



Loss Control TIPS

Technical Information Paper Series

Innovative Safety and Health SolutionsSM

Sports: Responsibilities to Participants

Introduction

Regardless of whether a sports activity is intramural, interscholastic, or conducted in conjunction with physical education curricula, a provider of a sports activity has the following responsibilities to the participants:

- Provide appropriate instruction
- Provide adequate supervision
- Provide safe and suitable equipment
- Provide safe and appropriate facilities
- Ensure proper matching of participants
- Provide adequate medical care

Appropriate Instruction

Appropriate instruction includes proper demonstration of the intended activity. Where an activity is new or harbors a hazard that is not readily apparent, the instructor must demonstrate the proper method to be employed. This includes the requirement to adequately warn participants of the hazards involved and instruct them in how to protect themselves.

The demonstration may vary, depending on the difficulty of the task and the age and the skill level of the participants. When a new skill is introduced, the proper and safe method of application should be fully demonstrated before a participant is asked to attempt it. A number of practice attempts may be necessary before the participant is able to fully understand what is expected. Additionally, the person giving the instruction must be fully qualified to do so. An assistant who has not been fully trained should not attempt to instruct others on how to accomplish a skill.

Appropriate instruction also includes proper positioning of equipment. In order to perform a skill, the necessary equipment must be properly positioned so that it does not create an additional hazard. For example, positioning a vault so that there is not sufficient landing area could create the additional hazard for the vaulter, who might run into a wall or other obstruction. Where equipment is portable, the participants should be informed of the minimum distances, etc.

When giving instructions, the language used must be clearly understandable by the participants. This implies that participants of different age, maturity, experience, and skill levels may require instructions to be less or more in depth.



If the instructor tells a student that he/she may do *anything* on the still rings but swing on them, and a student becomes injured because he stood on the rings and attempted to jump backward out of them, the question of “clearly understandable instructions” may be raised. The instructions must attempt to foresee the types of horseplay in which participants might engage that would circumvent the spirit of those instructions.

The physical condition of the participants will also bear on the appropriateness of instructions. Where a participant has a pre-existing injury or is injured during play, the instructor must understand the ramifications of requiring the injured participant to do “too much too soon.”

The instructor should teach the participants to be aggressive and intense (i.e., competitive), without instilling the “killer instinct” that may cause harm to themselves or others. Being aggressive and intense is usually safer than being timid, especially in contact sports such as football and hockey. However, this does not include being vicious or circumventing the rules.

Adequate Supervision

Adequate supervision is concerned with not only the *quality*, but with the *quantity* of supervision. Court cases stand for the proposition that although the prevention of all mishaps is unrealistic (the provider is not the *insurer* of the safety of participants), a ratio of supervisory personnel to participants must be in a range which allows supervisors the possibility of being effective.¹

However, there are no hard and fast rules or standards governing specific ratios of supervisory personnel to numbers of participants (unless they have been imposed by local jurisdictions).

The adequacy of the quantity of supervisors to the number of participants is usually determined by the context of the particular situation. Some court decisions have indicated that a ratio of 1 supervisor to 40 is acceptable, while others have ruled that a 1:20 ratio was suspect (under different circumstances).

The age of the participants, the setting in which the activity takes place, and the nature of the activity all have an impact on how much supervision is required. Certainly, the younger the participant, and the more hazardous the activity, the more critical is the need to provide an adequate number of supervisors.

The question of what is adequate may often be answered by reviewing what is “reasonable under the circumstances.” Is it unreasonable to assume that one supervisor can adequately manage a playground with 150 participants?

Could it be assumed that some of the 150 participants might do something that is dangerous to themselves or others? And could it also be assumed that one supervisor would likely miss seeing a critical number of those activities? If the answer to any of these questions is *yes*, and should an injury occur, then obviously a court might be inclined to say that the quantity of supervision was suspect.

However, the provider must not only assess the *quantity* of the supervision, but also the *quality* of the supervisory personnel. It is critical that those who are placed in the role of supervisor know the requirements of the position and be competent to perform in a supervisory capacity.

If a person who is placed in the position of football coach has never played the game, or does not understand the hazards involved, then that person should not be permitted to undertake that function until they are fully trained to do so. To do otherwise is to endanger the participants and also to place the coach in a position where he/she and the provider might be considered negligent. It is obviously foreseeable that

an inexperienced and untrained football coach might not perceive the danger of a neck injury in teaching a participant to tackle with his head instead of his shoulder.

