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Legal Responsibility Regarding School Accidents

By *Ryuji Takamine**

With the rise in a sense of right in the public, there is a trend that matters concerning compensation for accidents occurring in the course of physical education and sports at school have gradually become a important social problem. In most cases, these accidents were dealt with in somewhat a resigned way that students involved were just unlucky or careless on the understanding that some danger is unavoidable in view of the characteristics of training and sports. Under such tendency in the society, accidents were dealt with through negotiation between both parties involved (settlement out of court), therefore, in few cases, the problems was brought to public notice.

However, the amount of indemnity claimed has been increasing in recent years with a monetary sense as one background, making the economical power of any school or individual teacher unable to bear such indemnity, as a result, the situation is now that, unable to find any conclusion through goodwill negotiation, matters are unavoidably brought to trial for solution.

The objective of a trial concerning a compensation claim is primarily to relieve a victim. Under the existing laws and regulations enacted fundamentally with the principle that persons committed a fault are responsible, when a case is brought before the court as a civil case, the injured person is not relieved unless the fault is established, creating a tendency under which the sphere of fault on the part of the teacher expands.

A fault is caused by the imperfection of, and defect in facilities and tools, through the inappropriate instruction given by a teacher or through negligence in exercising his full care, and so on.

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As an individual, a teacher is blamed for his fault, and also he is compelled socially to stand in a painful position.

For the teachers who are directly in charge of giving physical exercise, the obligation to exercise full care is to prevent accidents from occurring imagining all possible danger.

Discussion is made in this paper to clarify where responsibilities lie by taking as an example a suit brought by the parents of a school child of a town-established primary school against the prefecture, town and teacher concerned, claiming indemnity for an accident in which the child was suffocated to death (drowned) in a turbid school pool while receiving a swimming exercise as part of physical education.

The court decided that responsibilities were on the side of the teacher and the town, and that indemnity should be paid, saying that the death was caused by the lack in exercising a careful watch in the pool and by the turbid water which had been left unimproved. The court further said that, even in the case where safety measures have been taken perfectly and necessary cautions communicated thoroughly, teachers in charge of swimming training should be under an obligation to give strict warning to children when they have entered a dangerous area while swimming even if they are good swimmers.

According to this judicial precedence, the obligations of teachers to exercise care during the time when equipment having a flaw is used are far heavy as compared with the time when safely-cared and flawless facility is used, therefore, there is an opinion opposing this precedence, arguing that the obligations of such teachers should not be beyond the ordinary obligation.

As stated above, when teachers' obligations to exercise care are taken up, two cases are considered: one is that exercising of care as usual according to the back environment is sufficient, the other is that exercising of care more extensively is required.

Under the existing laws and regulations purporting relieving victims, teachers who are leaders are always required to have a mental attitude never to neglect their obligations to exercise care for the safety of their school children and students, regardless of the state of the environment involved.