

Your Legal Rights and Responsibilities



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UNSAFE FIELD CONDITIONS

Q We've been told that when we go to do a baseball or softball game we're not supposed to start the game if there are unsafe conditions. One area school has a field full of potential safety hazards. The school's reaction is, "We've been playing games here for 20 years with that barbed wire fence and nobody's ever run into it." Can you give some advice on handling situations similar to that?

A Generally, an official has to worry about what is foreseeable when it comes to potentially dangerous field conditions. After all, the official can alter the condition that caused the injury by not allowing the game to be played. The foreseeability calculation is what leads to disputes for officials, leagues and participants. On occasion, it puts an official's business interests in conflict with legal interests.

An official should be vigilant, but not paranoid. Foreseeability is not an invitation to let one's imagination run wild. An official can envision many bad things occurring. The official need only be concerned with those that he or she can *realistically* expect to occur. Tragically bizarre things aren't usually foreseeable. Foreseeable things must be balanced against the nature of the game and what we as a sports society expect. That's the key.

As an official, you have noticed that an outfield fence has barbed wire on it. You envision a problem. That's a legal observation. The school says, "We've never had a problem in 20 years." That too is a legal observation — the school is saying the problem isn't foreseeable.

If we're talking about an elementary school that sponsors a fourth grade tee-ball league, and the fence is 300 feet away we're going to think a lot differently about that fence than if it's a varsity high school league. We could look at the tee-ball league and figure, "Not a chance." We could look at the high school league, and figure, "Highly unlikely, but there's a chance of an injury. It really isn't all that tough for the school to address the problem, and baseball players may realistically expect to crash into walls — and into each other — but not into barbed wire."

That is where the officials association could act. The practical solution is to send a letter to the non-athletic wing of the school before the season. Point out concerns, noting that repairs are easy.

Uncertainty of whether something has the potential to cause injury is why some states say that negligence isn't enough. Those states require gross negligence or wanton and willful misconduct for the official to be held liable. The official would have to have really messed up badly — not just made a miscalculation on the odds of something going wrong. The tough calls explain why it's important to live in a state that has limited liability legislation. A word of warning: A lot of the limited liability legislation only protects volunteers. That isn't going to help if you're getting paid.

Do not let the barbed wire fence problem lead you to think that fields must be pristine. If a field had to be pristine, we'd never play football on a grass field in Chicago in November. Every football player knows the field may be rutted or muddy. That's part of the consent to contact that they agree to. They don't, however, agree to have a three-foot deep hole in the middle of the field. Be vigilant, but not paranoid. Indeed, courts have found that an unpadded chain link fence is within the zone of what a softball player expects.

There are a few things an official should do: 1) Learn the safety rules of a sport. 2) Monitor the field of play, uniforms and equipment before the game. 3) Don't ignore a specific safety rule such as the BESR bat standards, jewelry rules and the injured player and blood rules. 4) Don't play doctor — unless you are one. Don't move an injured player. 5) Enforce rules on unsporting conduct. The law adjusts for the times, and the times are getting more violent. 6) If your association has a policy on safety, enforce it. If you do those things, you'll generally be safe.

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