



Safety Bulletin November 2025

Participant Waivers and Statutory Safety Duties

Background

In May 2025, the California Supreme Court issued a significant ruling in the case of *Whitehead v. City of Oakland*. This case addressed the enforceability of liability waivers in the context of public agencies and their statutory safety obligations. The case settled for \$7 million on October 7th.

Case Summary

The case involved a cyclist who suffered serious injuries after striking a pothole during a permitted bicycle training ride. Prior to participating in the event, the cyclist had signed a waiver that was intended to release the City of Oakland from any liability related to the activity.

Court Ruling

Despite the existence of the signed waiver, the California Supreme Court held that such liability waivers cannot shield public agencies from claims that involve violations of statutory safety duties. The court determined that the City of Oakland retained a non-delegable duty to maintain its roads in a non-dangerous condition, regardless of any waiver signed by the participant. As a result, the claim against the city was allowed to proceed.

Implications for Public Agency Risk Management Strategy

The *Whitehead* decision underscores the importance of a comprehensive, layered risk transfer strategy when authorizing special events. Although participant waivers remain a key element, additional protection is achieved through well-structured contracts that feature robust indemnification clauses, stringent insurance requirements, clear inspection protocols, and thorough documentation.



When issuing permits for special events, agencies should require organizers to complete detailed inspections of all venues and routes no later than 30 days prior to the event and again within 72 hours of the scheduled date. Organizers must report any hazards to the agency in writing, providing sufficient time for remedial action. Establishing defined inspection and reporting schedules reallocates responsibility for hazard identification to the organizer and allows agencies to resolve issues before the event commences.

Agreements and event permits should clearly specify the organizer's responsibility for participant safety, as well as their obligation to defend and indemnify the public agency against claims associated with the event. Insurance standards applied to the primary organizer should also extend to all vendors and subcontractors involved. Such measures ensure effective risk transfer to the entity managing the event, thereby minimizing the agency's exposure.

Insurance requirements should be tailored to match the specific risks associated with each event. General liability coverage is essential for all events, while additional policies—such as liquor liability (for events serving alcohol), auto liability (for vehicular involvement), sexual abuse, and molestation coverage (for events with minors), and workers' compensation (when employees are



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present)—may be necessary depending on event characteristics. Adequate insurance coverage ensures financial safeguards are in place, protecting both the agency and the organizer in the event of a claim.

Participant waivers should remain standard practice. These waivers must be specific to each event, drafted with clear and enforceable language, reviewed by staff in advance, and retained for a minimum of three years. While these documents do not eliminate liability related to statutory safety obligations, they offer a strong defense against many other types of claims.

Documentation plays a vital role in the special event permitting process. Each event file should contain comprehensive records, including reviews of inspection reports, insurance certificates and endorsements, copies of participant waivers, and all relevant correspondence with organizers. Thorough documentation demonstrates due diligence and proactive risk management, which can be indispensable in defending against potential claims.

Public agencies should consult with legal counsel to ensure that special event requirements are formally established through ordinance or governing body resolution. Codifying these requirements provides a clear legal foundation for enforcement and enhances the agency's position if permit terms are challenged. Agencies are encouraged not to deviate from the agencies practice of permitting special events. Making changes to a standard document can create a greater risk to the agency.

Moving Forward

The Whitehead decision does not significantly alter public agency liability but highlights the risks of relying solely on participant waivers instead of comprehensive risk transfer strategies. Members should review special event permit requirements, update contracts with indemnification clauses, set minimum insurance standards by event type, implement clear inspection and reporting protocols, and ensure staff are trained in proper documentation.

If you have any questions, contact Bob May, ICRMA Director of Loss control for guidance.