Legal and Business Issues in Youth, High School and Recreational Sports

Panel #6
Why do we care? PARTICIPANTS

1. NCAA = 460,000 (D1 = 170,000)
2. 4 MAJOR SPORTS COMBINED = @3,600
3. SOCHI OLYMPICS = 2,800
Youth Sports

77% middle schools offer sports participation opportunities

### Appendix I: Estimated Percentage of All Middle and High Schools That Offered Interscholastic Sports in 2006, by School Level

<table>
<thead>
<tr>
<th>Interscholastic Sport</th>
<th>% of All Middle Schools</th>
<th>% of All High Schools</th>
</tr>
</thead>
<tbody>
<tr>
<td>Badminton</td>
<td>4.2</td>
<td>7.2</td>
</tr>
<tr>
<td>Baseball</td>
<td>35.7</td>
<td>79.6</td>
</tr>
<tr>
<td>Basketball</td>
<td>76.4</td>
<td>90.9</td>
</tr>
<tr>
<td>Bowling</td>
<td>3.0</td>
<td>17.2</td>
</tr>
<tr>
<td>Cheerleading or competitive spirits</td>
<td>50.9</td>
<td>77.3</td>
</tr>
<tr>
<td>Cross-country</td>
<td>38.9</td>
<td>68.4</td>
</tr>
<tr>
<td>Downhill or cross-country skiing</td>
<td>3.2</td>
<td>5.9</td>
</tr>
<tr>
<td>Fast pitch or slow pitch softball</td>
<td>45.2</td>
<td>77.9</td>
</tr>
<tr>
<td>Field hockey</td>
<td>7.1</td>
<td>10.2</td>
</tr>
<tr>
<td>Football</td>
<td>53.0</td>
<td>71.0</td>
</tr>
<tr>
<td>Golf</td>
<td>22.1</td>
<td>68.4</td>
</tr>
<tr>
<td>Gymnastics</td>
<td>5.2</td>
<td>10.1</td>
</tr>
<tr>
<td>Ice hockey</td>
<td>2.4</td>
<td>14.3</td>
</tr>
<tr>
<td>Lacrosse</td>
<td>3.7</td>
<td>12.8</td>
</tr>
<tr>
<td>Riflery</td>
<td>2.1</td>
<td>3.8</td>
</tr>
<tr>
<td>Soccer</td>
<td>32.3</td>
<td>60.3</td>
</tr>
<tr>
<td>Swimming or diving</td>
<td>6.9</td>
<td>37.8</td>
</tr>
<tr>
<td>Tennis</td>
<td>12.6</td>
<td>53.0</td>
</tr>
<tr>
<td>Track and field</td>
<td>52.1</td>
<td>73.2</td>
</tr>
<tr>
<td>Volleyball</td>
<td>57.3</td>
<td>71.4</td>
</tr>
<tr>
<td>Water polo</td>
<td>0.5</td>
<td>2.6</td>
</tr>
<tr>
<td>Weight lifting</td>
<td>9.9</td>
<td>23.8</td>
</tr>
<tr>
<td>Wrestling</td>
<td>28.7</td>
<td>49.6</td>
</tr>
</tbody>
</table>


Note: All SHPPS estimates used in this report have margins of error at the 95 percent confidence level of plus or minus 7 percentage points or less, unless otherwise noted.
Participation in Youth Sports

- 1997
  - 44,962,126 total
  - 32,822,352 actual (unduplicated)

- 2008
  - 60,316,548 total
  - 44,031,080 actual (unduplicated)
Why do we care? PARTICIPANTS

1. Youth Sports = 44,000,000

2. NCAA = 460,000 (D1 = 170,000)

3. 4 MAJOR SPORTS COMBINED = @3,600

4. SOCHI OLYMPICS = 2,800
Participation in High School Athletics

• 1988 – 89 = 5,256,196

• 2012-2013 = 7,713,577
Youth and High School Sports

55,569,612 ➔ Kids in grade and high school (including home schoolers)

44,000,000 ➔ in youth sports

7,713,577 ➔ in high school sports
Why do we care? PARTICIPANTS

1. Youth Sports = 44,000,000

2. High School Sports = 7,713,577

3. NCAA = 460,000 (D1 = 170,000)

4. 4 MAJOR SPORTS COMBINED = @3,600

5. SOCHI OLYMPICS = 2,800
For the first time this year, we have included Generation Z in the generation analysis. These are individuals who were born in 2000 or later, so they are currently age 6-12. They are an important group as a marker to future levels of activity and an indication of the establishment of future habits. Although Gen Z is still a relatively small group numerically, participation rates for Gen Z are generally good and are highest for outdoor, team and individual sport.

