

Bodily injuries are common in sports and recreation areas.

Legal Liability

Common sources of legal action involving sports and recreation include:

- Occupiers' Liability - Occupiers are people that own the premises, have possession of it or have responsibility and control over it. They must keep the premises reasonably safe to prevent injury. For example, if a person is injured while using faulty equipment, the "occupier" may be held responsible.
- Vicarious Liability - An organization is liable for the negligent actions of its employees and/or volunteers. Therefore, if the organization assigns a supervisor to look after people using sports or recreational equipment, and the supervisor's negligence results in someone getting hurt, the organization may be held responsible.

Key Point

Sports and recreation programs can be the source of many liabilities due to the nature of risk involved in physical activities.

Risk Management

There are many actions that can be taken to prevent or decrease the seriousness of injuries.

1. Ensure the design of the sports and recreational facility is appropriate for the people who use the equipment.
2. Ensure equipment meets the standards set by the Canadian Standards Association (see Additional Resources).
3. Determine an appropriate supervisor-to-user ratio. The appropriate ratio will depend on the type of activity, the equipment being used, the age of the participants, etc.
4. Screen patrons for health limitations that may make it unsafe for them to participate in your program.
5. Use signs to warn patrons of hazards. Signs should use symbols and French and English text where possible.
6. Implement a screening and hiring policy to ensure that you employ only qualified people. Refer to "Volunteer Screening, Selection and Hiring."
7. Ensure that volunteers and staff have adequate training in first-aid, coaching, organization policies and procedures, and any other training that is appropriate.

Key Point

Ensure that volunteers and staff have adequate training.

8. Adhere to national, provincial or governing body regulations concerning the conduct of operations.
9. Ensure the facilities and equipment are regularly inspected for damage and repaired or replaced as necessary. There are professional consultants that you can hire to periodically inspect equipment.
 - a. Develop an inspection schedule. For example, employees or volunteers may perform daily inspections and a qualified inspector may perform more formal monthly inspections. The frequency of inspections and the level of expertise required will vary across facilities.
 - b. Design a sports and recreation inspection form (sample below) that reflects the existing equipment and layout.
 - c. Train inspectors and/or employees/volunteers in standards.
 - d. Provide appropriate inspection and maintenance tools to employees/volunteers who are responsible for maintenance. For example, ensure that someone who inspects your sports fields has your organization's Sports Fields Daily Inspection Form.
 - e. Develop procedures for documentation and filing. Keep records of the dates of inspections, who conducted each inspection, the findings, and the maintenance done.
 - f. Develop follow-up plans (i.e., inspection of completed repairs, continuous training/review of employees, etc.).
10. During inspection and maintenance, ensure that:
 - handrails, barriers and railings are sturdy enough to prevent falls;
 - broken glass, garbage, sharp edges, bolts and other hazards that may be present are removed;
 - paint is not cracking, peeling, or flaking;
 - damaged or defective equipment is repaired or removed;
 - landing areas are constantly maintained (landing areas are high- use areas that often have materials that erode);
 - equipment is checked for signs of wear and tear; and
 - first-aid kits, fire extinguishers and other safety equipment are in place and in good condition.
11. Encourage people using the sports and recreation facility to pre-inspect the grounds for obvious hazards.
12. Ensure users are wearing appropriate clothing and equipment.
13. Post signs indicating the hours of operation, operating procedures, where problems or concerns should be directed and any other relevant information.

14. Use waivers or informed consent forms. These are legal forms intended to protect your organization from liabilities either by requiring people to waive their rights to sue or by clearly informing them of the hazards and having them accept them willingly. Always consult a lawyer to develop legal forms.
15. Develop emergency and accident-response procedures and implement them as written policy. Provide all staff and volunteers with copies of and training in these procedures. Conduct drills to test these procedures.
16. Use a sign-in log (if waivers or consent forms cannot be used). At the top of the log include information about potential hazards to which users may be exposed. A sign-in log can also help you keep track of the:
 - time and date the users enter and exit;
 - names of users; and
 - emergency contact names and phone numbers.

Claims Handling

1. Assist the injured person in finding medical treatment. For example, call an ambulance if necessary.
2. Where applicable, immediately remove or repair the hazard that may have caused or contributed to the incident. If the hazard cannot be removed or repaired immediately, either ensure the area is safe for others or make it inaccessible before you leave.
3. Record names and contact information of any witnesses. Obtain and record detailed descriptions of the incident from the victim and witnesses.
4. Refer any discussions with the claimant to your insurer. It is wise to tell employees and/or volunteers that they should not discuss liability with potential claimants and that they should NEVER ADMIT LIABILITY!!!
5. Take pictures of the area where the incident occurred.
6. Complete an incident report. Documenting the incident may help to establish a defense for a claim presented at a later date, help analyze the cause of the incident and help recommend risk management improvements to prevent similar incidents in the future.
7. Contact your insurance representative regarding all accidents and incidents that could potentially result in an injury claim.

8. Investigate potential causes and take steps to prevent and/or respond better to similar incidents in the future.

Additional Resources

Association of Workers' Compensation Boards of Canada

<http://www.awcbc.org/>

Canadian Standards Association

<http://www.csa.ca/Default.asp?language=English>

McGregor, Ian. (2000). *SportRisk: The Ultimate Risk Management Planning and Resource Manual*. San Rafael, CA: McGregor and Associates.

National Fitness Leadership Advisory Committee. (1990-1991). *Legal Liability: Considerations for the Fitness Leader*. Ottawa: National Fitness Leadership Advisory Committee.

Peterson, J. (2003). *Risk Management Park, Recreation and Leisure Services*. Champaign, IL.: Sagamore Publishing.

Sample Aquatic Facility Inspection Form

Name of Facility _____

Address _____

Date of Inspection _____

Date of Last Inspection _____

Surveyed by _____

Recommendation sent to _____

Response required by _____

General			
Floors have non-slip surfaces and are free of accumulated waste			
Showers are free from soap build-up			
Change areas/washrooms are cleaned on a regular basis			
Floors are cleaned regularly with antibacterial agents			
Chlorine Room			
Room is equipped with gas-detection devices			
Room is sealed off from other areas (outside door only)			
Operators are trained to handle chlorine			
Air packs are available and in working condition			
Daily maintenance occurs on the chlorine and filtration system			
WHMIS sheets are present			
Pool Area			
Water depths are clearly marked at appropriate intervals			
Diving boards are safe			
Pool rules are clearly visible			
Ladders are in good repair			
Surfaces around pool are non-slip			
"No diving" signs are clearly posted			
Lights and electrical fixtures are designed for wet environment			
Lifeguards			

Sports and Recreation Risk Management



Lifeguards are certified			
Lifeguards are trained to be proactive in avoiding incidents			
Rescue skills are rehearsed by simulating emergencies			
Lifeguard equipment is present/appropriate			
Hot Tub/Whirlpool			
Daily water tests are conducted/records maintained			
Proper instructions are posted			
Electrical installations are suitable for wet environment			
Temperature is monitored/posted			
Handrails and non-slip steps are present			
Waterslides			
Waterslides are inspected on a regular basis			

General Observations _____

Recommendations _____

Reviewed By _____

Manager _____

Date _____

Employee _____

Date _____

