

# **Risk Management Practices of University Physical Education Activity Supervisors**

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## **INTRODUCTION**

A well-organized and properly administered physical activity program can have significantly positive effects on the lives of its participants. Unfortunately, even well managed activity programs can and do produce participant injuries. In today's litigious society, these injuries, if serious, frequently generate lawsuits.

Lawsuits are not only a financial burden but also can be costly in terms of time, energy and reputation. Therefore, it is vital that physical activity personnel incorporate appropriate procedures and precautions to ensure the safest possible environment for their participants. The process of systematically identifying situations that may expose participants to unreasonable risk or harm and then, taking corrective actions to reduce or eliminate this exposure is referred to as risk management (Brown, 2001).

Risk management is more than a safety checklist (van der Smitsen, 2001). It is a strategy that supports an activity supervisor in developing a plan to prevent legal disputes from occurring and intervening when a potentially litigious situation arises (Masteralexis, Barr, & Hum, 1998). An excellent method for establishing an effective risk management plan is referred to as the D.I.M. Process. This process consists of three steps: 1) *developing* the risk management plan, 2) *implementing* the risk management plan, and 3) *managing* the risk management plan (Ammon, 1997). It is crucial that the supervisor understands that all three of these steps must be followed in order for the risk management plans to be effective.

## PURPOSE OF THE STUDY

Other investigations regarding risk management practices have involved specific populations within athletics, however, no other investigations have been conducted relating to university physical education activity classes. University physical education activity classes often have the largest number of offerings and, therefore, service the greatest number of students at any American university. Because these classes involve physically mature individuals moving at high speeds in confined areas, they are inherently risky (Tillman, Voltmer, Esslinger, and McCue, 1996). When an incident happens and the question of legal responsibility is considered, the management of risk practices of the physical education activity supervisor, deemed to be professionally qualified to manage all activities in a reasonable and safe manner, is certain to be analyzed. Due to this concept, the purpose of this investigation was to determine the risk management practices of physical education activity supervisors based on the following:

1. To what extent did physical education activity supervisors develop, implement, and manage a risk management plan for their program?
2. To what extent were physical education activity supervisors familiar with risk management standards as outlined by the American College of Sport Medicine (ACSM), National Association for Sport and Physical Education (NASPE), or the National Intramural-Recreation Sports Association (NIRSA)?

## PROCEDURE

This study was a descriptive investigation using a questionnaire consisting of 17 multiple-choice questions that was developed by the investigators. The content validity of this instrument was obtained through a pre-evaluation by five experts in the field of risk management or legal aspects of sport. Each of these individuals was asked to rate the questions for clarity, usefulness, and accuracy. The questionnaire was modified as a result of the pre-evaluation.

Five hundred university physical education activity supervisors throughout the United States were randomly selected. Addresses of the randomly selected population were identified by using the American Universities and Colleges (1995) website. All questionnaires were sent to individuals who were identified as either the department chair or supervisor of the physical education activity program. A letter accompanied all questionnaires asking, in instances that a physical education activity supervisor was not identified through the website, the department chair to deliver it to the appropriate

person or complete and return the questionnaire themselves. All information obtained from the respondents was voluntary and kept strictly confidential by the researchers.

## RESULTS

### Demographic and Program Data

The original and one follow up mailing of the questionnaire yielded a return rate of 43% (N=214). Table 1 identifies the pertinent demographic data for the respondents. The data indicated that 206 (97%) were involved in the direct supervision of the institution's physical education activity program. Direct supervision was described, in the letter to the respondents, as having the primary responsibility for the training and management of the individuals involved in conducting the physical education activity classes at their respective institution. Of the respondents, 204 (95%) were responsible for the hiring of the teaching staff. One hundred and twenty-seven (59%) of the respondents had been employed in their supervisory capacity for five years or less.

TABLE 1

Demographic and Program Data	Number	Percent
Do you directly supervise the physical activity program at your institution?		
Yes	206	97
No	8	3
Are responsible for the hiring of the staff?		
Yes	204	95
No	10	5
How long have you held your current position?		
Less than 1 year – 5 years	127	59
6-10 years	62	29
More than 10 years	25	12

What is the average size of the physical activity classes that you supervise?		
10-15	23	11
16-20	48	22
21-25	88	41
26-30	55	26
How many instructors teach each of the physical activity classes?		
1	214	100
2	0	0
3	0	0

All of the respondents indicated that there was one teacher responsible for each physical education activity class. Eighty-eight (41%) of the respondents identified that the average class size of a physical activity class was between 21-25. Fifty-five (26%) of the respondents identified that the average size of a physical activity class was between 26-30. Forty-eight (22%) identified that the average class size was between 16-20.

