

# **AFT OCCUPATIONAL LIABILITY PLAN: BENEFITS AND PROTECTION TAILORED FOR EDUCATORS**

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**Important: This contains dated material, subject to change. Revised August 2023.**

One of the benefits of membership in the Federation is insurance protection that is tailored to meet the needs of educators. Most educators recognize the need to have liability insurance coverage to protect against lawsuits, but some educators believe – incorrectly – that they already have sufficient protection through their employer, and they don't need the comprehensive protection provided by the Occupational Liability Plan and Legal Action Trust through the American Federation of Teachers (AFT). Here are some common misconceptions:

**Misconception # 1.** *"I don't need AFT's protection because my homeowners' insurance policy already provides coverage."* Some educators believe that the occupational liability protection offered by the AFT is unnecessary because they already have coverage through their own individual insurance policies. This is false. Most insurance policies contain a clause entitled "exclusions from coverage," which excludes (1) any claim that you committed an intentional act, and (2) any claims related to business pursuits. This means that your policy would not cover you for any claim that alleges that you did something intentionally (such as corporal punishment or excessive force against a student), or any claim arising out of your occupation.

**The AFT Occupational Liability Plan and Legal Action Trust is specifically tailored for educators. It provides up to \$2 million per member and \$4 million per claim for compensatory damages in civil actions arising out of bodily injury or death of students while under the member's supervision. This includes civil corporal punishment claims.**

**Misconception # 2:** *"I don't need AFT protection because my employer will defend me if I am sued. They even sent me a letter saying they would."* Some educators believe that their employer is obligated to provide a lawyer and pay any judgment against employees *in all cases*. This is false. Your school Board may refuse to represent you in a civil suit for money damages if the suit claims (even falsely) that you willfully, maliciously and intentionally injured a student. **Moreover, the school board isn't required to defend you when you are accused of a criminal offense.** The AFT Occupational Liability Plan and Legal Action Trust covers and protects you in civil suits for money damages arising out of your employment, even if the suit claims that you willfully, maliciously and intentionally injured a student. The SFT Plan even reimburses you for legal fees in certain situations when you are accused of a crime arising out of your employment.

**The AFT Occupational Liability Plan and Legal Action Trust provides excess coverage in situations where your employer provides representation and provides primary coverage in many situations where your employer denies coverage and representation. For criminal charges: AFT members are entitled to defense costs up to \$35,000 per year for criminal charges arising out of school activities where there is complete exoneration, and up to \$5,000 when you are not completely**

**exonerated. If criminal proceedings result from corporal punishment, the reimbursement of defense costs up to \$35,000 will be made regardless of the outcome.**

Misconception #3: *"I don't need AFT's protection because I'll never hit a student, so it would be a false accusation, and so I don't have to worry about lawsuits, arrests, or insurance."* All educators are at risk of being falsely accused of all types of offenses involving students. Have you ever physically separated students who were fighting? If you aren't a member of the Federation, what type of protection do you have if one of the students claims that *you* used excessive force, and has you arrested for criminal battery or cruelty to a juvenile, and then sues you for money damages? Ask any educator who has been falsely accused of using excessive force, corporal punishment, child abuse, improper touching, making suggestive statements, etc., and they will tell you that they were thankful that they were covered by the AFT Occupational Liability Plan and Legal Action Trust to provide them with protection.

The following cases illustrate the need for occupational liability protection:

1. Two elementary school students were engaged in a fistfight. The educator physically broke up the fight, to protect the students. The parents of one of the students filed suit for money damages against the educator and your employer, and also pressed criminal charges against the educator, claiming that she maliciously and intentionally used excessive force.

2. A 7-year-old special education child bolted out of the school and ran down the stairway towards a busy street. A clerical employee instinctively rushed after the student to restrain him. The student then claimed that the employee maliciously grabbed his arm and intentionally hurt him. The police were called to the scene to investigate possible "child abuse."

3. A student received a grade of "C," and begged the teacher to raise her grade to a B, because her father promised her \$100.00 if she received all A's and B's on her report card. When the teacher refused to raise the grade, the student made a false complaint of sexual harassment and molestation against the teacher, and pressed criminal charges.

4. An Adaptive P.E. Teacher was working with two wheelchair confined elementary students. The exercise consisted of the students bouncing a ball to each other. The teacher stood next to the students during the entire exercise. Suddenly, without any warning or provocation, one of the students bounced the ball on the floor in causing it to hit the ceiling. The ball hit a light globe, which fell down upon another student's face, causing a scar. The parents of the injured student sued the school board and the teacher, claiming that there was inadequate supervision, and that the activity was improper. In a sworn deposition, the principal claimed that he did not know that this activity was being conducted inside, although the teacher testified that she had been doing so for years because of hazards on the playground.

5. A senior high school student accused a teacher of improper sexual advances at school. The teacher was arrested and paid an attorney an up-front fee of \$33,000. Six months later, the District Attorney refused the charges, because there was a lack of evidence. The AFT Occupational Liability Plan reimbursed the member the entire \$33,000.

***The above Louisiana cases are just a few illustrations to support the need for educators to have coverage to protect against false accusations, exaggerated claims, lawsuits, and even criminal charges. In each of these cases, the AFT Occupational Liability Plan and Legal Action Trust protected our members. The Plan is tailored to meet the needs of educators. But: you must be a member at the time the claim arose; you will not be protected if you join the Federation after the fact. For questions, call your local Federation office of the Federation for assistance.***