

Legal Issues of Injury Accidents in Physical Fitness Testing of Chinese College Students

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Abstract: With the promulgation and implementation of the new Sports Law of the People's Republic of China, the cause of school physical education has been continuously developing, and "safety issues" have become the most concerned and valued responsibility point in the cause of school physical education. Among them, in the operation and development of college physical education, the annual college students' physical fitness test is prone to relevant injury accidents, which seriously affects the normal development and conduct of physical education work in relevant colleges and universities. This study elaborates on the main legal issues such as the investigation of the current situation of injury accidents in college students' physical fitness tests, the analysis of legal relations between various subjects, the analysis of legal safety obligations, and legal liability attribution, hoping to provide some positive reference for the academic circle and relevant departments.

Keywords: Physical fitness testing of Chinese college students; Injury accidents; Legal issues

1. Introduction

In recent years, injury accidents in college students' physical fitness tests have occurred frequently. Relevant accidents involve multiple legal subjects such as schools, teachers, third parties, students and their parents, with vague liability bearing and adverse follow-up impacts, which seriously affects the smooth development of college students' physical fitness tests. With the new Sports Law of the People's Republic of China coming into force on January 1, 2023, Article 30 stipulates that schools shall establish a student physical health examination system. The administrative departments of education, sports, and health shall strengthen the monitoring and evaluation of students' physical fitness. This law clarifies the necessity and legitimacy of physical fitness tests, indicating the country's high attention to the physical health level of the majority of students. From the perspectives of sports science and law, this paper intends to study the main legal issues of injury accidents in college students' physical fitness tests, so as to clarify the responsibilities and obligations of various subjects, and play a positive role in promoting the healthy and stable operation of college students' physical fitness tests.

2. Analysis of Legal Relations in Injury Accidents of College Students' Physical Fitness Testing

2.1 Legal Relationship Between Schools and Teachers

After an injury accident occurs in college students' physical fitness testing, the main subjects involved in general cases are teachers and students, and other third parties may be involved in special cases. Among them, the determination of the legal relationship between the school and the teacher

will directly affect who is the final bearer of civil liability for the injury accident. Article 1191 of the Civil Code of the People's Republic of China stipulates that if an employee of an employer causes damage to others in the performance of his work task, the employer shall bear tort liability. After the employer bears the tort liability, it may recover compensation from the employee who has intentional or gross negligence.

From the perspective of relevant laws and regulations, although teachers are "parties" to the injury accident, they will not be the subject of civil liability and the bearer of civil liability in most cases. Only when performing non-work tasks will they bear tort liability, and if the teacher has intentional or gross negligence, they may bear the final civil liability.

2.2 Legal Relationship Between Schools and Students

The legal relationship between schools and students is essentially the right-obligation relationship between them. Due to the particularity of the school's own nature and functions, there are various right-obligation relationships between schools and students, with the main views as follows:

1. Civil legal relationship: As natural person subjects, students and their parents choose a school, go through enrollment procedures, and pay tuition fees, which is equivalent to purchasing educational services from the school and signing an educational service contract with the school (a legal person subject). After students enter the school, it is equivalent to the process of performing the contract. Students should abide by relevant educational laws and regulations and the school's rules and regulations, and at the same time enjoy the contractual rights of receiving educational services and safety guarantees, while the school should also provide students with good educational environment, educational services, safety guarantees and other contractual obligations.

In this case, the relationship between students and the school is a civil contract relationship; 2. Administrative legal relationship: As an institution and organization authorized by the relevant administrative subject to exercise certain administrative powers, within the scope of authorization, the school performs certain administrative obligations, manages, educates, and serves students on behalf of the relevant administrative subject, and issues graduation certificates to students who have passed the academic level. Therefore, in the administrative litigation legal relationship, under certain conditions, students can file an administrative lawsuit with the school as the defendant in the administrative lawsuit, which shows that the relationship between students and the school is an administrative legal relationship.

3. Obligations of Schools, Physical Education Teachers and Other Relevant Civil Subjects in Injury Accidents of College Students' Physical Fitness Testing

3.1 Obligation to Conduct Safety Education and Take Safety Measures

Item 4 of Article 9 of the Measures for the Handling of Student Injury Accidents (hereinafter referred to as the "Measures") issued and implemented by the Ministry of Education of the People's Republic of China stipulates that if a school organizes students to participate in educational and teaching activities or off-campus activities, fails to conduct corresponding safety education for students, and fails to take necessary safety measures within the foreseeable scope, resulting in a student injury accident, the school shall bear corresponding responsibilities in accordance with the law. This indicates that when organizing college students' physical fitness tests, schools should conduct corresponding safety education and take necessary safety measures at the same time.