With regard to quality of supervision, even reasonable supervision will not prevent *all* injuries. However, a number of recurring supervisory issues bear addressing:

- An instructor does not act reasonably in leaving a class unattended while he/she administers to the needs of an injured participant.
- The personnel who are assigned to supervise physical activity settings must be competent to do so.
- Administrators must develop and implement reasonable supervisory plans. These plans must be adequate, not only in specifying the number of personnel provided, but in giving direction to the supervisors regarding their expected conduct and areas of responsibility.²

Safe and Suitable Equipment

Those who provide sports programs have the responsibility to provide safe and suitable equipment to participants.

Equipment must be appropriate for both the activity and the user. This means that a helmet used in playing hockey would most likely not be appropriate for playing tackle football. Also, the equipment selected must conform to the age and skill level of the participants. Obviously, shin guards for a high school baseball catcher would not be appropriate for a little leaguer who is much younger and smaller in stature. The equipment must be properly scaled to the individual participants.

Additionally, one standard that is used to evaluate the appropriateness of equipment (especially for smaller children) is that of “state of the art.” Where state of the art technology makes certain types of equipment obsolete, especially in relation to safety performance, the older equipment should be replaced with the newer, safer models. To do less might be considered negligent in that the provider ignored a safety issue that was known or that should have been known.

Equipment must fit properly. This not only means that the equipment must be of the proper scale, but, within that scale, the equipment must be properly fitted and adjusted to afford the optimum protection and function for the individual. Providers are responsible for knowing what scale is appropriate and how to ensure that the equipment fits properly. Adequate instruction must be provided to participants to ensure that the equipment is properly fitted and used. This implies that some form of inspection for these criteria is also necessary.

Protective equipment must not be removed, even if it hinders optimum performance. If a participant is required, because of a medical condition, to wear a protective device, a coach would be negligent if he/she had the device removed to enhance the individual’s performance and the participant subsequently sustained an injury against which the device could have offered protection.

Warning labels should be affixed in a clearly visible fashion. Where such warnings are a permanent part of the equipment, they must be visible so that the participants have the opportunity to read and understand potential hazards. Although warning labels may not change a participant’s behavior, court cases have been decided on the basis of whether the participant had an opportunity to see and understand the hazard described in the warning before he/she acted.

Adequate equipment inspection and maintenance programs must be developed and implemented. Appropriate documentation should be part of this process. Prior to permitting participants to use

equipment, the equipment should be thoroughly inspected and, if necessary, repaired, maintained, or replaced. Inspection and maintenance should conform to manufacturers' suggested maintenance programs. Document when the item was inspected, when maintenance activities were completed, when the item was repaired, or when it was replaced. Indicate who performed the activity by using a sign off process.

Safe and Appropriate Facilities

Those who provide sports programs have the responsibility to provide safe and appropriate facilities to participants and spectators.

A person's legal status dictates the required level of care. A person's legal status may be one of the following:

- *Invitee*. As the name implies, an invitee is someone who is invited to the premises as a guest and who must be afforded ordinary care. Ordinary care is that of the reasonable person under the circumstances where there is a perceived duty to act, or not act, to prevent injury to persons or damage to property.
- *Licensee*. A licensee is permitted on the property to perform a function (e.g., the person who reads the electric meter). Licensees are not invited, but are permitted to accomplish their purpose. The duty to licensees is only to refrain from willful or wanton conduct.
- *Trespassers*. Trespassers are persons who have no need to be on the premises and in fact are not given permission (either directly or implied) to be on the premises. The duty to trespassers is only to warn of any highly dangerous artificial condition the trespasser is not likely to discover.

The person's legal status can be critical in determining a provider's culpability where an injury has occurred on the premises. Linda A. Sharp states the following example:

“An excellent example of this point [legal status] is found in a case decided by the Supreme Court of Ohio. The injured individual was a minor who accompanied her mother to the defendant university to use its recreational facilities which were open to the public without charge. In the locker-room, the minor pulled some lockers, which were not secured to the wall, over on herself. The decision was favorable to the university because the minor and her mother were held to be licensees rather than invitees. The university, in such a case, was not liable for ordinary negligence. The duty was only to refrain from wantonly or willfully causing injury. [Light v. Ohio Univ., 502 N.E.2nd 611 (Ohio 1986)]”³

For invitees, the provider must act as a reasonable and prudent operator to make the facility reasonably safe. Most, if not all, participants would be classed as invitees. As such, the provider has three obligations:

- Inspect the facility to discover defects or hidden hazards. This might include, for example, inspecting the outfield of a baseball diamond to uncover depressions or uneven terrain that could become tripping hazards. It could also include inspecting a building to determine that all required emergency exits are operational.
- Remove or repair defects, or warn users of the hidden hazards. Filling in the holes or depressions in the baseball diamond is an example.
- Use reasonable precautions to protect users from foreseeable harm.

