



# **RISK MANAGEMENT**

for Park, Recreation,  
and Leisure Services

**7th**  
Edition

*Merry Moiseichik and Sarah J. Young*

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*To Betty van der Smissen for her mentorship and friendship  
in helping us understand and appreciate  
the concepts of risk management*



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# Preface

This book is intended to be a primer in risk management, tort liability, and negligence for persons working or studying in the park, recreation, and leisure services field. It is aimed at recreation professionals, volunteer leaders, university students, and members of citizen boards or commissions. The basic principles of law expressed in this book apply to local, state, and federal agencies, as well as to private providers of recreation. Tort law is based in state law; therefore, the reader is cautioned to inquire about specific variances in tort law that may exist locally. Consultation with an organization's legal counsel, such as the city attorney offices, county attorney offices, state attorney general offices, solicitors, and offices of general counsel is important in protecting you and your organization's interests.

This book intends to help leisure service providers develop an awareness of legal liability and to aggressively take the lead in managing risk within their organizations. In addition, risk management provides methods for protection from loss for risk issues and defenses under the law for leaders, administrators, and organizations offering the recreation services. It is important that we note that a good public safety program is good public policy. A good risk management plan should be designed first and foremost to allow participants a quality experience in a safe surrounding. The plan should also include provisions to protect service providers and their employees from undue risk. A good risk management program does not cost—it saves. A risk management program should concentrate on providing the visitor to the recreation facility a safe experience. When an organization makes an effort to protect the visitor, the bonus results will include a reduction in the potential of successful civil lawsuits.

The trend toward increased litigation and the willingness to sue over rather trivial matters makes this book particularly applicable to the recreation and leisure service practitioner. Recreation organizations and individuals are encouraged to adapt any of the information in this book to meet their specific needs. Each legal jurisdiction applies negligence laws in a slightly different manner; therefore, it is important that service providers check with their legal counsel before proceeding with legal issues and processes. This book is intended as an aid for handling risk. It is not intended to be a substitute for legal counsel, actuarial assistance, or other professional services. The text is kept intentionally brief, simple, and as free of "legalese" as possible so that all readers may gain a healthy respect and appreciation for how to manage risk.





# Acknowledgments

We would like to thank James Peterson and Bruce Hronek for their work in putting together the first editions of this book, giving us an excellent starting point.

Special thanks to Natalie Bird for her work on the slides and test questions for each chapter.



# About the Authors

**Merry Moiseichik, Re.D., J.D.** is a full professor in the Department of Health, Human Performance, and Recreation at University of Arkansas, where she has taught for 30 years. She has worked with parks and recreation departments across the state of Arkansas to develop master plans, risk management plans, strategic plans, agency accreditation development, and reorganization and development plans. She has performed risk assessments for each of these cities as well. For five years she consulted with Glen Barclay and Associates to perform risk assessments for insurance companies for all kinds of commercial recreation agencies in the Southwest Region. She was a recreation director in a small town for seven years early in her career. She is also the editor for *Management for Park and Recreation Agencies* used by parks and recreation departments across the country to secure agency accreditation.

**Sarah J. Young, PhD**, is an associate professor in the Department of Recreation, Park, and Tourism Studies at Indiana University, where she is currently serving as interim chair. She has 11 years of experience administering and programming campus intramural sport programs and teaches legal aspects and HR management courses to undergraduate and graduate students in public, non-profit, and community recreation. Dr. Young has published over 85 journal articles and book chapters in sport and recreation publications, and has given more than 95 presentations at professional conferences including invited teaching presentations at regional, national, and international venues. Her research interests are youth sport management, legal issues in recreation and sport, risk management, sport and health issues, and scholarship of teaching. Dr. Young is co-PI on the Youth Enrichment Through Sport (YES) Africa project, a 3-year program that utilizes recreational sport to communicate healthy living messages to underserved boys and girls in Africa. Currently, the program operates in Ghana, Sierra Leone, Liberia, Senegal, and Malawi. She is coauthor of *Case Studies in Sport Law* published by Human Kinetics and *Mastering the Job Search Process* published by Jones and Bartlett. She is currently the president of the Sport and Recreation Law Association and a member of the National Intramural Recreational Sport Association and the National Recreation and Park Association.



