



Risk Management

FOR CAMPUS RECREATION

VOL 2 | ISSUE 4 | APRIL 2008 | ISSN # 1718-4606

Looking forward to Summer!

As the spring term winds down, planning for Summer Camps is already in high gear. Camps are great revenue generators for Campus Recreation departments, but they also come with a price tag – they involve minors and therefore are classified as ‘high-risk’ programs. The standard of care for Camps is very high (essentially you have to treat campers as if they are your own children), hence incorporating risk management into all camp planning efforts is essential.

We’ve assembled a variety of articles which look at Summer Camps from different angles. The lead article ‘Parent Survival Guide’ describes a unique communication tool which can be used to answer most of the questions you are likely to get from your key summer camp client – the parent! Also, a unique perspective on camps from a university Risk Manager - who explores sensitive areas often overlooked.

And finally - time to renew your Newsletter Subscription (see p21 for details)!

*Ian McGregor, Ph.D.
Publisher*

WHAT’S INSIDE

Feature Topic: Summer Camps

Parent Survival Guide	page 1-2
Risk Management Planning Resource	page 3
Summer Camps Checklist	page 4-5
Collecting Medical Information for Camp Programs	page 6-7
Summer Camps: A Risk Manager’s Perspective on 3 Key Points	page 8-10
Key Planning Resources for Summer Camps	page 11
Online Course	page 11
Risk Management in Action	page 12-13
A Proactive Approach to Heat Illness	page 14-15
Online Risk Assessment Survey	page 15
The Ball is in Your COURT: Hazards in non-activity areas	page 16-17
Letter to the Editor	page 18
Renew your Subscription!	page 18
Occupiers’ Liability Part II Licences	page 19-20

Parent Survival Guide

**Amy Lanham, Senior Assistant Director,
Campus Recreation, University of Nebraska, Lincoln**

Good Communication is fundamental when administering any type of programming. It is especially important when that program involves minors. The many challenges in running a great Summer Camp program are compounded by the fact that your primary communication link is not with the participant, but with the parent.

And since the parent has entrusted their most precious possession (their child) to the program staff, good communication becomes vital. Trying to alleviate some of the worry and confusion and making sure all participants have the same information can be a daunting task.



continued page 2

Parent Survival Guide

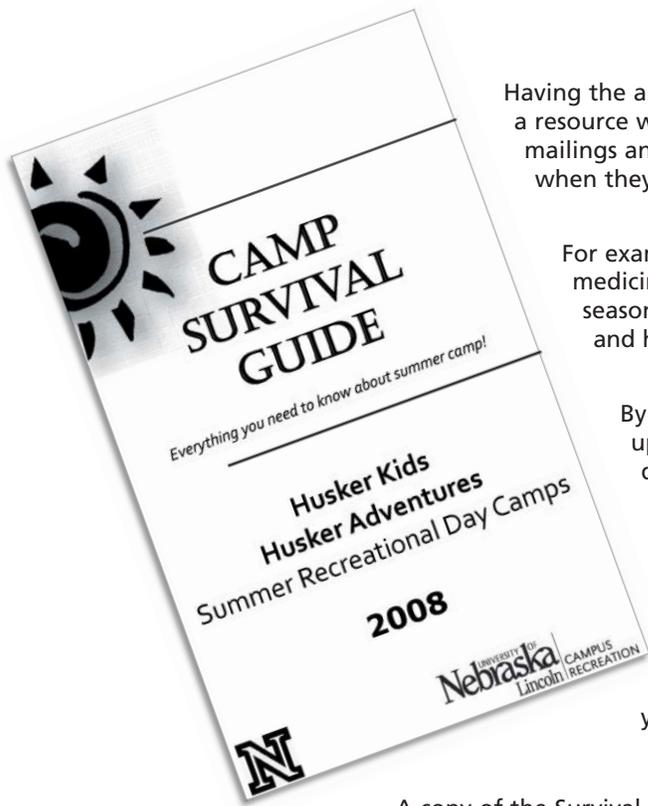
continued

Since the parent has entrusted their most precious possession (their child) to the program staff, good communication becomes vital.

Creating and using a 'Parent Survival Guide' may be the answer.

Areas that you may want to consider including in the Guide are as follows:

Parent Open House & Tours	Medication
Material to Be Returned	Accidents and Emergencies
What to Bring Everyday	Illness
Facilities	Food
Arriving at Camp	Summer Camp Souvenir T-shirt
Departing from Camp	Activities
Extended Program	Discipline
Late Fees for Pick Up	Activity Groups
Payment Information	Communications
Cancellations & Refunds	



Having the above categories of information in a concise, easy to utilize booklet creates a resource with all the information in one place. The parent is not searching through mailings and various forms of publication to find out what they need to know and when they need to know it.

For example, outlining exactly what the parent and camper need to do in case medicine needs to be administered at camp can prevent a conflict during the season. Telling parents right up front how an accident or emergency is handled and how a situation would be communicated keeps everyone on the same page.

By spending some up-front time to develop the 'survival guide', you free up staff time later on (responding to some of the most frequently asked questions you or your staff receive) allowing you to concentrate on the programming and not the administration.

When developing the 'survival guide' take the approach that you are a brand new participant to the program – what type of questions would you want addressed? Call some of the first year campers who are planning to return for this season and ask them what they wished they had known or what information would have been helpful last year to improve the camping season.

A copy of the Survival Guide for Husker Kids and Husker Adventures may be referenced at <http://lcrec.unl.edu/youth/camps.shtml>

'Parent Survival Guide' may be the answer.

