

### PUBLIC SWIMMING POOL SAFETY

The summer season is here, and swimming pools are open! Remember these 5 simple tips for swimming pool safety.

#### Assess the condition of your pool and perform necessary repairs

Are depth markers easy to read? Do walkways, ladders, and decks still have non-slip surfacing? Is the pool free of deterioration? Are swimming lanes clearly marked? Maybe it is time to repaint or repair. Inspect these areas and make any necessary improvements, then document the repairs. Keep records of the repairs.

#### Inspect emergency equipment

Make sure emergency rescue equipment such as reach poles and approved buoys are in place and in good condition. Also, make sure first aid kits are adequately stocked and a self-contained breathing apparatus or gas mask is available for chlorine room entry. Inspect, replace or repair all emergency supplies and equipment.

#### Make sure proper signage is in place

Review pool signs and posted rules. Be sure any signs and regulations that have been posted are in good condition, are legible and meet notice requirements. For example, a sign that states, "DANGER, CHLORINE" should be posted outside the chlorine room. Inspect signs and postings, and replace or repair as necessary.

#### Provide training

Be sure lifeguards have the appropriate certification and the documentation to support it is on file. Furthermore, lifeguards and other staff members should be trained in a variety of situations including emergencies such as severe weather, chemical leak, and accident investigation. Drills and training sessions should be conducted before pools open to the public, so all employees are trained and prepared to respond. Training logs should be kept on file that indicate the type of training, the date of the training, and the names of participants who took the training.

#### Review all employees' job descriptions

Create a safe workplace by clearly defining each employee's job and the associated duties. For example, lifeguards should not be distracted with other duties that would keep them from proper observation of persons in the pool area, or that would prevent immediate assistance to persons in distress.

These are 5 simple swimming pool safety tips that could save the day or even a life. Have a safe swimming season!

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#### OUR PROMISE

Your IPARKS membership makes it easy for you to provide safe places to play, relax and enjoy. By making safety a priority, we empower you to improve upon best practices and work in collaboration with your fellow members to protect your district, assets and those you serve.

# PLAYGROUND SAFETY

## MAINTAIN A PLAYGROUND INVENTORY

by Sedgwick Risk Services

Know what's on your playground by maintaining a comprehensive inventory. Information to include in the inventory:

- The name of the playground structure or component
- The name and address of the manufacturer
- The name and address of the vendor (if different from the manufacturer)
- The name and address of the installer
- Date of purchase
- Date of installation
- Manufacturer's installation instructions
- Manufacturer's list of components and replacement parts
- Manufacturer's inspection instructions
- Type of surface protection materials installed
- Name of surface protection materials manufacturer
- Name of surface protection materials
- Certifications for surface protection materials installed:
  - Critical height value of materials as installed
  - Lead contents for rubber materials installed

### PLAYGROUND INSPECTIONS

How often low frequency and high frequency inspections are done is typically determined by the use patterns and type of surface protection materials used on the playground. The greater the use of the playground, the more frequent the inspection.

For example:

#### High use playgrounds with loose-fill surface protection material

- Daily review of the loose-fill material that is raked back into place
- Weekly documented high frequency inspection

#### High use playgrounds with unitary surface protection material

- Weekly documented high frequency inspection

#### High use playgrounds regardless of type of fill

- Low frequency maintenance and repair inspection at least quarterly

#### Low use playgrounds with loose-fill surface protection material

- Weekly documented high frequency inspection

#### Low use playgrounds regardless of type of surface protection material

- Low frequency maintenance and repair inspection at least semiannually

Develop itemized checklists for each playground. Typically, high frequency inspections take about 10 minutes to complete and low frequency inspections take about 45 minutes to complete depending on the need for cleanup or repairs.

Ensure personnel assigned to conduct high and low frequency inspections are trained regarding what to look for and how to respond when adverse conditions are observed.

