

Research on Legal Problems of Injury Accident in Sports Activities

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Abstract—Sports injury accident is an inevitable fact in school sports activities, and it is also a serious problem that puzzles physical education teachers and affects the order of education and teaching. In the injury accident, first, we should study the law and make clear the legal responsibility of the school and the physical education teacher in the injury accident; second, we should pay attention to the prevention, reduce the injury accident to the minimum, and protect the legitimate rights and interests of the school, the physical education teacher and the student.

Keywords—school sports; injury accident; legal liability

I. INTRODUCTION

Because of the nature of physical education, it has the possibility and risk of injury accident, so in the practice of school physical education, the injury accident of sports activities happens from time to time, and the school and PE teachers are more and more cautious about it. Therefore, it is very urgent for the normal development of school physical education, the implementation of curriculum reform, and the protection of the legitimate rights and interests of schools, physical education teachers and students to understand the liability accident and its scope, clarify the legal responsibility, correctly handle and prevent the occurrence of sports injury accidents.

II. CASE

Case 1: In a certain school physical education class, a boy leaps and grabs the football gate bar while he is free, but because the door bar is not firmly fixed, the door bar is overturned and pressed on the boy's abdomen, causing serious injuries.

Case 2: In a physical education class of grade four of a primary school, the teacher set up four obstacles with a bench within 32 meters, asking the students to cross the barrier to run back and forth. In practice, Student Gao was tripped and hurt when he was hurdled by a bench and was sent to hospital for treatment.

Case 3: A senior high school girl in a physical education class before rolling exercise, pants pocket some hook into the abdomen, causing serious injury. After investigation, the physical education teacher did not make necessary requirements and reminders for the students to dress and carry items before class.

Case 4: Student Zhang in the 400-meter test of a high school suddenly fell to the ground, unconscious. The teacher sent Zhang to hospital in time, but died because of the invalid rescue. After it was found out that Student Zhang suffered from congenital heart disease, but in order to be admitted to the middle school, he deliberately concealed the disease, and in order not to make the school notice, insisted on participating in a sports test.

Case 5: A junior high school students were taking a PE class, a dog suddenly broke into the crowd and bitten the 12 year old student named Wu. Because of poor local medical conditions, rabies vaccine three days later bought, Student Wu died a week later because of rabies attack.

Case 6: Student Li, a physical education teacher in a middle school in Guangyang City, Hunan Province, when attending physical education class, because a student refused to accept management and used extreme language to stimulate Student Li, Li felt that it was damaging to his teacher's dignity, and without careful thought, he punched the student in the chest, which caused the student to fall to the ground on the spot, after rescuing invalid death. The serious consequence of students' death in this case is closely related to the teacher's weak concept of legal system and his inability to teach according to law.

III. CAUSE ANALYSIS OF INJURY ACCIDENTS

- Injury caused by the presence of a hidden safety hazard in the facility: It refers to a student injury accident caused by a school site, facility, apparatus, etc., which does not meet the safety standards of the state or relevant departments and has hidden dangers in safety [1].
- The content of the teaching exceeds the students' normal ability to bear: It refers to the injury accident caused by the physical education teaching content, difficulty, intensity and so on, which obviously exceed the students' normal physical bearing ability. [2].
- The teacher's mistakes in organizing teaching: It refers to the physical education teachers in the teaching process because there are some errors, such as not promptly requested and reminded students to pay attention to physical education, not fully warm-up before the exercise, not to take the necessary protective measures, in the course of class, Sheep-

feeding teaching and leave without leave of duty caused by student injury accidents [3].

- Injuries caused by students' own health reasons: It refers to a student injury accident caused by a disease which is not suitable for physical exercise.
- The third party's fault causes the student injury and the accident causes the student injury: It refers to a student injury accident caused by the fault of a third person other than a PE teacher and injured student in the course of a physical education class.[4].
- If a school teacher or other staff member causes an accident of injury caused by corporal punishment or disguised corporal punishment of a student, the school and the directly responsible person shall bear corresponding responsibilities according to law: Therefore, while ensuring the quality of teaching, schools should pay attention to improving teachers' concept of legal system and hold regular lectures on special topics of law, such as the General principles of Civil Law, the Education Law, the Teachers Law, the Law on Protection of minors, etc. Let the teaching staff know how to do is legal, which is prohibited by law, to ensure that teaching according to law.