NEW SportRisk

Risk Management Planning Resource
For Recreation & Sport Professionals

3rd Edition (2008)

by Ian McGregor Ph.D.
McGregor & Associates



Special Offer
\$59.95 plus shipping

Written by Risk Management expert Ian McGregor, the main theme is 'KEEP IT SIMPLE'.
And keeping it simple means focusing on the **High Risk** areas
within the Campus Recreation setting.

Key Chapters:

Negligence	Explains negligence in simple, easy to understand language
The 5 Key Risk Areas	Describes the high risk areas where Campus Recreation departments are most vulnerable
Risk Management Planning	Delivers a simple, effective 3 Step Planning Process Based on the 5 Key Risk Areas
Special Areas	Tackles key issues of particular concern to Campus Recreation: Transportation; Sport Clubs; Summer Camps; Disease Control; Alcohol & Drugs; Event Management; Contract

Easy to Read • Easy to Follow • Easy to Implement

An **essential** risk management **Planning Resource** for ALL Campus Recreation departments!

To view 'Table of Contents' or to order online – www.SportRisk.com

Payment options: Credit Card, Pay Pal or check.

Summer Camps Checklist

Ian McGregor, Ph.D.
President, Ian McGregor & Associates Inc.

The standard of care for minors is very high.

Since Summer Camps participants are minors, these unique programs should automatically be classified as 'high-risk'. Since the standard of care for minors is very high (the reasonable parent test), program planners need to pay extra attention and sound risk management principles in incorporated into all planning efforts.

The following checklist is designed to alert professionals to the key risk management areas that need to be addressed when planning a Summer Camps program. For more detail in each of the identified areas, consult the new text: *'SportRisk: Risk Management Planning Resource'* (see special feature in this Newsletter).

Staff

- Camp Director position
- Qualifications and Training
- Position descriptions and roles
- Background checks
- Minimum age for staff hiring

Supervision

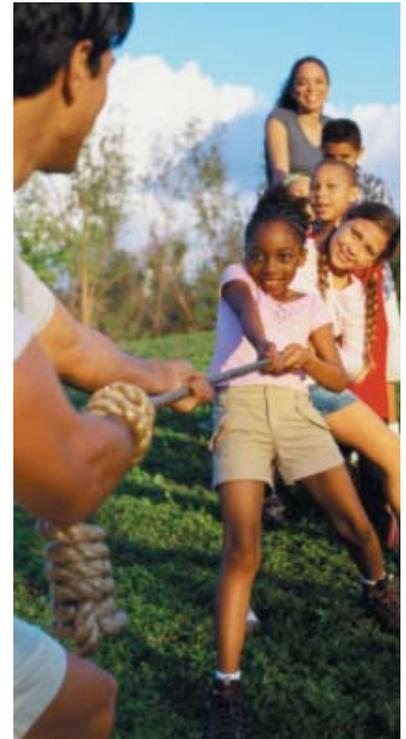
- Camper Ratios
- Lesson Plans with progressions
- Transition/ Washroom/ Lunch supervision (Peanut Club?)
- Participant matching
- Strategies for different age groups
- Behavior Management
- Pre-post camp activities/ programs
- Residence supervision (overnight camps)

Training

- Pre-camp training/ orientation
- Onsite (in-service) training
- Emergency Response; 1st Aid/ CPR etc.
- Dealing with Heat and Sun

Documentation

- Parental Consent
 - To participate/ allow emergency care/ EpiPen admin./ taking photos
- Medical questionnaire
 - Allergies/ medical problems/ medications
- Pick-up/ Drop-off procedures
 - Sign-in/ sign-out checklist; Procedures for late pick-up
- Risk Information
 - Medical insurance information
 - Emergency contact information
 - 'Parents Survival Guide' (see article in this Newsletter)



Summer Camps Checklist *continued*

Emergency Response Plan

Missing campers
Fire/ evacuation/ weather/ medical emergency procedures
Safety and communication equipment
Accident follow-up; accident reports

Facilities & Equipment

Facilities/ Facility-related Equipment/ Activity Equipment/ Protective Equipment
Inspections and Checklists

Employee Issues

Sexual harassment/ child abuse/ sexual misconduct/
ADA



Collecting Medical Information for Camp Programs

Debbie Marinoff Shupe
Manager, Recreation Services
McMaster University

When parents register their children in a university camp program, they have high expectations

Many university recreation and athletics programs are in the camp 'business'. For a whole host of reasons, it's a great idea – from summer employment for university students, to community building, to fund raising - the benefits to the university are numerous. Are you prepared for this risky business?

When parents register their children in a university camp program, they have high expectations (and rightfully so!). They expect that children will be safe, have fun and learn lots of new skills. They also expect that camp staff will be able to handle any medical emergency that comes their way.

There are many important elements related to running a camp. Collection of campers' medical information and addressing the first aid needs of campers are just two of these elements.

We've seen a marked increase in childhood diabetes, asthma and life-threatening allergies in campers who attend camp programs over the last 10 years. How can we better prepare for campers who may have medical conditions? Is a screening tool required or will a form that asks pertinent medical conditions suffice? What do you do with the form after it is completed?

Most camp programs use some kind of screening form to collect medical information as part of the application process. These forms may range from a complex comprehensive screening form to a few straightforward questions. However, the form is just one step in the screening process. The purpose of the form is to identify medical conditions of individual campers; to prepare staff to deal with these issues; and to ensure that specific protocols are in place for treatment and follow up. There is little point asking parents a whole host of questions to then just file the answers away.



