



# ADMINISTRATIVE

*Legal Liability*



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## OBJECTIVES

- To outline the responsibilities of a youth hockey coach
- To know your obligation as a coach
- To know how to meet the expectation of coaches

### BASIS FOR LIABILITY

The main reason coaches are sometimes sued is because they act in a “negligent” manner. Negligence is another word for conduct that is not reasonable. In determining whether a coach acts in a negligent manner (or whether the coach’s conduct is unreasonable), the law will compare the actions of the coach to those of other coaches in the same situation.

Negligence is a civil matter, not a criminal matter. Coaches should act in an alert manner, be aware of the surrounding circumstances, and always use caution when dealing with players, referees and spectators.

**The primary responsibility of a coach is to minimize the risk of injury to all participants of the game.**

In minimizing the risk of injury, coaches have certain responsibilities with respect to the following areas:

- the responsibility of properly supervising players either at practice or during a game
- the responsibility of properly training and instructing players as to all facets of the game
- the responsibility of ensuring that the players are wearing safe and proper equipment
- the responsibility of providing competent and responsible assistant coaches and personnel
- the responsibility of warning players and parents of dangers of which they may not be aware
- the responsibility of providing proper medical attention to injured players

- the responsibility of prohibiting injured players from participating in practice as well as games
- the responsibility of placing players of a similar competitive level against one another

These are the most common responsibilities required of coaches, which can be found in the Bill of Rights for Young Athletes enacted by USA Hockey. When coaches fail to meet these responsibilities, players usually end up injured.

### Coaches’ Responsibility to Supervise Their Players

One of the primary responsibilities of a coach is to provide proper supervision. In general, coaches must provide the degree of supervision necessary for the age, experience and skill of those supervised. When coaches fail to properly supervise their players, they may be held responsible for any resulting injuries.

For example, in one instance, one of the players on a golf team was killed as a result of being struck in the head by the errant swing of another player. The court found that the coach was liable for the death of the golfer because he failed to provide proper supervision. At the time of the accident, the coach was concentrating solely on one golfer and not paying any attention to the other golfers. The court held that if the coach was providing proper supervision, the accident would not have occurred.

In another case, a wrestler was injured during practice by another wrestler when the wrestler applied a hold taught by their coach. The court found that the coach failed to provide proper supervision because he was supervising two matches at the same time. The court stated that he should have been supervising only

one match at a time in order to minimize the risk of unnecessary injury to the wrestlers.

These cases point out that all ice hockey coaches should maintain proper supervision over their players at all times. This includes when the players are on the ice or when they are in the locker room. The easiest way to alleviate any problems in these situations is simply to pay attention and watch what is going on. Discourage players from engaging in horseplay and do not let them engage in risky activity that is likely to get someone injured.

In addition, when coaches are absent from practices or games, the coach is responsible for providing competent and responsible assistant coaches that can provide proper supervision.

### **Coaches' Responsibility to Properly Train and Instruct Their Players**

Coaches must instruct their players on the skills necessary to compete.

In this regard, it is imperative for coaches to teach players the rules of the game and to ensure that the players are physically fit to compete. Coaches have been held responsible in many instances for failing to provide the injured athlete with adequate training or instruction that would have prevented the injury.

One example in which several coaches were found not to provide an athlete with proper training and instruction occurred when a football player sustained severe neck and back injuries resulting from an improper tackle made on an opposing player. The player sued several of the coaches, claiming that they failed to properly instruct him on how to tackle. In this instance, the player was originally a track star and was recruited to play football because of his outstanding speed. The player, prior to injuring himself, had participated in only one practice on tackling. The head coach and the interior line coach were eventually found liable for \$6.5 million because they had not properly instructed the player on how to tackle. This case is just one alarming example of why coaches should properly instruct their players on all facets of the game.

In another instance, a wrestler was injured by another wrestler as a result of a hold taught by the coach. The injured wrestler sued the coach for not

providing proper training and instruction. The coach was found liable because he failed to teach his wrestlers a defense to that particular hold.

