



Athletics Risk Management Guidelines

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ATHLETICS RISK MANAGEMENT GUIDELINES

BACKGROUND

Students have a right to a safe school environment.

Article I, § 28(c) of the California Constitution provides that all public school students "have the inalienable right to attend campuses which are safe, secure, and peaceful."

Districts may be liable for non-supervision of students because there is no discretion not to supervise them.

California Government Code § 815.6 states that "Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty."

Certificated employees have a duty to supervise and discipline students on the way to and from school, on playgrounds, in hallways and restrooms, and at recess when under the District's control. Such discipline excludes corporal punishment.

California Education Code § 44807 states that "Every teacher in the public schools shall hold pupils to a strict account for their conduct on the way to and from school, on the playgrounds, or during recess. A teacher, vice principal, principal, or any other certificated employee of a school District, shall not be subject to criminal prosecution or criminal penalties for the exercise, during the performance of his duties, of the same degree of physical control over a pupil that a parent would be legally privileged to exercise but which in no event shall exceed the amount of physical control reasonably necessary to maintain order, protect property, or protect the health and safety of pupils, or to maintain proper and appropriate conditions conducive to learning. The provisions of this section are in addition to and do not supersede the provisions of Section 49000."

California Education Code § 49000 states that "The Legislature finds and declares that the protection against corporal punishment, which extends to other citizens in other walks of life, should include children while they are under the control of the public schools. Children of school age are at the most vulnerable and impressionable period of their lives and it is wholly reasonable that the safeguards to the integrity and sanctity of their bodies should be, at this tender age, at least equal to that afforded to other citizens."

GOAL

Schools seek to maintain a safe, secure environment, including a safe, secure athletic environment. By carefully selecting and retaining quality coaches and athletic trainers, by maintaining safe fields and athletic equipment, and by supervising athletes with the best available techniques and methods, Districts can accomplish this goal.

SAFETY RECOMMENDATIONS

While Districts are not responsible for every injury that may occur, since athletes assume a certain amount of risk, potential sports injury claims might be avoided or mitigated by implementing the following:

- Compliance with the California Department of Education *Physical Education Model Content Standards for California Public Schools Kindergarten Through Grade Twelve*.
- Mandatory medical examinations and a medical history from prospective athletes prior to participation.
- Appropriate physical conditioning to prepare athletes for the rigors of the sport.
- Seek to have an adequately prepared and qualified team trainer who is a regular member of the faculty.
- Employ qualified athletic personnel, including confirmation of CPR and first aid certification.
- Enforce game rules and administrative regulations. Coaches and school officials should support the game officials with respect to their team's conduct.
- Know and teach the proper fundamental skills of all sports.
- Continuously research athletic safety (rules, facilities, equipment).
- Provide training in the use of athletic equipment and gear.
- Adhere to medical recommendations pertaining to head trauma/concussion, including obtaining clearance from the proper medical authority before allowing athlete to return to practice or game participation.
- Obtain signed "authorization, waiver and assumption of risk" form from parents/guardians and review risks with athletes.
- Post safety rules at play locations.
- Maintain an Emergency Action Plan (EAP), including general policies, such as, Reporting an Injury and Inclement Weather Policies, and procedures to address the possibility of catastrophic injuries, and provide training to staff.
- Maintain other policies, as appropriate (i.e., steroids, alcohol, drugs).
- Conduct regular loss control inspections of facilities and equipment.

- Clarify the relationship between a team physician and athletic trainer and provide appropriate supervision.
- Maintain confidentiality of medical information (Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Family Educational Rights and Privacy Act¹ (FERPA)²).