It is therefore important to ensure that the form asks appropriate questions that will assist treating a child in distress. For example, if your form asks if the child has had tonsillitis or previously had an operation, will this information really help a camp counselor treat an immediate problem? On the other hand, knowing that a child has an anaphylactic condition that may require administration of an epinephrine (using an 'EpiPen') will greatly assist the counselor to avoid the allergen and be prepared to facilitate administration of the EpiPen.

Collecting Medical Information for Camp Programs *continued*

Parents need to know what the risks are related to the camp program

The screening process really begins with the informed consent form (or Parental consent Form). Parents need to know what the risks are related to the camp program, before making a decision on whether their child's health and fitness is sufficient to participate. For example, if a child has a medical condition that is exacerbated by intense physical activity, the parent must have sufficient information about the exertion level of the program to make the decision to enroll or not enroll their child in the camp.

If the medical screening form lists every possible medical condition, is this information essential? Some medical forms list a large number of medical conditions that only a doctor can interpret. What a medical condition means to the day-to-day activity of that the child can only be assessed by the parent and physician, and so the informed consent form and identification of risks is an important part of the medical screening process.

Once the medical forms have been received, they must be reviewed by an experienced staff member. If a medical condition is identified by the parent, follow-up is usually required to review things such as medication required (dosage, etc.), situations to avoid, etc.

One way to ensure the forms are reviewed is to hire a summer first aid coordinator, who is an experienced first aider and first aid instructor. The coordinator reviews the forms, makes follow up phone calls with parents and prepares the information that will be shared with the child's counselor while at camp.



The summer first aid coordinator can also provide first aid training to the camp staff, and deal with all first aid situations that require additional assistance. First Aid training is essential for camp staff. Knowing the possible camp situations and scenarios helps create an on-going staff training program involving practice scenarios and drills of the most common medical conditions and their first aid treatment.

There are also some federal, provincial or state legislation that limit or define the specific information that can be collected by camps. In addition, privacy legislation must also be considered. When creating a screening protocol, always check with your University Risk Manager or counsel for their direction and advice.

Summer Camps: A Risk Manager's Perspective on 3 Key Points

Joe Risser CPCU, ARM-P
Director, Risk Management
Cal Poly San Luis Obispo

Summer camps offer a wide range of activities, facilities and services all combined to provide educational, recreational and social opportunities for enjoyment and growth of campers, staff and parents. Doing so successfully involves a wide range of special skills and knowledge in addition to general business and risk management.



Managing risk can involve:

CONTROLLING RISK to prevent losses,

TRANSFERRING RISK and losses to others

PAYING FOR LOSSES through insurance or other financing

Let's keep these techniques in mind as we look at 3 Key Points of managing risks in the operations of summer camps -

1. Abuse and/or Sexual Misconduct

In addition to the physical and/or psychological injury of campers (and staff), criminal and civil liability for the perpetrator and up the chain of supervision to the operator/owner of the camp, damage to the reputation of the camp and its owner can destroy the camp.

This is a risk that must be controlled and any loss prevented.

- A. Clearly worded, written and published rules of conduct consistent with law, camping industry standard, and the owner's policies and procedures must be established. Campers and staff must be trained, supervised and evaluated on their performance and appropriately disciplined, including expulsion from camp or terminated from employment. In addition, appropriate law enforcement authorities must be notified in specific situations – you must know and comply with these regulations. Staff should be trained to recognize signs of abuse as well as misconduct and report these to their supervisor or manager.
- B. Employees and Volunteers, particularly those with potential to have contact with campers, must be thoroughly screened during the recruitment process. Contacting previous employers and seeking appropriate community, personal and school references are important. At a minimum, the application or employment agreement must contain a voluntary disclosure statement regarding conviction of a crime other than traffic infraction (if they are not driving for camp). All employees should be carefully interviewed and observed at work when contact with campers is possible.
- C. American Camp Association Standard HR-4 Staff Screening includes: criminal background check for all camp staff with supervisory responsibility and discipline power over children, or who could have unsupervised contact with children. Consider documenting the reasons if you choose not to adhere to this industry standard.

For contractors and vendors, you must transfer this risk through your written agreement for their services and supervise their performance. Include your rules of conduct and require that they adhere to them. Include an indemnification to the fullest extent allowed by law of your employees, volunteers, directors, officers and the owner/operator of the camp by the contractor. Include a requirement that their general liability insurance be endorsed to include the camp as additional insured and that the policy include coverage for abuse and sexual molestation. Have the camp's attorney and insurance broker review and approve the agreement before use.

Summer Camps: A Risk Manager's Perspective on 3 Key Points

continued



For contractors and vendors, you must **transfer this risk** through your written agreement for their services and supervise their performance. Include your rules of conduct and require that they adhere to them. Include an indemnification to the fullest extent allowed by law of your employees, volunteers, directors, officers and the owner/operator of the camp by the contractor. Include a requirement that their general liability **insurance** be endorsed to include the camp as additional insured and that the policy include coverage for abuse and sexual molestation. **Have the camp's attorney and insurance broker review and approve the agreement before use.**

2. Camper and Parental Awareness and Acceptance of the Risks of the camp experience as a condition of participation.

Waivers and Release Agreements abound in variety of content, form and enforcement by the courts. You want to **transfer the risk** of participation to the camper and the parent. The parent (and the courts) tend not to want to do so, particularly if you have not taken reasonable care in your operations or have "surprised" them with a risk not disclosed prior to the transfer. In order to be as successful at **transferring the risk of loss** as the courts will allow:

