

IMPORTANT LEGAL ISSUES FOR USA SWIMMING CLUBS

The following bulletin is published for all USA Swimming member clubs. Dissemination and reinforcement of this information at all levels is encouraged.

Clubs have certain legal obligations and duties when joining USA Swimming to protect themselves, their members and USA Swimming from financial losses. Listed below are a number of items the Club must be aware of.

1. Facility Contracts. All member Clubs that enter into contracts for the use of facilities owned by others must be careful with regard to the indemnity and hold harmless language that is used. In the insurance packet, there is a section on facility's contracts. The highlighted language is the important language to review.
2. Club Organization. Each Club is an autonomous body organized and operated under the laws of its state. The officers should be sure that they are in total compliance with the laws of their state for their operation. This review would be valuable for protection of the officers and board members as well as the employees of the Club.
3. Compliance with USA Swimming Rules. Each Club has a legal obligation that, if it desires to remain in good standing within USA Swimming, it must comply with the rules and regulations of USA Swimming. These rules relate to sanction of meets, proper registration of coaches, implementation of safety programs, compliance with membership requirements and other obligations as set forth in the rules and regulations of USA Swimming. In particular, note that all athletes and all coaches must be USA Swimming members.

LIABILITY PROVISIONS IN CLUB CONTRACTS

Almost every USA Swimming member club is a party to a contract with an owner of a swimming pool, public or private. Almost all USA Swimming members, including LSCs and the national organization itself, will, at one time or another, enter into contracts for the use of a swimming venue for a meet or other authorized aquatic activity.

Such contracts will also contain language with regard to the tort liability of both parties during the use of the facility. The owner will usually include indemnification and hold-harmless clauses on liability for bodily injury and property damage resulting from the negligence of the USA Swimming member, its officers, agents and employees.

It will be impossible to avoid such releases or waivers couched in general language. The owners, or their attorneys, will insist on this.

However, it is extremely important that the USA Swimming member does not sign a contract containing language which indemnifies or exculpates (clears from alleged fault or guilt), the owner from liability for damages resulting from the negligence of the owner or its agents and employees. Such language may or may not be valid in your particular state. If it is, it is usually subject to strict construction.

If you are in doubt on this, consult an attorney in your own state and at the same time refer him/her to USA Swimming's General Counsel.

If you see the following language or anything similar to it, consult legal counsel at once before signing the agreement:

Club (LSC) agrees to indemnify Owner against all liability loss, or other damage claims or obligations because of or arising out of personal injury or property damage, related to Club's use and occupancy of the premises, including that caused by the negligence of the Owner or its agents or employees.