



Loss Control TIPS

Technical Information Paper Series

Innovative Safety and Health SolutionsSM

Public Use of School Facilities

Introduction

In many communities, the school becomes the focal point for many activities, such as recreation, meetings, theater groups, etc. This is particularly common in small communities that may lack any other venue for these activities. However, there can be liability associated with providing the school for public use. This article will address some of these liability risks and their controls.

Liability Risks

Public use of school facilities can vary from the mundane to the bizarre. An example of the former may be the local rotary club holding a monthly meeting in one of the classrooms. A charity event of “donkey basketball” might be an example of the latter.

Workers' Compensation

Where school employees are involved in the activities, workers' compensation claims may arise. The major concern is to determine, *before* the activity takes place, what the employees' duties will be. Where the hazards are significantly different than normal job activities, the potential for injuries is increased. This would be particularly true if increased physical exertion were required.

Property

Property exposures may certainly be increased if activities are permitted that increase the fire potential. An example might be an art or craft class that uses flammable liquids (such as oil-based paints, paint thinners, other solvents) or pottery kilns.

General Liability

The potential for general liability claims is normally increased by the mere fact that the facility is open for public use. Risks such as slip and fall hazards, inadequate emergency exits, inadequate parking lot security, etc., are all common general liability risks.



Risk Management Controls

Where the facilities of the school are used by the public or by specific groups or organizations, the school should establish formal, documented policies and procedures for use. Where possible, the school should attempt to transfer as much of the risk to the user as is feasible. Such risk transfer procedures may include the following:

- If possible, obtain certificates of adequate liability insurance coverage from the user. Note that these are usually easier to obtain from larger organizations than from individuals. Where the individual or organization cannot provide a certificate, the school will need to evaluate the potential loss severity of the activity and determine if the activity should be permitted.
- Where the user can provide a certificate of insurance, the school should attempt to be named as an additional insured on the user's policy.
- The school should require the user to sign a Hold Harmless Agreement favorable to the school. The agreement should be drafted by the school's legal advisor and should be periodically reviewed and updated.
- In some cases, depending on the contemplated activity, the school should require the user to provide certificates of professional liability insurance coverage. It might be prudent to require such a certificate from a swimming instructor or a gymnastics teacher.

The school should develop a pre-qualification process for potential users of the facility. The procedures may include the following:

- Require the potential user to submit requests for facility use in writing. The request should include: a detailed outline of the planned activity, the number of expected participants, the ages of the participants, the number of instructors and/or supervisors and their qualifications, and an explanation of any anticipated hazards associated with the activity and how the user proposes to control them.
- Depending on the activity, the ages of the participants, and the presence or lack of insurance coverage, it may be prudent for the school to conduct appropriate background checks on the user's supervisory personnel. In requiring background checks, the school should make sure that the policy is clear and consistent. Also, the school should be aware that if this activity is undertaken, it could create a *duty* to perform the checks. If an injury occurs and the background check was *not* made, the school could be placed in an undesirable position. Therefore, the school resources must be considered when such a procedure is instituted to ensure that the policy is not breached.
- The school should establish written rules and procedures for use of each facility. The rules should include such things as:
 - Activities that are not permitted
 - What to do in the event of an emergency
 - Clean up procedures and responsibilities
 - Security procedures and responsibilities (includes turning off lights, locking doors, and premises security during and after the activity)
 - Parking arrangements

Users should be required to sign off that the rules and procedures have been read and understood. It may also be prudent to require the user to sign a release of liability form, releasing the school from liability arising from or in the course of the activity.

Summary

Public use of facilities, a common practice in many schools, brings with it additional exposures. The school should develop and implement formal, documented policies and procedures to address the loss potentials. However, the school must determine the amount of available resources to implement the procedures to be sure that they can be met.

Public Use of School Facilities: Checklist

In many communities, the school becomes the focal point for many activities, such as recreation, meetings, theater groups, etc. Use of the facilities can increase the liability exposures to the school. To address this issue, use the following checklist to identify potential areas of risk:

YES	NO	
		1. Has the school requested and obtained certificates of adequate liability insurance coverage from the potential user?
		2. If the answer to number one is <i>No</i> , has the school made an evaluation of the potential exposures and determined if it should be permitted?
		3. Has the school requested to be named as an additional insured on the user's policy?
		4. Has the school required the user to sign a Hold Harmless Agreement favorable to the school?
		5. Do Hold Harmless Agreements and policies and procedures receive review and updating from the school's legal advisor?
		6. Does the school require the user to provide certificates of professional liability coverage for certain high risk activities, such as swimming or gymnastics instruction?
		7. Does the school have formal, written policies and procedures for public use of the facility?
		Do the procedures include the following:
		<input type="checkbox"/> Require potential users to submit the request in writing outlining the proposed activity?
		<input type="checkbox"/> Require background checks for the user's supervisors when deemed necessary?
		<input type="checkbox"/> Establishment of rules for facility operation, to include the following:
		<input type="checkbox"/> List of activities that are not permitted?
		<input type="checkbox"/> What to do in the event of an emergency?
		<input type="checkbox"/> Clean up procedures and responsibilities?
		<input type="checkbox"/> Security procedures?
		<input type="checkbox"/> Parking procedures?

For more information, contact your local Hartford agent or your Hartford Loss Control Consultant. Visit The Hartford's Loss Control web site at <http://www.thehartford.com/corporate/losscontrol/>

This document is provided for information purposes only. It is not intended to be a substitute for individual legal counsel or advice on issues discussed within. Readers seeking resolution of specific legal issues or business concerns related to the captioned topic should consult their attorneys and/or insurance representatives.