- A. Know your activities, facilities, services and staff. Identify the risk of your overall operations and put in place the protection and safety to **control risk and prevent losses** that a reasonable person would expect – fix broken equipment, sterilize eating utensils, use safety equipment, etc. When your staff are instructing others and/or are 'experts', then the standard of care rises to what an 'expert' would expect of someone in that profession or at that level of skill – life guard, archery instructor, wrangler, etc. Require that campers follow the safety rules and supervise them.
 - B. Identify the risks of harm in writing to potential participants and their parents prior to their being accepted to attend camp [e.g. injury, death, disability, medical expenses, property damage]. Clearly state that there are unknown risks as well. Detail appropriate requirements of the participant [level of fitness and health, physical psychological, social]. Note that each person has a different capacity for participation. Have them sign acknowledging and verifying fitness to participate. Require that they have health **insurance** which covers the participant.
 - C. Have the camp's legal counsel develop in conjunction with the insurance broker a suitable agreement in which the participant and/or parent if participant is a minor agrees:
 - a. They understand the legal consequences of the document
 - i. They are releasing the camp from all liability
 - ii. They are promising not to sue the camp
 - iii. They are assuming all risk of participation (including travel to, from and during camp
 - b. They are participating/allowing participation in the camp
 - c. They are responsible for the obligations and acts of participant
 - d. They agree to be bound by the terms of the document
 - e. They have read the document and are signing it freely
- d. NO PARTICIPATION WITHOUT SIGNED AGREEMENT**

Summer Camps: A Risk Manager's Perspective on 3 Key Points

continued

3. Camp Insurance

When a **risk could not be controlled or transferred** and a **loss could not be prevented** and a camper, parent or other person want you to pay for the loss, and they sue, you'll want to know that you have arranged to **transfer the cost of investigation, lawyers, courts and any judgment you have to pay to your insurance program.**

Work closely with your campus risk manager and the University's insurance broker to structure, obtain and maintain appropriate insurance to fund camp related losses which cannot be controlled or transferred. Your campus may want to have separate primary coverage for camp operations for some exposures (general liability) and include the camp operations and staff under University insurance for others (automobile liability and workers' comp).

A. As a minimum, consider the following **insurance** coverage:

1. **General Liability** for injuries and/or death to persons as well as for damage or loss to property of others. Include coverage for abuse and sexual molestation, fire legal liability if you rent facilities. Occurrence limits of not less than \$1,000,000 and annual Aggregate Limit of not less than \$2,000,000. [more if you have a large camp, complex operations, high hazards]
2. **Professional Liability** if camp provides medical or other professional services which could result in claims of negligence. Not less than \$1,000,000 per occurrence (or claim) and not less than \$1,000,000 annual aggregate.
3. **Directors and Officers Liability** if camp has a board of directors. Not less than \$1,000,000 per claim and not less than \$2,000,000 annual aggregate.
4. **Automobile Liability** for injuries and/or death to person as well as for damage or loss to property of others. Combined Single Limit of not less than \$1,000,000 per accident. [more if you operate busses]
5. **Workers' Compensation and Employer's Liability** State required limits and not less than \$1,000,000 per injury and per disease.
6. **Property** for both real and personal property that the camp owns/for betterments and improvements to a rented or leased facility. Full replacement value with no co insurance penalty.
7. **Participant Accident Insurance** to pay limited medical expenses for injury either primary or secondary to a participant's own health insurance. [consider a limit of \$10,000 or \$15,000 per injury, with limited dental coverage and ambulance services –the cost is modest and may mitigate or prevent claims for medical services in case of injuries – these are "no fault policies"

B. While higher deductibles will lower premiums – you will need to have cash to pay the deductibles when a claim occurs.

C. Every Contractor and Vendor providing services to the camp needs to have at least the insurance identified in # 1, 2 (as appropriate), 4 & 5.

Your efforts to control risk by preventing injuries and damages, transferring risks and losses to others by agreement or contract and by obtaining insurance in order to pay for losses and other insurable expenses that can't be controlled or transferred will manage these 3 key points for summer camps.

Have a great time at camp this summer!



Key Planning Resources for Summer Camps

Ian McGregor, Ph.D.
President, Ian McGregor & Associates Inc.

Camp resource and planning materials supplied by the American Camp Association (U.S.) and the Canadian Camping Association (Canada) are a 'must read' for all Campus Recreation professionals responsible for summer camps.

The following is a (short) list of key resources to consult. There are others out there – but these are a good starting point.

American Camp Association	http://www.acacamps.org
Canadian Camping Association	http://www.ccamping.org
McGregor & Associates	http://www.SportRisk.com/resources

For those universities affiliated with United Educators (<http://www.ue.org>), two excellent Camp resources are available:

'Camps on Campus'
'Children on Campus'

Online Course:

'Risk Management for Recreation Professionals'

Spring 08 **Register NOW!**

Spring '08: May 5 – May 30

Courses last 4 weeks,
with a Class Limit of 16 participants.

To view the Syllabus or to Register, go to:
<http://www.studentliferisk.com/course/index.php>

"One of the great advantages of the online format is that you can work at your own speed, in your own time..."

Risk Management in Action: Five Elements for Successful *Red Manikin Drill* Implementation

Lori K. Miller, Ed.D., J.D.
Sport Law Professor
Sport Management Department
Wichita State University

Shelley C. Rich, M. Ed.
Associate Director of Programs
Aquatics and Risk Management
Wichita State University

The Red Manikin Drill can enhance staff's response and rescue effectiveness.