If a coach provides proper training and instruction, however, the coach will not be held responsible for a player's injuries. For example, in another football case, a football player incurred severe neck and back injuries after tackling another player head-on. In this instance, the coach was not responsible for the player's injury because he had demonstrated that he provided all of his players with proper instruction as to all aspects of the sport. In this case, the coach implemented a program where all football players:

- **had to undergo a complete physical and be certified physically fit to play.**
- **were enrolled through an extensive training program that included calisthenics, weight training and conditioning, instruction as to the fundamentals of the game and instruction on the use of protective equipment**

This example demonstrates that coaches will not be responsible for a player's injuries if they provide proper training and instruction.

In ice hockey, it is critical that coaches instruct players on all aspects of the game in order to facilitate the safety of all players. One example of such instruction would be to advise players not to check from behind, especially within five feet of the boards, because it can cause severe injury to other players. Coaches should always take the time to teach the fundamentals and rules of the game.

Finally, you should teach players how to protect themselves from injury. This should be particularly important to coaches of 8U, 10U and 12U players. In these instances, coaches should be sure to explain to the players how to properly give and take a check as well as explain the dangers of the game such as high-sticking, boarding, hitting from behind and cross-checking.

### **Coaches' Responsibility to Ensure that Players are Wearing the Proper Equipment**

In the most common situations, coaches are not responsible for providing equipment for their players. However, there are instances when a coach will provide equipment such as when a player's

equipment fails during a game. In addition, there may be instances when coaches are responsible for ordering certain equipment for the team. In these instances, coaches should be sure to provide safe and suitable equipment.

In one instance, a prep school hockey coach was sued after a player was injured as a result of being struck in the head with a hockey puck. The coach ordered helmets that were comprised of three separate pieces, which allowed enough room for a puck to squeeze between the pieces and strike the player in the head. The coach was found liable for not providing his players with the proper equipment. The court found that, based upon the coach's experience, the coach should have known that there was a more safely designed helmet available and provided the safer helmets to his or her players.

As a suggestion to coaches, it is always a good idea to routinely check that the players are using the proper equipment. It might be best to circulate a form for the players' parents to fill out at the beginning of the season, in which they can check off the various pieces of equipment that have been provided to the player.

Moreover, the coach must prohibit a player from competing if the coach knows that the player is not properly equipped (for example, a player going out on the ice with a bicycle helmet instead of a hockey helmet). It might be wise for coaches to have a preseason meeting with the players and their parents to outline the equipment necessary for the players.

Finally, a coach should be aware of the safest and newest equipment available.

### **Coaches' Responsibility to Provide Responsible Assistant Coaches and Other Personnel**

Coaches have the responsibility to ensure that assistants or team managers are responsible individuals, have knowledge of the game, and are persons who will act as the coach would act.

### **Coaches' Responsibility to Provide Immediate and Proper Medical Care**

Coaches are responsible for providing necessary and proper medical assistance for injured players.

Coaches, however, should not provide any assistance that could make the injury worse.

For example, in one case, a high school coach was held responsible for injuries to a wrestler because he moved the wrestler after he suffered a severe knee injury, thereby making the injury worse. The coach was also held responsible because he failed to contact the appropriate medical authorities or the wrestler's parents after the injury had occurred.

Particularly in cases where a player is injured while on the ice, it is absolutely critical that coaches take the time to investigate and evaluate the player's condition. If it appears that the injury is more than the player merely "getting the wind knocked out of him," the coach must obtain immediate medical assistance. If the coach fails to obtain proper medical assistance, the coach will be held responsible.

For example, in one instance, a football coach was held liable for the death of a football player who died from heat stroke because he failed to obtain prompt medical attention that would have probably saved the player's life.

### **Coaches' Responsibility to Prevent Injured Players from Competing**

Under no circumstances are coaches to allow injured players to play if there is a chance that the player can aggravate his or her injury. It is always difficult to keep an injured player from playing when he or she is a very good player and is asking to participate despite the injury. However, courts have routinely found that coaches are responsible for keeping an injured player from playing.

For example, in one case, a basketball coach was held responsible for making the player's injuries worse because the coach permitted the injured player to play even though he was aware that the player had facial injuries and was ordered by his doctor not to participate in any type of athletic activity.

