

SAFETY AND LIABILITY

Safety is paramount when planning or timetabling any learning activities. Policy and guidelines for safety and liability related to areas such as nature or risk level of the activity, availability of space, student/teacher ratios, teacher training/qualifications, type of supervision,* and emergency procedures must be addressed.

Since school divisions and their employees are primarily responsible and legally liable for developing safe practices, schools must develop safe routines and procedures. Administrators and teachers need to know and use the best safety practices, whether teaching, learning, or assessment takes place in the classroom, gymnasium, playground, or alternative environments.

For a copy of *Safety Guidelines for Physical Activity in Manitoba Schools* (1997), go to <www.edu.gov.mb.ca/k12/docs/support/pehe_safety/>. Also, contact your local school division office for *YouthSafe Manitoba: School Field Trip Resource* (2004).

A duty of care and responsibility for safety extends to anyone in a support role in curricular programs. As stated on page 15 of *Kindergarten to Senior 4 Physical Education/Health Education: Manitoba Curriculum Framework of Outcomes for Active Healthy Lifestyles*, Canadian courts have demonstrated a clear departure from “the careful and prudent parent” standard of care when assessing teacher negligence, adopting instead a “professional” standard of care. Trial courts, therefore, have concluded that the standard of care to be exercised in the context of instruction in a physical education class can frequently exceed the “careful parent of a large family” test, since many physical education activities require specialized knowledge, training, and experience of the teacher. For example, where students are engaging in artistic gymnastics activities, the teacher and school authorities will be required to act as a careful and prudent person having the specialized expertise demanded of an artistic gymnastic instructor.

The Supreme Court of Canada has established four criteria to determine the necessary and appropriate standard of care within the context of physical education:

- Is the activity suitable to the age and mental and physical condition of participating students?
- Have the students been progressively taught and coached to perform the activity(ies) properly and to avoid the dangers inherent in the activity(ies)?
- Is the equipment adequate and suitably arranged?
- Is the activity being supervised properly in light of the inherent danger involved?

* Any use of a facility for physical education activity must be supervised. This guideline has designated three categories of supervision: “Constant visual,” “On site,” and “In the area.” The categories are based on the principles of general and specific supervision which takes into consideration the risk level of the activity, the participants’ skill level, and the participant’s maturity. For more information, go to *Safety Guidelines for Physical Activity in Manitoba Schools* (pages 9 and 10) at <www.edu.gov.mb.ca/k12/docs/support/pehe_safety/index.html>.

Administrators may wish to use the following checklist of safety considerations when approving facilities, activity areas, and equipment (Ontario Education, 25-26).

An Example of a Safety Checklist

- Does the activity area or facility meet local safety practices consistent with board policies?
- Is the size of activity area appropriate for the activity and number of students?
- Is there adequate supervision considering the risk level of the physical activity, participants' skill level, and the participants' maturity?
- For outdoor classes, are alternative arrangements in place in case of bad weather?
- Does the surface of the activity area have good traction? Is it level?
- Is the activity area accessible to everyone?
- Are any immovable hazards on the activity area appropriately marked or declared out of bounds?
- Are washroom facilities available and accessible to everyone?
- Is a telephone available for emergency use?
- Is the equipment appropriate for the activity areas?
- Is the equipment in good repair and safe?
- Is the equipment developmentally and age appropriate?
- Is the equipment safely stored?
- Is there easy access to the equipment?
- Are there any other considerations?