However, according to the author's visits and investigations to relevant colleges and universities, due to the large number of students taking physical tests in most colleges and universities, the variety of test items, the uneven conditions of venues and environments, and the involvement of some graduates on internships, the difficulty of physical test work is increased. Few schools conduct comprehensive and feasible safety education, most schools lack safety education for physical test work, and some schools only include a few sentences in the notice for safety education. As for the necessary safety measures, they are even more lacking, such as the lack of warm-up activities, no first-aid medical preparation measures, and the lack of response to severe weather.

Therefore, some colleges and universities should pay more attention to safety education and safety measures for college students' physical fitness tests.

3.2 Obligation to Control Students' Dangerous Behaviors

Item 10 of Article 9 of the Measures stipulates that if a school teacher or other staff member, during the period of being responsible for organizing and managing minor students, finds that a student's behavior is dangerous but fails to take necessary management, warning or prevention measures, resulting in a student injury accident, the school shall bear corresponding responsibilities in accordance with the law.

When the school conducts large-scale unified physical fitness tests for the whole school, there are certain safety risks, especially the men's 1000-meter run, women's 800-meter run, men's pull-ups and other projects with high risk coefficients, which have more injury accidents than other projects. If some students play around during the test, which is a dangerous behavior affecting the safety of students taking the test, the school and teachers should take necessary control measures to stop the students' dangerous behaviors. According to the author's visits and investigations to adjacent colleges and universities in the city, most colleges and universities have performed certain control obligations and taken certain control behaviors when conducting college students' physical fitness tests, but in terms of some details of college students' physical fitness tests, especially in some high-risk test items, the relevant control behaviors are far from sufficient. For example, during the test, the school will arrange full-time teachers to be on duty on site, but many colleges and universities do not have relevant rules and regulations, and the fulfillment of the control obligation depends entirely on the teacher's sense of responsibility. Therefore, in the college students' physical fitness test work, the fulfillment of the obligation to control students' dangerous behaviors is not ideal.

3.3 Duty of Care to Special Students

Item 7 of Article 9 of the Measures stipulates that if a student has a specific physical condition or a specific disease and is not suitable for participating in a certain educational and teaching activity, and the school knows or should know this but fails to pay necessary attention, resulting in a student injury accident, the school shall bear corresponding responsibilities in accordance with the law. Therefore, during the college students' physical fitness test, the school and teachers should pay attention to students with specific physical conditions or specific diseases, and decide whether to conduct the corresponding test or postpone the test time according to their specific physical conditions. In terms of the duty of care to special students, according to the author's visit and investigation results, most colleges and universities have done a good job. During the entire cycle of college students' physical tests, they have displayed the exemption conditions, reasons, and procedures for special students through various methods such as issuing notices, announcements,

and physical education teachers' in-class notifications. Through these positive measures, they have actively fulfilled the duty of care to special students, reduced the number of injury accidents in college students' physical fitness tests, and vigorously promoted the smooth development of college students' physical fitness tests.

3.4 Obligation to Treat Injured Students

Item 8 of Article 9 of the Measures stipulates that if a student suddenly falls ill or is injured during school, and the school discovers this but fails to take corresponding measures in a timely manner according to the actual situation, leading to the aggravation of adverse consequences, the school shall bear corresponding responsibilities in accordance with the law.

During the college students' physical fitness test, if the school or teacher finds that a student is ill or injured but fails to take relevant appropriate measures, resulting in an injury accident, the school shall bear corresponding civil liability. According to the author's understanding, most colleges and universities have physical education teachers on duty during physical tests, and have taken certain treatment measures and actions for students who suddenly fall ill or are injured during the test. However, it is questionable whether the on-site physical education teachers and other staff can timely find the injured or ill students and then take correct and effective emergency measures. Therefore, the school and teachers should attach importance to improving the level of treatment for injured students, and can increase training on emergency medical theory and practice in relevant aspects to improve the level of treatment for injured students in college students' physical fitness tests.