Therefore, take notice when a player is shaking his hand, grabbing his ankle, or moving his arm in a circular motion that would suggest a possible shoulder injury. Coaches should never wait for a visibly injured player to tell them that he or she is physically injured.

## **Coaches' Responsibility to Place Players in Competitive Settings**

In some cases, coaches have been held responsible for allowing players to play in a "mismatched" situation, such as a player from the Junior level playing against a player from the 12U level.

A recent incident occurring in Brick, N.J., emphasized that coaches should always be aware of the competition on the ice. In this case, the injury occurred during a skills clinic at which the player, who was 15 years old, was hurt by a slap shot taken by a player who was 19 years old. The ice rink was later held responsible for the player's injury because they permitted a "mismatched" situation.

Had this been either a practice or a game situation, it is probable that the coach would have been held responsible for allowing one of his or her players to play in a "mismatched" situation.

## **Vicarious Liability**

In certain cases, coaches should be aware that they may be responsible for the actions of their players and assistants under a legal theory known as "vicarious liability." This theory essentially means that coaches may be responsible for the irresponsible actions of others under their control such as the coach's players or assistants.

One example of when a coach may be "vicariously liable" for the actions of others is when a coach specifically instructs his or her players to cause intentional injury to other players. For example, should a hockey coach tell another player to intentionally board, cross-check, high-stick or hit another player from behind, the coach will be responsible for the actions of his or her player and for the injuries caused to the other player.

Therefore, coaches should always encourage fair and responsible play and discourage acts that can cause injury to others.

## **Coaches' Defenses**

It is important to discuss some of the defenses available to coaches when others are trying to hold the coach responsible for a player's injuries. These defenses are mentioned not to relieve coaches of their responsibilities but to affect greater safety for the players.

The defenses available to coaches are:

1. Assumption of Risk
2. Comparative Negligence
3. Volunteer Statutes
4. Consent/Exculpatory Agreements/Waiver/Release
5. Sovereign Immunity

## **Assumption of Risk**

Assumption of Risk is a legal doctrine that holds that players choosing to play in spite of the incidental risks associated with the game cannot blame others if they are injured.

For example, a goalie stands in front of slap shots ranging from 50 to 100 mph. The goalie knows that he or she may be injured as a result of getting hit with the puck, but continues to play in spite of that risk. If the goalie is injured as a result of the slap shot, provided the coach fulfilled all of the aforementioned responsibilities, the goalie cannot hold anyone responsible for his or her injuries.

There are two general rules regarding assumption of risk, particularly for USA Hockey coaches. First, a player can only assume the risk for those risks that the player can understand. In this regard, the player will be compared to other players of the same experience and age. Second, for a player to assume the risk, the risk must be one of which the player is aware.

## **Comparative Negligence**

The second major defense is a legal theory known as "comparative negligence." This theory provides that coaches are responsible only for their percentage of fault. For example, if a player injures himself or herself as a result of horseplay with another player, the coach may be held 60% responsible because he or she failed to provide proper supervision, while the injured player may be held 40% responsible for goofing around to begin with. In this case, if there is a verdict of \$100.00, the coach would be responsible for \$60.00.

In some states, such as New Jersey and Pennsylvania, if it is found that the player was more responsible than the coach, (i.e., the player was 60% responsible and the coach 40% responsible), the player can not be compensated at all for his or her injuries.

## Volunteer Statutes

Finally, in some states such as New Jersey and Pennsylvania, there are such things known as “volunteer statutes.” Essentially, such statutes provide coaches with “immunity” (the inability to be successfully sued) provided that the coach has satisfied various requirements.

For example, in New Jersey, coaches who are not paid for their services (such as most club league hockey coaches) cannot be held responsible for injuries to a hockey player unless:

1. The coach’s conduct is extremely unreasonable (known as “gross negligence”). An example of this situation would be to allow a hockey player to play in a game without any equipment.
2. The coach failed to participate in a safety/training skills program that covers injury prevention, first aid, and general coaching concepts. The USA Hockey Coaches’ Clinics is an example of such a clinic.
3. The coach permits an event or practice without supervision such as a “captain’s” practice.
4. The coach’s services are provided as part of the school’s athletic program such as high school coaches.
5. The player is injured as a result of the coach’s negligent operation of a motor vehicle (i.e., when the accident is the coach’s fault). This situation may arise when coaches give their players a ride to practice or game.

