

1381 NEGLIGENCE: TEACHER: DUTY TO SUPERVISE STUDENTS

Question __ asks whether the defendant, _____, was negligent in the supervision which he or she maintained over the plaintiff, _____, in his or her (conducting the experiment, using the trampoline, etc.).

As to his or her pupils, a teacher occupies a position comparable to that of a parent in regard to protecting his or her children from harm or injury. This relationship requires the teacher to maintain that degree of supervision which an ordinarily prudent (chemistry teacher, physical education teacher, manual arts teacher) would maintain under the same or similar circumstances.

In determining whether defendant, _____, exercised ordinary care, you may weigh and consider the age, intelligence, and experience which (defendant) knew, or ought to have known, that (plaintiff) and other students in the class possessed.

You may further weigh and consider the responsibilities which had been placed upon (defendant) by (his) (her) employment, such as the curriculum (he) (she) was required to carry out, the daily schedule which was imposed on (him) (her), the number of pupils assigned to (him) (her) in the class, the size and arrangement of the classroom, and the equipment, devices, and other objects therein.

COMMENT

The instruction and comment were originally published in 1967. The comment was updated in 1980 and 2016. This instruction was revised in 2002 to conform the language regarding the burden of proof to the Committee's 2002 revisions to Wis. JI-Civil 200 and 205, the instructions on the civil burdens of proof. See Wis. JI-Civil 200, Comment.

Grosso v. Wittemann, 266 Wis. 17, 62 N.W.2d 386 (1954); 32 A.L.R.2d 1163-1186 (1953); Restatement, Second, Torts § 320 (1965).

A teacher in a school has a common-law duty to use reasonable care in the supervision of those pupils in his or her charge. Larry v. Commercial Union Ins. Co., 88 Wis.2d 728, 738, 277 N.W.2d 821 (1979); Cirillo v. Milwaukee, 34 Wis.2d 705, 150 N.W.2d 460 (1967); Meihost v. Meihost, 29 Wis.2d 537, 545, 139 N.W.2d 116 (1966).

Where the teacher leaves a classroom, relevant considerations for examining the teacher's duty to use "reasonable care" include:

. . . the activity in which the students are engaged, the instrumentalities with which they are working (band saws, dangerous chemicals), the age and composition of the class, the teacher's past experience with the class and its propensities, and the reason for and duration of the teacher's absence. Cirillo v. Milwaukee, *supra* at 715.

Negligence; Standard of Care. See the comment to Wis JI-Civil 1005.