IV. THE LEGAL RESPONSIBILITY OF SCHOOL IN PHYSICAL EDUCATION INJURY ACCIDENT

The injury accident in physical education class is the same as other students' injury accident. When determining whether the school should bear the responsibility, the principle of imputation should be based on the fault liability principle, that is, if there is fault, there should be responsibility, and no fault means no responsibility. Therefore, in the cases mentioned above, a student injury accident is caused by the failure or defect of the facility, the fact that the teaching content exceeds the normal capacity of the student, the fault of the teacher in the organization of teaching, The school should bear legal liability according to the principle of fault liability [5]. For example, in case 1, because of the potential safety hazards of sports equipment, the student were injured, the school had obvious fault, and the injured boy could not have foreseen that the football barrier might overturn, there was no fault, so the school should bear full legal responsibility. For example, in case 2, physical education teachers exceed the requirements of the syllabus and train the fourth grade students to run over the obstacles. The intensity and difficulty of the teaching contents are obviously beyond the students' ability of load. The court therefore ruled that the school should be held liable under the principle of fault liability. In addition, if there is a mixed fault situation, that is, in addition to the school fault, the injured students or the third person also have fault, each party should bear the corresponding legal liability according to the degree of fault. The student's parents failed to negotiate with the school and filed a lawsuit in court. After trial by the court, it was found that the arrangement of the physical education content violated the stipulation of the former National Education Commission's "Outline of Physical Education for Full-time Primary Schools", and its intensity and difficulty exceeded the endurance of the fourth grade students. The court

decided that the school should pay for medical expenses, nursing expenses and transportation expenses. In case 3, for example, the PE teacher did not require the student to check for dangerous goods before class and was therefore at fault. At the same time, the injured girl should foresee the danger of carrying crochet to PE class in her trousers pocket as a person with limited capacity for civil conduct, but she did not foresee it because of carelessness, so she also has certain fault. So in case 3, both the school and the girl should be responsible.

Similarly, in the case of injury caused by the student's own health, or by the fault of a third person, the school is not liable if the school is not at fault. For example, in case 4, Zhang intentionally conceals the condition, subjective fault, and the school has no knowledge of this, did not violate their duty of care, so no fault. According to this, the school does not assume responsibility. But if the school knows or should know that the student has a special constitution which is not suitable for participating in sports, and still requires or agrees with the student to take part in sports and thus causes the student to be injured, the school should be considered to have certain faults. In case 5, the owner (owner or manager) of the dog shall bear full responsibility according to the relevant provisions of Article 127 of the General principles of Civil Law concerning the injury caused by animals to human beings.

Of note is the fifth case, which is a student injury caused by an accident. In this case, whether the school should bear the responsibility is still controversial in the field of law, and the judgments of the local courts are not the same. One view is that since the school generally has no fault in accidental injury, it should be determined that the school shall not bear legal responsibility in accordance with the provisions of Article 160 of the Supreme people's Court on the implementation of certain issues concerning the implementation of the General principles of Civil Law. Another view is that, in such cases, it is not possible to comply with the provisions of article 160 of the opinions on the implementation of certain issues of the General principles of Civil Law (In case of injury, schools should be held responsible if they are at fault.) The conclusion that the school is not liable without fault is derived, since neither the law nor the judicial interpretation explicitly states whether the school should be held responsible when the school and the student are not at fault. Therefore, in accordance with the provisions of Article 132 of the General principles of Civil Law (where the parties have no fault in causing the damage, they may share civil liability according to the actual situation), and the school shall bear part of the liability in accordance with the principle of fair liability, That is, according to the degree of injury, the economic situation of both sides, the factors of public opinion, the school share part of the responsibility. In view of the present teaching idea of physical education in middle school, the author, through analyzing the concrete cases, inculcates the correct teaching method to the PE teachers, and educates the PE teachers with relevant laws. Let PE teachers understand the legal responsibility of injury accidents in sports activities, let schools, parents and PE teachers reach a consensus on the occurrence, responsibility and solution of injury accidents, and jointly promote the comprehensive development of sports events in middle schools. Because of the negative effect of school sports injury accident,

the physical education teaching and activities in many schools are not normal, which will have serious consequences in the long run. Some school sports injury accidents are caused by the risk and unexpected factors of sports itself. In order to promote the formation of school sports injury accident prevention mechanism, to provide students with different needs with the guarantee of the risk of sports injury, to minimize the losses caused by school sports injury accident, and to reduce the financial burden of school families and students. It is an effective way to develop school sports insurance mechanism in our country at present.