### CPSI INSPECTION

#### Have a certified playground safety inspector assess new or renovated playgrounds

- Severe non-compliances, rated as Priority 1 or 2, are to be corrected immediately, before the playground is accepted for use
- Other non-compliance issues are scheduled for correction in a reasonable timeframe based upon owner/operator policy

### PUT IT IN WRITING

Maintain a written playground liability program that details:

- Responsibilities for the playground liability program
- Playground inventory
- Inspection procedures
- Sanitation procedures
- Training procedures for those who conduct the various inspections and have program oversight
- Record retention for the documents associated with the playground liability program



Document both high frequency and low frequency inspections. Documentation should include:

- Site inspected
- Date of the inspection
- Name of the person who conducted the inspection
- Notes both compliant and non-compliant conditions
- Notes actions taken to address non-compliant conditions
- Maintain all inspection and repair records for 10 years
- Have a CPSI review the written playground liability program

### ADA COMPLIANCE

Ensure playgrounds that do not comply with accessibility requirements under the ADA are included in the park's ADA transition plan.

### SIGNAGE

Ensure legible signs are posted on or near the playground equipment regarding:

- Age appropriateness
- Warning regarding the need for surface protection material
- Warning regarding hot surfaces
- Warning to remove safety helmets, clothing with strings, and other items that can tangle around a user's neck prior to playing on the equipment
- Recommendation for supervision

### "OUT OF SERVICE"

- Ensure broken playground components are immediately removed, made immovable, or made inaccessible.
- Ensure elevated openings that result from missing play components are securely blocked until replacements can be installed.
- Ensure written procedures are developed regarding the securement and/or removal of dysfunctional parts or components.

### KEEP IT CLEAN

- Ensure the cleanup of feces, urine, vomit, or blood on playgrounds immediately in accordance with the park's approved sanitation procedures.
- Train maintenance personnel regarding the playground manufacturer's cleaning procedures and how to properly handle all hazardous substances.
- Ensure maintenance personnel have ready access to the Safety Data Sheet for all maintenance chemicals used.

If you have questions or need additional resources, please reach out to your Senior Risk Services Consultant, Jason Johnston at [jjohnston@iparks.org](mailto:jjohnston@iparks.org).

# I'VE BEEN SUED. NOW WHAT DO I DO?

by Natacha McClain, Designated Litigation Manager



In your role as a public official or park employee, you may be served with a lawsuit on behalf of the park. You may be named as a defendant as well. In some instances, you may have anticipated a situation or claim that would result in a lawsuit. Some lawsuits, however, come as a complete surprise. In these circumstances, this article will identify steps to take in the event of an unexpected lawsuit where there was no pre-suit claim.

## CONTACT YOUR CLAIMS REPRESENTATIVE AND LEGAL DIRECTOR

One of the critical first steps is to notify your claims representative and legal director as soon as possible/practicable. There are several reasons for this. First, the service of a Complaint starts the clock on when the served defendant must respond to the Complaint. Second, the earlier the notice, the more time the park will have to ensure proper steps are taken and to develop a strategy for defending the claims. Moreover, as a member of a pool, your Legal Defense and Claim Payment Agreement requires notice of any potential or actual claims and/or lawsuits. It is important not to undertake any part of the defense on your own (whether by retaining counsel or engaging in settlement discussions, etc.) because that responsibility and right rests with the pool.

Once you have provided notice to your claims representative, the pool will determine whether coverage is available for the claims set forth in the Complaint. Coverage is evaluated for each separate defendant whether it is the park or current or former employees or public officials of the park. The pool will provide a coverage determination to you and identify whether defense counsel will be assigned.

In addition to defending a lawsuit, you will address with defense counsel whether to conduct an internal investigation and evaluate risk control measures. Corrective action and preventative action procedures can help park districts not only detect and investigate problems but also implement solutions to prevent recurrence, mitigate risks, and promote continuous improvement.

Finally, keep in mind lawsuits are public records and can create media attention. Your law director or legal counsel will want to discuss and agree on how to handle the media. From a risk management perspective, having a media policy and procedure in place before any lawsuits arise is recommended. If there is a media policy in place, it is important to make individuals aware of the procedures contained in the policy.



## PRESERVE EVIDENCE

Courts have held that the duty to preserve evidence triggers when litigation is reasonably anticipated. This date could be different than an official service date, which starts the clock for a defendant's deadline to respond. Therefore, for unforeseen lawsuits, even if not yet formally served, the notice of the lawsuit triggers the duty to preserve evidence.



