

Collegiate Sports Risk Management Documents and COVID-19

With the NCAA authorizing return to activity for its member institutions and their student-athletes, universities and colleges have been left to consider their options regarding risk management in the age of COVID-19. Risk management starts with effective plans and strategies for monitoring, infection control and response to infections. Communication of and adherence to these strategies and plans including a best practices approach, are vital to managing and mitigating the risk.

The details of the development and implementation of monitoring, infection control and response plans is beyond the scope of this post but should be guided by state and federal regulation and policy. Following well-developed plans and strategies that embody best practices should present a strong defense to negligence claims.

Communication of the risks and expectations should as a practical and legal matter be very helpful in mitigating risk and defending actions. Institutions should emphasize (1) education of student-athletes and athletics staff on COVID-19 developments; (2) efforts designed to limit exposure to potential COVID-19 situations; and (3) facilitating care for student-athletes and athletics staff if exposed to COVID-19. As is the case in many risk management situations, effective communication is key. Accordingly, we recommend any documentation utilized by an institution include, but not be limited to, the following concepts:

- a. institution athletic training staff-provided COVID-19 education to student-athletes, including an opportunity to discuss any questions the student-athletes may have;
- b. communication to each student-athlete of the risks associated with participating in collegiate athletics and potential exposure to COVID-19; and
- c. student-athlete affirmative statement acknowledging and accepting the education efforts of the institution, the responsibility to report symptoms and a commitment to adhere to medical advice in the event of exposure to COVID-19.

Waivers and assumption of risk documents are also an option for consideration. The rules on enforceability will vary on a state-by-state basis and may vary when applied to the COVID-19 situation. There are also considerations related to actual presentation of a waiver document, including individual resistance to signing such a document and the public perception of such waivers. The decision on the presentation of waivers should be made on a case-by-case basis at an institutional level. At the very least, if used, waivers and assumption of risk documents should be narrowly tailored and should include a severability clause.

We are currently monitoring the latest developments in this and other risk management topics as we get closer to the 2020-2021 academic year. If your institution would like to discuss the topics addressed in this memo, or if you have questions about the implementation of these strategies, please do not hesitate to reach out to Kyle Ritchie at kritchie@bsk.com or any other member of our [Collegiate Sports practice](#).



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