Providers can be held to have had “constructive knowledge” of hazards. In other words, they “should have known.” A regular inspection and maintenance program would be expected to uncover any hazards. Therefore, absent such programs, the administrator “should have known,” or he/she had “constructive knowledge.”

Proper Matching of Participants

Providers of sports programs have an obligation to try to match participants according to:

- Size
- Strength
- Skill level
- Maturity

Where sports involve physical contact, size and strength can vary among participants of similar ages. However, to the extent reasonable, the provider should not match participants of significantly different size and strength. The issue is that the smaller, less strong, participant may sustain injury, and the possibility of such an occurrence is certainly foreseeable. Therefore, a provider should use caution when attempting to have his/her team included in a conference of teams with significantly superior size and strength.

The issue also extends to the skill level and maturity of the participants. Where a participant is obviously less skilled and less developmentally mature, the provider is asking for trouble if he/she matches the participant with someone of superior skill and maturity; again, the possibility of injury is certainly recognizable. An example might be having a less skilled wrestler attempt to wrestle the state champion. Should an injury occur to the less skilled participant, the question of proper matching of participants will surely become an issue.

Although the issue of proper matching usually involves contact sports, non-contact sports can also involve improper matching. In one case, a student who was injured in a soccer game prevailed in the lawsuit, based on the provider’s failure to match participants by height and weight. The student had been injured as he collided with a much larger student. In this case, no effort was made by the teacher to segregate the participants by size.

Adequate Medical Care

Providers of sports programs are also responsible for being able to provide adequate medical care. There are two basic obligations: to render emergency first aid assistance until medical personnel arrive, and to exercise reasonable care in procuring medical treatment for the injured party.

Regarding provision of emergency aid, it would seem to be obvious that coaches or teachers should have some basic first aid and CPR skills. Coaching or teaching assistants and trainers should also be competent in these skills. Where this is *not* the case, a foreseeable injury could create a liability potential for the provider where the absence of first aid or CPR training makes the outcome of any injury more severe or debilitating. An example might be where an inadequately trained coach or assistant causes an injured player to become paraplegic because they move him despite his having suffered an injury to the neck.

A second obligation is understanding when it is necessary to procure adequate medical treatment. This involves the establishment of, and training in, emergency medical procedures. This should include the issues discussed above, but should also include training in *when* to engage professional assistance. For

example, should a participant be overcome by heat and heat stroke is a possibility, emergency procedures should outline how to recognize the symptoms and the necessity for summoning medical assistance immediately. To do less is to invite significant liability.

Summary

Two areas that can lead to problems for providers of sports activities are *inappropriate instruction* and *inadequate supervision*.

Proper *instruction* includes:

- Proper demonstration
- Proper positioning of equipment
- Use of clearly understandable language
- Understanding the participant's physical condition
- Not condoning activities that may win the game, but which pose a danger to participants
- Teaching players to be aggressive and intense (i.e., competitive) while maintaining safety

Adequate *supervision* includes:

- Adequate *quantity* of supervision
- Adequate *quality* of supervisory personnel

Providers of sports programs have a responsibility to provide safe and suitable equipment. This means that equipment must fit properly, contain all required protective equipment, have appropriate warnings, and be inspected and maintained. In many jurisdictions, the standard of quality is that of "state of the art."

Providers also have the obligation to provide safe and appropriate facilities. This means that the provider must have an adequate inspection and maintenance program. To do less would imply that the provider had "constructive knowledge" of a foreseeable defect.

Participants should be matched according to size, strength, skill level, and maturity. Where a provider attempts to place his/her team in a position of superiority by playing teams that are obviously inferior in one or more of the above areas, the risk of injury to participants is foreseeable and can create liability.

The requirement to provide timely first aid and to have procedures for summoning necessary professional medical assistance is also critical in avoiding potential negligence allegations.

References

1. Linda A. Sharp. *Sport Law*. National Organization on Legal Problems of Education, Inc., 1990, p. 4.
2. *Ibid*, pp. 6-7.
3. *Ibid*, p. 21.

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