Note: This measure of winter sports does not include motorized winter sports.
Why do we care? PARTICIPANTS

1. Recreational Sports = 141,000,000
2. Youth Sports = 44,000,000
3. High School Sports = 7,713,577

1. NCAA = 460,000 (D1 = 170,000)
2. 4 MAJOR SPORTS COMBINED = @3,600
3. SOCHI OLYMPICS = 2,800
Why do we care? PARTICIPANTS

- Youth, High School, Rec Sports: 192,713,577
- All other levels of sport: 466,400
Concussions

Anatomy of a concussion

Here is what happens to the brain to cause a concussion:

1. Initial impact

2. The force from the impact causes the brain to strike the inner surface of the skull and rebound against the opposite side.

3. In severe concussions as the brain rebounds, it twists.

4. The brain swells. In a severe injury, the swelling puts pressure on the brain stem, which controls breathing and other basic life functions.

Sources: Dr. Jay Rosenberg of Kaiser Permanente Medical Care Neurology; American Academy of Neurology; The Human Body

MARK NOWLIN / THE SEATTLE TIMES
Sports injuries for youth/high school athletes

- 2001-2005 → 207,830 emergency room visits for concussion and other traumatic brain injuries (TBI) related to sports and recreation activities → 5-18 years old

- 2012 → 1.35 million children went to emergency departments with sports-related injuries.
  - 163,670 children went to emergency departments for sports-related concussions, which is one child every three minutes
  - RENNIE FERGUSON ET AL., GAME CHANGERS: STATS, STORIES AND WHAT COMMUNITIES ARE DOING TO PROTECT YOUNG ATHLETES. (2013)
Youth Football

1. 5 million participants in U.S.
   • 1.3 million high school
   • 3.5 million youth (70%)

2. Followed 6-9 year olds
   1. During games 307 impacts
   2. Practice 441 impacts (impacts of higher magnitude)

3. Level of severity is similar to some of the more severe impacts college players experience, even though the youth players have less body mass and play at slower speeds

High School Football

- 497 fatalities of football players from 1945 – 1999
- 69% due to brain injuries
- 7.08 average injuries HS annually
- All while supervised / Most while being or making a tackle
- Perhaps the most worrisome finding in this study is that 59% of those contacted stated that the athlete had a prior mild head injury, with 71% occurring during the same season.
Concussions

- Every state has enacted a youth concussion law since 2009
  1. Education requirements for coaches
  2. Waivers/permission to play for athletes
  3. Return to play guidelines for both
Concussions

1. Wisconsin Interscholastic Athletic Association When in Doubt, Sit Them Out
2. Department of Public Instruction Guidelines
3. Wis. Stat. § 118.293. Concussion and head injury

(3) At the beginning of a season for a youth athletic activity, the person operating the youth athletic activity shall distribute a concussion and head injury information sheet to each person who will be coaching that youth athletic activity and to each person who wishes to participate in that youth athletic activity. No person may participate in a youth athletic activity unless the person returns the information sheet signed by the person and, if he or she is under the age of 19, by his or her parent or guardian.

(4)

(a) An athletic coach, or official involved in a youth athletic activity, or health care provider shall remove a person from the youth athletic activity if the coach, official, or health care provider determines that the person exhibits signs, symptoms, or behavior consistent with a concussion or head injury or the coach, official, or health care provider suspects the person has sustained a concussion or head injury.

(b) A person who has been removed from a youth athletic activity under par. (a) may not participate in a youth athletic activity until he or she is evaluated by a health care provider and receives a written clearance to participate in the activity from the health care provider.

(5)

(a) Any athletic coach, official involved in an athletic activity, or volunteer who fails to remove a person from a youth athletic activity under sub. (4) (a) is immune from civil liability for any injury resulting from that omission unless it constitutes gross negligence or willful or wanton misconduct.

