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Problems Related to Criminal Responsibility of Teachers for Physical Education Accidents at School

By *Ryuji Takamine**

The cases where teachers are blamed for physical education accidents at school are increasing. The blame may be categorized into two kinds in nature—one to be tried in civil court for damages and the other in criminal court for criminal responsibility. Originally, the criminal court tries persons for murder, injury, theft and other anti-social acts. We think it unreasonable that a teacher who happened to be involved in a death or serious injury during the physical education activity is blamed for such accident as a criminal.

From this point of view, this paper discusses what conduct those teachers involved in a fatal exercise accident during school hours were blamed for as the cause of the accident by referring to some judicial precedents.

These precedents attribute the blame of the tried teachers for the accidents to the lack of attention to possible danger, that is to the failure of the teachers in performing their social duty of insuring complete freedom any possible danger. It is noted that such social duty is two-fold; it is the duty of foreseeing danger and that of evading it. Prior to assigning his students or pupils to a exercise, the teacher must take precautionary methods to prevent danger. Should he find his students or pupils in a dangerous situation, he must do all necessary immediately to evade it. The failure to take precautions against danger resulting in a fatal or serious accident due to negligence holds the teacher responsible for the accident.

The judicial precedents mentioned above point out the following:

- 1) Thorough investigation of all necessary for the intended exercise should be made completely.
- 2) Students or pupils must be made fully aware of potential danger in the intended

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exercise program.

- 3) Proper guidance and superintendence must be provided over students or pupils in anticipation of possible danger.
- 4) Should a dangerous situation be perceived, this program should be changed quickly to evade such situation.

However, when physical exercises potentially possess various factors for hazards, some of which may be even beyond the limit of humanly possible attention, it is harsh to expect gymnastic teachers to assume criminal responsibility for accidents that may happen during the school-hour activity.

While the judicial precedents show some consideration in this regard, the pursuit of the criminal responsibility on the part of the teachers necessitates maximum carefulness.