

Risky business: When are districts negligent for injuries suffered by student athletes?

By the New York State
Association of School Attorneys

This past April, seven justices on the New York Court of Appeals met to discuss America's favorite past time: baseball. No, they weren't talking about the Mets' struggling pitching staff or Aaron Judge of the Yankees hitting another home run. They were deciding whether a school district should be found negligent for a baseball player's throw during a practice that struck a fellow player in the face, damaging his eye and impairing his vision. A lower court had issued summary judgment (judgment without a trial) that the school district could not be at fault because school athletes assume the risk that is inherent in whatever sport they choose. But the New York Court of Appeals, the state's highest court, ruled that the injured student deserved a trial.

In *Grady v. Chenango Valley Central School District*, the court noted that the student had been injured in a complicated drill in which coaches simultaneously put two balls in play. The court found the drill "created a dangerous condition over and above the usual dangers that are inherent in baseball" and that the student deserved an opportunity to prove liability.

In another team practice that ended in tragedy, five football players in a Long Island school district were instructed to carry a log weighing 400 pounds over their heads during a pre-season exercise camp in August 2017. The log fell, striking a 16-year-old player in the head. He was declared dead at a local hospital.

According to news reports, the exercise was similar to one used by Navy SEALs. Presumably, the family's attorney argued that a Navy SEAL drill is not typically used in high school football practices and created a dangerous condition over and above the usual dangers inherent in playing football. The school district reached an out-of-court settlement with the family, reportedly for more than a million dollars.

While lawsuits against school districts alleging negligence for injuries incurred while participating in sports are often dismissed based upon the assumption of risks inherent in participating in sports, liability can exist when a school district breaches the duty of care owed to the student athletes, and the breach is the but-for cause of an injury.

The common law doctrine of assumption of risk may be a complete bar to recovery in negligence causes of action, resulting in dismissal of lawsuits against school districts alleging negligence for sports related injuries. In these cases, the district owed no duty of care inherent in the risk of a student participating in sports. In *Trupia v. Lake George Central School District* (2010), the Court of Appeals said, "We have recognized that athletic and recreative activities possess enormous social value, even while they involve significantly heightened risks, and have employed the notion that these risks may be voluntarily assumed to preserve these beneficial pursuits as against the prohibitive liability to which they would otherwise give rise."

The idea is that, under normal circumstances, a student athlete assumes the open and obvious risk of injury inherent in playing a sport. For injured players to recover a monetary award from a sports injury, they need to show that negligence by the school district concealed the risk of injury or that the district was negligent because the injury arose from conditions that were not inherent or typical of the sport being played.



Many injuries arise out of horseplay or misuse of athletic equipment. When lawsuits result, issues can include whether supervision by adults was appropriate.

When those conditions are present, neither the player's consent nor the player's acknowledgement of risk will shield the district from liability.

Some common factors in liability claims

Many factors can come into play in liability claims, such as the quality and maintenance of equipment and facilities. For example, in *Siegel v. City of New York*, a tennis player injured himself while tripping over a torn net during play at a tennis club and sued the City of New York for damages. Evidence showed that city personnel were aware that the tennis net was ripped because complaints had been made by other players at the club prior to the plaintiff's injury. The Court of Appeals held that a torn net or damaged safety feature is not automatically an inherent risk of the sport and may implicate comparative negligence principles. Therefore, the plaintiff was permitted to pursue an action alleging negligence.

Many injuries arise out of "horseplay" by students, and this often results in an accusation that the school

district failed to properly supervise students to prevent or stop the inappropriate behavior. In *Duffy v. Long Island City School District*, high school football players took turns catapulting each other 10 to 15 feet in the air using a blocking sled as they waited for practice to begin. One student fractured both wrists when he landed, and no coaches were present on the field at the time of the injury. The Appellate Division of state Supreme Court, Second Department, held that the district was negligent for failing to establish that it had adequately supervised the players. The court also found that the use of a blocking sled to catapult players in the air could not be considered an ordinary risk of participating in football.

On the other hand, the mere presence of an unusual circumstance does not necessarily mean the district will incur liability. An example would be the recent decision by the Court of Appeals in *Secky v. New Paltz Central School District*. (The court consolidated its decision in this case with the *Grady* case, cited above, because the two cases involved similar legal issues.)

In *Secky*, a high school basketball player was injured in practice when the players on his team competed against each other in a rebounding drill. The coach explained that the boundary lines of the court would not apply during the drill. At the time of the practice, the bleachers near the court were opened up for seating instead of being folded against the wall. It was noted in the decision that the bleachers were not hidden but were in clear view of the players. The injury occurred while one player was pursuing a loose ball. He collided with another player, then fell into the bleachers, injuring his shoulder.

The court held that the risk of collision during the basketball drill by removing the boundary lines and leaving the bleachers exposed was open and obvious for the players to see. Therefore, the student was not exposed to conditions that unreasonably increased the risk of injury beyond the inherent risk of playing basketball.

Takeaways for coaches and athletic directors

What should coaches and athletic directors keep in mind to protect students and avoid court cases? They should discuss, in advance, drills and exercises that will be used in practices. Coaching staff should avoid implementing novel or unique drills in practice that create additional danger to player safety, and favor drills that are typical for the sport.

Athletic directors should also ensure that student athletes wear appropriate protective equipment, that the equipment is in good condition for its intended use and that coaches are properly trained on the latest safety procedures.

As part of staff training, districts should emphasize the importance of ensuring student athletes are properly supervised on school athletic grounds and at school-sponsored athletic events that are off school grounds.

While even the best-run athletic programs can be accused of negligence when students suffer injuries, following best practices can help avoid unexpected injuries and minimize the chances the district could be held liable.



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