CHAPTER 6 -- CHEMISTRY TEACHERS AND THE LAW

INTRODUCTION

The legal responsibility for any accident in the laboratory has the potential for being placed directly on the teacher's shoulders, regardless of his/her awareness of this responsibility. All teachers have the responsibilities of instruction and supervision, but the chemistry teacher has the added responsibility of maintenance regarding chemicals and facilities.

The teacher must be aware of possible hazards in the experiment, and is legally bound to inform the students of these possible hazards and the precautions to be taken to avoid injury. The instructor's ignorance of hazardous conditions will not absolve him/her from liability due to negligence, which is the omission of reasonable precautions. The laboratory instructor must be very careful to protect him/herself against charges of negligence.

Read again the guidelines for the laboratory instructor found on page 2 of the chapter on Chemical Safety. Following these guidelines is the beginning of a program of self defense against some future charge of negligence.

By using the safety contract form to be signed by students and parents, the teacher makes both students and parents aware of possible hazards and the absolute necessity of enforcing safety rules in the laboratory.

Too often the chemistry teacher is put in the untenable position of having to teach in an unsafe environment which he/she has no resources to improve. The logical recourse in such a situation is to inform the administration of the unsafe situation and request that the situation be remedied. It is believed that once the request has been made via a formal, written document, liability that once was exclusively the teacher's is shared or possibly totally assumed by the individual administrators.

In order to assist teachers in getting safety problems corrected, three "example letters" are presented on the concluding pages of this chapter. These letters, which differ in subject matter and format, may serve as models of letters which teachers can write to address their own special situations. It is certainly advisable to first talk with administrators about the problems and let them know that you plan to write them in detail about the matter. Certainly maintaining the good will of the administration is of utmost importance in getting the resources needed to improve safety in the laboratory.

An excellent, very readable discussion of the legal considerations involved in laboratory instruction can be found in School Science Safety--Secondary by Gerlovich, Gerard, Shriver, Downs and Flinn, Flinn Scientific, Inc., Batavia, Illinois, 1984. The first chapter of this book should be required reading for any high school chemistry teacher.
EXAMPLE LETTER 1 -- REMOVAL OF HAZARDOUS CHEMICALS

October 1, 1985

Mr. A. B. Jones
Principal, Smith High School

Dear Mr. Jones:

As educators, we share a common concern for school safety. Our science storeroom currently contains several hazardous chemicals (listed below) which should be removed immediately. The enclosed reference materials verify that these chemicals constitute a sufficiently great health and/or safety hazard to warrant your immediate attention. The science department does not have the resources to dispose of this material in accordance with federal regulations; therefore, it is necessary to seek action on your part. Since there are very specific regulations governing chemical waste disposal (with severe penalties for violation), it is important that appropriate authorities be consulted prior to any action being taken by any personnel in our school system. Please give this matter your prompt attention because these chemicals constitute a genuine, immediate safety and health concern.

[List chemicals here.]

Respectfully submitted,

[Sign your name.]

D. C. Brown
Chemistry Teacher

ENCLOSURE: Reference Materials
EXAMPLE LETTER 2 -- NEED FOR SAFETY SUPPLIES AND EQUIPMENT

October 1, 1985

MEMO

TO: Mr. A. B. Jones  
Principal, Smith High School

FROM: D. C. Brown, Chemistry Teacher

SUBJECT: Laboratory Safety Equipment/Supplies

Of growing concern to me is the safety of the students in our science laboratories. I am sure that you and the general public share this concern. Since court cases have shown that you and I, as educators, are legally liable for students’ safety and health, I am respectfully requesting your prompt action in correcting the safety deficiencies mentioned herein.

I would like to call to your attention the fact that the safety equipment and supplies listed below are recommended by safety authorities [such as those at the National Institute of Safety and Health (NIOSH)] but are not found in our school's laboratory.

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[List items and cost here.]

I personally feel that these items are essential to the maintenance of a safe laboratory environment, and I urge you to see that they are provided as soon as possible.

Respectfully yours,

[Sign your name.]
EXAMPLE LETTER 3 -- SAFETY DEFICIENCIES IN THE SCIENCE LABORATORY

October 1, 1985

Mr. A. B. Jones
Principal, Smith High School

Dear Mr. Jones:

I am writing to you in keeping with our commitment to promote safety in the school and in the science laboratory. It has come to my attention through discussion with safety experts in the area that (room - laboratory - etc.) used for the teaching of (class) is deficient in the following respects. Although other deficiencies may well exist at this time, I feel that these are the most critical and need to be remedied immediately.

[List the deficiencies in order of priority from most critical to least critical. Include here reasons for the needs. Be explicit!]

To fulfill our legal, moral, ethical and professional responsibilities as science educators, to ourselves and our students, we must begin the process of correcting the aforementioned inadequacies. I respectfully request your assistance.

Sincerely,

[Sign your name.]

D. C. Brown
Chemistry Teacher

[This letter should be used for the most critical needs. Financially unreasonable requests such as $10,000 worth of safety cabinets will only be counter-productive to getting immediate action on critically important issues.]
TWELVE STEPS TOWARD FREEDOM FROM WORRY
ABOUT NEGLIGENCE LAWSUITS

1. Using a checklist, conduct a safety survey and hazard analysis of your laboratory and stockroom.

2. Do whatever you can to make the laboratory room and stockroom safer.

3. Inform your principal in writing (keeping a copy) of hazards, deficiencies, need for removal of hazardous chemicals, etc. which will require action by him/her or a higher-level administrator.

4. Reevaluate all laboratory experiments and modify or eliminate those that appear to be unsafe.

5. Develop safety rules jointly with your principal for the dress and behavior of students in the chemistry laboratory. Jointly agree on the penalties for violations of these rules.

6. Issue the printed safety rules to students and admit them to your chemistry class only if they sign a statement that they will abide by these rules (constituting an informal safety contract). File these signed statements.

7. Send a letter to the parents or guardian of each student stating that (1) there is some element of hazard involved in being a student in a chemistry laboratory; (2) you will conduct the laboratory as safely as you can; (3) you will rigidly enforce safety rules which will be made known to all students; (4) penalties for disobedience of rules will be severe. Require the parents (guardian) to sign a statement saying that they give permission for their child to take the chemistry course. Require this signed statement of parents (in addition to the student's signed statement) for admission of the student to your chemistry class. File these signed statements.

8. Give the best safety training you can to your students with general safety sessions at the beginning of the course and specific safety directions with each experiment. Emphasize safety by your personal example and by your continuing references to the safe way to perform various laboratory operations.

9. When students encounter both a hazardous chemical and a new technique in the same experiment, if possible have them practice and develop their technique with a harmless chemical prior to using the hazardous chemical. (For example, practice measuring volumes in a graduated cylinder using water rather than sulfuric acid.)

10. Maintain good stockroom records.

11. Develop an accident report form to be completed and signed by a student who is injured in the laboratory. File these.

12. Purchase professional liability insurance. (Such insurance is often available via a "rider" to a homeowner's insurance policy.)