

Youth Sports, Adult Liability

Protecting the Municipality

Given the number of youth sports programs being played today, it is inevitable that injuries will occur. When such injuries occur, all too often the parent or guardian secure legal representation and pursue damages for the injury their child has suffered. It is therefore important that Municipalities take appropriate action to protect against liability that may be assessed against them when youth injuries occur.

For the Coaches

Youth sports coaches are often volunteers who are charged with providing instruction, care and mentoring of the children they coach. Therefore, it is critical that all volunteers meet the following criteria prior to being permitted to coach in your municipality:

- They must be Rutgers S.A.F.E.T.Y. Certified. Not only will this Certification provide the general concepts of coaching, but it will allow the coach and municipality to be granted summary judgment early in litigation. Note, this is not true if willful, wanton or gross negligence is determined.
- Undergo a Megan's law background check. This check will confirm the coach is not a registered sex offender.
- Undergo a background check by the municipality police department. This check will confirm the coach does not have a criminal record.

For the parent or legal guardian

Participation in youth sports programs is not a right but a privilege granted by the municipality to its resident youth. Sporting activities involve the risk of injury and in some instances the injury could be serious or even fatal.

In exchange for the privilege to participate in municipality sponsored sports programs, the parent or guardian should voluntarily complete a youth waiver and release of liability form. By signing this waiver the parent or guardian is given the right to inspect the facilities and equipment and, if they believe them to be unsafe, advise the coach or official of their concerns. Both the participant and parent or guardian acknowledge that sports involve risk of injury and they accept responsibility of such risk. In return for participating in the program, they release, waive, discharge and agree not to sue the coach and municipality.

For the team, organization or association not sponsored by the municipality

Teams that are independent of the municipality but are permitted to use municipal fields, gyms or other facilities also introduce risk to the municipality. Injuries to their youth participants could result in a lawsuit being filed against the team, organization or association along with the municipality for failure to provide a safe environment.

Municipalities should follow the below guidelines to reduce risk introduced by these teams:

- Request the same documentation as noted above for the municipality coach.
- Secure the voluntary youth waiver and release of liability form for all participants.
- Secure a certificate of insurance with at least \$1ML limit of liability coverage naming the municipality as an additional insured on their policy.
- A contract should be executed between the team, organization or association and the municipality. The contract should include an indemnification, defense and hold harmless agreement in favor of the municipality, specify insurance coverage and limits to be held by the parties, and state the responsible party for inspecting fields and equipment, including notification requirements of the appropriate field maintenance personnel when any concerns are noted.

These documents will help ensure the municipality's interests are protected.

Last of all, municipal employees responsible for inspection and maintenance of fields must perform and document regular inspections and take action if any safety concerns are observed or reported.

Summary of “The Little League Law”

In the 1980s, the New Jersey Legislature began to create what has since become known as “The Little League Law”, codified at N.J.S.A. 2A:62A-6 et. seq. This law represents part of the movement to instill more “assumption of the risk” and less “Good Samaritan” liability in the area of sports and recreation, both public and private.

The law provides, in pertinent part, that **“no person who provides services or assistance free of charge, except for reimbursement of expenses, as an athletic coach, manager, or official, for a sports team which is organized or performing pursuant to a nonprofit or similar charter or which is a member team in a league organized by or affiliated with a county or municipal recreation department, shall be liable** in any civil action for damages to a player, participant or spectator as a result of his acts of commission or omission arising out of and in the course of his rendering that service or assistance...[this]shall apply not only to organized sports competitions, but shall also apply to practice and instruction in that sport.”

“[However] nothing in this section shall be deemed to grant immunity to any person causing damage by his willful, wanton, or grossly negligent act of commission or omission, nor to any coach, manager, or official who has not participated in a safety orientation and training skills program which program shall include but not be limited to injury prevention and first aid procedures and general coaching concepts. A coach, manager, or official shall be deemed to have satisfied the requirements of this subsection if the safety orientation and skills training program attended by the person has met the minimum standards established by the Governor's Council on Physical Fitness and Sports in consultation with the Bureau of Recreation within the Department of Community Affairs.”

(Further caveat: “Nothing in this section shall be deemed to grant immunity to any person causing damage as the result of his negligent operation of a motor vehicle.” AND “Nothing in this section shall be deemed to grant immunity to any person for any damage caused by that person permitting a sports competition or practice to be conducted without supervision.”)

As for the Rutgers S.A.F.E.T.Y. Program, which is familiar to most volunteer coaches and parents, same was created to provide a convenient, cost-effective means by which coaches could achieve this legal distinction. As set forth in N.J.A.C. 5:52-1.1, to meet the “safety orientation and training skills program” requirement described above, the coach, manager, or official in question must attend a program “of at least a 3 hour duration” that covers the medical, legal and first aid aspects of coaching, the training and conditioning of athletes, the psychological aspects of coaching, and general concepts of coaching. **The Certification is good for life.**

Simply put, if a coach has received a Rutgers S.A.F.E.T.Y. Certification the coach, and attendant municipality, will be granted Summary Judgment, potentially very early in the case, unless the coach acted in a “willful, wanton, or grossly negligent” manner. Without that Certification or similar, provable training, the coach and the municipality will instead have to take the time-consuming, and costly, journey through full-scale discovery and likely to verdict.