concerned with the amount of benefits payable. The cases digested below are arranged by states. It is not claimed that these thirty-one cases are a complete list of workmen's compensation cases involving teachers. Only a few states publish the decisions of the Industrial Accident Commission and such reports as are available are incomplete. Workmen's compensation cases reported in the National Reporter System are classified by type of injury or other issue but not always according to employment unless there is some question involved as to the coverage of the employment. It is impossible, therefore, to make any exhaustive bibliography of cases in which school employees sought workmen's compensation

^{1/} National Education Association, Research Division. Compensation for Injured School Employees. Studies in State Educational Administration No. 12. Washington, D. C.: the Association, 1933. 55 p. Mimeo.

benefits. Attention is called especially to cases numbered 23, 28, 30, and 31 wherein Pennsylvania, Virginia, and Wisconsin deny compensation to school employees injured en route to school while Utah grants compensation under similar circumstances.

- CALIFORNIA - 1. Union Lumber Company v. Industrial Accident Commission et al. (55 P 2d 911)
District Court of Appeal, Third District, California,
March 21, 1936.

The vocational school had agreements with several industries whereby boys could work learning a trade for a stipulated length of time per day and the industrial concern would pay into the vocational school fund \$25 per boy per semester. As a matter of fact this money was paid by the school to the boys but the boys were thus able to get credit in their general course for this vocational training. Thornquist was a vocational pupil working four hours a day in a butcher shop under such an agreement. In operating a meat cutting machine he lost parts of four fingers.

It was held that even tho he was paid indirectly he was under the control of the butcher shop and was their employee; the vocational teacher had no supervision of this training and the school district was not therefore liable.

2. Los Flores School District v. Industrial Accident Commission et al. (56 P 2d 581)
District Court of Appeal, Fourth District, California,
April 9, 1936.

Painter hired to paint water tank and do patch painting on buildings on contract for four days at \$5 a day held to be an independent contractor and not an employee.

- IDAHO - 3. Frances M. McRae, Calimant v. School District No. 23, Payette County, Idaho, Employer and State Insurance Fund, Surety. February 23, 1934. Reported in the Ninth Report of the Industrial Accident Board of the State of Idaho, p. 48.

Teacher injured in 1925 resumed work day after injury but was totally disabled from said injury by 1929. Teacher was a widow who had two children who reached majority between 1925 and 1929. Surety wants reduction in benefits because there are now no dependents. Board ruled status as supporter of dependents should rest on time of injury. Board's decision upheld in District Court; case is pending in Superior Court.

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4. Emil Hanson, Claimant v. Independent School District 11-J, Elmore and Owyhee Counties, Employer and State Insurance Fund, Surety. September 28, 1934. Reported in the Ninth Report of the Industrial Accident Board of the State of Idaho, p. 35.

Claimant was injured in 1929. He claimed appendicitis had resulted from the injury. Surety denied responsibility; Industrial Accident Board denied claim; District Court reversed Board's decision. Surety appealed to Supreme Court. Supreme Court remanded case to Industrial Accident Board with specific instructions. Claim was paid in part, according with instructions and the case was ended in 1931. In July 1934 claimant asked that case be reopened for further benefits as he had not been able to go to work. Board denied claim. An appeal to District Court is pending. Board claims there must be shown a change in conditions since the agreement before an award of modification of benefits may be made.

5. In the matter of the death of Russell Garst:
Celia D. Garst and State of Idaho on the relation of Harry C. Parsons, State Auditor, v. Independent School District No. 6, Caribou County, Idaho, Employer, and State Insurance Fund, Surety. December 7, 1934. Reported in the Tenth Report of the Industrial Accident Board of the State of Idaho, p. 36.

Athletic coach's duty was to accompany the team to and from all games. On such a trip Garst was fatally injured in an automobile accident. Garst was driving the car at high speed and school district claimed he drove negligently. Ruling was that contributory negligence of deceased does not deprive dependents of right to compensation. Such an accident is compensable.

6. Vance Butt, Claimant v. State School and Colony, Employer and State Insurance Fund, Surety. February 28, 1935. Reported in the Tenth Report of the Industrial Accident Board, State of Idaho, p. 21.

A hernia case which was denied compensation because a hernia must be reported to employer within 30 days.