V. PREVENTION AND COUNTERMEASURES OF STUDENTS' INJURY ACCIDENTS IN PHYSICAL EDUCATION CLASSES

- Leaders should attach importance to it and the system should be improved. Safety is no small matter, especially for schools, especially physical education.
- Schools should pay attention to whether the school sports facilities are perfect, whether there are hidden safety hazards, and regular inspection, found hidden dangers should be eliminated in time.
- Schools should strictly carry out teaching in accordance with the requirements of the syllabus, so as to prevent students from being harmed because the teaching content is out of line.
- Physical education teachers should strengthen their sense of responsibility, improve their professional level, and try their best to avoid the occurrence of injury accidents caused by their own teaching mistakes. It is important to stress that teachers should not leave their posts in class and should not allow students to exercise without the supervision of teachers. Especially in group training, teachers should not arrange some dangerous activities, such as throwing shot put, for the group that they have not personally coached. Teachers should pay attention to the situation of other groups while tutoring one group, and stop students when they have dangerous behavior.
- The school should remind the parents of the students that if they have special physique which is not suitable for strenuous exercise, they should reflect to the school in time in order to prevent the accident.
- After the injury accident occurred in the physical education class, the physical education teachers and the related personnel of the school should be treated in time so as not to cause the adverse consequences aggravation due to the untimely treatment. Whether or not they are responsible for the accident, the school should care, look after and comfort the injured students and parents in all its aspects, in line with the ethics of humanitarian and educational workers, to give them the necessary help within the limits of their ability, which is also conducive to the solution of the problem.

VI. THE APPLICATION OF THE PRINCIPLE OF IMPUTATION OF INJURY ACCIDENT IN MIDDLE SCHOOL

The principle of imputation is an extremely important problem in the law of compensation for damages. It is the core of the theory of compensation for damages and the basic criterion for dealing with disputes of compensation. Therefore, it is of great significance for the parties to settle the compensation disputes reasonably, for the people's court to handle the compensation cases correctly and improve the level of judicial practice. Three principles of tort liability are generally used in tort theory in our country, that is, fault liability principle, strict liability principle and fair liability principle. The school must bear the following four conditions for tort liability for accidents:

- The school's own behavior is illegal.
- There is the fact that minor students in school are injured by accident.
- There is a causal relationship between the illegal behavior of the school and the fact of minor students' personal injury.
- The school has a subjective fault.

VII. MEASURES FOR SAFETY EDUCATION IN SCHOOL SPORTS ACTIVITIES

A. *Strengthening School Leaders and P.E. Teachers' Concept of Sports Legal System*

In view of the fact that the number of civil litigation cases caused by school sports safety liability accidents tends to increase, it is necessary to strengthen the education of school sports legal concepts, and to carry out the two regulations by organizing and studying "Education Law", "teacher Law", "Sports Law", and "Sports Law", to establish the management system of physical education in schools, to realize the management of teachers' objectives, to improve the legal concept of the vast number of PE teachers, to strengthen the sense of responsibility of PE teachers, to establish a good style of caring for the students' growth wholeheartedly, and to form a good sports morality, learn to use legal means to protect the legitimate rights and interests of schools and students.

B. *Attaching Importance to Teachers and Students' Awareness of Sports Safety*

Safety education is accompanied by the whole process of school education, and there are also safety problems in sports activities. Physical education teachers must educate students about the items that are prone to injury accidents in their exercises, have a clear understanding of the importance of prevention of injury accidents, constantly improve the safety awareness of the psychological foresight of danger, and make full physical preparation. In organizing sports activities, teachers should take measures to prevent injury accidents, run through every link of physical education, and make safety education an important part of physical education.