3.5 Obligation to Handle Tort Behaviors Involving Third Parties

Article 1198 of the Civil Code stipulates that if damage to others is caused by the act of a third party, the third party shall bear tort liability; if the operator, manager, or organizer fails to fulfill the safety guarantee obligation, it shall bear corresponding supplementary liability. After the operator, manager, or organizer bears the supplementary liability, it may recover compensation from the third party.

If in an injury accident during college students' physical fitness test, the victim suffers tort damage from a third party, the third party shall bear tort liability. If the school and the teachers responsible for organizing the physical test fail to fulfill the corresponding safety guarantee obligation, the school shall bear supplementary liability, and after bearing the supplementary liability, may recover compensation from the third party. Therefore, when conducting college students' physical fitness tests, the school, teachers, and other organizers and managers should actively fulfill the safety guarantee obligation and strengthen safety guarantee work.

3.6 Obligation to Safely Manage Venues and Facilities

Items 1 and 2 of Article 9 of the Measures stipulate that if the school's school buildings, venues, other public facilities, as well as the learning tools, educational, teaching, and living facilities and equipment provided by the school for students do not meet the national standards or have obvious unsafe factors; if the school's safety management systems such as safety and security, fire protection, and facility and equipment management have obvious omissions or are in chaos, with major safety hazards, and no timely measures are taken.

If a student injury accident is caused, the school shall bear corresponding responsibilities in accordance with the law.

During the college students' physical fitness test, if a student injury accident is caused by safety problems of venues, facilities, or equipment, the school shall bear corresponding legal liability. These two provisions of the Measures clearly indicate that the school has a corresponding safety management obligation for the venues and facilities of college students' physical fitness tests. According to the author's visits and investigations, relevant colleges and universities have good and safe venues, facilities, and equipment for college students' physical fitness tests. With the development of science and technology and the progress of information technology, many colleges and universities have begun to use electronic and intelligent testing equipment, replacing the previous pure manual testing, eliminating many cumbersome tasks in the past, greatly improving efficiency, and also enhancing test safety. However, on the other hand, colleges and universities should also attach importance to improving the safety management level of facility and equipment operators, because these technological, convenient, and safe testing equipment mainly need personnel to operate and maintain. Only by improving the safety management level of facility and equipment operators can the safety management level of venues and facilities for college students' physical fitness tests be fundamentally improved.

4. Legal Liability Attribution Principles for Injury Accidents in College Students' Physical Fitness Testing

The principle of liability attribution is the legal criterion that must be followed to determine the attribution of liability. According to the general theory of Chinese civil law, the tort liability attribution principles stipulated in Chinese civil law mainly include the principle of fault tort liability and the principle of no-fault tort liability. In addition to these two principles, Chinese civil law also stipulates a special "liability attribution reason", namely fair liability (statutory compensation obligation).

4.1 Principle of Fault Tort Liability

Paragraph 1 of Article 1165 of the Civil Code stipulates that if an actor causes damage to others' civil rights and interests due to fault, he shall bear tort liability. This is the principle of fault liability stipulated by law, which means that anyone who infringes upon the rights and interests of others due to their own fault (intent or negligence) shall bear tort liability for the damage caused. Paragraph 1 of Article 1165 of the Civil Code is the "general clause" of tort liability. Therefore, in the absence of explicit legal provisions, if the tortfeasor has no fault, there is no tort liability (regardless of whether damage has occurred). According to the general view in the Chinese civil law academic circle, the four constituent elements of the principle of fault tort liability are:

1. The tortfeasor has committed an illegal tortious act (act or omission);
2. The victim has suffered remediable damage;
3. There is a causal relationship between the tortious act and the damage;
4. The tortfeasor has fault (intent or negligence) for the occurrence of the damage.

Under ordinary circumstances of college students' physical fitness tests, in accordance with China's current laws, the principle of fault tort liability shall also apply to liability attribution for injury accidents in such tests, and tort liability of the relevant tortfeasor can be investigated only if all four constituent elements are satisfied.