#### Risk Management Practices

Table 2 shows that 141 (66%) of the respondents did not have a written risk management plan for their department. In the letter to the respondents, a written risk management plan was identified as the existence of clearly written procedures and policies designed to increase the safety of the students. Fifty-three (73%), of the 73 respondents who did possess a written risk management plan, did not enforce it. Enforcement of the risk management plan was defined as educating, verbally and in written form, the student of the potential hazards and consequences of not following the established safety rules.

TABLE 2

Risk Management Practices	Number	Percent
Does your department have a written risk management plan? If not please go to question 3.		
Yes	73	34
No	141	66
Does your department <i>enforce</i> the written risk management plan?		
Yes	20	27
No	53	73
If your department does not have a written risk management plan, please identify why not. Check all that apply. Do not answer if your department <i>does</i> have a written risk management plan.		
No perceived need	93	66
Not enough time to develop and implement a plan	62	44
Lack of staff risk management expertise	43	30
Insufficient budgetary resources	15	11
Do you believe that having a written risk management plan will make conditions safer for the participants?		
Yes	111	52
No	103	48
Has the physical education activity program at your institution ever been involved in litigation due to an injury to a student while you have been in your present position?		
Yes	31	14
No	146	68
Do not know	37	17
Have any participants, in the physical education activity program, been injured severely enough to require medical attention while you have been in your present position?		
Yes	37	17
No	157	73
Do not know	20	10
Would the application and implementation of a risk management plan decrease the likelihood of litigation?		
Yes	128	60
No	56	26
Do not know	30	14

The 141 respondents who did not possess a written risk management plan were asked to identify the primary reasons. Ninety-three (66%) of the respondents stated that there was no perceived need for a written risk management plan in their physical education activity program. Sixty-two (44%) of the respondents indicated that they did not have the time to sufficiently develop a risk management plan due to other duties. Forty-three (30%) of the respondents indicated that they had insufficient expertise to develop and implement a risk management plan, while 15 (11%) identified insufficient budgetary resources. However, 111 (52%) of the respondents indicated that having a written risk management plan would make conditions safer for the participants.

One hundred and forty-six respondents (68%) stated that their program had never been involved in litigation. Additionally, 157 (73%) reported that they did not have a reported serious injury in the past five years. A serious injury was defined as an injury that resulted in the participant requiring professional medical attention. When asked if the application and implementation of a risk management plan would likely decrease potential litigation, 128 (60%) replied in the affirmative.

#### Familiarity of Risk Management Standards

Table 3 shows the levels of familiarity, by the respondents, regarding standards of risk management areas as outlined by ACSM, NASPE, or NIRSA. In the letter to the respondents, familiarity was identified as the personal awareness and understanding of the area of risk management as defined by one of the aforementioned organizations. One hundred and thirty-one (61%) of the respondents indicated that they were familiar with the professional standards of risk management such as duty, breach of duty, reasonable standard of care, and foreseeability. One hundred and forty (65%) were familiar with staff training standards. One hundred and sixty (75%) reported that they became familiar with recommendations for providing a safe facility through such elements as periodic site inspections and safety checklists. One hundred and thirty-one (61%) expressed a familiarity with the need for a written policy and procedure manual detailing emergency response plans.

TABLE 3

Familiarity of Risk Management Standards	Number	Percent
Are you familiar with professional standards regarding duty, breach of duty, reasonable standard of care, and foreseeability?		
Yes	131	61
No	83	39
Are you familiar with staff and in-service training standards?		
Yes	140	65
No	74	35
Are you familiar with the standards for periodic site inspections and safety checklists?		
Yes	160	75
No	54	25
Are you familiar with the standards to provide written policies and emergency response plans		
Yes	131	61
No	83	39
Where did you primarily obtain your familiarity with risk management standards? Check all that apply.		
Classroom instruction	48	22
Attending seminars/conferences	108	50
Reading publications and journals	86	40
Other	14	6

When asked where the respondents obtained their familiarity with the areas of risk management, one hundred and eight (50%) obtained their familiarity through attending seminars and/or conferences on a regular basis. Reading articles in refereed magazines and journals was selected by 86 (40%) of the respondents. The least cited way of obtaining information regarding risk management was classroom instruction with 48 (22%) responses.

### DISCUSSION

As with any study that is predicated on survey distribution there are limitations. The primary limitation of this investigation was the less than 50% response rate from the addressees. Potential reasons for the lack of return are:

a) the mailings may have gone to the departmental chairperson who neglected to return it; b) the mailings may have gone to the departmental chairperson who may not have delivered it to the appropriate person, or c) the physical education activity supervisor may have been burdened with additional duties and neglected to return the questionnaire. However, due to the size of the randomly selected population, the number of return mailings was adequate due to its homogeneity (Patten, 2001).