RISKS ASSOCIATED WITH COACHING³

The hiring process with respect to full-time, District coaches should include protocols responsive to child abuse prevention and the same should be applied to temporary and “walk-on” coaches and staff. Many Districts utilize temporary and “walk-on” coaches and assistants to supplement their regular coaching staff. It is recommended that temporary staff meet the following requirements through demonstrated knowledge and competence in these areas:

- 1) Care and prevention of athletic injuries, first aid, and emergency procedures as evidenced by one or more of the following:
 - Completion of a college-level course in the care and prevention of athletic injuries and possession of a Cardiopulmonary Resuscitation (CPR) card; or
 - A sports injury certificate or first aid card, and a Cardiopulmonary Resuscitation (CPR) card; or
 - An Emergency Medical Technician (EMT) I or II card; or

¹ Under FERPA, a high school athletic program can release the **height and weight** of a student athlete (for example, a wrestler) **as part of a sports information sheet**. However, **disclosure of student athlete injuries or medical treatments** is protected information under HIPAA and, as such, **is not allowable**.

² Under FERPA, as long as the District has disclosed its intent in advance, the District may release any directory information on a student with the exception of the following data elements: Social Security Number, student health information, discipline information (infractions, outcomes, etc.), state-assigned student ID, lunch status (free or reduced lunch), socioeconomic status, Title I status, IEP status and details, exceptionality, individual assessment results and course grades, migrant status, homeless status, Medicaid status, and other data elements that parents/guardian may have requested to exclude from directory after said disclosure.

³ Legal references for this Section include AB1025, Education Code § 35179.1 (b)(4), Education Code § 44258.7 (b), and Title 5 Article 5. Also, note that some liability protection of volunteer coaches is offered by the federal Volunteer Protection Act (VPA). The VPA provides that “no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if … the volunteer was acting within the scope of the volunteer’s responsibility in the nonprofit organization or governmental entity at the time of the act or omission.”

- A trainer's certification issued by the National or California Athletic Trainers' Association (NATA/CATA).

2) Coaching theory and techniques in the sport or game being coached, as evidenced by one or more of the following:

- Completion of a college-level course in coaching theory and techniques; or
- In-service programs arranged by the District or its County Office of Education; or
- Prior experience as a student or assistant coach;
- Prior coaching experience in community youth athletic programs;
- Prior participation in organized competitive athletics at the high school level or above; or
- Knowledge of the rules and regulations pertaining to the specific sport, the league rules and, at the high school level, CIF regulations.

3) Child or adolescent psychology as it pertains to sports participation, as evidenced by one or more of the following:

- Completion of a college-level course in adolescent or sports psychology; or
- Completion of a seminar or workshop on growth and development of youth; or
- Prior active involvement with youth in a school or community sports program.

MEDICAL AUTHORIZATION AND ASSUMPTION OF RISK

A participant who is aware of the risks and is subsequently injured may be considered comparatively negligent. Prior to participation, signed Medical Authorization and Assumption of risk forms should be obtained from every athlete and kept on file as determined by the district's records retention policy.

ATHLETICS AND SECTION 504

The U.S. Department of Education has provided guidance as an overview of the obligations of public elementary and secondary schools under Section 504 and its regulations. Briefly, it states that students with disabilities must be provided an equal opportunity to participate in athletics, including intercollegiate, club, and intramural athletics. Exhibit 1 contains more detailed information regarding Section 504 requirements.

EXHIBIT 1 – SECTION 504 REQUIREMENTS

Overview

Under Section 504 regulations, a District is required to provide a qualified student with a disability an opportunity to benefit from the District's programs equal to that of students without disabilities. For purposes of Section 504, a person with a disability is one who:

1. has a physical or mental impairment that substantially limits one or more major life activities;
2. has a record of such an impairment; or
3. is regarded as having such an impairment.

With respect to public elementary and secondary educational services, "qualified" means a person:

1. of an age during which persons without disabilities are provided such services,
2. of any age during which it is mandatory under state law to provide such services to persons with disabilities, or
3. to whom a state is required to provide a free appropriate public education (FAPE) under the Individuals with Disabilities Education Act (IDEA).

Of course, simply because a student is a "qualified" student with a disability does not mean that the student must be allowed to participate in any selective or competitive program offered by a District; a District may require a level of skill or ability of any student in order for that student to participate in a selective or competitive program or activity, so long as the selection or competition criteria are not discriminatory.

