



# Risk Management in Teaching of Swimming

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The material herein is written as a general legal knowledge in the area of sports coaching only. It shall not be considered as the basis of legal advice or opinion of any kind. Readers should consult a lawyer for legal advice.



# Legal Liabilities

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- Criminal liabilities :-
- **Indecent Assault**, Common Assault, Homicide, Criminal Damage, False Imprisonment
- Civil liabilities:-
- Sexual Harassment, Sexual Discrimination, Infringement of Intellectual Property, Breach of Contract,
  - **Tort: Intentional and Negligence**
- **Civil liability - Negligence**



# 4 elements in Negligence

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## 1. Duty of Care

- possibility of harm is foreseeable
- A coach/teacher owes his student duty of care

## 2. Breach of Reasonable Standard of Care

- A Coach's conduct must reach a reasonable stand of care.
- “Would a reasonable coach/teacher, in the same position and under the same circumstance, have exercised the same degree of care”



# 4 elements in Negligence

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## 3. Actual Damage

No loss or damage = No compensation

- Medical expenses, Loss of wages and future earnings, Pain and suffering, Future care and maintenance

## 4. Causation

- The wrongful act causes the loss or damage
- Tests: Proximate Cause test, But for test
- Apportion liabilities



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1. Design an appropriate activity programme
  - age, sex, weight, height, strength, skill level, previous experience
  - equipment, other resources, venue of activities, facilities, weather
  - wide range of levels of skill in a group



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2. Monitor the physical and health condition of every student or participant closely
  - Weight, height and health condition
  - Medical history, operations and medication allergy
  - Never allow an apparently ill student to take part in the activity



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3. Check, maintain and repair the sports equipment and facilities regularly
  - Check at the beginning of every class or activity
  - Immediate repair
  - Change Venue
  - Change programme
  - Check the sport equipment and facility on a regular basis for unusual damage or wear and tear





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## 4. Supervise your students closely

- a reasonable coach will not let his class unsupervised if the programme involves dangerous actions
- Stop all dangerous actions
- Never leave young children unattended, must stop all activities
- increase the staff to student ratio



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## 5. Setting safety precaution rules and regulations

- making, communicating, explaining, enforcing
- consistency is the key
- coaches should obey the rules
- habit of adopting the measures



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6. Identify risks and formulate measures to manage and control the risks
  - walk through the activities in the shoes of the students
  - implement the situation by eliminating, transferring or controlling the risks



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## 7. Post warning signs

- the conduct of a reasonable man
- a measure to transfer or isolate danger
- must be clear and prominent at the right place



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## 8. Waivers

- letter, contract or declaration that the participants or his guardian will waive or give up the right to seek legal remedy against the coach/teacher
- clear and reasonable
- list out safety rules and regulations
- provide risks and parties under the waiver
- signing party understand the content of the waiver
- signing party has capacity to sign age- mental capacity



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## 9. Set up emergency procedures

- anticipate the result and the extent of damage
- set out emergency procedures - rescue & treatment
- explain to students and relevant parties
- trial practice
- gear up with first-aid and life saving knowledge



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## 10. Preserve all records and reports

- must be kept and filed carefully
- teaching materials, plans and programme, facility and equipment maintenance and repair records, safety rules, medical history of participants, application of participants, waivers, emergency plan
- reports must be written as soon as possible
- must allow your lawyer to review the reports before releasing it to any party



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11. Keep yourself in good shape and consistently add value to yourself
  - keep fit mentally and physically
  - rest well, strength and stamina
  - update knowledge and improve skill in the sport
  - reading, seminars, advanced courses for coaches and/or athletes, first-aid courses, etc.





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## 12. Insurance

- accept risk - transfer of liability
- sufficient to cover all risk
- understand all terms - covered and uncovered risks
- remember all excluded situations
- remember all formalities after accident
- must report the incident on time regardless of any potential claim