Defense counsel will work with the park to identify the categories of potentially relevant evidence based on the allegations contained in the Complaint. Although not all Complaints contain sufficient facts to contemplate all potentially relevant evidence, the allegations should provide key details surrounding the bases for the claims made against the park.

Remember, evidence may not come only in the form of a document but could also be photographs, video and tangible objects such as a motor vehicle.

Failing to preserve evidence could result in sanctions by the Court or an adverse jury instruction in the event the matter proceeds to trial and result in weakened or no liability defenses.

### **SEPARATE ATTORNEY COMMUNICATIONS FROM GENERAL RECORDS TO AVOID INADVERTENT DISCLOSURES**

Park districts have a unique responsibility to the public to be open and candid. Nevertheless, like any individual or organization, park districts have the right to seek legal advice that allows for full and frank discussions and avoids public scrutiny. Attorney-client privileged communications are exempt from disclosures in response to public record requests and protected from disclosure in litigation.

Communication between defense counsel and the designated representative of the park made in confidence for the purpose of seeking, obtaining, or providing legal advice for the park is an attorney-client privileged communication.

Keep in mind that if a communication is shared with anyone other than the attorney and the client, even if inadvertently shared, then the attorney-client privilege may be considered waived and no longer subject to exemption under Illinois' Freedom of Information Act.



## **UNDERSTAND THE IMPACT ON RESOURCES**

While the fiscal impact of a lawsuit is often considered, a park defendant must also consider the impact on human resources. Communicating with defense counsel, preserving evidence, gathering information in response to written discovery requests and appearing for depositions, mediation and trial all require considerable time and energy from the designated park representative. Other park employees and public officials, whether individually named as defendants or not, may also be required to appear for a deposition or trial. In addition to the potential fiscal impact, you will want to discuss with your defense counsel the scope of responsibilities and the amount of your time that will be required to properly defend the park. You will also want to explore whether settlement negotiations may be the appropriate strategy for resolving the lawsuit and weigh the benefits of minimizing employees' time versus any potential financial and reputational impact of a settlement.

## **BE PREPARED**

Contacting your claims representative and legal director as soon as possible, preserving evidence and identifying what financial and non-financial resources will be impacted are all essential steps to properly defending a lawsuit. Immediately reporting a lawsuit to your claims representative is your best opportunity to avoid waiving defenses. Having policies in place such as a media policy or claims handling policy that designates an employee to be the point of contact for claims and litigation can help minimize exposures and resources when defending a lawsuit.

\* This article is for general educational purposes only and does not constitute legal advice. Please work directly with your legal counsel with specific questions or concerns.

# SUMMER CAMPS

by Marco Guardi, Vice President of Risk Services

Summertime is camp time. Often, camps are held at park sites and may be run by a park's personnel or contracted vendors. Like any other curricula, these camps present risks and exposures at a variety of levels. These risks can be appropriately managed depending on who operates the camps and risk control measures taken. There are two basic types of operation: camps operated and sponsored by the park, or camps where the park is only providing the facility.

## Camps operated and sponsored by the park

In this scenario, the park's staff members provide oversight of camp activities, and the camp is sponsored in full or in part by the park. Camp participation fees may be collected via online registration or mailed in through recreation flyers. Risks associated with these camps can be minimized by the following:

- Pre-event documented inspections of the area, facilities and equipment to confirm in good condition
- Reservation of camp/activity on file
- Procedures in place to address emergencies, and staff knowledgeable in procedures
- Parental notification of emergencies and authorization to provide first aid forms
- Authorized site lease agreement if camp is held offsite and confirm site host has updated insurance
- Camp registration forms reviewed by legal counsel prior to use
- Background check for all personnel assigned to supervise minors
- Camp counselors and assistants have received and can show proof of mandatory training

As an additional measure, cash transactions for camps registration fees should be minimized, especially when cash is collected at the campsite itself. Payments for these purposes should be made prior to the event date, if possible.



## Camps where the park is only providing the facility

In these cases, camps are run by independent vendors, or for more sports-focused, by local athletic coaches. It is essential to clearly determine who is responsible for the camp. At these camps, vendors and coaches are considered separate legal entities apart from the park and should be directly liable for the events and actions arising from camp activities. Fees for camp participation are directly received by these coaches and are not co-mingled with park funds.