The results of this investigation make it apparent that the surveyed population was oxymoronic in several of the responses when the following are considered:

1) The majority (66%) of respondents did not possess a written risk management plan for their programs yet; a) 61% were familiar with the need for a written policy manual detailing appropriate risk management procedures; b) 52% held that having a risk management plan would make the conditions safer for the participants; and c) 60% believed the implementation of a risk management plan would likely decrease potential litigious situations.

2) Of the minority (34%) who did possess a written risk management plan, more than half (53%) did not enforce it.

The results of this study strongly indicated that over 65% of the physical education activity supervisors who responded have not developed nor implemented an effective risk management plan for their respective programs. The respondents identified no perceived need and lack of time to develop and implement a risk management plan as the two primary reasons for the lack of a risk management plan for their program.

These findings defy the assertions of Seidler (1998) and Cooper (1996) who stated that a failure to develop a written risk management plan may lead to potential litigation against the institution. A need for a written risk management program was further supplied by Girvan & Girvan (1993) who stated, "[i]t is no longer enough to follow recommended practices to reduce risk, but to verify those practices in writing to provide protection in the courtroom" (p. 27). A department should have a written risk management plan to best assess the potential danger and develop a solution to that danger (Bridges & Roquemore, 1996).

Ironically, over 50% of the respondents reported that having a risk management plan would make the conditions safer for the participants. Additionally, 60% of this study's respondents felt that the implementation of a risk management plan would likely decrease potential litigious situations.



Disturbingly, of those respondents who did have a written risk management plan, almost 75% did not enforce it. This finding is supported by previous studies (McGregor & MacDonald, 1990; Hall & Pitman, 1993) that found that most directors know about the risk management concerns and potential legal ramifications but tend to lack the organizational skills to effectively enforce a risk management plan.

However, this discovery is in disagreement with Arnold (1989) who stated that enforced risk management "... may be the best defense yet against the consequences of inadequate supervision" (p.71). A risk management plan is rendered useless if the patron(s) are not educated about potential hazards or if the consequences for infractions are not enforced (Ammon, 1997). Gregg (2000) acknowledged that the effective supervisor must attempt to describe and have the participating parties recognize and understand the potential inherent risks of physical activity thereby decreasing the likelihood of future potential litigation. Although, the patron may be responsible for assuming some of the risk inherent in physical activities, Kaplin & Lee (1997) wrote, "... risk management can implement the institution's humanistic concern for minimizing and compensating any potential injuries that its operations may cause to innocent third parties" (p. 128).

While the idea of risk management is a vital lesson an individual can learn by taking classes in sport law (Masteralexis, et. al., 1998), the results of this investigation showed that less than 25% of this study's population gained a comprehension of the concept of risk management in an instructional setting. Young & Jamieson (1999) have implored colleges and universities to offer future physical activity supervisors a "... comprehensive risk management curriculum, which is aligned with current court decisions and standards" (p.160). Simmons (2001) found that only one elective sport law class was offered throughout 16 university kinesiology departments in California universities. The primary reason for this finding reflected the respondents' belief that "... sport law issues are subject specific and best taught by integrating the material into existing classes required for each specialization" (p. 76). Young (2001) analyzed the contents of the legal offerings within university sport management programs. While 42 of the 62 respondents identified that a legal aspects course was offered, neither the depth nor the degree to which it had been discussed could be addressed.

Educating an individual allows a person to learn how to identify and make reasonable choices regarding a foreseeable circumstance (Hergenhahn, 1994). While the relative unimportance of educating individuals about the importance of risk management is quite disturbing, it cannot be the sole reason for the lack

of the development, implementation, and management of an effective risk management plan.

Judge Oliver Wendell Holmes is credited with saying that the life of the law has not been logic; it has been experience (Holmes, 1881/1963). The findings of this investigation support his notion as it relates to risk management. Most of the responding population revealed that their program had never been involved in litigation nor had a significant injury occurred in the past five years. Therefore, it is not surprising that the majority of the respondents revealed that the primary reason for the lack of a written risk management plan was the lack of a perceived need. What an individual should have foreseen often depends a great deal on the knowledge and information he has or should have had (Dobbs, 2000). Without previous experience, the likelihood or probability of an incident occurring may be seen as no longer a factual consideration by the supervisor (Vickers, 2001). Thus, the theory of probability enters into the discussion.

