As a responsible administrator you want to provide a safe and equitable youth sport program. Thus, you’ll need to think about ways to manage the risks of participating in your program. The best way is to have a comprehensive risk-management program, which we’ll help you develop in this chapter. Our focus will be on nonprofit organizations that have volunteers serving as coaches and helpers in other capacities.

Risk refers to the probability of loss, either to people’s well-being or to their property. As a youth sport administrator, you may or may not be responsible for developing a risk-management plan and developing policies that help reduce risk, but you certainly will be responsible for implementing policies to manage risk. You will want to manage risk for three groups:

1. The children participating in your program
2. Your coaches, officials, parents, spectators, and yourself and your staff
3. Your organization

We all recognize the litigious nature of our society. No doubt you’ve heard about some of the frivolous lawsuits filed against youth sport organizations and the ridiculous judgments that award astronomical sums of money to people for what seemed to be their own carelessness. These relatively few but highly publicized cases capture our attention and cause us concern about our own exposure to the risk of a lawsuit.
While we need to manage the risk of litigation, we want to focus on a more positive reason for managing risk: **to provide the safest and fairest environment possible for your program’s participants.**

The secondary reason for risk management is to reduce the risk of liability. In fact, the best way to reduce the risk of liability is to provide the safest, fairest environment possible.

Risk management is more than buying insurance. It’s a systematic plan for identifying and reducing risk, while recognizing that in most cases you cannot entirely eliminate it. In this chapter we’ll show you how to develop a risk-management plan that consists of four steps:

1. Identifying the risks in your program
2. Evaluating the risks to determine the probability and severity of their occurrence
3. Determining ways to deal with the risk by one or more of four means:
   a. Avoiding the risk, primarily by getting rid of the hazard or eliminating the activity. Since you’re in the business of offering youth sport programs, eliminating the activity is contrary to your larger objectives. However, often we can get rid of a particular hazard within an activity.
   b. Reducing the risk by devising appropriate safety strategies, developing policies and procedures that make the play environment as safe as possible.
   c. Transferring the risk by purchasing insurance, warning participants of the inherent risks associated with participation, and having waivers and releases signed.
   d. Accepting the risk involved and being prepared with plans to deal with a loss.
4. Implementing and continually monitoring the risk-management plan

The next five parts of this chapter will provide you with essential information for preparing your risk-management plan, including:

- Your legal duties as a youth sport administrator and those of the adults you supervise
- What may happen when those duties are not performed properly
- What you can do to increase the safety of your participants
- How to transfer some of the risk to others
- How to manage specific risks, such as medical injuries and transportation of participants
Our society expects all of us to behave in specific ways in various circumstances. That is, we’re expected to meet certain standards. When our actions are questioned, such as in a lawsuit, the court examines whether our behavior conformed to the standard—what prudent people with appropriate training for the particular position would do in the same situation. Sometimes these standards may also be prescribed by professional associations such as the National Operating Committee on Standards for Athletic Equipment (NOCSAE) or a sport-specific governing body such as the United States Tennis Association (USTA). As a risk manager, you will have the important duty of working with your staff to set and implement policies to reach these standards. You will also need to take the necessary steps to see that all those under your supervision conform to them.

As the administrator of your youth sport program, you have assigned responsibilities. Some of these responsibilities you delegate to others—paid staff, officials, or volunteer coaches. Failing to perform your duties properly can risk the safety of your staff, coaches, and participants. Failure of your staff, officials, and coaches to perform their duties properly can also risk the safety of the participants and lead to lawsuits against you and your organization. Thus, let’s first look at the duties of your coaches and then at yours as an administrator.

