

## How to mitigate liability risk by common sense risk management practices

- **Risk Warning:** Sports programs should disseminate information to all staff, coaches, players, parents, and spectators about the coronavirus risk and practices that should be undertaken to mitigate risks. Information should be disseminated by way of email, social media, coach talks, and public announcements.
- **Social Distancing:** All players, coaches, staff, independent contractors and spectators should practice social distancing of 6 ft. wherever possible, especially in common areas. Of course, this won't always apply to players while engaging in the sports activity.
- **Temperature Check:** Players and spectators should be asked to take their own temperature before leaving the house and they should stay at home with [any reading of 100.4 Fahrenheit or higher according to CDC definitions](#) of reportable illnesses for contagious disease. The sports organization can assign a staff member to use an infrared non-contact forehead thermometer to take the temperature of all players and spectators before they enter the field/facility. Any reading of 100.4 or higher should result in a denial of entry. These thermometers are now commonly available for under \$100.
- **Personal Protective Equipment (PPE):** All coaches, staff, and independent contractors should wear PPE such as face-masks and gloves whenever applicable. Players should wear face-masks in close contact areas and situations where applicable.
- **Spacing Of Player Equipment:** Player equipment should be spaced accordingly to prevent close contact.
- **Limit Team Shared Equipment:** The use of team shared equipment should be limited whenever possible and should be sanitized after each use.
- **Water Fountains:** Should be closed with tape and signage stating that they are not to be used.
- **Concessions:** Concessions should be discontinued unless the sports organization is in a position to strictly enforce precautions. Precautions include 6 ft spacing markers in concession lines between customers; staff instructed to not report to duty if they don't feel well, have symptoms, or have a temperature; staff required to wear gloves and face masks; steps taken to prevent cross contamination; and frequent sanitation of all surfaces.
- **Rest Rooms:** Rest rooms should limit occupancy to one person at a time.
- **Spread Out Scheduling Of Practice And Games:** There should be enough time between practices and games to allow one group to vacate the premises before the next group enters.
- **Hygiene/Hand Washing/Touching Face/Laundry:** Players and coaches should practice proper hygiene, wash hands frequently with soap and water for at least 20 seconds, use alcohol-based hand sanitizer (with at least 60% alcohol), abstain from touching their face (mouth, eyes, or nose), and cover their cough or sneeze with a tissue and throw tissue in the trash. Facilities and sports organizations should provide hand washing and hand sanitizer stations and should schedule mandatory use at breaks. Carry small bottles of alcohol-based disinfectant when hand washing facilities are not available. Clothes should be laundered after all workouts.
- **Healthy Practices:** All players and coaches should practice healthy habits including adequate hydration to keep mucous membranes moist, consume a varied, vitamin-rich diet with sufficient vegetables and fruits, and get adequate sleep.

- **Cleaning/Disinfecting:** Sports Facility owners/operators and team staff should use disposable disinfectant wipes on all training areas, equipment, common areas, door handles, water fountains and bathrooms, etc. on a regular basis.
- **Self-quarantine:** Players, coaches, parents, or spectators with any symptoms should not attend any training sessions or competitions.
- **Water Bottles:** Water and sports drink jugs should no longer be provided by sports facilities or sports organizations. Athletes and coaches should bring their own water bottles to all team activities to help to reduce transmission risk. Individuals should take their own water bottles home each night for cleaning and sanitation. Visiting teams should also bring their own water bottles.
- **No Handshakes/Celebrations:** Obviously with social distancing practices, players and coaches should refrain from handshakes, high fives, fist/elbow bumps, chest bumps, group celebrations, etc.
- **Sports Organization Staff:** Many sports organizations are limiting staff exposure by limiting working at the office and non-essential travel. Staff is encouraged not to come into the office if they are not feeling well. Remote working from home is promoted as an alternative.
- **Returning From Out of Country:** Those returning from a country with ongoing COVID-19 infections should monitor their health and follow the instructions from public health officials.
- **Meetings:** Many sports organizations are cancelling in-person meetings and conferencing by telephone.
- **Conferences:** Many sports organizations are changing member conference participation from in-person to video.
- **Limiting Spectator Attendance:** Some sports organizations may choose to limit spectator risk by limiting attendance to essential staff and limited family members.
- **Coronavirus Warning Signage:** Post conspicuous signage at sports facility warning of coronavirus risks and what steps can be taken to reduce such risks. Here is some sample language that should be reviewed by local legal counsel:
  - **Coronavirus Risk Warning**
    - It is suggested that seniors or others with compromised immune systems not participate in or attend this event due to risk of infection.
    - Do not enter if you are exhibiting any signs of illness such as sneezing, coughing, sniffles, have fever, or don't feel well.
    - If you are repeatedly sneezing or coughing, you may be asked to immediately leave the premises.
    - All players, staff, and spectators should practice responsible social distancing by remaining at least 6 ft apart whenever possible.
    - All players, staff, and spectators should wear PPE such as face masks whenever applicable.
    - Wash your hands and/or use hand sanitizer upon entrance, during the event, before and after you eat, and as you leave. Hand washing and hand sanitizer stations are provided.
    - Avoid touching your face including your eyes, nose, and mouth.
    - Public restrooms should limit occupancy to one person at a time.

- **Waiver/Release:** Waiver/release agreement forms should be updated to address the risk of communicable diseases such as COVID-19 in addition to injury. See our updated waiver/release agreements for [minors](#) and [adults](#). In addition, we have a new, stand alone [COVID-19 waiver/release](#) for those sports organizations that already collected their normal waiver/release forms for the season.