7. O. A. Lenon, Claimant v. Independent School District No. 8 of Bingham County, Employer and State Insurance Fund, Surety. May 16, 1935. Reported in the Tenth Report of the Industrial Accident Board of the State of Idaho, p. 44.

Claimant, injured while unhitching team from school bus, was denied his claim as he was an independent contractor who had won on bids put out for pupil transportation.

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8. Martin Ricks, Claimant v. Independent School District No. 1, Pocatello, Idaho, Employer and State Insurance Fund, Surety. May 18, 1935. Reported in the Tenth Report of the Industrial Accident Board of the State of Idaho, p. 57.

Janitor of schoolboard sustained compensable injuries in July 1933. Compensation was paid for total temporary disability. In February 1935 claimant became ill and consulted several physicians who decided the right kidney was infected. The kidney was removed. Claim that the infection was a result of the 1933 injuries was denied.

9. England v. Fairview School District No. 16 of Power County, et al. (77 P 2d 655)
Supreme Court of Idaho, March 12, 1938.

A teacher who had secured permission of schoolboard to purchase graduation supplies found no satisfactory supplies available in locality and solicited a ride to a city 195 miles distance for the sole purpose of purchasing supplies there. She was injured on the trip when the auto overturned. Such injury was compensable as arising out of and in course of employment regardless of distance or fact that trip was not an expense to the district, or the fact that the men with the teacher were intoxicated.

ILLINOIS -

10. Calvert v. Illinois Power and Light Corporation (9 NE 2d 443)
Appellate Court of Illinois, Third Division, First District, January 27, 1937. Rehearing June 30, 1937.

Student employed as milk delivery truck driver by University of Illinois was injured when truck collided with sagging trolley wire while he was on another driver's route which he had taken over with custom and with knowledge of officials in charge. It was held he was engaged in service which as a matter of law brought the University within compensation act at time of injury. Hence, student could not recover from electric light company for injuries as against contention that student was carrying on an independent service for driver whose route he had taken over. University of Illinois is an institution of learning and not an enterprise engaged in farming solely (which would be exempt).

11. Chicago Board of Education v. Illinois Industrial Commission (15 NE 2d 288)
Supreme Court of Illinois, April 15, 1938.

Talbot, a glazier employed by the Board of Education, fell from a stepladder on December 18, 1934. Injuries were sustained but no claim for compensation was entered. A lump sum settlement on basis of total temporary disability was made between Board of Education and Talbot and was approved (because it had accrued) by Industrial Commission on July 15, 1935. Talbot agreed to waive all provisions of the Workmen's

ILLINOIS -
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Compensation Act. On March 12, 1936, Talbot filed a petition for review claiming that the injury recurred and increased after the settlement. Commission ordered Board of Education to pay compensation on basis of total permanent disability. Superior Court confirmed the order; also affirmed by Supreme Court, April 15, 1938. No one may waive provision of act except after approval of Industrial Board.

INDIANA -

12. Reissner v. Board of School Commissioners of City of Indianapolis (4 NE 2d 581)
Appellate Court of Indiana, in Banc, November 19, 1936.

Secretary of Board of School Commissioners of city, while holding a sharpened lead pencil in his hand attempted to close a drawer in his desk. The lead pencil punctured the palm of his right hand creating a wound as the result of which septicemia developed and death therefrom followed. The secretary's legal status was questioned. Is a secretary of school commissioners an employee or a public officer? His duties are fixed by a statute which does not invest any sovereign powers upon him and the most distinguishing characteristic between a public office and an employment is that the duties of the officer must involve an exercise of some portion of the sovereign power. As an employee the death was compensable.

13. Williams v. School City of Winchester (10 NE 2d 315)
Appellate Court of Indiana, in Banc, October 13, 1937.

School superintendent was killed in an auto collision which occurred while the superintendent was on a trip for the purpose of attending a meeting devoted to a discussion of school problems and to investigate the qualifications of an applicant for a teaching position. The trip had been entered upon with knowledge of and under instructions from the board of school trustees. Therefore, the death was held to be compensable as as having occurred in the course of employment even tho the superintendent was making the trip at own expense.

IOWA -

14. M. P. Nielson, Claimant v. Independent School District of Atlantic, Employer, Fidelity and Casualty Co., Insurance Carrier, Defendant, October 4, 1933. Reported in the Eleventh Biennial Report of the Workmen's Compensation Service - Iowa, for period ending June 30, 1934, p. 50.

