

The Risk Management Exercise: A Practical Learning Activity for Legal Courses in Recreation and Sport

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Introduction

Participation in recreation, sport, and fitness activities creates a risk for injuries and financial loss. A proper risk management plan should assist with controlling and reducing many risks facing today's recreation and sport managers. In today's litigious society, it is therefore important for students entering the profession to learn and apply the principles of risk management.

Risk management can be defined as "controlling the financial and personal injury losses from sudden, unforeseen, unusual accidents and intentional torts" (Ammon, 2003, p. 296). A risk management plan does not need to be complex, but it must be carefully prepared. Dougherty, Goldberger and Carpenter (2002) claim "that it is a process of determining circumstances in which losses are most likely to occur, and then designing and implementing policies to minimize the likelihood of their occurrence. Accordingly a sound program of risk management must not only identify and reduce the potential occurrence of losses, it must include appropriate steps to minimize the impact of those losses that cannot be prevented" (p. 20). Risk management also enables recreation and sport organizations to offer programs and activities they deem desirable. Additionally, these organizations have an ethical responsibility, not just a legal responsibility, to their participants, to reduce the possibility of personal injuries, and not just the financial costs associated with injuries and lawsuits (van der Smissen, 1990, §23.2).

Developing a risk management plan typically includes three separate parts: (1) identifying the risks, (2) classifying the risks, and (3) selecting methods to treat the risks (Ammon, 2003). Once a plan is developed it must be implemented and properly managed. The first task in developing a risk management plan is to conduct a detailed assessment of the program to identify potential risks, both human and financial. Secondly, the identifiable potential risks should be classified according to how often they may occur (frequency: low, medium, high) and the magnitude (severity:

low, moderate, severe, catastrophic) of the potential loss to the organization. The magnitude of the loss is determined by the severity of the potential injury or financial loss to the organization. Third, the risk management plan determines a treatment for every identified and classified risk. Treatment approaches include (1) avoiding or eliminating risk(s) (i.e., removing a diving board or slide from a swimming pool), (2) transferring risk(s) (i.e., use of a liability waiver, obtaining proper insurance, hiring an independent contractor), (3) retaining risk(s) (i.e., planning and budgeting for low severity risks, also referred to as self-insuring), and (4) reducing risk(s) (i.e., hiring competent staff, training staff, providing warnings, conducting inspections, preventive maintenance, adherence to appropriate standards, planning and practicing for medical emergencies, proper documentation). Once a risk management plan is developed, it must be effectively implemented. Therefore, the process should include the development of written policies and procedures for implementing the treatment decisions (Hronek & Spengler, 2002).

An effective way to introduce students to the basics of the risk management process is to utilize the *Risk Management Exercise*. This learning activity is a creative, hands-on method of enhancing risk management knowledge through the application of classroom knowledge in a practical, real world, recreation or sport setting. While engaged in this activity, students identify potential risks, classify those risks, identify potential methods for treating those risks, and describe how they would implement their risk treatment plan. Finally, students present their project in an interactive class environment. The *Risk Management Exercise* is an excellent learning activity for undergraduate and graduate legal courses, as well as for administration courses with a legal/risk management component.

Description of the Learning Activity

The following is a summary of the typical *Risk Management Exercise*:

- Individual students choose an actual recreation/sport-related program or activity (i.e., playground, park, swimming pool, fitness center, sports field) in which to conduct the exercise.
- Students inspect the area and identify two or more potential risks (i.e., a playground with an inadequate user zone or protective surface, a swimming pool without depth markers or proper fencing, a fitness center with damaged equipment or improper equipment spacing, a sports field/court with inadequate buffer zones or unpadded walls/posts, etc.).
- Students (after obtaining proper permission if appropriate) take at least one photograph (digital photographs and videotape are also acceptable) of each potential risk.

- Each student must also complete the *Risk Management Exercise* form (see below; Hronek & Spengler, 2002) for each of the two potential risks. In addition to describing the potential risk, they must also (1) describe the type of injury and lawsuit (i.e., negligence for failing to maintain equipment, for failing to warn, for failing to meet local codes, etc.) that may result from the risk, (2) classify and evaluate the potential risk/injury according to severity and frequency, (3) describe how they would treat the potential risk (i.e., signage, supervision, warnings, maintain and inspect equipment, eliminate, etc.), and (4) identify how they would implement their plan (staff training, printed guidelines, create or modify policies, etc.).
- Students must also provide supporting information that could be used to evaluate the applicable standard of care (i.e., similar case law examples; statutes/codes; rules of a sport; the program's own policies or rules; standards/guidelines/position stands from governing bodies and professional associations, community standards, etc.), if a hypothetical injury/death did occur as a result of the risk they identified.
- Finally, each student must describe their identified risks and present their photographs (via a computer projector, VCR/TV, document projector, etc.) to the class during a specified class period. Each brief presentation concludes with the opportunity for class comments and a short discussion.

