

Torts – Or how to avoid personal injury lawsuits



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Why do we care?

- \$\$\$\$
- Respect Rights of others
- *Know issues, avoid lawsuits, keep you out of trouble and free you up to be best administrator*

K-12 Tort Issues

- Student injuries
- Sexual Harassment
- Bullying



Torts

1. Duty

2. Breach

3. Cause in fact

4. Damages

Negligence

- Not on purpose



2 Ps

- Presence
- Preparation
- Examples – Breach determination
- Teachers – where, number, qualifications
- Safety plan documentation
- Training
- Follow Up

Factors to consider

- Physical
 - A. type of activity
 - B. facilities provided
 - C. level of supervision
 - D. over-all design or lay-out

Mental Factors

- Age
- Mental condition
- Language

Skills & Knowledge

- What is required (easy or hard)
- Equipment?
- Instruction?
- Guide?
- Practice or test?

Warnings

- Products – reactions and use
- Training – instructions for safe use
- Activities – dangers of outdoor activities
- Equipment – unique or dangerous items
- Competitive sports – equipment use or problems with others

Facilities

- What can cause a facility to be substandard?
- Turf
- Fences
- Holes
- Glass
- Lighting
- Rot
- Age

How to prevent Facility Cases

- Routine Maintenance
- Additions to prevent issues such as sand, mulch, soft covers
- Monitor use
- Downtime for upkeep (golf courses) American Society for Testing and Materials – check for abrasiveness of surface.
- Screening & protected areas – softball fields (soft fence, locations & warning track

Equipment

- Provide adequate equipment (what is that)
- Protection (what is needed, age of item)
- Appropriate use
- Any association or league guidance?
- Training and instructions
- Warnings

Playground Standard of Care

- Experts with extensive knowledge
- Relevant guidelines
- Status of user (invitee, trespasser)
- Age
- History
- Handbook for Public Playground Safety
- Surfaces

Safety Audit

- Uses include – identifying and testing design flaws and dangerous hazards
- Assists in developing a schedule to replace equipment
- Shows that agency has plan to meet current safety standards (Preparation)

Risk evaluation

- Frequency
- Severity

Risk treatment

- Avoidance – close or stop activity
- Reduction – do something to limit liability
- Transfer Liability (insure)
- Retain (keep as is) No change

Risk Assessment

- Skill of participants
- Physical condition of participants
- Supervision
- Weather
- Condition of equipment & playing area
- Potential actions – close if risk too high, warn of dangers, mitigate or reduce dangerous conditions

Assault & battery

- Participants assaulting employees
- Employees committing intentional acts
- Factors to look for or train for:
 - Fatigue
 - Weather
 - Difficulty of work
 - Working in pairs
 - Referee example

Harassment

1. Student to Student

2. Responsible if _____ or _____
and school system was deliberately
indifferent.

Who wants to pay a Million Dollar Judgment?

1. Teacher to Student Harassment
2. Consequences
3. News Headlines (Video)
4. Revised Statute 14:81.4

Headlines

- Two Teachers Allegedly Had Sex With Student At Louisiana High School
- Teacher Describes How Sexual Relationship With 15-Year-Old
- Newlywed high school teacher allegedly has affairs with underage students
- Teacher Had Affair With Three Students, Got Pregnant With One Of Them

Potential Signs of Problems

- Physical displays of affection
- Frequent personal communications
- Sexually suggestive conversations
- Obstructing view of room
- Drinking with students
- Hot-tubing with students
- Language

Teacher to Teacher

- Hostile work environment
- Words, pictures, rumors or jokes
- Affairs or romances
- Does it affect teaching ability or performance
- Video Example

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