

# **Risk Management of Sport Facilities**

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## **■ ABSTRACT**

Persons who engage in activities involving personal risk have increasingly greater expectations concerning their safety and are litigating in increasing numbers. Sport is inherently risky for the participants, officials, and even spectators. However, not all of the injuries that occur as a result of engaging in these inherently risky activities are inevitable. Many of the inherent risks of sport activities are preventable, and risks can be controlled by managers of sport facilities. Unfortunately, one cannot prevent the initiation of lawsuits, but one can prevent litigation losses. This article discusses some of the practical aspects of risk management of sport facilities in colleges and universities.

## **■ INTRODUCTION**

In today's society, individuals have come to believe that regardless of the activities that they engage in, the owners, managers, and organizers involved are responsible for injury if it occurs. This is true in activities involving inherent risks, such as engaging in sports, as well as others. Risks will occur in virtually all activities in physical education, recreational sports and athletics since situations involve emotional tendencies of attack and retreat. This article explores the roles of administrator, supervisor, risk manager and safety officer in prevention of claims due to injury in sport activities. It will discuss the various aspects of claims made due to inadequate supervision, as well as unsafe facilities.

## **■ THE ROLE OF THE RISK MANAGER IN PREVENTION**

"Risk recognition" is probably the most significant principle involved in accident prevention (Gabrielsen, 1978). The risk manager has many roles in the prevention of accidents and claims involving sport facilities. In exploring the role of the risk manager in this issue, the first step is to explore the function of risk management. It is "... the executive function of planning, organizing and controlling those activities in the [institution] dealing with specified types of risk" (Greene & Trieschmann, 1988).

The next step in understanding the role of the risk manager in management of sport facilities is to define the term "risk." There are two basic types of risk involved

in sport or any other activity that the institution performs. **Objective or Statistical Risks** are defined by Greene & Trieschmann as the variation that occurs when actual losses differ from expected losses. Thus, this term generally refers to groups of objects/events exposed to loss. These types of risk are generally considered to be the various activities that are associated with a sports facility. They are measured by range or standard deviation.

Objective risks are typically the province of insurance actuaries and risk managers. Each of the activities that occur in a sport facility will have a different statistical risk of injury. The insurance industry nationwide keeps records of injuries, severity of injuries, and assesses premiums based on the objective risk. These statistics are available to the risk manager and facility manager to be used in determining which activities merit extra precautions or attention, such as increased supervision or training or both. Otherwise, the term objective risk has very little meaning to the facility manager or the activity supervisor.

**Figure 1:**

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$$\text{OBJECTIVE RISK} = \frac{\text{PROBABLE VARIATIONS OF ACTUAL FROM PROBABLE LOSSES}}{\text{PROBABLE LOSSES}}$$

$$\text{EX: } \frac{105 - 95}{100} = 10\%$$

$$\text{EX: } \frac{120 - 80}{100} = 40\%$$

Adapted from Greene & Trieschmann, 1988.

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By increasing the number of persons, events, or companies who share in a certain type of risk-taking activity, the insurance company can reduce objective risk to the vanishing point. This concept is called the "law of large numbers." Those companies who do so successfully can remain profitable, and thus able to provide insurance coverage for catastrophic losses involving use of sport facilities.

**Subjective risk** is the mental state of the individual who experiences doubt or worry as to the outcome of a given event (Greene & Trieschmann, 1988). Subjective risk is generally the province of the risk manager, but is typically the day-to-day focus of the sport facility manager. Training programs for both participants and activity supervisors focus on subjective risk factors. It is important that such programs reduce the subjective risk factor to the point where the supervisor and the participants are not paralyzed by fear, but not so far that they are complacent to the risk of injury.

In addressing both subjective and objective risks, one must keep in mind that both hazards and perils of sport activities must be addressed. A **peril** is a contingency or event that may cause a loss, such as engaging in the activity of

rapelling. A **hazard**, on the other hand, is a physical or mental condition that introduces or increases the probability of loss, such as improper training or lack of training, poor lighting, or poor weather conditions. Both concepts will be discussed under the topic of management of sport facilities to reduce risk.

The risk manager and the sport facility manager must both be trained to recognize and minimize physical hazards resulting from conditions or physical facility problems, as well as moral hazards, resulting from individual attitudes of participants or supervisors; and morale hazards, resulting from the subconscious desire to suffer loss as a result of the lifestyle or current problems of the individual. College students have their own peculiar set of moral risks that must be addressed (Furney, 1983). In addition, both the risk manager and the facility manager must continue to recognize that risks of all kinds are not static, but change from time to time based on the individuals involved, changing laws, changing technology and changing conditions. Thus, managers must keep in mind that risks are always dynamic.