# CONTINUITY

The sixth edition of *Risk Management for Park, Recreation, and Leisure Services* marked over 21 years of our authorship. It is with sincere **Good Wishes** that we are pleased to acknowledge two individuals with excellent backgrounds of practical plus classroom experiences. They are currently active and keenly aware of knowledge needed by the practitioner related to the understanding of legal aspects within our profession.

Thanks, Mary and Sarah, for assuming authorship and continuing this much needed training document for professionals in our field.

**James A. Peterson**  
**Bruce B. Hronek**



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## Chapter 1

# Managing Risks in Park, Recreation, and Leisure Services

Inherent risk  
Risk management

Litigious society  
Societal attitudes

The purpose of this chapter is to recognize that risk is an inherent part of recreation programs and services. Yet, with careful thought and planning, these inherent risks can be managed effectively through a deliberate risk management plan. This chapter defines risk management and explains why it is important to leisure service professionals and their organizations. By completing this chapter, you should be able to . . .

1. Define risk management and explain how it applies to leisure service programs.
2. Explain why risk management is important from three perspectives: public relations, legal changes in society, and research.

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Recreation and leisure service providers offer fabulous settings and activities for all ages ranging from children to adults for the purpose of enjoying the outdoors, relaxing, or reenergizing with a variety of leisure programming. The beacons of any recreation and sport philosophy are fun and safety, as well as being accessible to people from all walks of life. Recreation and leisure professionals in the business of providing programs, services, and facilities know that their clientele and the public in general expect these attributes. Yet the question of how to implement and sustain this mantra from an organizational perspective is not nearly as easy to answer.

Recreation and leisure programs are inherently risky, and injuries can occur as a result of those risks. From a liability perspective, a person might argue that the risk in recreation and sport activities should be eliminated. Yet risk is inherent in *ALL* activities, meaning it occurs naturally as a part of the activity and cannot be eliminated without changing the nature of the activity. Another perspective is that risk creates the challenge and uncertainty of a recreation activity or sport contest that participants find attractive, incentivizing them to participate. This phenomenon creates a good-news/bad-news situation: The bad news is that no recreation activity, service, facility, or sport event is devoid of risk. The good news is that risk can be managed effectively, resulting in optimal programming demonstrated through a balance between the inherent risk (risk that is part of the activity) and measures of risk reduction.

Related to the phenomenon of risk is how society perceives risk. A century ago, participants who engaged in recreation or sport activities and programs were expected to assume the risk of these activities and realize that injuries could occur. For example, in *Murphy v. Steeplechase Amusement* (1929), a case about a plaintiff who was injured after falling on an amusement ride, Judge Benjamin Cardozo opined,





One who takes part in such a sport accepts the dangers that inhere in it so far as they are obvious and necessary . . . Visitors were tumbling about the belt to the merriment of onlookers when he [Plaintiff] made his choice to join them. He took the chance of a like fate, with whatever damage to his body might ensue from such a fall. The timorous may stay at home. (pp. 482–483)

Fast-forward to the 21st century, and service providers find that societal attitudes are different from nearly a century ago. Participants involved in recreation and sport activities no longer accept injuries as a part of their chosen pastime, and service providers have been forced to act to prevent things from going wrong. Peterson and Hronek (2011) recognized this phenomenon, stating that “a risk management program is no longer a luxury—it is a necessity for the survival of private and public recreation and leisure service providers” (p. vi).

Risk management cannot be an afterthought, nor can it be viewed as a necessary evil! Risk management lies at the core of what recreation and leisure service providers stand for, and it must be entwined into every aspect of their operations. The safety and well-being of those served by recreation and leisure service providers as well as their stakeholders must be a core value, with risk management as the most imperative tool to carry out that order. This book helps recreation and leisure professionals or those preparing for a career in recreation and leisure services to understand risk management and how to develop their own risk management plans and solutions.

## What Is Risk Management?

Risk management has been defined as the identification, evaluation, and control of loss to property, participants, employees, and the general public (Clement, 1988; Sharp, 1990). Additionally, Kaiser (1986) stated that the objective of risk management is to “efficiently conserve the assets and financial resources of the organization and to achieve financial stability by reducing the potential for financial loss” (p. 229). Cooper (1995) supported these concepts by stating that although the primary goal of risk management is minimizing the risk of

injury, a secondary goal is reducing the potential for legal claims that could lead to litigation. For risk management to be fully understood, however, the following question must be asked: What risks are being managed? Van der Smissen (1990) defined risk in the context of risk management, referring to “uncertainty or chance of loss, usually accidental loss, one that is sudden, unusual, or unforeseen” (p. 3). For recreation and leisure practitioners, this means scrutinizing the offered programs and activities to ensure that their organization cannot be held liable for negligence.