Among other things, Section 504 regulations prohibit Districts from:

1. denying a qualified student with a disability the opportunity to participate in or benefit from an aid, benefit, or service;
2. affording a qualified student with a disability an opportunity to participate in or benefit from an aid, benefit, or service that is not equal to that afforded others;
3. providing a qualified student with a disability with an aid, benefit, or service that is not as effective as that provided to others and does not afford that student with an equal opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement in the most integrated setting appropriate to the student's needs;
4. providing different or separate aid, benefits, or services to students with disabilities or to any class of students with disabilities unless such action is necessary to

provide a qualified student with a disability with aid, benefits, or services that are as effective as those provided to others; and

5. otherwise limiting a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

Section 504 regulations also require Districts to provide a free appropriate public education (Section 504 FAPE) to each qualified person with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the person's disability.

ASClP recommends that Districts adopt grievance procedures that incorporate appropriate due process standards and that provide for prompt and equitable resolution of complaints alleging violations of the Section 504 regulations.

The District's legal obligation to comply with Section 504 regulations supersedes any rule of any association, organization, club, or league that would render a student ineligible to participate, or limit the eligibility of a student to participate, in any aid, benefit, or service on the basis of disability. It would violate the District's obligations under Section 504 to provide significant assistance to any association, organization, club, league, or other third party that discriminates on the basis of disability in providing any aid, benefit, or service to the school district's students. To avoid violating their Section 504 obligations in the context of extracurricular athletics, Districts should work with their athletic associations to ensure that students with disabilities are not denied an equal opportunity to participate in interscholastic athletics.

Do Not Act On Generalizations and Stereotypes

A District may not operate its program or activity on the basis of generalizations, assumptions, prejudices, or stereotypes about disability generally, or specific disabilities in particular. A District also may not rely on generalizations about what students with a type of disability are capable of—one student with a certain type of disability may not be able to play a certain type of sport, but another student with the same disability may be able to play that sport.

Equal Opportunity for Participation

A District that offers extracurricular athletics must do so in such manner as is necessary to afford qualified students with disabilities an equal opportunity for participation. This means making reasonable modifications and providing those aids and services that are necessary to ensure an equal opportunity to participate, unless the District can show that doing so would be a fundamental alteration to its program. Of course, a District may

adopt *bona fide* safety standards needed to implement its extracurricular athletic program or activity. A District, however, must consider whether safe participation by any particular student with a disability can be assured through reasonable modifications.

Schools may require a level of skill or ability for participation in a competitive program or activity; **equal opportunity does not mean, for example, that every student with a disability is guaranteed a spot on an athletic team for which other students must try out.** A District must, however, afford qualified students with disabilities an equal opportunity for participation in extracurricular athletics in an integrated manner to the maximum extent appropriate to the needs of the student. This means that a District must make reasonable modifications to its policies, practices, or procedures whenever such modifications are necessary to ensure equal opportunity, unless the District can demonstrate that the requested modification would constitute a fundamental alteration of the nature of the extracurricular athletic activity.

In considering whether a reasonable modification is legally required, the District must first engage in an individualized inquiry to determine whether the modification is necessary. If the modification is necessary, the District must allow it unless doing so would result in a fundamental alteration of the nature of the extracurricular athletic activity. A modification might constitute a fundamental alteration if it alters such an essential aspect of the activity or game that it would be unacceptable even if it affected all competitors equally (such as adding an extra base in baseball). Alternatively, a change that has only a peripheral impact on the activity or game itself might nevertheless give a particular player with a disability an unfair advantage over others and, for that reason, fundamentally alter the character of the competition. Even if a specific modification would constitute a fundamental alteration, the District would still be required to determine if other modifications might be available that would permit the student's participation.

To comply with its obligations under Section 504, a District must also provide a qualified student with a disability with needed aids and services, if the failure to do so would deny that student an equal opportunity for participation in extracurricular activities in an integrated manner to the maximum extent appropriate to the needs of the student.

Offering Separate or Different Athletic Opportunities

In providing or arranging for the provision of extracurricular athletics, a District must ensure that a student with a disability participates with students without disabilities to the maximum extent appropriate to the needs of that student with a disability. The provision of unnecessarily separate or different services is discriminatory. Districts should work

with their community and athletic associations to develop broad opportunities to include students with disabilities in all extracurricular athletic activities.