The risk manager's function is to aid the sport facility manager in managing risk by effectively using one or more of the following **objective risk management techniques**:

1. RISK RETENTION OR ASSUMPTION (SELF-INSURANCE)
2. COMBINATION (INSURANCE)
3. RISK TRANSFER OR SHIFTING (INSURANCE) — NO RISK REDUCTION — HIGH PREMIUMS
4. LOSS CONTROL
5. LOSS AVOIDANCE (CANCEL THE ACTIVITY)

Adapted from Greene & Trieschmann, 1988.

Each of these tools is self explanatory, with the possible exception of risk transfer or shifting. Many times this is confused with combination, which involves the sharing of risk with a pool, resulting in a lower exposure to each member of the pool. In contrast, risk transfer involves paying an individual or organization to handle the risk of an activity. This technique involves paying for 100% of the loss, plus a management fee, but it does insulate the facility from responsibility for claims management.

In the sport facility management area, the tendency of risk managers seems to have been toward extensive use of the loss avoidance technique, i.e. refuse permission to engage in high-risk activities such as pyramids, contact sports, rapelling, etc. This approach appears to be based on the fear of excessive liability from these activities, as well as other extracurricular activities that entail extraordinary risk (Miyamoto, 1988). Most institutions have a procedure for handling extraordinary events, requiring that the sponsor, risk manager, safety officer, and funding vice president approve the activity in writing.

One must keep in mind that the use of these various risk management techniques is the function of both the risk manager and the sport facility manager. Neither should act without consulting the other, for it is too easy for an individual who may hold an inordinately high fear of exposure to liability to merely avoid the

risk. Taken to its extreme, this attitude will paralyze the institution's ability to attain its goals or accomplish its mission.

Use of the various techniques to reduce subjective risk is also the function of both the risk manager and the sport facility manager. In addressing objective risk, each must first determine whether the risk can be insured, avoided, or otherwise handled. Then once it is determined that it will not be avoided entirely, both must engage in one of the following subjective risk management techniques:

1. SEARCH FOR INFORMATION — REDUCE UNCERTAINTIES
2. GROUP DISCUSSION — REDUCE PERCEIVED RISK
3. TRAINING AND EDUCATION

Adapted from Greene & Trieschmann, 1988.

In the ideal situation, the risk manager will aid the overall goals of the sport facility by protecting it from underinsurance, and by protecting it from gaps in insurance coverage or incorrect coverage.

The Risk Manager and the Safety Officer can aid the sport facility manager in identifying perils and hazards, estimating the frequency and size of losses in order to allocate human and financial resources properly, provide guidance in the most economical method of handling loss and still attain the goals of the program, as well as to administer the handling of losses in a manner that preserves resources of the facility. The risk manager will continually perform each of these tasks and make periodic reports.

## ■ RISK MANAGEMENT OF SPORT FACILITIES IN UNIVERSITIES

Generally, the management of risks in the operation of sport facilities in universities, as well as commercial enterprises, involves two basic concepts: inadequate supervision or training, i.e. people problems; and unsafe facilities or equipment, i.e. physical hazards. Litigation trends indicate that students attempt to litigate against universities on the basis of some "special relationship," on the basis of the more traditional duties owed by any landowner to guests or invitees, as well as on simple contract principles. Often they litigate all three issues. As recognized in a recent note in the *Journal of College and University Law*, claimants are seldom successful in maintaining a claim based on the "special relationship" of the university to its students. Many of these cases have involved the duty to supervise. However, even where this duty is recognized by the courts, they are reluctant to find a breach of duty (Dumas, 1991). Proper drafting of agreements, waivers, and releases by legal counsel should provide the university with a proper defense to allegations of breach of contract.

Therefore, most successful claimants have raised the more traditional arguments that the "landlord" or "property owner" allowed unsafe conditions to exist which injured the claimant. In order to win, these claimants must establish that a duty exists, a breach of said duty, that they have suffered injuries, and that the proximate cause of the injury was the breach. As participants in organized, or unorganized sports activities, students or the public are accorded the legal status of "invitees" and are thus owed the highest duty of care under the law. The university

must protect these invitees from foreseeable dangers. However, the university is not an insurer (Dumas, 1991). Proper drafting of waivers may also aid in the defense of negligent landowner claims.