(b) Any volunteer who authorizes a person to participate in a youth athletic activity under sub. (4) (b) is immune from civil liability for any injury resulting from that act unless the act constitutes gross negligence or willful or wanton misconduct.

(6) This section does not create any liability for, or cause of action against, any person.
Education efforts not working.

- Study of 778 football and girls soccer players (10.7% had a concussion during year studied → 22 had more than 2)
  - Majority of athletes continued to practice and play while symptomatic
  - 40% reported that their coach was not aware of their concussion symptoms, despite signing statement at the beginning of the year that they would tell their coach
  - Coach awareness of athletes’ concussions did not vary by education they received about concussions (use of video and accompanying quiz was least effective), nor by awareness of the requirements of the concussion law

Education efforts not working.

- Study of 496 coaches → all but three were required to complete concussion education
  - 74.4% required before could coach
  - 16.8% allowed to coach without completing concussion education
  - Only 55.2% were familiar with the term “graduated return to play,” the recommended management for concussion

- All athletes required to sign concussion information form, 89.3% did so
  - ½ coaches personally educated their athletes about concussions
  - 29.5% did not provide anything but the form

- Parent education most limited
  - 82.9% required to sign form
  - Only 16.2% coaches provided any further information

**Kids do not tell their coaches**

- 300,000 REPORTED sports related concussions annually
- Study of 167 high school athletes in football, soccer, lacrosse, or cheerleading
  - 89 participants recalled having possible concussion → Only 15 (16.9%) reported this to a coach or medical professional
  - Participants recalled 84 actual concussions → Reported only 41 (48.8%) to a coach or medical professional
  - Participants recalled 584 “bell ringer” events → Only 72 (12.3%) were reported
  - In games only, 320 concussive events → Only 73 (22.8%) reported

Kids do not tell their coaches

- Why not reporting?
  - athlete did not think it was serious enough to report (70.2%),
  - did not want to be removed from a game (36.5%),
  - did not want to let down teammates (27.0%),
  - did not want to let down coaches (23.0%),
  - did not know it was a concussion (14.9%)
  - did not want to be removed from practice (13.5%)
Participation is declining

**POP WARNER PARTICIPATION DROPS**

Pop Warner football saw participation drop 9.5 percent between 2010-12, the largest decline since the organization began keeping statistics more than two decades ago.

<table>
<thead>
<tr>
<th>Year</th>
<th>Players</th>
<th>Percent change</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>225,287</td>
<td>-4.0 percent</td>
</tr>
<tr>
<td>2011</td>
<td>234,723</td>
<td>-5.7 percent</td>
</tr>
<tr>
<td>2010</td>
<td>248,899</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Source: Pop Warner

- 2008-12
  - Soccer -7.1%
  - Baseball -7.2%
  - Basketball -8.3%
  - Football overall -5.4%
Title IX, and opportunities for athletes of both genders
Participation

- 44,031,080 actual
- 66% boys / 34% girls

<table>
<thead>
<tr>
<th></th>
<th>6 &amp; under</th>
<th>7-9</th>
<th>10-12</th>
<th>13-15</th>
<th>16-18</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boys</td>
<td>64%</td>
<td>60%</td>
<td>70%</td>
<td>73%</td>
<td>63%</td>
</tr>
<tr>
<td>Girls</td>
<td>36%</td>
<td>40%</td>
<td>30%</td>
<td>27%</td>
<td>37%</td>
</tr>
</tbody>
</table>
Participation in High School Athletics

- 1971-72 = 3,666,917 BOYS | 294,015 GIRLS
- 1988-89 = 3,416,844 BOYS | 1,839,352 GIRLS
- 2012-13 = 4,490,854 BOYS | 3,222,723 GIRLS

Opportunities for girls have still not matched the number of opportunities boys had in 1971-72.
Milwaukee numbers

### LEA Summary of Selected Facts

**Number of Schools in this District:** 175

**Grades Offered:** Preschool, K, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12

### Student Enrollment

<table>
<thead>
<tr>
<th>Student Group</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>American Indian/Alaska Native</td>
<td>0.9%</td>
</tr>
<tr>
<td>Asian</td>
<td>5.3%</td>
</tr>
<tr>
<td>Black</td>
<td>56.1%</td>
</tr>
<tr>
<td>Hispanic</td>
<td>20.6%</td>
</tr>
<tr>
<td>Native Hawaiian/Pacific Islander</td>
<td>0.0%</td>
</tr>
<tr>
<td>Two or More Races</td>
<td>0.0%</td>
</tr>
<tr>
<td>White</td>
<td>14.2%</td>
</tr>
<tr>
<td>Female</td>
<td>48.5%</td>
</tr>
<tr>
<td>Male</td>
<td>51.5%</td>
</tr>
</tbody>
</table>

