

**Avoiding Litigation in Physical Education and on the Playground Dr.
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Musical PE Plus/Peaceful Playgrounds

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Objective 1-Definition of injury and accident.

Objective 2-Steps teachers and schools can take when faced with a lawsuit.

Objective 3-Understand the most litigious areas in school settings.

Definition of Injury vs Accident

Accident- Anything that happens by chance without an apparent cause

Injury- physical damage or harm to the body.

Negligence

Failure to exercise reasonable care in doing something, resulting in damage or injury to another.

The legal definition used in many jurisdictions is “negligence is

Four (4) Elements to a Negligence Claim exercise the care that a reasonably prudent person would exercise in like circumstances.” The area

of tort law known as **negligence** involves harm caused by carelessness, not intentional harm.

1. Duty - The defendant owed a legal duty to the plaintiff under the circumstances;

* Legal duty of Care

2. Breach - The defendant breached that legal duty by acting or failing to act in a certain way;

* Reasonably prudent person

3. Causation - It was the defendant's actions (or inaction) that actually caused the plaintiff's injury; and a failure to

* Foreseen action or lack of could result in injury.

4. Damages - The plaintiff was harmed or injured as a result of the defendant's actions.

Supervision – failure to exercise reasonable care in supervision - is a contributing cause in 40% of playground injury cases.

What can you do?

- Train staff in Bullying Prevention.
 - Train staff in Playground Supervision.
 - Assign supervision during transitions.
 - Assign supervision in “hot bed areas”.
 - Maintain school grounds properly, especially PE facilities and Playgrounds.
 - Document
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- Playground surfacing 60%of serious injuries occur here
 - Campus walk through by custodian daily, with daily report
 - Forms for work orders – documentation
 - Safety Rules and Procedures in writing to parents, students & teachers
 - Supervision zones and scheduled duty
 - **Document, Document, Document** .

Where (location) kids get injured in the school setting - Playground, between classes, on the way to and from playground, transitions, play structures, physical education, recess and sports.

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