Generally, universities defend the landowner tort cases by utilization of one or more of the following: sovereign immunity, contributory negligence on the part of the claimant, or assumption of the risk. See Dumas (1991) for a more detailed discussion of the legal principles of these defenses applied to the university setting. Since successful utilization of the sovereign immunity doctrine is fading, and since its use is not dependent on the particular circumstances involved in the management of risk, sovereign immunity is not discussed herein. The other two defenses are properly of great concern to the facility manager, risk manager, and safety officer. The risk manager and safety officer can aid the sport facility manager in providing for appropriate conditions in which these defenses will be upheld by courts or juries. The following discussions indicate methods of risk reduction that may be employed, both in reducing the probability of injury, and in defending the injury claims that do occur.

Nowhere else within Eastern Illinois University are physical facilities used to the extent that they are in the College of Health, Physical Education and Recreation (HPER). The Division of Recreational Sports serves the recreational needs of the students, faculty, and staff during a 106 hour activity week. During the last year, 599 teams participated in the Intramural Program, resulting in 43,748 individual participants — while there were 157,963 known participations in the Informal Sport Program. In turn, the faculty, staff, and community residents (average age 55) are offered an ongoing walking, jogging or swimming program in order to reduce the risk of coronary disease and the physical deterioration that can occur with advancing age. The METS (Monitored Exercise Testing Services) Program includes a Phase III Cardiac Rehabilitation Program that is sponsored in conjunction with a local health center. Physical Education has enrollment in activity courses with more than 3000 head count per semester. In turn, HPER facilities are also used by the Division of Intercollegiate Athletics, and other service activities such as Boys State and Girls State track meets, cheerleader camps, softball camps, Area Special Olympics and many other special activities. With such usage, the College of HPER has a grave responsibility for providing a safe, injury-free environment for students taking classes, participants in recreational sports programs (intramurals), spectators, participants and personnel in various activities and preparation and maintenance of facilities for such activities.

A sound philosophy and knowledge of risk management and sports safety is imperative for all administrators and personnel within the unit (Mull, et al., 1987). Inherent risks occur in practically all activities in physical education, recreational sports and athletics since situations involve emotional tendencies of attack and retreat. Since such activities often involve intense emotions such as fear and rivalry, cooperation in amplification of individual achievements, and “the thrill of victory and the agony of defeat,” in the words of ABC Sports, it is natural that risks will be incurred by participants in order to achieve success. Therefore, some of the hazards in such activities will occur due to the nature of the game and are unrelated to negligence and preventative measures (Mull, et al., 1987). All hazards and risks

cannot be eliminated, but it is the responsibility of the administrators to control activities so that the probability of accidents due to unnecessary risk taking is minimal (Lloyd, Deaver & Eastwood, 1936). It is important that every possible precaution be taken to guard against potential hazards and reduce the risk factor while maintaining the value and popularity of the relevant activity/sport.

Since risk is inherent in HPER-related activities, administrators and staff particularly focus on the two types of risk-takers to whom a majority of sports accidents are attributed, i.e., those only partially aware of the perils or hazards and those ignorant of the peril or risk of the activity (Fox, 1961). Therefore, the administrators seize opportunities to recognize and educate individuals involved in various activities, as it is believed that such will result in a significant decrease of the number of activity-related accidents. Gabrielsen (1978) indicated that "risk recognition" is probably the most significant principle involved in accident prevention. Therefore, supervisors involved in HPER activities are taught not to assume that participants are aware of the inherent dangers of certain activities and are responsible to be assured that participants possess a clear understanding of such hazards and potential dangers in order to control such. Thus, the HPER administrator educates all participants, particularly younger children and novice sports enthusiasts, regarding specific risks or perils of various activities. A wise administrator takes precautions by creating accident prevention policies to minimize the amount of risk.

While many sports accidents are not reported, the vast majority which are reported are attributed to the human factor, often caused by carelessness (Worick, 1975). Strasser (1973) indicated that safety experts agree that most accidents originate from unsafe behavior, or the human factor, and unsafe environment. In about 85% of all accidents, unsafe behavior is a significant contributing factor. Therefore, the relevant HPER administrator must anticipate and control unsafe behavior as a prime ingredient in accident prevention. He or she must recognize that one of the primary responsibilities of the administrator is to train participants and supervisors in regard to reduction of moral and morale hazards, ie. individual risk factors. In this regard, one cannot overlook the essential role that individual differences in level of physical skills, varying emotions, level of knowledge and established safety habits play in probability of sustaining accidents and injuries (Mull, Bayless & Ross, 1987). Thus, these factors are emphasized in extensive training sessions for all supervisors and staff, and primary causes of accidents in HPER-related activities are examined on a monthly basis and appropriate strategies are implemented for prevention of such and are sent to appropriate persons on campus. These training sessions will also aid in keeping workers compensation premiums as low as possible (Atkinson, 1983).