Students with disabilities who cannot participate in the District's existing extracurricular athletics program – even with reasonable modifications or aids and services⁴ – should still have an equal opportunity to receive the benefits of extracurricular athletics. When the interests and abilities of some students with disabilities cannot be as fully and effectively met by the District's existing extracurricular athletic program, the District should create additional opportunities for those students with disabilities.

In such circumstances, a District should offer students with disabilities opportunities for athletic activities that are separate or different from those offered to students without disabilities. These athletic opportunities provided by a District should be supported equally, as with the District's other athletic activities. Districts must be flexible as they develop programs that consider the unmet interests of students with disabilities. For example, an increasing number of Districts are creating disability-specific teams for sports such as wheelchair tennis or wheelchair basketball. When the number of students with disabilities at an individual school is insufficient to field a team, Districts can also:

- (1) develop district-wide or regional teams for students with disabilities as opposed to a school-based team in order to provide competitive experiences;
- (2) mix male and female students with disabilities on teams together; or
- (3) offer “allied” or “unified” sports teams on which students with disabilities participate with students without disabilities.

Districts, in coordination with students, families, community and advocacy organizations, athletic associations, and other interested parties, should support these and other creative ways to expand such opportunities for students with disabilities.

⁴ Reasonable accommodations should “not (1) fundamentally alter the sport, (2) heighten risk to the athlete/others, or (3) place opponents at a disadvantage.” For example, a member of a varsity swim team, who had both legs amputated from the knees down, was allowed to start in the water rather than from the block.

EXHIBIT 2 – CHEERLEADING SAFETY TIPS

DISTRICT CHEERLEADER SAFETY RECOMMENDATIONS



Following is a list of recommendations that may help prevent cheerleading injuries:

- Cheerleaders should have a medical examination before they are allowed to participate including a complete medical history.
- Cheerleaders should be trained by a qualified coach with training in gymnastics and partner stunting. This person should also be trained in the proper methods for spotting and other safety factors.
- Cheerleaders should be exposed to proper conditioning programs and trained in proper spotting techniques.
- Cheerleaders should receive proper training before attempting gymnastic type stunts and should not attempt stunts they are not capable of completing. A qualification system demonstrating mastery of stunts is recommended.
- Coaches should supervise all practice sessions in a safe facility.
- Mini-trampolines and flips or falls off of pyramids and shoulders should be prohibited.
- Pyramids over two high should not be performed. Two high pyramids should not be performed without mats and other safety precautions.
- If it is not possible to have a physician or athletic trainer at games and practice sessions, emergency procedures must be provided. The emergency procedure should be in writing and available to staff and athletes.
- There should be continued research concerning safety in cheerleading.
- When a cheerleader has experienced or shown signs of head trauma (loss of consciousness, visual disturbances, headache, inability to walk correctly, disorientation, or memory loss) she/he should receive immediate medical attention and should not be allowed to practice or cheer without permission from the proper medical authorities. It is important for a physician to observe athletes with head injuries for several days following the injury.
- Cheerleading coaches should have a safety certification. The American Association of Cheerleading Coaches and Advisors offers this certification. Refer to <http://www.AACCA.org> .

EXHIBIT 3 – CONCUSSION PREVENTION

Many catastrophic head injuries are a direct result of injured athletes returning to play too soon. The Centers for Disease Control (CDC) reports that approximately 3 million sports and recreational concussions occur every year in the United States. California law requires that all coaches receive training on concussions.

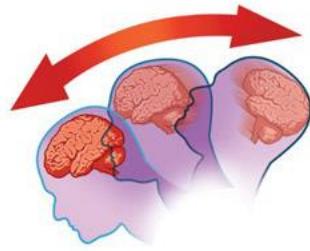


Concussions and other head injuries affect thousands of middle and high school aged student athletes annually. In general, these athletes have not been afforded the same standard of care that is customary at the collegiate and professional ranks. Thus, as symptoms are varied and not necessarily specific to concussions, many injuries go undetected and under-reported as athletes keep injuries to themselves wishing to continue to compete.