Janitor, sent to courthouse on errand by school principal, lifted 50 pounds of paper to carry back to school. In going out of courthouse door his knee was injured. Altho what happened at the courthouse door is uncertain due to conflicting evidence, whatever happened caused disability "but for which Nielson would have continued in usual earning." Claim therefore was granted.

- IOWA - 15. Hoover v. Independent School District of Shenandoah, Iowa
(cont.) Pond v. same; Ford v. same; Ruth v. same (264 NW 611)
Supreme Court of Iowa, January 21, 1936.

Painters engaged by Civil Works Administration which paid them and instructed them when and where to work to redecorate school building were held to be employees of the Civil Works Administration, not of the school district.

- MARYLAND - 16. Mayor and Civil Council of Baltimore v. Schwind (199 A 853)
Court of Appeals of Maryland, June 14, 1938.

School janitress ruptured a blood vessel in attempting to lift and move a long ladder; paralysis developed. It was necessary for janitress to move ladder in the course of her employment in order to remove broken glass from transom. Maryland Workmen's Compensation Act subjects a municipality to liability whenever it becomes engaged in extra-hazardous work in which workmen are employed. It was conceded that the janitress was a workman but it was denied that janitress work is extrahazardous.

- MINNESOTA - 17. Lee v. Villard School District No. 5 et al. (257 NW 90)
Supreme Court of Minnesota, November 2, 1934.

A bus driver was killed on his way to school to pick up children to take them home. It was held that the accident occurred in line of duty; claim was awarded.

18. Schmahl State Treasurer v. School District No. 12 of Pine County (274 NW 168)
Supreme Court of Minnesota, June 18, 1937.

This suit was concerned with a 1927 case involving death of an employee without dependents. According to the compensation law \$200 should have been paid to the special compensation fund, but no suit for it was brought within the six year limitation and no recovery was therefore allowed.

- NEVADA - 19. Nevada Industrial Commission v. Leonard et al. (68 P 2d 576)
Supreme Court of Nevada, May 28, 1937.

A teacher on her way to school broke her hip in a fall caused by her foot slipping or turning on a loose rock in the unpaved road leading to the school. The injury happened ten feet from the school gate altho there was some question as to whether she was or was not on school property since the fence did not include all the school property. It was decided she was not on school grounds but nevertheless was injured in the course of her employment since teachers are required by statute to observe children on school grounds or on their way to school. Leonard claims to have been watching boys inside fence; therefore injury arose out of duties of employment.

NORTH
CAROLINA -

20. Perdue et al. v. State Board of Equalization (172 SE 396)
Supreme Court of North Carolina, January 24, 1934.

Perdue was coach of football team. During a game he left side lines to make a protest to referee against the conduct of the head linesman. After he had made his protest and before he had left the field the head linesman, angered by his protest to referee, struck Perdue on or about the head. He fell unconscious and died on way to hospital in ambulance. His death was compensable. He was held to have been an employee of the school district and not of the state nor of the State Board of Equalization altho his salary as coach was paid by funds allowed to district by State Board of Equalization.

OHIO -

21. Bower v. Industrial Commission (22 NE 2d 840)
Court of Appeals of Ohio, Lucas County, April 3, 1939.

A school teacher employed in Fremont, Ohio, was injured in an automobile collision in Toledo while attending a teachers' meeting in accordance with directions of the superintendent. No transportation was provided for the teachers attending the institute nor any accommodations for the night which intervened during the institute. Bower arranged to spend the night with friends and was injured while riding to the home of these friends in another friend's car.

At the moment of injury, Bower was performing duties incidental to her employment and a necessary part of her entire trip to Toledo to attend the institute as she had been directed to do by her employer. The injury arising as it did out of her employment was compensable.

22. Bake v. Industrial Commission of Ohio (22 NE 2d 130)
Supreme Court of Ohio, July 12, 1939.

A kitchen employee of Miami University died. He had had heart trouble and various other chronic disabilities and it was claimed that when lifting a crate of head lettuce in the University kitchen this overexertion caused a hernia which contributed to and hastened his death. The claim was denied for insufficient proof.

- PENNSYLVANIA - 23. Lucy M. Cowen v. School District of Philadelphia
February 11, 1935. Reported in Pennsylvania Workmen's Compensation Board Decisions, Vol. 18, p. 52.

