

August 12, 2002

Releases for Voluntary School and Recreational Activities Recent Court Decision Establishes Parameters for Releases

Cities, towns, and school districts should obtain written releases from participants in extra-curricular activities sponsored by the municipality. The content of the release is important. School districts and municipalities should follow the format of the attached release to ensure the maximum amount of protection for the district or municipality.

The Supreme Judicial Court recently issued an opinion of great importance to public schools and municipalities in Massachusetts. In the case of Sharon v City of Newton, the Court upheld the validity of a release signed by a parent of a minor child for the purpose of permitting the child to engage in public school extra-curricular sports activities, in this case, cheerleading.

The case involved a sixteen-year-old student who was injured while participating in a cheerleading practice at high school. The student and her parents filed suit claiming that her injuries were caused by the negligence of the school employees. Prior to being allowed to participate in cheerleading, the student and her father had signed a Consent and Release Form agreeing that they would release the City of Newton from all claims growing out of personal injuries arising out of the student's participation in the school's athletic programs.

The plaintiffs challenged the validity of this release on a number of grounds. The most significant argument was that such a release was a "gross violation of public policy". They urged the Supreme Judicial Court (SJC) to find that schools should not be allowed to shield themselves against Tort liability because to do so would "undermine the duty of care that public schools owe their students". The City argued against this and the Massachusetts Municipal Association, utilizing MIIA's expert litigators, joined the City in this important argument by filing a "friend of the court" brief with the SJC.

The Court, in a unanimous opinion, ruled that such releases for extracurricular activities do not violate public policy. Indeed, the Court recognized that if such releases were not valid, this "would expose public schools, who offer many of the extracurricular sports opportunities available to children, to financial costs and risks that will inevitably lead to the reduction of those programs."

It is important to note that the Court indicated that such releases would likely not be valid for regular compelled school activities. However, the Court clearly held that releases for extracurricular activities are enforceable and serve the public good.

MIIA's attorneys have drafted the attached sample release that you should use for all municipal and school athletic and recreational activities.

Steps to take:

- Distribute this Bulletin and sample release to all schools, parks and recreation departments.
- Establish a policy that requires any participant in an extra-curricular athletic or recreation activity to sign the release.
- Review the content of the release you are using now and compare it with the recommended language attached. Have your legal counsel approve the final language of the release you plan to use.
- Make sure releases are signed and collected from each and every participant before permitting the person to participate in the activity.