

Legal Aspects of Recreation Councils

The Legalities of the Recreation Council

- Recreation Council programs must be athletic, fitness, and/or recreation based. They must be organized for pleasure, recreation, or other non-profit purposes. No part of their net earnings can benefit any private individual. Volunteers are the people who render services free of charge (except for reimbursement of expenses), to provide services or assistance as a program coordinator, athletic coach, manager, official, program leader, or assistant for a Council program. Generally, a volunteer is not personally liable for damages in any civil action brought against the volunteer by virtue of the volunteers act or omission in providing services or performing duties on behalf of a Recreation Council program. A volunteer is personally liable when damages were the result of the volunteers negligent operation of a motor vehicle, willful, wanton, or grossly negligent act or omission, or permitting an unsupervised competition, practice, or activity.

Council Insurance Coverage

- Recreation Council Insurance provides coverage for liabilities that arise out of Council activities, which are due to negligence. This insurance does not provide accident/injury protection for participants. This insurance also provides coverage should the property of others be damaged by our program or program participant*. **Important--** exact insurance coverage or action depends on the circumstances of each individual claim. Examples: A spectator on sideline hit by a player's foul ball (this is unintentional)-- Insurance coverage would be in effect for the Council should the injured person file suit; Man claims he ate a hot dog that he purchased from the Recreation Council Concession Stand and it made him severely sick-- The insurance Company may litigate the situation or pay the man's doctor bills. Recreation councils are advised to explore separate Accident and Injury coverage on voluntary basis for participants.
- *(Exclusion applies to any property under the care; custody and contract of the Recreation Council. ie. related facilities and borrowed equipment).

Program Participation Waivers

- Reference appendix B Waiver Clause for participant registration in your programs. This is the standard County approved waiver – **do not edit with your own language**. These waivers must be kept on file for 3 years.

Reducing the risk of negligence

- Approach each program with professionalism.
- Express sincere concern for quality and safe programs, facilities, and the welfare of the individuals who depend on you.
- Plan thoroughly, document your work, and supervise carefully.
- The following are steps you can take to reduce exposure to liability;
 - Utilize the Standard Disclaimer Clause for registration into each program
 - Give safety talks to participants
 - Utilize a Facility Inspection checklist to be completed before each program
 - Make certain that equipment is safe.

Filing taxes with the IRS

- Each council is required filing status with the IRS as a Recreation Council depends on how much money your Council receives in a year from program registrations, donations, fund raisers, etc.
- Every organization exempt from Federal Income Tax under 501 non-profit declarations must file annually using E-File 990-N.
- When in doubt, call an Accountant who is versed in non-profit filing.

- Tip jar revenue is taxable income. This income can be offset with direct gambling expenses such as the gambling application, and Accountant fees.
- If a council pays a contractor more than \$600 to provide a service over the course of a year, the council must file a 10-99 form. This is a simple form which is available from most accounting offices.

Fundraisers (Raffling/Tip Jars).

- Any Recreation Council interested in gambling or raffle permits to raise money for their Council must call to request an application and then apply to the Frederick County Division of Permits & Inspections (301-600-1081).
- Frederick County Division of Permits & Inspections handles applications for Tip Jar/Punch Board Permits and Raffle Permits. This is a formal application; the process is not always simple. Without the permit, raffles and tip jars are against the law.
- ***Important--*** When a Council utilizes gambling revenue, keep ACCURATE financial records. Tip Jars are a business.

Contracting Program Services

- Recreation Councils may either run a program using volunteers (they are covered by County Liability Insurance) or utilize a Contractor to run a program (contractor provides own insurance and proof of that insurance with the presentation of a Certificate of Insurance **which names the Frederick County Government and the Association of Recreation Councils** as additional insured).
- If the contractor hires employees, the contractor must also have Workers Compensation Coverage.
- ***Important:*** We will never provide insurance for a third party.
- **Please note,** contracts must be established under the supervision of the County Liaison who will meet with the County Attorney and Risk Manager to establish a legally sound contract document.

Americans With Disabilities Act

- State Law requires that we make reasonable accommodations for all participants interested in participating in a program. This includes developmentally or physically challenged individuals. If you have any questions, please call the County Liaison.
- ***Deaf Participant--*** The Division of Parks & Recreation will arrange for a sign language interpreter.
- ***Physically Challenged--*** Arrange for non-embarrassing program access. This person may need a buddy to assist through a program.
- ***Developmentally Challenged--*** May need a buddy to assist through a program due to slow rate of learning or short attention span.

Updating or Creating a Council Constitution

- In an effort to assist the Recreation Councils the County has provided sample language for a Constitution and By-laws. This language has been approved by the Internal Revenue Service as meeting the requirements of 26 U.S.C. Section 501 concerning the tax-exempt status of certain organizations.
- Individual Recreation Councils have the authority, as a separate legal entity, to amend its Constitution or By-laws in accordance with the existing Constitution and By-laws.
- It is strongly suggested that any Recreation Council amending its Constitution or By-laws consult with their own attorney and accountant to verify that such change will not adversely affect the Recreation Council's legal or tax -exempt status.
- Review of any document associated with the Recreation Councils by the County Attorney's office is performed solely in connection with the interests of Frederick County Maryland. No opinion as to the interests of the Recreation Council is provided, expressly or implied. No attorney client relationship with the Recreation Council is created or may be inferred as a result of document review by the County Attorney.