

## COVID-19 RESPONSIBILITY

In Texas, schools have no responsibility for bodily injury to students, including athletes, under Texas statutes. However, if a Federal suit is brought, Texas Immunity will not apply. In any event, your insurer will likely provide legal assistance.

### CIVIL PRACTICE AND REMEDIES CODE CHAPTER 101. TORT CLAIMS

SUBCHAPTER B, Sec. 101.023 LIMITATION ON AMOUNT OF LIABILITY. (b) Except as provided by Subsection (c), liability of a unit of local government under this chapter is limited to money damages in a maximum amount of \$100,000 for each person and \$300,000 for each single occurrence for **bodily injury** or death and \$100,000 for each single occurrence for injury to or destruction of property. *Auto 100/300/100; above this limit, schools are immune.*

SUBCHAPTER C, Sec. 101.051. SCHOOL AND JUNIOR COLLEGE DISTRICTS PARTIALLY EXCLUDED. Except as to motor vehicles, this chapter does not apply to a school district or to a junior college district. *This is the statute addressing a school's immunity for premises and operations liability.*

The definition of Bodily Injury by statute: Penal Code, Sec. 1.07 (8) "**Bodily injury** means physical pain, illness, or any impairment of physical condition."

The definition of **Bodily Injury** from a typical coverage document: **Bodily Injury** means sickness, disease, other bodily injury or death sustained by any person.

### Worker's Compensation & COVID-19

**Texas Dept. of Insurance. Q: Does worker's compensation cover coronavirus-related illness?**

A: "...an employee must have been injured or contracted an occupational disease as a result of their employment. Whether a worker's compensation claim is compensable is determined by the insurance carrier." <https://www.tdi.texas.gov/wc/information/faqie.html>

However, some states are currently changing the burden of proof from the employee to the insurer.

If your district has Stop Loss coverage, the typical specific retention (deductible) applies per each employee (not to the pandemic).

### Student and Athletic Accident Coverage & COVID-19

From a typical athletic coverage policy:

"**Injury or Injuries** means bodily Injury which results directly from an accident and which is independent from disease, sickness or other bodily functions."

As I read the above coverage statement, COVID-19 claims would not be covered.

Student Accident insurance is not required and only available because of statute. Without this statute, the purchase of this insurance would be considered "an unconstitutional gift of public funds".

EDUCATION CODE, Sec. 38.024. INSURANCE AGAINST STUDENT INJURIES. (a) In compliance with this section, the board of trustees of a school district **may** obtain insurance against bodily injuries sustained by students while training for or engaging in interschool athletic competition or while engaging in school-sponsored activities.