This investigation was not originally intended to delve into the theory of probability as it pertains to risk management. However, previous research provides an impetus to understand, theoretically, the practices of others specifically in the realm of risk management (Clement, 2001). The theory of probability follows that once the frequency of an incident occurring over time becomes small enough, effectively equaling zero, the potential of the incident occurring may be viewed as outside the range of appropriate concern (Rescher, 1983). Thus, the notion of probability is equal to the number of cases that are directly known by the observer to be possible (Reeves, 1988). Vickers (2001) further states that probability lies between possibility and necessity. The theory of probability, in regards to the lack of the development, implementation, and management of risk management, could be the result of the respondents not having previously been involved in litigation thereby negating the necessity of a written risk management plan even though they indicated the possibility an injury may occur in the future. Kaiser (1986) supported this contention by indicating that a supervisor might not be concerned about litigation since no previous injuries have been severe enough to necessitate legal action.

If an incident has not ever previously occurred, how foreseeable are the potential risks for an individual who lacks experience and/or education? Reeves (1998) stated that probability is a subjective component that can vary from one person to the next depending on their experience and/or education. According to Vickers (2001), to solely use deductive reasoning when incidences that have not previously occurred or knowledge is minimal presumes logical omniscience. Korcz (2000) proposed that a person's reason

for doing anything be justified through hard data or the individual will not be able to reasonably develop, implement, or manage a plan.

For all of these reasons, an individual who lacks experience and/or education in sport law, specifically risk management, may not develop, implement, or manage a written risk management plan until an incident of such severity occurs to a participant that it necessitates litigation thereby increasing the frequency of an incident has over time.

### SUMMARY

To the knowledge of the investigators, no other study regarding risk management has been conducted with a comparable sample size for the population selected. The population was selected as the persons within it dealt with a large number of physically mature individuals in a physically active instructional setting. As the setting was instructional, the supervisor was deemed to have a duty for student safety through the theory of vicarious liability. As such it is the responsibility of the physical education activity supervisor to develop, implement, and manage an effective risk management plan. From the results of the population, three implications arose.

The first implication is, though familiar with risk management standards, the supervisors in this study possess neither the classroom education nor litigious experience to fully comprehend the need for the development, implementation and management of an effective risk management plan in their programs. No one is omniscient, but by failing to place a high degree of importance on effective risk management and therefore, participant safety, physical activity supervisors are legally, ethically, and morally derelict in their duties.

This leads to a second implication. Legally, physical education activity supervisors seem to be ignoring their duty to the participants due to their inaction, according to this study. This is particularly alarming in that effective risk management procedures may be learned, but the opportunities to do so are significantly few. Unfortunately, this finding supports the literature that has identified that supervisors of physical activities have been given very little, if any, knowledge of risk management in an instructional setting. By not preparing themselves or their staffs to appropriate risk management procedures they expose themselves and/or their institutions to potential litigation.

A third implication affirms the position by Appenzeller (1998) who revealed that supervisors involved in physical activity often understand the need and value of a risk management plan but tend not to implement it due to

a perceived lack of importance. Although the respondents indicated that the possibility of having a written risk management plan would make the environment safer for the participants, they did not perceive the necessity of developing, implementing and managing one. By not having experienced a number of injuries (frequency) while in their positions (time) their perception of the probability of incurring a litigious situation may be improbable. When this perception is coupled with not having previously studied sport law in the area of risk management, the majority of physical education activity supervisors do not possess the initiative or comprehension to develop, implement, and/or manage an effective risk management plan.

From the results of this study, it is apparent that potentially thousands of university students, engaged in physical activity classes, might be unreasonably exposed to risks that could be foreseen due to apathy, neglect, or ignorance on the part of the supervisor. As improbable as the occurrence of severe injuries to physically active participants may be, it does not excuse the supervisor from his or her primary duty of providing a safe environment.

Therefore, we recommend that individuals, in charge of the supervision of physical activity, develop, implement, and manage a written risk management plan by considering the following:

- 1) Study risk management from both the theoretical as well as practical viewpoints by taking classes and attending physical activity risk management related conferences. When attending classes and/or conferences do not be afraid to ask any question in which there is uncertainty.
- 2) Develop an understanding that the probability of a severe injury in physical activities always exists. Since probability exists between possibility and necessity, the physical activity supervisor should take the proactive initiative and develop, implement, and manage a written risk management plan before it is needed.
- 3) Consult with an expert in the area of risk management in physical activity. This may include the utilization of the university counsel. Seeking appropriate legal advice may be a perceived time consuming difficulty but being in litigation is even more so.
- 4) Involve other members of the department to help develop, implement, and manage a risk management plan by distributing information regarding the importance of a written risk management plan. Through this involvement other department members may help to enforce it.

## AUTHORS

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