Recreation literature contains abundant publications addressing risk management and related topics, e.g., risk management plan design, training, implementation, evaluation, and refinement. Similarly, risk management topics often dominate recreational personnel discussions, e.g., meeting agendas, security considerations. However, the actual implementation, staff training, evaluation, and resultant policy modifications often present challenging dilemmas for recreational administrators confronted with risk management responsibilities. This article illustrates an effective risk management practice, i.e., the *Red Manikin Drill*, that can be adopted and implemented by campus recreation departments desiring to enhance their staff's response and rescue effectiveness. Five areas important to the Drill's short- and long-term success are identified below.

Five Elements Contributing to a Successful *Red Manikin Drill* Implementation

1. Gain the Approval from Supervisors and Administrators

Gaining the approval and support of supervisors and administrators is essential. Without the recommended administrator approval and support, any discontentment expressed by a staff member(s) or recreation participant(s) can devastate the Drill's continued existence, while also jeopardizing the staff's ability to provide confidently an appropriate and effective emergency response.

2. Introduce the *Red Manikin Drill* to Certified Recreation Staff

Staff receptiveness to the Drill implementation is facilitated and enhanced when all involved parties clearly understand why the campus recreation department is making the necessary investments (time, financial support, policy modification, etc.) that accompany the Drill's implementation.

3. Modify Select Organizational Documents

Verbal assertions regarding the Drill's adoption and implementation are legitimized when select written documents affirm staff participation and performance expectations. Further, inclusion in appropriate written documents (operational policies, job descriptions, staff evaluation instruments) conveys the department's awareness, concern, and commitment to ongoing risk management practices.

4. Staging the *Red Manikin Drill*: the "Who, When, and Where"

The campus recreation department's risk management coordinator (or staff with assigned risk management responsibilities) decides when and where the Drill is to be staged and all certified emergency personnel (including administrators) are expected to participate if appropriate. Routine data collection and analyses provides insightful information regarding when and where the Drill should be staged. For example, staging the Drill exercise in areas experiencing high student traffic and frequent and/or severe injuries is prudent and logical.

5. The post-Drill communication, documentation, and evaluation processes

The overall success of the Drill exercise requires prompt and succinct performance feedback, including comments regarding staff performance strengths as well as areas of needed improvement.



Risk Management in Action: *continued*

Summary

The *Red Manikin Drill* provides recreational entity's and their constituents numerous benefits. Research by McGregor and Associates identifies six recreation industry areas of responsibility most important to the reduction of risk occurrences and the professional implementation of risk management practices. The six categories most directly related to the recreation entity's ability to reduce preventable risks while also better ensuring that encountered emergency situations are handled professionally include (1) general administration, (2) emergency response planning, (3) supervision, (4) training, (5) facilities and equipment, and (6) documentation.

The Red Manikin Drill exercises communicates to all recreation constituencies the entity's commitment to the maintenance of an exemplary risk management culture.

The *Red Manikin Drill* presented above positively influences each of these six categories:

- 1) General administration's support and involvement in the *Red Manikin Drill* clearly communicates the administration's commitment to a professional risk management culture.
- 2) The *Red Manikin Drill* transforms static, written emergency response plans and policies to life, allowing for the ongoing emergency response professional development and opportunities to practice learned skills.
- 3) Decisions regarding the actual time and location of the staged *Red Manikin Drill* reinforce the need for, and corresponding value of, a supervisor's assessment initiatives. For example, data maintained and analyzed on participant use (e.g., facility(ies), programs, and events) and injury occurrences (e.g., type of injury, injury site) assist recreation supervisory decision making in regards to the responsible implementation of the *Red Manikin Drill* and other risk management training details.
- 4) Similar to comments mentioned above, scheduled *Red Manikin Drill* practices perpetuate ongoing professional development trainings, skill improvement, documentation regarding employee goals, skill performance, and communicated evaluation outcomes.
- 5) The *Red Manikin Drill* exercises communicates to all recreation constituencies the entity's commitment to the maintenance of an exemplary risk management culture, a culture proven to preserve investments made in the entity's recreation facilities and equipment.
- 6) The adoption and implementation of the *Red Manikin Drill* exercise reduces risk related to staff and participant challenges by formalizing, communicating, and preserving the Drill-related expectations and performance outcomes throughout the entity's organizational handbooks, policies, job descriptions, staff evaluation documents, and injury incident reports.

Risk management initiatives like the *Red Manikin Drill* are undoubtedly time consuming and challenging given the needed administrator support, document modifications, cooperative staff, and committed resources (personnel time, supplies). However, a quote by Winston Churchill succinctly articulates the rewards that can be realized from the adoption and implementation of the *Red Manikin Drill*.

"Every day you may make progress. Every step may be fruitful. Yet there will stretch out before you an ever-lengthening, ever-ascending, ever-improving path. You know you will never get to the end of the journey. But this, so far from discouraging, only adds to the joy and glory of the climb."



A Proactive Approach to Heat Illness

People are often unaware that they are at risk for heat illness until it is too late.

Robin Wiseman

Assistant Director for Injury Prevention and Care
Campus Recreation
University of Nebraska, Lincoln

Heat illness poses a serious risk to individuals engaging in physical activity, especially when exercising outdoors or in facilities that are not climate-controlled. Unfortunately, people are often unaware that they are at risk for heat illness until it is too late. Even in less-than-scorching heat, high humidity levels can impair the body's ability to cool itself. At the University of Nebraska-Lincoln, Campus Recreation has adopted a proactive approach to dealing with heat illness that involves monitoring conditions, educating patrons, and closing facilities if conditions become hazardous.

To help reduce our patrons' risk of suffering from heat illness, we monitor the temperature in our non-climate-controlled indoor facilities by using wet bulb globe thermometer (WBGT) readings from a digital sling psychrometer. During the warmest part of the year (mid-May through the end of August), readings are taken four times per day (mid-morning, noon, mid-afternoon, and early evening) whenever the outside temperature reaches over 80 F.

