

Court Upholds Liability Waivers

Students are often required to obtain a parent's written consent before they are eligible to participate in extracurricular activities. Many parents are so familiar with the routine of signing school permission slips that they barely pause to read what they are signing. This automatic response can create problems, since a growing number of these permission slips contain liability waivers that, once signed, limit a family's legal rights if their child is injured during the activity.

This was the case for one parent in Newton, Massachusetts, who had unintentionally signed away the right of his daughter to sue for negligence after she was injured in cheerleading practice. As a 16-year-old high school freshman, Merav Sharon fell while attempting to balance on a teammate's shoulders as part of a difficult maneuver in cheerleading practice. As a result of the fall, she suffered multiple arm injuries that required surgery and that resulted in scarring and limited movement. Despite having signed a two-page form waiving the Sharon family's right to sue for negligence, the family did file a suit against the city of Newton two years after her injury. Merav and her father claimed in the lawsuit that they did not fully understand the waiver form and that they felt pressured to sign in it in order for Merav to participate.

The question of whether or not the waiver signed by the Sharons exempted the school and city from being held liable for alleged negligence was recently decided by the Massachusetts Supreme Judicial Court. In a landmark ruling, the court affirmed the right of cities to require students and parents to sign such waivers before participation in extracurricular activities is allowed.

First, the justices dismissed the suit's claims by holding the father responsible for understanding the waiver, in which he consented that he was aware of the physical injury risks facing his daughter in cheerleading, an activity that she undertook at her own risk. Then the justices voted unanimously to uphold the legality of required waivers for voluntary, nonessential, extracurricular activities, because invalidating waivers that protect certain programs from lawsuits might lead schools to eliminate activities in which injury may occur. The court noted, however, that schools cannot force students to sign waivers against injury lawsuits in mandatory activities, such as those encountered in physical

education classes.

The court's ruling is expected to encourage the wider use of liability waivers, which critics fear will relieve schools of the pressure to provide safe environments for extracurricular activity.

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