**Students with Disabilities (IDEA):** 18.7%

**Section 504 Only:** 0.7%

**Limited English Proficiency (LEP):** 9.7%

**Free and Reduced-price Lunch (FRPL):** 81.0%
Documents outline Title IX complaints

By Joe Trovato
March 5, 2012 | (5) Comments

Five area school districts facing Title IX complaints fail to “provide opportunities for girls to play sports in numbers substantially proportionate to their enrollment,” according to copies of those complaints obtained by Lake Country Publications through a Freedom of Information Act request.

The five districts - Kettle Moraine, Oconomowoc, Mukwonago, Waukesha and Elmbrook - “cannot show a history and continuing practice of program expansion (for girls), nor do they accommodate the interests and abilities of female student athletes,” the complaints say.
Overall Issue: Is scheduling of girls soccer in spring while scheduling boys soccer in fall a violation of Title IX because it does not provide “equal opportunity” to girls?

Facts
- Girls soccer in New York
  - In spring in majority of schools → Response to survey of girls
  - Girls cannot play in regional and state championships
  - College coaches recruit in fall for scholarship offers
  - Plaintiffs two exceptional girls soccer players
- District argued
  - Girls would not qualify for championships
  - Girls not interested in winning
  - Seeks to place soccer above other sports and does not assess impact on other sports
School Board of Brevard County

- Boys' baseball field has an electronic scoreboard, and that the girls' field has no scoreboard at all.

- Boys' baseball team has a batting cage and the girls' softball team does not.

- Photographs submitted by Plaintiffs starkly illustrate that the bleachers on the girls' softball field are in worse condition, and seat significantly fewer spectators, than the bleachers on the boys' field. Girls' bleachers are actually "hand-me-downs" that the boys' team passed on to the girls' team after the boys' team received new bleachers.

- There are no restrooms located on the girls' softball field. Restrooms are located on the boys' baseball field. A fence separates the girls' field from the restrooms.

- A combination concession stand/press box/announcer's booth is located on the boys' baseball field. There is no such structure on the girls' softball field.

- The boys' baseball field is lighted for nighttime play; the girls' softball field is not.
Participation of Disabled Athletes

- 6 M disabled students in public schools / 2 M high school age.

- Among the schools GAO visited,
  - students with disabilities participated in athletics at varying rates, but at consistently lower rates than students without disabilities.
  - students with disabilities who participated in extracurricular athletics often had mild cognitive disabilities or learning disabilities.
  - students with hearing impairments, speech impairments, learning disabilities, or other health impairments reported participating on sports teams at a higher rate compared to students with orthopedic impairments, mental retardation, visual impairments, autism, or multiple disabilities.
  - students with physical disabilities have fewer opportunities in extracurricular athletics compared to students with cognitive disabilities because fewer programs were designed for them.
<table>
<thead>
<tr>
<th></th>
<th>Participated in a sports team</th>
<th>Did not participate in a sports team</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td>41%</td>
<td>59%</td>
</tr>
<tr>
<td><strong>Among Students who Participated in Extracurricular Activities</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>School activity only</td>
<td>53</td>
<td>47</td>
</tr>
<tr>
<td>Out-of-school activity only</td>
<td>53</td>
<td>47</td>
</tr>
<tr>
<td>Both school and out-of-school activity</td>
<td>80</td>
<td>20</td>
</tr>
</tbody>
</table>


Note: It is not possible to determine whether students who reported participating in a sports team and participating in both in-school and out-of-school extracurricular activities participated in a school-based sports team or a community-based sports team.

* Differences between students who participated in a sports team and did not participate in a sports team are statistically significant at p-value less than 0.05.

* This includes students who reported participation in no extracurricular activities, but were not asked the follow-up question about sports participation.