Because supervisors are on duty during all hours in which the HPER facilities are available, extensive training programs are necessary. This task in itself may be a vast job. For example, at Eastern Illinois University, over 300 supervisors per year are hired. Such personnel are trained on specific conditions which cause accidents and injuries and are attributed to the human factor. In accord with the basic precepts of accident prevention established by Gabrielsen (1978) and expanded upon by Mull, Bayless & Ross (1987), supervisors are taught leadership skills which include

the following: not permitting participants to do things that they are incapable of doing due to lack of skill or low skill level; being sure that equipment is only utilized for its intended purpose; leaving no activities unsupervised, particularly those which are inherently hazardous; being assured to match participants of similar ages and skill ability; providing adequate preparation for introduction of new activities; obtaining relevant certification, as appropriate; watching participants who are overweight, overly aggressive, appear awkward or poorly coordinated, as well as those who appear to be fatigued, having consumed drugs or other dangerous substances prior to participation in activities; being assured that participants and spectators follow instructions and rules; requiring participants to wear proper shoes and equipment; and intervention when hazards cannot be removed (Gabrielson, 1978; and Mull, Bayless & Ross, 1987). Unsafe environmental factors are also considered in the training program which involve indoor and outdoor sport facilities and natural forces such as lightning, sun, heat, extreme temperatures and humidity (Mull, Bayless & Ross, 1987).

Equipment is maintained by persons in the equipment room, under the direction of the gymnasium supervisor, who inspect and evaluate the condition of equipment on a regular schedule; assure proper placement of equipment, adequate quality of equipment, and proper use of equipment; and assess for equipment defects. In turn, supervisors are required to examine facilities daily looking for poor conditions of facilities such as debris on playing fields resulting from inadequate maintenance; and are required to insure that the following do not occur: bleachers being overloaded; insufficient buffer areas between various field activities and between indoor sport court areas and walls; soap on shower room floors; placement of immovable equipment in close proximity to playing areas; wet floors in locker rooms; and structural considerations such as space between fences around tennis courts (Gabrielson, 1978). Thus, personnel are taught proper layout of sports and playing areas, adequate selection and maintenance of equipment, and correct installation of equipment. Flow patterns of users are assessed daily and are involved at all times in the planning process. Effective leadership of all personnel is assured by adequate knowledge of safety rules, the proper conduct of activities, and the ability to control hazards and risks. Personnel are taught to eliminate such hazards, as they are identified. If such hazards cannot be eliminated, activities or participants are banned until appropriate action can be taken.

Scheduling of recreational sports is also a factor in risk management. Participants are limited to a particular number of games and matches scheduled on a team and individual basis during a structured tournament/season. Participation and contests are scheduled in order to prevent fatigue-related injuries.

Acknowledgment forms are required by participants in structured events. While such forms do not guarantee legal protection, they assist in educating future participants in the risks and responsibilities associated with participation in such activities. They assure that participants are aware of dangers and accept responsibility for risk prior to participation in such events. Some believe that these forms discourage the filing of lawsuits against the personnel and institution involved.

When accidents occur, recommendations of the National Safety Council (1966) are observed. Each supervisor is responsible not only for daily documenta-

tion of assessment of equipment, environmental safety, and spectator safety problems, but is also required to record and report all accidents regardless of the severity of the injury. These are reported orally as well as in daily written documentation requirements.

In conclusion, the primary risk management factors considered by the Eastern Illinois University College of HPER begin with providing quality training and quality personnel. It is stressed that players' safety depends on personnel adequately interpreting rules and controlling the environment. Safety of participants and spectators is the highest priority, and supervisors are empowered to suspend play if necessary. Similarly, they are held accountable for accidents which occur during and perhaps following their scheduled assignment. The use of these techniques has resulted in a 30% reduction in injuries reported over the past five years!

### ■ FUNCTION OF THE SAFETY OFFICER

The Environmental Health and Safety Department is primarily a service organization. This function reports to the personnel department or the physical plant operation in most organizations. In each case, it is a staff function which ideally has access to the highest levels of administration. Primary areas of expertise in loss prevention are accident prevention, health and safety inspection and training, and compliance with the regulations affecting the university. The Environmental Health & Safety office also engages to a limited degree in research and education.