Paragraph 2 of Article 1165 of the Civil Code stipulates: If an actor is presumed to be at fault in accordance with the law and cannot prove that he is not at fault, he shall bear tort liability. This is the

so-called “presumption of fault liability” in civil law. According to the general theory of China’s civil law, the following conclusions can be drawn:

1. Presumption of fault is not an independent principle of liability attribution, but only a special mode of fault liability;

2. Tort liability with presumption of fault applies only to specific circumstances explicitly prescribed by law;

3. The burden of proof regarding the tortfeasor’s fault is reversed; the tortfeasor is presumed to be at fault based on the basic facts proved by the victim. If the tortfeasor cannot prove absence of fault, even if he proves that a third party is at fault, his tort liability shall not be exempted. Tort liability with presumption of fault mainly includes nine special situations explicitly stipulated in Articles 1199, 1222, 1248, 1253, 1255, 1256, 1257, 1258 and 1242 of the Civil Code. Among them, those most relevant to injury accidents in college students’ physical fitness tests, the subject of this study, are:

Article 1253 of the Civil Code: harm caused by collapse, detachment or falling of buildings, objects placed or hung thereon;

Article 1255: harm caused by collapse, rolling or sliding of stacked articles;

Article 1256: harm caused by placing, dumping or spilling obstacles on public roads;

Article 1257: harm caused by broken or fallen trees or falling fruits;

Article 1258: harm caused by ground construction or underground facilities such as manholes.

These five legally prescribed situations all involve damages caused by external environmental factors such as buildings, trees and ground. If an injury accident occurs during physical fitness tests, liability with presumption of fault shall apply.

4.2 Principle of No-Fault Tort Liability

Article 1166 of the Civil Code stipulates: Where an actor causes harm to others’ civil rights and interests, if the law provides that he shall bear tort liability regardless of fault, such provisions shall prevail. This is the legally prescribed no-fault tort liability. The existence of fault on the part of the tortfeasor is not a constituent element of tort liability and does not affect its establishment. Therefore, the tortfeasor cannot be exempted from liability by proving absence of fault. No-fault tort liability applies only to circumstances explicitly prescribed by law and not to other situations. According to the general view in civil law, the four constituent elements of no-fault tort liability are:

1. The case falls within specific circumstances prescribed by law;

2. The tortfeasor committed an illegal injurious act;

3. The victim suffered damage; 4. There is a causal relationship between the injurious act and the damage. No-fault tort liability mainly includes 12 special situations stipulated in the Civil Code and other laws. Under certain special circumstances, no-fault tort liability may also apply to injury accidents in college students’ physical fitness tests.

4.3 Fair Liability

Fair liability means that both parties are without fault for the damage, which does not constitute no-fault tort liability. If it falls under other statutory circumstances, the people’s court may order the parties to share the loss based on social fairness and justice. Essentially, fair liability is a statutory compensation obligation rather than tort liability, a provision made by law based on equitable considerations.

The constituent elements of fair liability are:

1. Circumstances explicitly prescribed by law;
2. The injured party suffers compensable loss;
3. Neither party is at fault for the result;
4. The case does not fall under no-fault tort liability;
5. There is a statutory connection between the liable person and the victim's damage.

Fair liability mainly includes four situations prescribed by law:

1. Article 182 of the Civil Code: fair liability for harm caused by necessity;
2. Article 183 of the Civil Code: fair liability for harm suffered in acting bravely for a just cause;
3. Article 1190 of the Civil Code: fair liability where a person with full capacity causes harm while unconscious or out of control;
4. Article 1254 of the Civil Code: fair liability for harm caused by objects thrown from high buildings.

Under these special circumstances, no-fault tort liability may also apply to injury accidents in college students' physical fitness tests.

5. Conclusion

The legal relations in injury accidents during college students' physical fitness tests are relatively complex, involving multiple civil subjects such as schools, teachers, students and equipment suppliers.

The legal relations involved include civil legal relations and administrative legal relations.

According to the author's investigation, the main causes of injury accidents in college students' physical fitness tests are as follows:

- (1) Defects in sports venues, facilities and equipment;
- (2) Failure of teachers to fulfill management and protection duties;
- (3) Students' own physical conditions;
- (4) Tortious acts by third parties such as other students;

(5) Accidents. Therefore, schools and teachers should actively fulfill various obligations in injury accidents during physical fitness tests and take corresponding measures to ensure the smooth and safe conduct of such tests.

The main liability principles for injury accidents in college students' physical fitness tests are the principle of fault tort liability and no-fault tort liability. Among them, the principle of fault tort liability includes liability based on presumption of fault. Fair liability beyond these two principles is a statutory compensation obligation rather than tort liability, stipulated by law based on equity. Except for some special cases, general fault tort liability is commonly applied to injury accidents in college students' physical fitness tests.

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