As most people are aware, attendance at USA Hockey clinics satisfies the main criteria for providing the coach with the required safety and training skills program.

In 1989, a New Jersey court interpreted New Jersey’s volunteer statute and found that coaches must attend these safety and training skills programs to qualify under the statute. In the New Jersey case, a little league catcher who was struck in the eye by a baseball during a pre-game warm-up while he was not wearing his mask sued the coach for allowing him to play without his mask. The coach claimed immunity under New Jersey’s volunteer statute. The court held that the statute did not apply because

the coach failed to attend a safety/training skills program as required by the statute and that he was responsible for the player’s injuries. The court stated that the coach was still responsible for attending such a program despite the fact that the league did not offer such a program.

Even if the coach is paid, the coach will still be liable if he commits acts of gross negligence (i.e., extremely unreasonable conduct) or if a player is injured as a result of a motor vehicle accident that is the coach’s fault.

## Waivers, Releases, Exculpatory Agreement and Consent

In some cases, coaches may be able to take advantage of waivers and releases signed by the parents of the players. If the player has attained the age of majority, which is 18 years old, it may not be necessary to have the player’s parents sign the release. Essentially, a “waiver” is a document that more or less gives up the right of the player signing the document to sue another person for any injuries he or she may incur. Similarly, a “release” is a document that releases that person from any possible responsibility.

The problem with these documents is that courts will frequently not honor them. The main reason is because people rarely negotiate the terms of these documents and usually a waiver and release is presented to a player who must sign or not play. In such cases, the courts have held that because the player has no choice, these types of agreements are not valid.

Coaches also should refrain from having minor players sign any waivers or releases because they will probably not be valid. For example, in one case, a minor was injured during an ice hockey clinic and later sued the New York City Ice Hockey League. In this case, the court found that the sponsors of the league had inadequately supervised the player while he was engaged in various drills. The court held the league responsible despite the fact that a release was signed by the player’s parents. The court stated that the release was not binding upon the player because he was a minor.

Additionally, coaches should be wary of presenting waivers and releases to parents because players’ parents will frequently be offended because the

waivers and releases appear to attempt to relieve the coach of his or her responsibilities.

### **Sovereign Immunity**

Not much needs to be addressed regarding the defense of “sovereign immunity,” as this defense will probably not apply to most coaches who attend USA Hockey clinics. Sovereign immunity is a legal doctrine that applies when a public or governmental institution (i.e., a public high school) is involved. In those cases, suing the government is a tough job. The government may not be sued like any other ordinary person. Public school coaches can avail themselves of this defense because they are considered government employees.

### **SUMMARY**

The legal responsibilities that coaches have for the welfare of their teams include the teaching of skills, values, and knowledge that will allow young athletes to safely participate in practices and games. Coaches are also accountable for the supervision of their teams during pregame, intermission and postgame activities that are commonly associated with athletic competition. Specific information about skill progressions, conditioning and first aid is essential, but the judgment required in the application of this information to the hockey programs is a much more

important prerequisite to successful coaching than certificates or diplomas.

The responsibilities of the coach have been divided into five categories: the need for **proper instruction**; liability in **failure to warn of potential injuries**; the need for athletes to acknowledge the **assumption of risk**; consequences of failure to **provide proper equipment and facilities**; and the determination of **causation for injuries and requisites in the proper care and treatment of injuries**.

Medical insurance is an essential form of protection for players and coaches. Due to the unpredictable nature of hockey injuries, coaches should also be financially protected by some form of liability insurance. Conditions of coverage and restrictions are specific to each policy; therefore, coaches should be informed about their current protection and the duration of its coverage.

Knowledge of a coach’s legal responsibilities can serve two useful purposes. The most important of these is that such information provides a potent stimulus to discharge one’s duties in a diligent manner, ever mindful that carelessness provokes situations which could induce injuries. The second purpose is that if coaches have used every possible precaution to prevent injuries, they are in a good position to defend themselves against litigation.