**APPENDIX L**

**SPORTS LAW**

**AND**

**RISK MANAGEMENT**

**Sport Law and Risk Management**

Procedures

In the content of sports and other athletic related activities, a school district has the duty to take precautions against "reasonable foreseeable" dangers. A basic principle which often determines liability is foreseeable. We must understand the basics for liability under Pennsylvania law. In an over simplistic definition, the tort of negligence is the act of unintentionally committing harm to the person or property of another. When it comes to litigation in the setting of sports activity, what is generally involved would be:

1. Failure to give adequate instruction about a sport.

2. Failure to supply proper equipment.

3. Negligent supervision of the event or activity.

4. Failure to take appropriate measures following injuries to prevent additional injury.

5. Failure to control the crowd or players involved in a particular activity.

Under the legal element of negligence, an injured person need not go so far as to show that the injury resulting from the defendants' negligence was foreseeable. Rather, the injured party need only demonstrate that a "reasonable man" could have foreseen that the type of injury suffered would be likely to occur under the circumstances.

The "reasonable man" standard of care applies to school athletic programs and means that a person (coach, trainer, etc.) notices danger which is reasonably foreseeable. In turn, that person takes precautions appropriate to the circumstances to avoid any harm occurring to others. Such precautions are:

1. Proper instruction and supervision of students.

2. Adequate warning to students and parents.

3. Supplying proper equipment.

4. Providing adequate sports facilities and playing fields.

5. Providing adequate medical care.

6. Reasonable matching of participants.

7. Requiring medical examinations.

8. Selecting competent and qualified athletic personnel.

9. Enforcing safety rules.

**Reduction of Injury**

Every school district owes its students the basic duty of protecting them from unreasonable risks of injury. This means the responsibility to provide proper supervision and instruction to students engaged in athletics activities.

Every coaches' duty to instruct should encompass:

1. Communicating safety to students.

2. Demonstrating techniques.

3. Evaluating student performances.

4. Skills mastery.

5. Matching competitors.

6. Proper student conditioning.

7. Training spotters.

Related to proper instruction is proper supervision, by competent, properly trained personnel at all times. For example, coaches should not permit their teams to practice out of their presence nor is it advisable for volunteers to be left alone in charge of practices.

The duty to supervise is not limited to primary activity areas but extends to other areas as well, such as locker rooms, halls, corridors, swimming pools, parking lots, etc.

**Supervision**

There are three types of supervision and one basic rule.

The rule is: **BE PRESENT!**

The three types of supervision include:

1. **General supervision**, watching over a group of students playing tennis.

2. **Specific supervision**, guiding students through a wrestling move.

3. **Total lack of supervision**, which should be avoided.

One final point about supervision: **The greater the risk to the student, the greater the supervision needs to be.**

**Staff Implementation of Guidelines and Policies**

A necessary corollary to the district's development of rules or guidelines for athletic safety is their proper implementation by the coaching staff. Failure to comply with rules, policies, and manuals may result in district or individual liability where such compliance is required or where it would have been reasonable under the circumstances.

Coaches should not depart from school policies without a careful determination that such a departure will promote rather than undermine student safety. Rules designed to promote safety - whether issued by the school or by the PIAA - are relevant to the question of what is reasonable care.

**Provide Proper Sports Equipment**

Failing to furnish proper equipment to athletes engaged in interscholastic sports is a fairly obvious source of potential liability. A district that provides unsafe or improper sports equipment - equipment which is broken, worn out or does not conform to current safety standards - is openly issuing an invitation to be used.

Coaches and equipment managers must regularly inspect equipment. Any piece of equipment not in proper working condition should be immediately replaced. Furthermore, care must be taken to ensure the equipment fits properly and that students are instructed on both how to use the equipment and how to detect defects in the equipment.

**Adequate Facilities**

A district also has a duty to exercise reasonable care in the proper maintenance of sports facilities and playing fields. This includes the responsibility to maintain the facility in a reasonably safe condition. Every school district, as part of its overall safety program, should be conducting systematic and regular safety inspections of its sports complexes. any and all discovered defects should be repaired immediately.

**Proper Medical Care**

In high school athletics, injuries and the need for life saving medical assistance are a readily foreseeable consequence of offering and conducting such sports programs. Consequently, the failure to provide or make available proper medical care to injured athletes may expose a district to liability.

Even when an injury occurs through no fault of the district, the district nevertheless, may be liable if it fails to provide the injured athlete with prompt medical treatment.

A duty also exists to exercise reasonable care for injured athletes until medical help arrives. Moving a player from the field so the game can go on may be a costly decision in the long run. **Remember, that an injured student takes priority over everything else.** The best advice to a coach is not to administer first aid beyond your training. When in doubt, call a doctor, nurse, trainer or ambulance. There also is increasing recognition for post injury health care, which may involve return-to-play decision making. Coaches and other athletic personnel need to keep abreast of current and safe sports medicine practice.