This resource is available to the manager of sport facilities on a day to day basis to aid in the reduction of perils and hazards. One will note that once the Safety Officer is made aware of hazards, the institution becomes liable for injuries that occur to a much greater degree. Failure to repair a known condition could result in a finding of willful or wanton conduct, resulting in a punitive damages award. Generally, the institution is charged with knowledge of any of its personnel. Therefore, the fact that an injury is reported or treated will constitute notice of the hazard. In most institutions, the Safety Officer is in a semi-autonomous position and is able to offer valuable assistance in cutting through red tape to reduce hazards. Of course, on the other hand, the Safety Officer may be prone to risk avoidance and order the activity to cease until the violation is corrected (Carsey & Hunt, 1983).

This office may properly serve as a research service, as a communication tool with upper management, or the physical plant, or as a convenient ally in dealing with safety hazards, development of training programs, or in budgetary problems that inevitably arise in regard to safety issues in sport facilities.

### ■ CONCLUSION

Management of risk of sport facilities is a partnership activity headed by the person in charge of facilities. That person must utilize all resources available, including the Risk Manager and Safety Officer in determining how to best achieve the goals of the unit. The manager plans and implements programs that will reduce perils and hazards, not only of a physical nature, but also those that deal with the moral or morale hazards involving individual personality and educational characteristics.

By properly forming this partnership and working together, the facility man-



ager, risk manager, and safety officer can reduce the probability of injuries by utilizing the techniques summarized in Appendices A-D attached hereto. The competent risk manager will also provide appropriate advice concerning avoidance techniques, as well as insure adequate insurance coverage. When injuries occur, a proper risk management program may provide the facts necessary to successfully assert assumption of risk or contributory negligence defenses. In addition, the proper risk management program would provide sufficient insurance coverage to protect the activity supervisor, administrator, and the university from catastrophic loss.

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## **Appendix A**

### **RISK AVOIDANCE TECHNIQUES EMPLOYED:**

Not permitting participants to do things that they are incapable of doing due to low skill level

Insure that equipment is only utilized for its intended purpose

Leave no activities unsupervised, particularly those which are inherently hazardous

Match participants of similar ages and skill ability

Provide adequate preparation for introduction of new activities

Obtain relevant certification

Carefully supervise participants who are:

- overweight
- overly aggressive
- appear awkward or poorly coordinated
- fatigued
- appear to have consumed drugs or other dangerous substances prior to participation in activities

Insist that participants and spectators follow instructions and rules

Require participants to wear proper shoes and equipment

Intervene to halt activities when hazards cannot be removed

Use Acknowledgment/Waiver Forms

Use Doctor's Release Forms

## **Appendix B**

### **OTHER PREVENTATIVE TECHNIQUES:**

#### **MAINTENANCE OF EQUIPMENT:**

- ONE PERSON RESPONSIBLE
- KNOWLEDGEABLE AND SKILLED
- REGULAR SCHEDULE
- PROPERLY PLACED AND SET UP
- CONTINUOUSLY ASSESS FOR DEFECTS

#### **MAINTENANCE OF PHYSICAL FACILITIES:**

- ONE PERSON RESPONSIBLE FOR EACH FACILITY
- SCHEDULED MAINTENANCE
- DAILY CHECKLIST FOR DEFECTS
- CONTINUOUSLY ASSESS FOR DEFECTS
  - OVERLOAD ON BLEACHERS
  - DEBRIS ON FIELD
  - INSUFFICIENT BUFFER ZONES BETWEEN ACTIVITIES
  - PLACEMENT OF RIGID EQUIPMENT
  - WET FLOORS
  - SOAP ON FLOORS

**TRAINING, TRAINING, TRAINING**

## **Appendix C**

### **USE OF WAIVER/ACKNOWLEDGMENT FORMS:**

- Required for Participants (Prior to Activity)
- Outline Known Risks
- Participant Accepts Responsibility
- Specifically exclude liability for “Negligence” by the University and supervisors/administrators
- Approved by Legal Counsel
- Approved by Risk Manager/Insurance Carrier

**CAVEAT: THEY MAY NOT BE ENFORCEABLE —  
STILL DO NOT PREVENT GROUNDLESS SUITS.**

## **Appendix D**

### **USE OF DOCTOR'S RELEASE FORMS:**

- Required for High-Risk Participants (Prior to Activity)
- Approved by Legal Counsel
- Approved by Risk Manager/Insurance Carrier
- Outline Known Risks
- Participant Accepts Responsibility
- Specifically exclude liability for “Negligence” by the Doctor, University and supervisors/administrators
- NO EXCEPTIONS

**CAVEAT: THEY STILL DO NOT PREVENT  
GROUNDLESS SUITS.**