Outcomes

The outcomes from the *Risk Management Exercise* and the benefits to students are numerous. These include but are not limited to:

- Public speaking. Students have the opportunity to improve their public speaking skills by orally presenting their *Risk Management Exercise* to the class. Students should also be required to use audiovisual aids when presenting (i.e., PowerPoint, video, websites, overheads).
- Applied knowledge. In addition to the risk management information provided in class lectures and assigned readings, students actually apply the basics of the risk management process. For example, students are exposed to the process of identifying and categorizing potential risks, and then must identify methods that could be used to treat such risks.
- Research skills. Students must identify information that could be used to evaluate the applicable standard of care if an injury/death did occur as a result of the risk they identified. This often requires a visit to a law library or the use of an electronic database such as *Lexis/Nexis Academic Universe*.

- Creative, enjoyable learning experience. Students enjoy the challenge of identifying, classifying, and treating potential risks that pertain to their own professional and/or personal interests (some students choose to perform this exercise on their own campus, apartment complex (exercise facility, swimming pool), local playground, health/fitness club that they belong to, etc.).

Recommendations

The *Risk Management Exercise* requires proper introduction and instruction prior to conducting the activity. Suggestions for timing, preparation and instruction include:

Developing the appropriate time frame for the activity. The *Risk Management Exercise* should be assigned after students have been exposed to certain legal concepts and have an understanding of the risk management process. The instructor may wish to limit the total time for each individual presentation (i.e., five minutes) as they can become lengthy and contribute to a lack of class interest. Another suggestion, for presentation and discussion purposes, is to group common programs/activities together (e.g., all aquatic facilities are presented, followed by all playgrounds, parks, fitness centers, sport fields, etc.).

Providing instruction on legal concepts. Students should have a thorough understanding of the basics of negligence liability and standard of care prior to the *Risk Management Exercise*. This ensures that the activity and presentations run more smoothly and that students can adequately apply these concepts to the exercise.

Assigning the *Risk Management Exercise*. An adequate amount of time (i.e., two weeks) should be provided from the time the activity is assigned to the time it is due. This allows students to identify, locate and visit different sites before choosing one for the activity. It also allows ample time for the development of photographs, and for conducting the research that may be required to identify materials that could be utilized to evaluate the standard of care.

Conclusion

The *Risk Management Exercise* is an enjoyable learning activity for both the students and the instructor. It is also an effective, practical, hands-on method to introduce the risk management process. Students are introduced to risk management skills they may someday use to improve the safety, and decrease the liability, of the programs and activities they supervise or manage.

References

Ammon, R., Jr. (2003). Risk management process (pp. 296-307). In *Law for recreation and sport managers* (3rd ed.). Cotten D.J. & Wolohan, J.T. (Eds.). Dubuque, IA: Kendall/Hunt.

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Hronek, B.B. & Spengler, J.O. (2002). *Legal liability in recreation and sports* (2nd ed.). Champaign, IL: Sagamore.

van der Smissen, B. (1990). *Legal liability and risk management for public and private entities*. Cincinnati, OH: Anderson.

Risk Management Exercise

Name _____

Choose a recreation/sport-related location (sports facility, fitness center, playground, park, swimming pool, etc.) to conduct your risk survey. Inspect the area(s) and find two potential risks. Fill out both sides of this form using your knowledge of legal concepts and the risk management process. Take at least one photograph (digital & videotape are also acceptable) of each potential risk and submit them with this completed form in class on the assigned date. Use additional pages for answers if needed. Come prepared to discuss your survey with the class.

Risk survey location and assessment date: _____

I. FIRST RISK

A. Risk Identification:

1. Describe the risk: _____

2. Describe the type of injury that could result: _____

3. Describe the type of lawsuit that could result: _____

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4. What specifically could be utilized to evaluate the standard of care in such a case? (e.g., case law, statutory law, foreseeability, failure to meet standards/guidelines)

B. Risk Classification:

1. How severe could this potential risk be? (1 = low; 5 = catastrophic)

1 2 3 4 5

Explain _____

2. How often could this potential risk occur? (1 = rarely; 5 = often)

1 2 3 4 5

Explain _____

3. What is your evaluation of the risk: ____ Low ____ Moderate ____ High

Explain _____

C. Risk Treatment:

1. What could you do to treat this specific risk? List and describe all available options. Specify the one you would most likely choose and provide a justification for your choice.

D. Risk Management Implementation:

1. List the policies and/or procedures you would put into place to treat the risk. Provide a detailed explanation.