**Reducing Risk**

**If there are no sports injuries, there cannot be a successful lawsuit.** The key lies in creating a safety first, last, and always "mind set". Demonstrating you have done all that is reasonable and prudent to eliminate risk and hazards of physical activity is the best weapon against lawsuits.

Suggestions to "help those for whom we in education work - the child".

1. Start to do something about safety immediately. Don't put off that first safety discussion until next school year.

2. Realize that most people do nothing about improving safety until after an accident occurs. There is an attitude that safety is neither exciting enough or important enough to consider before an accident happens.

Safety is and always will be a matter of attitude. Give priority to safety, not just because of fear of litigation, but more importantly, because of concern for the children.

**Legal Duties of Coaches**

Serious injury to an athlete is a coach's nightmare - and responding incorrectly can worsen matters. By learning basic emergency procedures and the eight legal duties of a coach, you can protect both your athletes and yourself from serious consequences.

1. Properly plan the activity. Make sure that athletes are in proper condition. Teach sport skills in a progression so that athletes are prepared to handle more difficult skills.

2. Provide proper instruction. Keep updated on better and safer ways of performing sport techniques. Teach athletes the rules and the correct skills and strategies of the sport.

3. Provide a safe physical environment. Periodically inspect playing areas, the locker room, the weight room, and the dugout for hazards - and remove them. Prevent improper or unsupervised use of facilities.

4. Provide adequate and proper equipment. Make sure athletes are using top-quality equipment. Inspect the equipment regularly. Teach athletes how to fit, use, and inspect their equipment.

5. Match your athletes. Match athletes according to size, physical maturity, skill level, and experience.

6. Evaluate athletes for injury or incapacity. If an athlete is not able to compete without pain or restriction of function, immediately remove him/her from the activity.

7. Supervise the activity closely. Do not allow athletes to practice difficult or potentially dangerous skills without proper supervision. Forbid horseplay. Do not allow athletes to use sport facilities without supervision.

8. Provide appropriate emergency assistance. Learn sport first aid. Use only the skills that you are qualified to administer.

**Determining Negligence**

Most cases brought to court over sport injuries fall into the civil, not criminal, category and charge negligence. According to Gary Nygaard and Thomas Boone's Coaches Guide to Sport Law, four conditions must be met:

1. A duty, or responsibility, must be present (such as those listed above).

2. That duty or responsibility must have been breached.

3. The negligence must significantly affect the injury.

4. The extent of the injury must be proven.

The best way for a coach to avoid these problems is through a combination of awareness, knowledge, and preparation. Understand your duties and responsibilities as a coach. Ask your athletic director about your state's standards.

Prepare yourself to deal with injury situations. Take a sport first aid class, learn CPR, and get signed consent forms from your athletes' guardians before the season begins.

**Avoiding Sexual Harassment**

1. Teachers and athletic personnel should never use explicit language or tell sexually explicit or off-color jokes in the presence of students.
2. Teachers and athletic personnel should never display sexually explicit pictures or materials on school property and should never show such materials to students under any circumstances.
3. Teachers and athletic personnel should avoid engaging in excessively personal conversations, both in person and on the phone, with students.
4. Teachers and athletic personnel should avoid sending excessively personal letters, cards, gifts, or email/text messages to students.
5. Teachers and athletic personnel should avoid commenting on students’ physical appearance, including manner of dress and physical attributes.
6. Teachers and athletic personnel should avoid, to the greatest extent, physical contact with a student.
7. Teachers and athletic personnel should avoid giving students a ride home alone or even in groups where eventually only one student will remain in the vehicle.
8. Teachers and athletic personnel should avoid off-school-property, one-on-one meetings alone with students.
9. Teachers and athletic personnel should never plan to take un-chaperoned school or athletic trips and, even on chaperoned trips, should exercise a greater degree of caution and propriety regarding interaction with students on the trip.
10. Teachers and athletic personnel should never date students under any circumstances. Issues of power differential, consent, credibility, and appearance of impropriety make such relationships untenable.

**Title IX**

Section 86.41 of the Title IX Regulation states that an institution or a district must develop and operate athletic programs according to the following specifications:

1. General - No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated against in any interscholastic, intercollegiate, club or intramural athletic offered by a recipient, and no recipient shall provide any such athletics separately on such basis.

(i)Whether the selection of sports and levels of competition effectively accommodate the interests

and abilities of members of both sexes

(ii) The provision of equipment and supplies

(iii) Scheduling of games and practice time

(iv)Travel and per diem allowance

(v)Opportunity to receive coaching and academic tutoring

(vi) Assignment and compensation of coaches and tutors

(vii) Provision of locker rooms, practice and competitive facilities

(viii)Provision of medical and training facilities and services

(ix) Provision of housing and dining facilities and services

(x) Publicity

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute non-compliance with this section, but the Director may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.