C. Defining the Goal of Safety Education in School Sports Activities

The majority of PE teachers should conscientiously study the Standard of physical Education and Health Curriculum and make clear the learning goal of safe sports activities in the field of PE and Health Curriculum Learning. To make students know how to avoid dangers in sports, to say the dangers and avoidance methods that may be faced in different environments, to pay attention to sports safety, to grasp the simple methods of handling sports injuries and emergencies, with the general ability to deal with safety problems.

D. Following the Law of Physical Education

Physical education teachers should follow the law of physical education teaching in teaching. First of all, they should organize the students to make preparations, emphasize the importance of the preparation activities to the students, and by concentrating on practice and games, students can get activities in psychological and physiological aspects, and can adapt to the requirements of sports activities. Second, according to the characteristics and needs of the project, carry out the principle of gradual teaching, from simple to complex, from easy to difficult, practice to guide students. Third, teachers should fully consider the situation of field and equipment when guiding sports activities, and make efforts to overcome the unsafe factors in sports activities. Fourthly, teachers should pay attention to the protection and self-protection of students in practice, especially gymnastics, because the movements are quite complicated, teachers should take different ways to protect and help, and train a group of sports backbone to guide students to protect each other. This is an important measure to prevent injury accidents.

E. Attaching Importance to the Safety of School Sports Facilities

Schools of all kinds and at all levels should speed up the construction of sports venues and sports equipment, create a good sports environment, and arouse the enthusiasm of students to participate in sports activities.

VIII. CONCLUSION

- The school and the teacher should learn the law and master the relevant knowledge, tell the student what action is dangerous behavior, do not ask the student to do, explain to the student the importance of the safety of the physical education class.
- When teachers are telling students how to be safe, bold teaching, to ensure that teaching is safe.
- To maintain the safety of the site, the school must purchase safety equipment.
- Injuries in physical education teaching in schools are not terrible. As long as it is clear who should bear the legal responsibility, the school and the teacher should bear the due legal responsibility when the teacher has the responsibility. In the absence of responsibility from schools and teachers, students should assume legal responsibility themselves.
- Educational administrative departments and schools at all levels should constantly improve their understanding of student safety work and firmly establish the guiding ideology of "safety first". To ensure the safety of students is an unshirkable responsibility and obligation of the government and schools. The government and schools at all levels should make clear the corresponding organizations and responsible persons responsible for student safety work, and conscientiously implement the requirement of "safety first", to ensure the safety of students in school sports activities and to promote students' moral, intellectual and physical development in an all-round way [8].
- It is suggested that schools at all levels should establish a system of prevention and emergency handling of sports injuries among students, and put the prevention work into practice. In case of sports injury, emergency rescue and aftercare should be done to ensure that the student can get medical assistance in the shortest time.
- Establish and improve the student accident injury insurance system. It is an appropriate method to solve the sports injury accident of students through the insurance system of student accidental injury and the social security system. This not only reduces the conflicts and disputes between students and families and between schools and teachers, but also reduces the financial burden of students and schools. Although some local insurance institutions have carried out student accident injury business, there are some problems, such as insufficient publicity, limited insurance coverage, small amount of compensation, difficult claims, and so on. It is suggested that the government department in charge of education should study with the social insurance institutions to establish and perfect a set of accident insurance system for students' sports injury which is suitable for the national conditions of our country.
- Schools are advised to insure against accidental injury. School Accident Injury Insurance refers to the school to insure school liability insurance, through commercial insurance to solve the problem of accident compensation. The school insured liability insurance is mainly used to compensate for the accidental injury caused by the unshirkable responsibility of the school, which can greatly transfer the compensation problem caused by the accident in the school, so that the injured students can also be compensated.
- Schools should establish a corresponding security system, equipped with necessary safety inspectors, carry out regular security inspections of the corresponding buildings, sports equipment, and places for students' activities, and make the system implemented to people, record on the record, timely discovery of problems, promptly report to the competent administrative organs, and solve them immediately. Otherwise, once a serious injury accident

is caused, the school will bear civil liability, and the person who is directly responsible for it will also be investigated for corresponding criminal responsibility.

- Schools should improve teachers' concept of legal system, teachers should not in class in disguised corporal punishment of students, cannot use words sarcastic students, as far as possible do not hurt the self-esteem of students.
- We can't stop eating because we choke. Schools should not carry out all kinds of sports activities because they are afraid of accidents.

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