The following table, adapted from the consensus statement issued by the Inter-Association Task Force on Exertional Heat Illness, is used to determine the level of risk and the corresponding flag (or color-coded marker) is displayed. If conditions in any of the monitored areas reach the "black" zone, that area is closed until conditions improve. WBGT readings are repeated every 30 minutes in a closed area, and the area is reopened when conditions are no longer in the "black" zone. This policy applies only to our non-climate-controlled indoor facilities.

WBGT Reading	Flag Color	Level or Risk	Comments
<65° F (<18°C)	Green	Low	Risk low but still exists on the basis of risk factors
65°-73°F (18°-23°C)	Yellow	Moderate	Risk level increases as event progresses through the day
73°-82°F (23°-28°C)	Red	High	Everyone should be aware of injury potential; individuals at risk should not compete
>82°F (>28°C)	Black	Extreme or hazardous	Consider rescheduling or delaying the event until safer conditions prevail; if the event must take place be on high alert. Take steps to reduce risk factors (e.g., more and longer rest breaks, reduced practice time, reduced exercise intensity, access to shade, minimal clothing and equipment, etc).

we monitor the temperature in our non-climate-controlled indoor facilities by using wet bulb globe thermometer (WBGT) readings



A Proactive Approach to Heat Illness *continued*

In addition to the large signs that display the color-coded markers representing the current risk level, we also have heat illness info cards available for patrons. These cards contain heat illness prevention tips and general information about the symptoms and treatment of heat illnesses (including heat cramps, heat exhaustion, and heat stroke), as well as our heat illness prevention policy and the table shown above.

For more information on exertional heat illness, see the National Athletic Trainers' Association Position Statement: Exertional Heat Illnesses (Journal of Athletic Training 2002; 37(3):329-343).



What could be worse than operating at risk?
Not knowing that you are.

As an administrator, you have a moral responsibility to do everything possible to ensure your risk exposure is minimized. There may be risk factors in facets of your operation that you're not even aware of. But there's an easy way to find out.

Online Risk Assessment Survey

Our exclusive online Risk Assessment Survey uncovers critical gaps in your risk management plan by identifying your highest risk exposure areas. Here's what the analysis of your survey includes:

- Department and unit percentile scores—risk profiles graphically highlighted
- Graphic comparison of scores with other universities provides a benchmark
- Internal comparisons between program units highlight gaps
- Detailed analysis and breakdown of department and program unit scores
- Problem areas and inconsistencies highlighted
- Strategies for immediate action based on five "Key Risk Areas."
- Top five priorities identified for risk control
- 10 program surveys completed online (Aquatics; Challenge Course; Climbing Wall; Fitness/Wellness; Instruction; Intramurals; Outdoor Program; Summer Camps; Sport Clubs; Weight Room)

Don't risk it. Go to www.StudentLifeRisk.com today!





The Ball is in Your COURT: Hazards in non-activity areas

Katharine M. Nohr, Esq., Nohr Sports Risk Management, LLC



Sports and recreation facilities are challenged not only with making sure that their sports and activities are operated safely, but also that all public areas, including parking lots, pathways and stairs are free of hazards. This is not an easy task when weather and foliage combine to litter the ground with leaves, pine cones, seeds, branches (and snow!) that patrons can slip or trip on.

If your organization chooses to neglect these issues, you may find yourselves with a hefty damages award and lengthy litigation as a tennis club did in **Augusta Country Club, Inc. v. Blake**, 230 Ga.App. 650, 634 S.E.2d 812 (2006). The problem that Augusta Country Club battled with was its magnolia trees, which caused a considerable maintenance challenge, because of the constant shedding of leaves and seed pods during the fall. The tennis director sought to have the trees removed, but club members essentially threatened to fire him if he 'touched' the trees. The tennis director compromised and implemented the following procedure of seed pod removal and control:

1. Employees used blowers on the walkways each morning between 8:30am and 9:00am.
2. The tennis director inspected the walkways each morning to make sure that the removal of Magnolia seeds and pods was done properly.



WALKWAY TO TENNIS COURT

The evidence that was presented at trial was that the procedure set forth above was not followed. The inspections were not done every day. Additionally, it was established that the sidewalks, even when blown in the morning, were not blown again until noon even when the seed pods were constantly falling onto the ground.



The Ball is in Your COURT:

continued

Implement the cleaning and inspection plan and follow up regularly to make sure that it is consistently complied with.

The incident that led to the lawsuit in question arose when Plaintiff Linda Blake was visiting the Club for the first time in order to compete in a tennis match. She was walking on a pathway towards the tennis courts before 9:00 a.m. She walked under a magnolia tree and then down two steps, slipping on a magnolia seed pod on the base of the second step. Plaintiff fell, causing serious injury.

The evidence established that on the day of the incident, the employee that was in charge of blowing the walkway was dealing with an urgent pipe burst repair and so did not do so. The tennis director was not at work that day. The assistant supervisor arrived at the Club at 8:30am, and did not complete an inspection of the grounds. Witnesses testified that the walkway was littered with seed pods, leaves, branches and other debris on the morning in question.

The court determined that the Club did not have a reasonable inspection procedure. Even if it did, it was not followed on the morning in question. The jury concluded that the seed pod was present overnight and that the Club had constructive notice of the hazard.

The court considered whether the Club, in light of the circumstances, was negligent by failing to remove the accumulated magnolia seed pods of which it had knowledge. The evidence supported the Club's negligence and the appellate court concluded that the Plaintiff herself was not negligent. Plaintiff was awarded \$78,000 in compensatory damages.