**Coaches’ Duties**

The duties of your coaches include the following:

1. Providing a safe environment for practice and contests
2. Teaching skills in developmentally appropriate progressions
3. Providing appropriate supervision for the activity
4. Warning players of inherent risks in the activity
5. Enforcing the rules and regulations of the sport and your organization
6. Matching and equating players fairly for practice and contests
7. Providing proper first aid when injuries occur
8. Ensuring the civil rights of participants
9. Keeping records of injuries and other losses
Your Duties As an Administrator

You share the duties of your coaches, although you are not directly responsible for all of the duties, for example, instruction. However, for other duties, such as matching children for safe and equitable competition, you are likely to have more responsibility than your coaches. You have three additional duties:

1. To select qualified staff, officials, and coaches to conduct the program
2. To ensure that your staff, officials, and coaches are appropriately educated to perform their duties
3. To supervise all aspects of the program appropriately, especially the competitive events and the facilities in which they occur

When Duties Are Not Met

If you, your staff, or your volunteer coaches do not meet your duties, the most important consequence is the increased risk to the children in your program. These duties have evolved over the years because they have been shown to increase the safety of the children participating. A second consequence is that you, your staff, your coaches, and your organization may be sued for negligence. Thus you need to understand (a) what negligence is and (b) where you and your staff, coaches, and organization stand as a nonprofit volunteer organization with regard to protection from lawsuits.

Negligence

Negligence occurs when a person fails to act as a reasonable and prudent adult would in a similar situation, resulting in some loss or injury to another person. The courts judge the occurrence of negligence on four factors:

1. Did the person have a duty of care or responsibility to act prudently to the person harmed? As we just discussed, you and your volunteer coaches have duties to the participants in your program.
2. Was there a breach of this duty? The courts will consider (a) whether the person could have foreseen the injury and taken steps to prevent it and (b) whether there was a breach of duty in the standard of care given. Again, the standard of care is what a reasonable adult would do in a similar situation or, among professionals, what is considered accepted care by that profession.
3. Did the breach of duty cause the injury or loss? The court seeks to determine whether the negligence either directly caused the injury or indirectly helped cause the injury.
4. Was there actual injury or loss? Of course, there must be some actual injury or loss caused by the negligence for which the injured person seeks compensation.
The court must answer yes to each of these questions before negligence can be ruled to have occurred. The court considers two different types of negligence: ordinary and gross. Ordinary negligence is when a person makes an inadvertent mistake or fails to pay attention to something. For example, a coach divides her team into groups to rotate through three different skill stations. While she is busy instructing one group of players, an injury occurs at another station where players are practicing a higher-risk skill that requires the coach’s supervision. Such negligence may not violate the duty of care. Gross negligence, however, occurs when a person is reckless or indifferent to the duty of care. An example of gross negligence on the part of a coach is to continue an outdoor swim practice during a violent storm, resulting in a swimmer being struck by lightning.

**Your Vulnerability to Lawsuit**

Some youth sport administrators are under the impression that nonprofit, charitable organizations are immune from lawsuits. It’s not so. While most states have some type of immunity laws for volunteers, these laws do not provide blanket immunity to coaches, officials, or organizations (nor should they). Your coaches and officials, paid or volunteer, can be held liable for failure to properly perform their duties. You and your organization may also be held liable under the legal doctrine of respondeat superior, which states that organizations can be held legally responsible for the acts of their employees, including volunteers, when they are acting within the scope of their duties. If coaches fail to act within the scope of their duties or perform their duties recklessly, they can be held liable, but usually not you or your organization.

Because your organization may be held accountable for your coaches’ actions, it is important that you follow good personnel practices with these volunteers. As we discussed in chapter 2, you should follow an intelligent process in selecting capable coaches. Legally, you do not have to perform criminal background checks on volunteers, but checking references is certainly prudent for the safety of your participants. This is also why you should have job descriptions that define the coaches’ duties; provide coaches with a basic training program; and supervise, evaluate, and provide feedback to your coaches about how to perform these duties. If an injury occurs because of a coach’s action, evidence of training can establish that your organization acted prudently to ensure protection.
Lawsuits From Your Coaches and Others

Because volunteer coaches assume some risk of injury when they volunteer, to recover damages after injury they must show that negligence was not ordinary but gross. You need also to consider your vulnerability to lawsuit if it becomes necessary to relieve a coach of his position. Although volunteers are not employees, they have rights to due process and protection against discrimination. It’s best that you honor the ethic of equal employment opportunity guidelines when working with coaches, paid or volunteer. These guidelines prohibit employers with 15 or more employees from discrimination in hiring and firing; compensation and terms; and conditions or privilege of employment on the basis of race, color, religion, disability, sex, pregnancy, or national origin. The penalties for violating these guidelines include back pay, compensatory and punitive damages, and reinstatement.