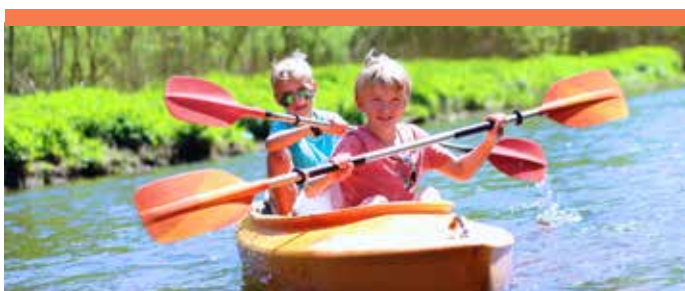
In order to manage the risks associated with these camps, the following items are recommended:

- Completed and signed facilities lease agreement with responsibilities defined
- Personal workers' compensation coverage
- Certificate of general liability insurance that names the park as an additional insured with \$1M single event and \$2M aggregate coverage limits, with endorsements for molestation and abuse
- Pre-event documented inspections of the area, facilities and equipment to confirm in good condition
- Parental notification of emergencies and authorization to provide first-aid forms
- Camp registration forms include release of liability clause and are reviewed by legal counsel prior to use

If park staff members are working at these types of camps, their employment status also needs to be discussed. Are they working as park employees or under the direction of the vendor/coach? Those working with youth should have background checks and mandatory training.

Use of the park's name and/or logos is another issue. Does the vendor or coach have permission to use the park's "brand" to recruit for the camp? This permission may be granted, but it is an issue to resolve in the beginning with appropriate contractual terms in place to protect the park, reviewed by legal counsel.

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## OUTDOOR HAZARDS: BEES, WASPS AND HORNETS

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Bees, wasps, and hornets are most abundant in the warmer months. Nests and hives may be found in trees, underground, under roof eaves, or on equipment such as ladders.

Here are some tips from the Centers for Disease Control (CDC) to help avoid bites:

- Avoid perfumed toiletries
- Wear clothing to cover as much of the body as possible
- Keep work areas clean. Social wasps thrive in places where humans discard food
- Remain calm and still if a bee is flying around. Swatting at an insect may cause it to sting
- If you are attacked by several bees at once, run to get away from them (bees release a chemical when they sting, which may attract other bees) and try to get indoors or in a vehicle
- If a bee comes inside your vehicle open all windows and come to a safe stop before exiting the vehicle

In most cases bee, wasp, and hornet stings reactions are minor and include:

- Instant, sharp burning pain at the sting site
- A red welt at the sting area
- A small, white spot where the stinger punctured the skin
- Slight swelling around the sting area

With most people, swelling and pain go away within a few hours. However, if a person has a severe allergic reaction immediately call 911. It could be potentially life-threatening and requires emergency treatment.



Severe allergic reactions include:

- Skin reactions, including hives, itching, flushed or pale skin
- Difficulty breathing and swelling of the throat and tongue
- A weak, rapid pulse
- Nausea, vomiting or diarrhea
- Dizziness, fainting, or loss of consciousness

If you have a history of severe allergic reactions to stings, talk to your doctor about carrying an epinephrine auto injector (EpiPen).

- Wash the site with soap and water
- Remove the stinger using gauze wiped over the area or by scraping a fingernail over the area; never squeeze the stinger or use tweezers
- Apply ice to reduce swelling
- Do not scratch the sting as this may increase swelling, itching, and risk of infection

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## VANDALISM IN PUBLIC RESTROOMS

### CAN YOU RISK IT?

Are you looking for ways to reduce the potential for vandalism and malicious mischief in your agency's restroom? IPARKS has considered the issue from a risk management perspective, and we have outlined some items for consideration.



- Add a sign at each entrance to the park to indicate the park opens at dawn and closes at dusk. This sign may make it more obvious if there are potential vandals in the park and allow the police to more easily secure the area.
- Rather than removing the restroom doors, which will leave the restrooms exposed to vandalism, consider securing the restroom doors in a fully open position during the daylight hours when the park is open. Add privacy walls to the restrooms, if necessary.
- Have the restroom closed and locked at sunset to reduce vandalism and malicious mischief and to mitigate the violence potential for employees.
- Add or increase the dawn and dusk exterior lighting around the restrooms.