The steps that you may wish to follow in light of this decision are as follows:

1. Inspect your premises to determine whether you have any problems with foliage that could cause a slipping or tripping hazard.
2. If so, consider whether to remove the source of the problem or whether to institute a cleaning and inspection schedule.
3. If you institute a cleaning and inspection schedule, make sure that it is communicated and understood by those involved.
4. Implement the cleaning and inspection plan and follow up regularly to make sure that it is consistently complied with.
5. Alter the schedule as needed according to the time of year.

Letter to the Editor



One of my current concerns is with rental groups in our facilities and their qualifications even if they have insurance. To what extent should we be concerned about checking their qualifications? With volunteer coaches supervising activities, we assume they are qualified and responsible. But is a community coach qualified to supervise weight training? In addition, we are starting to receive requests from private businesses to run programs in our facility as a facility rental - programs we don't currently offer. Examples are things such as scuba diving, high performance sport-specific training, and 'boot camp' fitness training. The success or failure of these programs has a potential to reflect on us. What have you seen in other facilities regarding external rentals and monitoring of qualifications?

Deb Marek, Manager, Facilities & Services
Sport & Recreation Services, University of Lethbridge

Response:

Rental groups are a concern for sure. There are two types of rental groups:

- a) *Groups that want to rent space and that's it. In this situation, appropriate and adequate insurance is the key. If these groups run their own programs then you really don't have to get involved in the programming aspect and trying to determine if their instructors are qualified or not - that's their issue. Of course, if you see these groups engaged in unsafe practices then you have a duty to do something. Be sure that you obtain a copy of the certificate of insurance to satisfy yourself that it is adequate regarding monetary limits and includes coverage for just this situation*
- b) *Groups that in addition to providing space, also want you to do the programming for them. In this situation the groups would be considered invitees as there is a business arrangement to the benefit of the institution. Therefore the standard of duty of care is foreseeable risk of harm of an unusual danger. If you are currently not doing the type of programming they want, do you really want to get into this? It would be better if you were to tell them that they are responsible for the programming and then send them to an appropriate organization who are qualified to do the programming.*

In any rental situation, the University controls the facility and the user controls the activity (and the risk that goes with it). It is best to keep the relationship on that level.

Shelley Timms, B.A., LL.B., LL.M.
Timshel Services Inc., Timshel@timshelservices.com

The current Newsletter (Vol. 2, Issue #4) is the final in the 07/08 series.
For most subscribers, this issue is also the last in the annual subscription.

Time to renew!

Easy Renewal Procedure:

Complete Subscription Form on back page and fax (toll free) to 888-298-0593

Easy Payment Options (choose one):

- > **Credit Card:** provide credit card # on Subscription Form
- > **Mail payment check with Subscription Form**
- > **Use PayPal** – go online to <http://www.sportrisk.com/newsletter>

To ensure an uninterrupted flow of your Newsletter, re-subscribe today!

For the 2008/09 subscription year, publishing dates for the Newsletters will be as follows:
September; November; February; April, September feature: **Risk Management Planning**



Time to
Renew your
Subscription!

Occupiers' Liability Part II

Licencees

The "licencee" is identified as one who goes onto premises occupied by another with the occupier's consent

Shelley Timms, B.A., LL.B., LL.M.

Timshel Services Inc.
Alcohol Risk Management
Timshel@timshelservices.com

Part I of the series discussed invitees, those who are permitted on an occupied land by the occupier, usually for the benefit of the occupier.

The "licencee" is identified as one who, for his or her own purpose or interest, goes onto premises occupied by another with the occupier's consent or sufferance. It is important to note that consent can be implied as well as express.

Generally, the duty of care owed to the licensee is the duty of reasonable or due care (previously, it was a much lower standard of care, "wilful, wanton and reckless conduct"). A leading case on the duty owed to a licensee and the degree of the duty is from the Supreme Court of Canada by way of Nova Scotia, *Mitchell v. CNR* (1975). A nine year old took a path along a railway embankment. The path was in general use. It was slippery and the child tripped and fell into the way of

a train, losing a leg as a result. There was no signage warning the public of the railway right of way and a fence that had existed, had long since fallen down. It is in this period that the courts are rethinking the duty owed to a licensee as opposed to an invitee. The court stated that the occupier should have considered its awareness of the use of the path, the path's proximity to the tracks and that winter freezing would create an icy and slippery condition. This should have raised a 'foreseeable' risk of harm and a warning should have been made in the form of signage.



An Ontario court was clearer in the obligation owed to a licensee. In the 1980 case of *Urzi v. Board of Education*, the plaintiff was a mother who had taken her daughter to school and on the way home, slipped on the sidewalk controlled by the school. There was a thin veneer of snow over ice. Liability was found on this basis:

1. There was no difference between the duty owed to an invitee and that owed to a licensee;
2. The occupier owed the duty to take reasonable care to avoid foreseeable risk of harm from any unusual danger on the occupier's premises of which the occupier actually has knowledge or of which he or she ought to have knowledge because he or she was aware of the circumstances;
3. The question of what is an unusual danger was important when, in this case, snow and ice are not unusual in Toronto in the winter. However, were the circumstances unusual on a busy walkway in front of a school some time after 9 a.m. in the morning? Further, it was a danger that was easily rectified (with salt and sand) and the defendant had the ability and equipment to deal with the problem.

What the court implied as a consideration is "what is a reasonable expectation under the circumstances?"