Additional considerations regarding your vulnerability to lawsuits from coaches and others arise from the Americans With Disabilities Act (ADA) of 1990, which mandates that policies, procedures, and practices that discriminate against persons with disabilities be eliminated. Larry Anderson, who uses a wheelchair, is a case in point. Shortly after the ADA went into effect, Little League Baseball was challenged in court by Larry on its policy of barring people in wheelchairs from coaching on the field, on the grounds that it discriminates against persons with disabilities. Larry coached a Little League team in Arizona for three years without incident; he challenged a Little League ruling when he contended that Little League threatened to remove his local affiliate's charter if it continued to permit him to coach on the field. The U.S. District Court struck down the Little League policy on the basis that it violated the ADA.

The ADA is an important but potentially confusing piece of legislation. For additional information about the ADA, see pages 115 to 116 on personal rights.

You should also be aware that some states have laws requiring special protection for children and vulnerable adults (those with mental, emotional, and physical impairments). These states require that professionals, such as you and the coaches to whom you delegate duties, report any suspicion of the abuse or neglect of a child or vulnerable adult to the appropriate authorities.

Assumption of Risk Defense

When you, your coaches, or your organization is sued, your legal counsel will have several defenses to consider for the case. Of course, the obvious defenses are to prove that there was no duty of care, no breach of duty, the breach of duty did not cause the injury, or there was no actual injury. However, the law provides another line of defense—an assumption of risk by the injured person.

The injured person assumes responsibility for the injury because the person knew the risk and took it anyway. For example, coach Ralph Strickland instructed his baseball players to always slide feetfirst, but Billy Smith did a headfirst slide at home plate and lost four teeth. Billy’s parents sued the coach and the park and recreation department, but the court determined that Coach Strickland had warned all the players it was dangerous to slide headfirst, never taught this method of sliding, and taught only the feetfirst sliding method. In this case, Billy assumed the risk and responsibility for the injury. This incident shows that it is critical for coaches to warn participants of the risks of any activity and teach them ways to reduce or eliminate the dangers associated with those risks.
What you must remember about the assumption of risk defense is that it is only a defense when the participants have been clearly informed about the risk. The athletes in your program, for example, cannot assume the risk if they do not know what the risk is. Thus, it is vital that you and your coaches properly warn participants of the risks involved in each sport and how to reduce or avoid these risks.

The courts also vary their expectation of the degree of risk assumed by people based on their age, skill level, and knowledge. In general, the younger, less skilled, and less knowledgeable the person, the less responsible the person is for her actions. A coach’s responsibility, for example, decreases as athletes become older and more skilled and as they learn more about the risks involved in sport participation.
**About the Authors**

**Rainer Martens** has participated in sports all his life. He has coached at the youth, high school, and collegiate levels and has studied sport as a research scientist. The founder and president of Human Kinetics, he also started the American Sport Education Program, the largest coaching education program in the U.S. An internationally recognized sport psychologist, Martens is the author of more than 80 scholarly articles and 15 books, including *Successful Coaching*, the best-selling coaching book ever published, and *Joy and Sadness in Children’s Sports*. He has also been a featured speaker at more than 100 conferences around the world and has conducted more than 150 workshops and clinics for coaches and athletes at all levels.

After receiving his PhD in Physical Education from the University of Illinois at Champaign-Urbana in 1968, Martens was a member of its faculty for 16 years. A past-president of the American Academy of Kinesiology and Physical Education, he has been recognized for his contribution to sport by the National Recreation and Park Association and by being inducted into the National Association of Sport and Physical Education Hall of Fame. He has received Distinguished Alumni awards from Emporia State University in Kansas (where he earned a bachelor’s degree), the University of Montana (where he earned a master’s degree), the University of Illinois, and Hutchinson High School.

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