A teacher was injured by a fall in the street as she was going to school. She was carrying examination papers and lesson plans but there was no evidence that this caused her to fall. Therefore the injury was not in line of employment and not compensable.

- PENNSYLVANIA - 24. Laura L. Trout v. Green Township School District, June 3, 1936. Reported in Pennsylvania Workmen's Compensation Board Decisions, Vol. 19, p. 206.
(cont.)

A fatal accident occurred to Trout who was engaged to make window covers at a sawmill for use on a schoolhouse. Accident occurred on his way to sawmill. He was not compensable.

25. Vera Schanbacher v. School District of Philadelphia, November 25, 1936. Reported in Pennsylvania Workmen's Compensation Board Decisions, Vol. 19, p. 512.

Claimant entered into an agreement concerning compensation for an injury under the mistaken impression that the injury was confined to the leg. It developed later that claimant suffered other and additional disabilities as a result of the accident. The original benefits were modified as having been awarded under a mutual mistake of fact.

- UTAH - 26. Barwin v. Independent School District of Sioux Falls, et al. (248 NW 257)
Supreme Court of South Dakota, May 1, 1933.

A 73 year old janitor was washing windows on a ladder when a schoolboy accidentally ran into the ladder causing janitor to fall. He was treated for injuries (broken bones) but died of heart failure within three weeks of accident. Decedent's wife wrote an informal letter to Industrial Commission which the court holds is sufficient notice even if not in precise form. Altho there was conflict of medical evidence as to probable relationship between the fall and cause of death, the court will not disturb the decision of the Industrial Commission in absence of abuse of discretion; that is, if any reasonable creditable, and substantial evidence supports findings. However, the widow died before any payments of benefits were made and the court ruled that widow's administrator was entitled to payments due from date of injury of janitor to death of his widow.

27. Board of Education of Salt Lake City v. Industrial Commission of Utah, et al. (27 Pac 2d 805)
Supreme Court of Utah, December 22, 1933.

Teacher, on stepladder trimming a Christmas tree, lost balance and in attempting to regain position twisted and wrenched spinal column causing subsequent paralysis. Conflict in medical opinion at hearing caused appeal. Court will not disturb finding of Commission when evidence is such as to justify a decision in either way.

UTAH -
(cont.)

28. Morgan v. Industrial Commission of Utah, et al. (66 P 2d 144) Supreme Court of Utah, April 2, 1937.

Principal on a Sunday evening, went to school building for purpose of making out a report. He found he had left his office keys at home and went back for keys but was delayed by visitors. He started back to school at 10 p.m. and was hit by an auto while he was walking along the road. The court, reversing the decision of the Industrial Commission, held that the accident arose out of employment.

VIRGINIA -

29. A. Huffman, Claimant v. Roanoke City School Board, Employer, Aetna Life Insurance Co., Insurer. Reported in Opinions Industrial Commission of Virginia, Vol. 16, p. 424 and Vol. 17, p. 16. Appeal denied by Supreme Court of Appeals, January 18, 1935.

Janitor, 73 years old, after a siege of influenza (which may or may not have a bearing on the case) tried to hang curtains when standing on a seven foot ladder. He got dizzy and fell. Injury occurred in nature and location of the work.

30. Harriet Anderson Shiek, Claimant v. Schoolboard of Alexandria, Employer, Maryland Casualty Company, Insurer, December 27, 1937. Reported in Opinions Industrial Commission of Virginia, Vol. 19, 1937, p. 395.

Teacher en route to school carrying register, on which she had completed work at home over weekend, slipped in mud and wrenched ankle in falling so as to save register from falling in mud. This injury was not compensable. The court said: "Where accidents occur and compensation is awarded for injuries which are received while en route from home to work it is on the basis that the trip is made at a different time than usual or over a route not originally used, such as making a call at one point before arriving at work, or to obtain the mail or for some other mission."

WISCONSIN -

31. Johanna Clark v. Jount School District No. 6, Ft. Atkinson, Wisconsin, June 15, 1934. Reported in the Seventeenth Report of the Wisconsin Industrial Commission, p. 42.

School nurse provided with auto for use in her employment kept auto at home of sister with whom she lived. Nurse slipped and fell on ice when going from house to garage on way to get car to attend to employment. It was held the injury did not occur in course of employment.

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