Occupiers' Liability Part II

Licencees *continued*

The duty owed to a licensee is basically the same as that owed to the invitee.

A more recent example of the approach to licencees was found in the 2002 Alberta case, *Jetz v. Calgary Olympic Development Assn.* The plaintiff was a cyclist who was thrown from his bike when he hit a speed bump on a road owned by the defendant. The speed bump had only been installed 4 days earlier, and was steeper than mandated by generally accepted road traffic standards (it was similar to those found in parking lots). It was not painted and was difficult to see. While there was a sign, it was on an existing pedestrian crossing warning sign and was posted one foot from the ground. The plaintiff was within the speed limit.

The defendant tried to suggest that the plaintiff was a "trespasser", relying on signs at an unlocked gate stating the road was private, and the cyclists were to ride in single file, wear helmets and obtain tickets although the ticket process was not yet implemented.

The court found that the plaintiff was clearly a licensee as the association encouraged cyclists to use the road, and that the defendant had failed to avoid a foreseeable risk of harm from any unusual danger by placing the speed bump in an inappropriate location, failing to make it visible or provide proper warning signs and installing the wrong type of bump.

As the above case demonstrates, while there will be some cases in which it is easy to determine who is a licensee, there will be others in which it will be far more difficult. If it is determined that there is common usage of premises, although there is no clear consent, in essence, the usage is condoned, then it is quite likely that a licensee relationship will be found. It is clear that the duty owed to a licensee is basically the same as that owed to the invitee.

So you ask "how does this affect me?" Most recreation facilities will find themselves in the position of inviting most of the people who attend the facilities. However, there may be observers who would fall into the licensee class, and there might be participants who are also in the class, such as off-campus users of tracks, campus roadways or paths. The bottom line is that the same duty of care owed to an invitee is owed to a licensee, to avoid any foreseeable risk of harm from an unusual danger. What is clear is if there are premises that are not officially for use, but the campus is aware of usage, this could be seen as condoning the activity and the same standard applies.

There is no magic bullet regarding parameters of 'unusual danger', rather it appears that it is a bit of a moving target. If there is a clear danger, fence off the area and place signage warning potential users that the area is unsafe for usage. If there is a change in the premises, be clear about the change with warnings and signage. Include the area for patrol by campus police/security.

One of the key issues was the effect of snow and ice. As can be seen from *Urzi*, this is a great example of what might not be an unusual danger for the normal homeowner, but for an institution during a time of day when there is higher traffic, the danger jumped to unusual.

Next issue: Trespassers



Risk Management Newsletter for Campus Recreation

Our goal is to provide timely information and practical resources to assist Campus Recreation professionals manage the risk of injury to participants.



Advisory Board

Wallace Eddy
Associate Director,
Campus Recreation,
University of Maryland

Jim Fitzsimmons
Assistant Director
Campus Recreation
& Wellness,
University of Nevada
(Reno)

Shelley Timms
Timshel Services Inc.,
Toronto

Tom Roberts
Director
Recreation & Wellness
University of Richmond

Judith Sperling
Assistant Director
UCLA Recreation
UCLA

Editor

Dr. Ian McGregor,
President,
Ian McGregor &
Associates Inc.

Talk to Us!

Tell us about ...

Your Best Practices (practical, hands-on policies/ procedures/ training programs that really work for you)

Your 'sweaty-palm' issue (what keeps you awake at night). Ask for our feedback!

Your interest in contributing to the 'Risk Management Newsletter' by writing an article for an upcoming issue.

Contact us at mcmgregor@sportrisk.com

Publishing Information

The 'Risk Management Newsletter for Campus Recreation' (ISSN # 1718-4606)

is published 4 times a year by Ian McGregor & Associates Inc., Suite 502 - 1790 Bayshore Drive Vancouver, B.C. V6G 3G5 Canada. Phone: 604.689.4833
The Subscription Rate is \$39.95; single copy price is \$15.00.

The 'Risk Management Newsletter for Campus Recreation' is protected by Copyright. Reproduction or retransmission of this newsletter, or of any portion by any means, is prohibited by law without the express written consent of the corporation. All rights reserved. Copyright © 2006 by Ian McGregor & Associates Inc.

This publication is written as a general guide only. Its contents are intended to be and should be considered risk management counseling only and not legal advice. If legal advice is necessary, the services of a licensed attorney in the appropriate jurisdiction should be sought. The editors and authors of this publication are not responsible or liable for any actions taken or use of content and opinion expressed within this newsletter.

Next Issue

September 2008

Feature Topic:
Risk Management Planning

Future Issues:

- Sport Clubs
- Outdoor Recreation; Challenge Courses and Climbing Walls
- Lightning and pools
- Risk Assessment & Risk Management planning
- Documentation
- Health Screening
- and more...

Subscription Form

Risk Management Newsletter for Campus Recreation

\$39.95 For One Year!

4 Issues In total

Please complete all sections

Name _____

Title _____

Organization _____

Address _____

City _____

State/ Province _____

Zip/ Postal Code _____

Phone Number (____) _____

Email address _____@_____

Signature _____

New Subscription Renewal

For easy payment online using PayPal
go to: www.sportrisk.com/newsletter

OR FAX Subscription Form to: 1.888.298.0593

Credit Card: Visa MC
Card # _____
Expiry ____/____ (Month/Year)

OR

Mail payment check with Subscription Form

USA: PO Box 561, Blaine WA 98231-0561

Canada: Suite 502 - 1790 Bayshore Drive Vancouver, B.C. V6G 3G5 Canada

Payable to McGregor & Associates

You will receive confirmation by email

www.sportrisk.com | Phone 604.689.4833