Education Code § 49475:

1. prohibits the return of an athlete who is suspected of sustaining a concussion or head injury during an activity to that activity until he or she is evaluated by, and receives written clearance from, a licensed health care provider, as specified.
2. requires, annually, a concussion and head injury information sheet to be signed and returned to a school site, by the athlete and the athlete's parent or guardian, before the athlete may begin practice or competition.
3. requires a graduated return to play (RTP) protocol of no less than 7 days, in cases where it is determined by the licensed health care professional that the athletes sustained a concussion, is mandatory. The RTP shall be carried out under the supervision of a licensed health care professional. This RTP will provide for a gradual increase in exertion, over the period, offering an individual time to resolve and demonstrate a readiness to return to participation.

Customize this sheet with
your Logo, and any school
district or specific
information.



CONCUSSION FACT SHEET ACKNOWLEDGEMENT

What is a concussion?

A concussion is a type of brain injury that changes the way the brain normally works. A concussion is caused by a bump, blow, or jolt to the head. Concussions can also occur from a blow to the body that causes the head and brain to move rapidly back and forth. Even what seems to be a mild bump to the head can be serious. Concussions can have a more serious effect on a young, developing brain and need to be addressed correctly.

What are the signs and symptoms of a concussion?

You can't see a concussion. Signs and symptoms of concussion can show up right after an injury or may not appear or be noticed until hours or days after the injury. It is important to watch for changes in activity, behaviors, if symptoms are getting worse, or if s/he just "doesn't feel right." Most concussions occur without loss of consciousness.

Please review the attached _____ (*Exact name of the Concussion Fact Sheet Provided to Student*) for more information about concussions including the signs and symptoms. If you notice the symptoms, seek medical attention right away. Children and teens are among those at greatest risk for concussion.

Children and teens with a concussion should NEVER return to sports or recreation activities on the same day the injury occurred. They should delay returning to their activities until a healthcare professional experienced in evaluating for concussion says they are symptom-free and it's OK to return to play. This means, until permitted, not returning to physical education (PE) class, sports practices or games, or physical activity at recess.

I understand that all concussions and concussion symptoms must be reported to the coach, teacher or athletic trainer right away. I have read and understand the above and have reviewed the concussion information sheet provided to me.

CONCUSSIONS OCCUR IN ANY SPORT
REMOVE athlete from play
REFER to medical provider
REST no sports, no texting/TV
RETURN only with doctor's OK

Signature Parent/Guardian

Date

EXHIBIT 4 – REQUIREMENTS FOR TEMPORARY AND “WALK-ON” COACHES

Certain duties should be met prior to utilizing temporary and “walk-on” coaches/assistant coaches. The following requirements are recommended:

- Applicant should provide written documentation from a licensed physician showing evidence of freedom from tuberculosis and any other contagious disease that would prohibit a certificated employee from being hired.
- Applicant should provide recommendations attesting to his or her good moral character and fitness to associate with student athletes.
- Applicant should be fingerprinted in accord with the Department of Justice.
- A criminal background check should be conducted in accordance with District hiring policy.
- A thorough review of prior employment history should be undertaken.
- References should be checked.
- Checks for prior convictions involving moral turpitude, not fit to associate with children, and registered sex offenses should be undertaken.
- A standard orientation covering such topics as safety, bloodborne pathogens, sexual harassment, etc. should be administered and documented.
- CIF “Coaching Principles” Certification for high schools.
- Current CPR & First Aid certification.
- Current Concussion Certification, or similar training deemed valid and acceptable by the district, such as:
 - College-level course in care and prevention of athletic injuries with CPR card
 - Sports injury certificate with CPR card
 - Emergency Medical Technician (EMT) I or II card
 - National or California Athletics Trainers' Association (NATA/CATA)

EXHIBIT 5 – SAMPLE CODE OF CONDUCT

Athletic program/sport: _____

As an athletic program volunteer, I shall always:

