



Damage Caps and Insurance Requirements for Schools in Minnesota

Government entities are generally responsible for their actions as well as those of their officers, employees, or agents when acting within the scope of their employment or duties.¹ As a consequence, school officials concerned over injuries, lawsuits, and potential “liability” may be hesitant to allow the public to use school facilities for recreational activities.

What are the statutory damage caps?

Statutory damage caps limit how much someone can recover from a municipality.² A school district’s total liability will generally not exceed \$500,000 for any individual claim, or \$1,500,000 for all claims arising from the same incident.³ While periodically adjusted by the legislature, a municipality’s liability for all related damages cannot exceed the limit applicable at the time of the incident.⁴ Furthermore, the statute does not allow parties to seek punitive damage awards against a school district or other governmental entity.⁵

Why are they important?

Damage caps limit a school’s exposure to costly litigation and large awards or settlements. They are important to public health initiatives because school districts are more willing to open their recreational facilities to the community when they do not face potentially unlimited financial liability if something were to go wrong.

Fortunately, school districts are provided certain protections that limit their exposure to damages.



With greater access to recreational facilities, community members are more likely to be physically active, helping curb the detrimental effects of a sedentary lifestyle.

Are there any exceptions?

Some incidents are subject to a *higher* cap. For instance, the municipal tort cap is doubled for claims arising out of the release or threatened release of a hazardous substance under the Environmental Response and Liability Act or other similar laws.⁶ An exception may arise when an officer or employee is also employed in the profession for someone other than the municipality.⁷

Some incidents may be subject to no damages cap. Claims arising out of contractual liability, liquor sales, eminent domain or condemnation, constitutional claims, or federal civil rights violations are not affected by the statutory limits. Individuals involved in these types of claims may not be affected by the above statutory limits and may allow for higher limits on recovery.⁸

The liability limits can be waived by purchasing liability insurance in excess of the limits set in state statute.⁹ In these circumstances, the new limit for recovery would be determined by the total amount of liability coverage under the policy. For example, if the statutory cap was set at \$500,000 a governmental entity could elect to waive the statutory limits by purchasing \$1,000,000 in liability insurance. However, the purchase of commercial insurance, the participation in a self-insurance pool, or the decision to self-insure does not in itself constitute a waiver of any immunities, damage caps, or other exclusions.¹⁰ As a result, it is possible for municipalities to purchase excess coverage without waiving the damage caps provided in state statute.¹¹



What are some practical considerations schools can take to limit their exposure?

The key to avoiding liability is preventing claims from arising in the first place. Schools and school districts should be proactive and develop and implement risk management strategies to help reduce injuries and accidents on their property. Determining what, if any, insurance is required by groups using school facilities is one important strategy.

Many sports or other physical activities pose a greater risk for injuries due to the inherent dangers associated with those activities. A school should require these groups to carry their own liability insurance to pay potential claims and injuries on their own. The school should determine what amount of insurance is adequate for the activity, require that it is named as an “additional insured” under the policy, and require that organization to “defend and indemnify” the school if the school district is also sued.¹²

In contrast, it may be unnecessary or impractical to require a book club who meets once a month in the library to carry a million dollar liability policy. Nevertheless, a school can mitigate risks associated with the uninsured groups by prohibiting risky activities, requiring proper supervision, and using waivers and indemnification agreements.¹³ In either situation, the school should balance the risks associated with each activity and respond accordingly.

Last updated: May 2013



This publication was prepared by the Public Health Law Center at William Mitchell College of Law, St. Paul, Minnesota, funded by the CDC's Community Transformation Grant initiative and a Robert Johnson Foundation's Active Living Research grant (#69554).

The Public Health Law Center provides information and technical assistance on issues related to public health. The Public Health Law Center does not provide legal representation or advice. This document should not be considered legal advice. For specific legal questions, consult with an attorney.

Endnotes

- ¹ MINN. STAT. § 466.02 (2012); *Risk Management Information: Torts, Immunities & Damages Under the Municipal Tort Claims Act*, LEAGUE OF MINN. CITIES 1.
- ² See MINN. STAT. § 466.01 (2012) for a complete list of local government entities covered.
- ³ See MINN. STAT. § 466.04 (2012).
- ⁴ The liability of any municipality for claims covered by the municipal tort caps may not exceed: \$300,000 for claims arising before January 1, 2008, \$400,000 for claims arising on or after January 1, 2008, and before July 1, 2009, and \$500,000 for claims arising on or after July 1, 2009 if the claim is for death by wrongful act or omission; \$750,000 for any number of claims arising out of a single occurrence arising on or after January 1, 1998, and before January 1, 2000; \$1,000,000 for any number of claims arising out of a single occurrence arising on or after January 1, 2000, and before January 1, 2008; \$1,200,000 for any number of claims arising out of a single occurrence arising on or after January 1, 2008, and before July 1, 2009; and \$1,500,000 for any number of claims arising out of a single occurrence arising on or after July 1, 2009. MINN. STAT. § 466.04 (2012).
- ⁵ *Id.*
- ⁶ *Id.*
- ⁷ *Id.*
- ⁸ *Risk Management Information: Torts, Immunities & Damages Under the Municipal Tort Claims Act*, LEAGUE OF MINN. CITIES 1.
- ⁹ *City of Red Wing v. Ellsworth Cmty. Sch. Dist.*, 617 N.W.2d 602, 607-08 (Minn. Ct. App. 2000) (citing *Snyder v. City of Minneapolis*, 441 N.W.2d 781, 788 (Minn.1989)). For more information, please refer to *Risk Management Information: LMCIT Liability Coverage Options*, LEAGUE OF MINN. CITIES 4-5 (Feb. 2012), available at <http://www.lmc.org/media/document/1/lmcitliabilitycoverageoptions.pdf>.
- ¹⁰ MINN. STAT. § 471.981, subd. 1 (2012).
- ¹¹ *Risk Management Information: Torts, Immunities & Damages Under the Municipal Tort Claims Act*, LEAGUE OF MINN. CITIES 1.
- ¹² *Risk Management Information Insurance Issues for Use of City Facilities*, LEAGUE OF MINN. CITIES 1 (Apr. 2010), available at www.lmc.org/media/document/1/insuranceissuesuseofcityfacilities.pdf.
- ¹³ *Id.*