## **Other insurance policies that may apply to coronavirus**

[Event Cancellation Insurance](#) is a stand-alone policy that pays for certain financial loss if an event is cancelled, postponed, curtailed or relocated beyond the control of the policyholder. Covered perils may include, but are not limited to, hurricanes, earthquakes, severe/adverse weather, outbreak of communicable disease, terrorism, labor strikes, non-appearance of key people, and unavailability of the venue due to fires, floods or power outages

Though outbreaks of communicable disease are commonly covered under Event Cancellation policy forms, the two leading carriers have recently started to exclude (not cover) coronavirus on newly issued policies. One carrier is issuing a specific coronavirus exclusion, whereas the other considers it to be an excluded pre-existing condition. However, Event Cancellation policies issued prior to the addition of the recent coronavirus restrictions may not have a coronavirus exclusion.

Also note that even if a coronavirus exclusion does not exist, a claim would only be covered if it is not possible for the event to move forward due to travel restrictions, state or local ordinance restrictions, or the suspension of facility operations. These factors are beyond the control of the insured. It is not enough that the attendees or event organizers have a fear of traveling or of catching the virus and voluntarily make the decision to cancel or alter the event.

[Directors & Officers Liability](#) covers the business entity and its directors and officers against certain lawsuits alleging managerial negligence that results in economic damages or the violation of rights of others under state, federal, or constitutional law. It is possible that a decision involving the failure to anticipate the financial impact of coronavirus and to take appropriate action could result in economic damages to the business and a subsequent lawsuit by shareholders or other stakeholders against the negligent directors and officers. However, D&O carriers may attempt to deny such a claim because of the “bodily injury” exclusion that is found in D&O policies. Many claims adjusters will take the position that economic damages arising out of bodily injury (i.e. coronavirus sickness) are excluded. However, this position is already being challenged in the courts in other contexts and the ultimate results are unclear.

[Worker’s Compensation / Employer’s Liability Insurance](#) covers certain on-the-job injuries and occupational diseases to employees and uninsured subcontractors, including medical bills, lost wages, and disability awards. It’s possible that an infected employee could file a Workman’s Compensation claim. However, Worker’s Compensation Commissions in some states may take the position that a covered occupational disease must be one that is specific to employment and not an ordinary disease to which the general public is exposed outside of employment. An exception may be health care workers who are exposed as part of their employment.

**Business Interruption.** Sports facility owners and other sports organizations that own buildings or insure contents may carry a Commercial Property policy. Commercial Property policies often include Business Interruption / Extra Expense insurance which provides coverage for loss of business income (lost profit plus continuing operating expenses) while operations are totally or partially shut down as a result of a covered loss to insured property. Also provided is Extra Expense coverage for the additional and necessary expenses after a loss to the extent that they offset the Business Income loss. In order for Business Income coverage to be triggered, there must be a direct physical loss to the property that is being covered, whether it is building or contents.

Some Property policies may include a coverage called Contingent Business Interruption which can trigger coverage in the event that there is a covered loss to the premises of suppliers, customers, or key partners. This coverage does not require any such loss at the insured's own premises.

It is doubtful that contamination of building and contents would be considered a direct physical loss that would trigger business interruption coverage. Also, many property policies include a virus or bacteria exclusion which would further restrict coverage.

In addition, the Property policy may include coverage for acts of civil authorities that restrict access to an area. If such coverage exists, this may trigger a covered Business Interruption claim.

Coverage for any of the above-referenced Business Interruption coverages is not certain. Each case will depend on its own unique facts. Furthermore, the outcome will be dependent on the policy form and the existence of certain bacteria or virus exclusions that may apply. However, these claims may at least be worth discussing.

## **Conclusion**

This coronavirus resource page will be updated frequently as new information comes to light. The purpose is to provide a framework to think through the risks to help each sports organization make an informed decision regarding cancellation and/or mitigation of risk. In addition, any potential coronavirus claims should be turned into the insurance carrier so that the claims department can make the coverage determination.

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## **Coronavirus Resources**

[CDC Coronavirus Disease Situation Summary](#)

[CDC Coronavirus FAQs](#)

[CDC Coronavirus Travel Information](#)

[CDC Interim Guidance for Businesses and Employers](#)

[World Health Organization Coronavirus Disease Outbreak](#)

[4 Key Coronavirus Insurance Coverage Battlegrounds](#)

[US Olympic Paralympic Coronavirus Information for Team USA Athletes and Staff](#)

[Breaking Down Business Interruption: How Insurance Can and Cannot Mitigate Coronavirus Losses](#)

[Risk Insights – Preparing Your Event for Coronavirus](#)

[Coronavirus in the Workplace – Compliance Considerations for Employers](#)

[Does Business Income Insurance Cover Coronavirus Shutdowns?](#)

[P/C Insurers Put a Price Tag on Uncovered Coronavirus Business Interruption Losses](#)

[Few COVID-19 Liability Lawsuits Filed So Far](#)

[Coronavirus and the CGL](#)

[Will General Liability Insurance Respond to COVID-19 Claims](#)

[Businesses Fear Lawsuits from Sick Employees, Patrons After Reopening](#)

[How will youth sports return to play? USOPC offers first glimpse](#)

[Return to Play COVID-19 Risk Assessment Tool: From Aspen Institute](#)

[AL Gov. Kay Ivey extends public health emergency, issues COVID-19 lawsuit protections](#)

[USA Softball Back To The Ballpark Recommendations](#)

[CDC Guidance in Parks and Recreation Facilities Including Organized Sports](#)

[Open TX Checklist For Youth Sports Operators](#)

[NFHS Sports Medicine Advisory Committee Recommendations On Opening Up High School Athletics](#)

Posted By John M. Sadler | [Event Insurance](#), [General Liability](#), [Risk Management](#)



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