

Nico Barnett

PRTM Risk Management

Policy Paper

Professor Anderson

## Loss of Sports

Activities such as sports are important for any child. Imagine growing up and not having any sports. Sports are an outlet for kids, they make friends and learn valuable life lessons by just playing sports. Sports are so much bigger than just a “game,” it brings families and communities together by allowing them to watch their friends, families, and neighbors compete against each other. Taking away sports hurts the community in many ways. First and foremost it takes away recreational opportunities that bring the city together. A city with no sports metaphorically has a gray color scheme, it just sounds bland. Youth sports also creates unique jobs that not only keep your citizens employed but also puts them in positions to teach lessons to young kids. These are valuable things that add culture to your city.

Injuries are not synonymous with lawsuits because they are not really related. Lawsuits happen when one party suspects another of negligence. Negligence is defined as failure to take proper care, resulting in damage or injury to another. There are three degrees of negligence, the first one is ordinary negligence which is a failure to exercise such care as would be expected by a majority of people. This one is mostly remembered as “accidental” negligence. Gross negligence is a conscious act disregarding life and property of others. This negligence has some “purpose”

behind their actions. The last type of negligence is willful and wonton which is conduct so gross as to have criminal character. This one is a menace to society behavior. Injuries are so broad and can happen by complete accident with no negligence. A good risk manager will put policies into play so that when people compete in sports and get injured it will not be because we were negligent on our part.

There are legal protections that the agency has related to negligence. We have legal doctrines such as waivers that limit liability, there are recreational land use statutes and hazardous recreation statutes, there is sovereign immunity or governmental immunity, and there is statute of limitations. These doctrines try to find a balance between the rights of the individual and the public good. A major act is the South Carolina Tort Claims Act which was passed in 1986. It established limitations on liability of government entities and employees and most importantly it limited claims of ordinary negligence making it so you must prove gross negligence. Another example is the case of Jaworski vs Kiernan. In this case they were on opposing soccer teams in an adult coed game. The plaintiff was playing aggressively but still within the rules and tripped the defendant, hurting her. The courts ruled that the participants in a team athletic contest owe duty to refrain from reckless or intentional conduct. The court ruling was important because the injury was ruled as accidental and the actual hosts of the game were not the ones being sued.

There are a few risk management strategies that the organization should implement to protect themselves from legal liability. The best legal defense is the Assumption of Risk which is a legal doctrine by which the plaintiff may not recover for an injury received when the plaintiff

voluntarily exposed him or herself to a known and anticipated risk. You know the risks so I am not liable. Assumption of Risk is a transfer strategy that transfers the responsibility of the risk to the participant so we can say we are not liable for the incident. The recreational land statute is also another legal defense the organization should use. This one is important when dealing with private and public land especially for unsupervised activities. This one was intended to encourage landowners to make land available for recreational use but basically says that risk cannot be inherent if it is unforeseeable and inherent risks are foreseeable risks. If you do not charge a fee for parking or entrance then you have no duty to keep the land safe and no duty to warn of danger. The organization obviously does not have much danger on their playing fields but it is still important to remember not to charge a fee. The last legal defense I recommend is waivers. Organizations that offer sports programs and other activities often use contracts and exculpatory documents to help protect themselves from the financial effects of lawsuits. The purpose of a waiver is to relieve the service provider of liability for injuries related to ordinary negligence. When used correctly waivers can provide protection in at least 45 states. If you have your participants sign an agreement that says they will not sue for any damages occurred to them while participating in your sport, then you have much less to worry about compared to another organization that does not use waivers.