In light of these descriptors and definitions, risk management is best described as a “process of decision-making and implementation to minimizing injuries of participants, employees, and spectators in recreation programs and activities” (Nohr, 2009, p. 8). A rudimentary understanding of torts and negligence emphasizes the importance of managing risk. In fact, Appenzeller (2012) described risk management as “a vital companion” (p. 3) of the law and legal aspects surrounding recreation and sport programs.

Legal scholars agree that risk management begins with assessing or identifying the risk, continues with classifying or prioritizing the identified risk, and concludes with treating the risk. The assessment and identification results in a plan containing strategies and techniques for recognizing and confronting, reducing, and preventing risks, threats, and hazards. Organizations that implement an effective risk management plan communicate a positive message to their participants and community. This shows the organization’s concern for its participants’ interests and that it will do whatever is necessary to provide a reasonably safe environment for recreation, sport, and leisure experiences. Additionally, this demonstrates to a court of law evidence of the organization’s intent to act reasonably and responsibly. In fact, a risk management plan provides a good defense for an organization should it find itself in court defending a lawsuit.

## Why Is Risk Management Important?

The variety of compelling reasons for managing risks in recreation facilities, events, and programs can be categorized into three main areas: good

business, participant enjoyment, our litigious society, and risk management is supported by research.

Risk management is a good business management principle that any service provider should want to provide. It not only enhances prevention of injuries and saves money, but also enhances the image of the service provider and creates positive public relations and good customer service. Furthermore, risk management is an excellent marketing tool. Participants who observe an organization taking steps to reduce risk are likely to communicate this to others. Corbett (1993) answered the why question the best, stating that

successful recreation organizations are motivated to manage risks out of a desire to operate in a business-like manner, to serve customers well, to establish and communicate a positive image, and to meet the moral and ethical responsibility to participants, members, volunteers, and the community. (pp. 1–2)

When someone gets injured, the fun (a core value of recreation) is lost. People, even those who are not injured, do not want to participate any more. Suddenly, people are upset and just want to stop playing. For example, a leader took a group rock climbing and early in the day one of the experienced climbers tried a difficult move, swung out, and on the swing back toward the rock hit a ledge with his shin and broke both bones in his leg. That ended the climbing—first, because the leaders needed to focus on the injured; second, because the group had to help carry him on a backboard to the ambulance; and third, because the group members were upset that one of their members was hurt. The fun of rock climbing was gone for that day, and for many of the other climbers, it was an activity they did not want to try again.

The litigious nature of society provides a foundation for the importance of maintaining an effective risk management plan. People are likely to sue recreation and leisure service providers for any type of injury received through participation, because organizations are perceived as having deep pockets and as able to pay for the medical expenses the injured cannot afford. Following a risk management plan to reduce injuries could help service providers

to defend negligence claims, but courts also expect service providers to proactively reduce unreasonable risks.

Research supports the implementation of risk management as a sustainable tool for recreation and sport programs. In a review of the research in risk management and recreation over the last 30 years, Fields and Young (2010) found that more studies and corresponding journal articles occurred in the decades of 1990–1999 and 2000–2009 than more recently in 2010–2019. Many of the studies focused on mitigating the risk involved with sport and outdoor activities, which obviously have more inherent risk. Although no specific trends were discovered in a review of the research in the area of risk management and recreation (Young, Fields, & Powell, 2007), note that risk management has come to play a major role for recreation programs in the last 30 years. Implementing a risk management plan displays a proactive attitude on the part of the recreation or sport program. Fried (1994) believes that it is of utmost importance for the recreation and leisure professional to develop a risk management plan “to ensure that an environment exists in which the risk of injury and possibly being named in a negligence lawsuit is minimized” (p. 33).



This book provides an overview of many of the issues that need to be developed in a risk management plan. It includes chapters on law, the risk management plan, employee issues, emergency action plans, facilities, events, and special facility consideration. By the end of the book, we hope that you will have an appreciation for the cadre of issues that need to be considered in developing a risk management plan.

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