- Uphold Article I, Section 28(c) of the California Constitution requiring that all students are provided a safe and secure learning environment.
- Act in a manner that reflects professional, moral, ethical practices within established boundaries, consistent with those for district employees, and in a manner that a reasonable person would not interpret as inappropriate.
- Provide proper supervision of, and exercise boundaries with, students at all times consistent with those required of district employees.
- Show respect for players, officials, other coaches and staff, students, and spectators.
- Respect the integrity and judgment of game officials.
- Establish and model fair play, sportsmanship, and proper conduct.
- Establish player safety and welfare as the highest priority.
- Use discretion when providing constructive criticism and when reprimanding players.
- Maintain consistency in requiring all players to adhere to the established rules and standards of the game.
- Properly instruct players in the safe and appropriate use of equipment.
- Avoid influencing a pupil's decision to enroll in a specific athletic program at a specific public or private post-secondary education institution.
- Avoid influencing any pupil's decision to enroll in lighter academic course(s) in order to be eligible to participate in athletics.
- Avoid suggesting, providing, or encouraging any athlete to use non-prescriptive drugs, anabolic steroids, or any substance to increase physical development or performance that is not approved by the United States Food and Drug Administration, Surgeon General, or the United States of American Medical Association.
- Avoid recruitment of athletes from other schools.
- Follow the rules of behavior and the procedures for crowd control as established by the local Board of Trustees and the league and/or conference in which the District participates.

I shall NOT work with students prior to receiving Governing Board approval. I understand the district may take action, including legal, for noncompliance with these standards. I will report immediately to a district administrator if I observe a situation where district policies, rules, or boundaries are being violated.

Signature: _____

Date: _____

Print Name: _____

Date: _____

EXHIBIT 6 – SAMPLE LOCKER ROOM RULES AND ETIQUETTE

Trust your intuition. If something does not feel right, **speak out.**

- Every student has access to reporting concerns anonymously and without negative consequences. Our school has zero tolerance for sexual or other abuse, molestation, and misbehavior, and offers professional counseling.
- Avoid being alone with an unrelated adult.
- If a verbal or physical indiscretion or uncomfortable incident occurs, record the details of what transpired, the date and time, and note any other individuals who might be witnesses.
- Dismiss the idea that there is a “typical” abuser or abusing environment.

If you desire to report an incident, call (XXX) XXX-XXXX or proceed directly to the Principal’s Office.



General Rules

- Respect the rights and feelings of others.
- School rules are strictly enforced, including no drug use, smoking or dipping, or gum on campus.
- Follow the safety instructions set by the Athletic Department coaches and Physical Education (P.E.) staff.
- Take pride and care for the equipment and school facilities.
- Glass containers are prohibited.
- Eating or drinking (except water) is prohibited.
- Locker room restrooms are for use only during P.E. and athletic practices and games.
- Throwing of objects and horseplay are strictly prohibited.

Cell phone (and other electronic device) usage

- Cell phone (and other electronic device) use is strictly prohibited in the locker room.
- Never bring a phone or any other personal electronic device to a P.E. or athletics class or to a playing field.

Common Courtesies

- No excessive nudity. Do not parade around.
- Engage in small talk only when both individuals are fully clothed.
- Salacious (seedy) “locker room talk” is strictly prohibited.

Space

- Avoid commandeering space, whether a bench or in front of a mirror.
- Clean up after yourself. Leave the space as you would want it to be upon your arrival.

Bring a Lock

- Bring and use a lock to avoid items being stolen or mixed up and to ensure you are opening the correct locker.
- Protect your locker combination. Do not share it.
- Locker room lockers are not for use during the regular school day.
- Any locks left on lockers outside of class time are subject to removal and disposal.
- All lock or locker problems should be reported immediately to staff.

Showers and urinals

- No spitting or urinating in shower areas.
- Keep eyes at eye level.
- Wear flip-flops.

Personal grooming

- No aerosol sprays, scented body sprays, colognes, or deodorants (except for roll-ons) allowed.
- No nail clipping, shaving...allowed.
- Blow dryers are for scalp hair drying only.

NOTE: The district is not responsible for lost, stolen, or damaged personal property. Best to leave valuables at home.