* To calculate the percentage of students with disabilities in these studies who did not participate in sports, we included students who reported not participating in any extracurricular activity, as well as students who reported participating in some extracurricular activity but not sports.
Table 16: Population Estimates: Participated in a Sports Team, Students With Disabilities in Grades 7 through 12 (Ages 13 to 16 at Outset of Study)

<table>
<thead>
<tr>
<th></th>
<th>Participated in a sports team</th>
<th>Did not participate in a sports team</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>33%</td>
<td>67%b</td>
</tr>
<tr>
<td>Among Students who Participated in Extracurricular Activitiesc</td>
<td></td>
<td></td>
</tr>
<tr>
<td>School activity only</td>
<td>53</td>
<td>47</td>
</tr>
<tr>
<td>Out-of-school activity onlya</td>
<td>31</td>
<td>69</td>
</tr>
<tr>
<td>Both school and out-of-school activitya</td>
<td>62</td>
<td>38</td>
</tr>
</tbody>
</table>


Notes: It is not possible to determine whether students who reported participating in a sports team and participating in both in-school and out-of-school extracurricular activities belonged to a school-based sports team or a community-based sports team.

aDifferences between students who participated in a sports team and did not participate in a sports team are statistically significant at p-value less than 0.05.

bThis includes students who reported participation in no extracurricular activities, but were not asked the follow-up question about sports participation.

cTo calculate the percentage of students with disabilities in these studies who did not participate in sports, we included students who reported not participating in any extracurricular activity, as well as students who reported participating in some extracurricular activity but not sports.
Table 19: Population Estimates: Participated in a Sports Team, Students with Disabilities in Grades 7 through 12 (Ages 13 to 16 at Outset of Study), by Disability Type

<table>
<thead>
<tr>
<th>Disability Type</th>
<th>Participated in a sports team</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hearing impairment</td>
<td>47%</td>
</tr>
<tr>
<td>Speech impairment</td>
<td>41</td>
</tr>
<tr>
<td>Other health impairment*</td>
<td>36</td>
</tr>
<tr>
<td>Learning disability*</td>
<td>36</td>
</tr>
<tr>
<td>Deaf/blindness*</td>
<td>27</td>
</tr>
<tr>
<td>Traumatic brain injury*</td>
<td>27</td>
</tr>
<tr>
<td>Visual impairment*</td>
<td>25</td>
</tr>
<tr>
<td>Emotional disturbance*</td>
<td>24</td>
</tr>
<tr>
<td>Mental retardation*</td>
<td>22</td>
</tr>
<tr>
<td>Multiple disabilities*</td>
<td>21</td>
</tr>
<tr>
<td>Orthopedic impairment*</td>
<td>19</td>
</tr>
<tr>
<td>Autism*</td>
<td>16</td>
</tr>
</tbody>
</table>


Notes: These data do not fully distinguish if these athletic opportunities are offered through schools or community programs. It is not possible to determine whether students who reported participating in a sports team and participating in both in-school and out-of-school extracurricular activities belonged to a school-based sports team or a community-based sports team.

*Students with hearing impairments participate in sports teams at higher rates compared to students with these types of disabilities and these differences are statistically significant at p-value less than 0.05.
CREATING EQUAL OPPORTUNITIES FOR CHILDREN AND YOUTH WITH DISABILITIES TO PARTICIPATE IN PHYSICAL EDUCATION AND EXTRACURRICULAR ATHLETICS

AUGUST, 2011

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 25, 2013

Dear Colleague:

Extracurricular athletics—which include club, intramural, or interscholastic (e.g., freshman, junior varsity, varsity) athletics at all education levels—are an important component of an overall education program. The United States Government Accountability Office (GAO) published a report that underscored that access to, and participation in, extracurricular athletic opportunities provide important health and social benefits to all students, particularly those with disabilities.¹ These benefits can include socialization, improved teamwork and leadership skills, and fitness. Unfortunately, the GAO found that students with disabilities are not being afforded an equal opportunity to participate in extracurricular athletics in public elementary and secondary schools.²

To ensure that students with disabilities consistently have opportunities to participate in extracurricular athletics equal to those of other students, the GAO recommended that the United States Department of Education (Department) clarify and communicate schools’ responsibilities under Section 504 of the Rehabilitation Act of 1973 (Section 504) regarding the provision of extracurricular athletics. The Department’s Office for Civil Rights (OCR) is responsible for enforcing Section 504, which is a Federal law