

What is liability?

In simple terms, liability is the state of being responsible for a loss that has occurred. A loss refers to any type of personal injury, death or property damage. This may include bodily injury, defamation of character, a broken canoe or anything that someone declares has been taken or devalued. Liability deals with two factors: someone has suffered a loss and someone else is obligated to compensate, in whole or in part, for that loss.

Inspect the activity site for potential hazards



Photo by Dan Gavere

Who (or what) determines liability?

In a perfect world, the involved parties would each accept a certain degree of responsibility and resolve the issue between themselves. More commonly though, these parties defer to their insurance agents and lawyers to argue. When all is said and done, if they don't agree to a settlement, a court of law determines who should be held liable and to what extent.

When determining liability, the court will generally focus on what a reasonable person would have done to prevent the loss. A person is likely to be held liable if he or she has been careless or inattentive to these reasonable responsibilities. Note: each state or local court may have its own definition for what is reasonable in a given situation.



Photo by Carol Krueger

Follow your pre-planned route

How does liability affect my club?

Responsibilities regarding personal liability are fairly straightforward. Most individuals can protect themselves through standard home owners or renters insurance policies, which normally include some level of liability coverage for the policy holder. However, the situation becomes complex when more than one person, such as a paddling club, can be held accountable for loss.

This does not mean the club is automatically liable just because an accident occurs during a club activity. The person claiming a loss must prove that the actions or inaction of the club leader(s) contributed to the resulting loss. Some accidents just happen. Usually the victims of these accidents acknowledge natural causes or personal responsibility for their loss.

In any group activity, there are leaders and followers. If an accident occurs during an activity, everyone will look to the leaders to find out what happened and whose is at fault. Therefore, safety and accident prevention must be the club's primary concerns. The club must also be prepared to respond to accidents appropriately.

Require properly fitted PFDS



Photo by Anna Brown

ACA Club Membership

As the nation's oldest and largest nonprofit paddlesport organization, the American Canoe Association is committed to representing and serving the needs of all paddlesport enthusiasts. Affiliation with ACA provides an important link between members of your local club and the national paddling community. Through this special partnership, ACA acts as a spokesperson for America's paddlers and provides programs and services otherwise unavailable to local paddlers and their clubs. ACA affiliate clubs receive the following:

Access to general liability insurance for club events.

Discounts on books and videos from the ACA Bookshelf.

Paddler magazine and ACA's newsletter, *The American Canoeist*.

Paddler alerts, event schedules, safety packets and more.

For more information, contact the ACA Membership Department.



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Preparing for the Unexpected

ACA's Liability Guide for Paddling Clubs



In 1880 a group of outdoor enthusiasts with a common interest in canoeing founded the American Canoe Association. Back then paddlers didn't have to worry about things like lawsuits and liability. Today, however, these issues seem to be on everyone's mind.

For many of us, the word "liability" can be confusing and intimidating. This brochure helps paddling clubs and their leaders better understand what liability means and how it affects your club. If you still have questions after reviewing this information, feel free to call us.

How Do I Prevent Loss?

Each club must acknowledge and incorporate standard paddlesport safety practices and responsibilities. These practices outline what every event organizer, instructor and facilitator will do and say to help prevent accidents.

The sponsoring club's experienced leaders should draft a set of guidelines for approved club activities. Remember, steps taken to prevent accidents and response to accidents can be equally important when determining liability. Keep in mind spectator and bystander safety. Since they do not come prepared to participate, they may be more likely to incur an accident.



Photo by Dan Gavere

All participants should read and sign a liability waiver

What Can Club Leaders Do To Lessen Risk?

In general, leaders must tell their participants what to expect and what is expected of them, evaluate whether or not each participant is physically and mentally fit to participate and be prepared to respond to the unexpected. By establishing and following certain standard duties, a leader can minimize the risk of an accident and minimize damages should an accident occur. ACA recommends the sample guidelines listed below as a good starting point.

ACA Safety Guidelines For Non-Competitive Events

Safety guidelines are, for the most part, simply a matter of common sense and reflect procedures you probably already follow. Some guidelines may not be applicable for all events and may vary based on the conditions of the day. Activity leaders must consider weather, water level, group size, ability of the participants and much more. At no time does a set of guidelines substitute for the good judgement of the event organizers. Still, the following list will go a long way toward ensuring a safe event.

1. Designate co-organizers to assist with planning and safety.
2. Prepare a safety and emergency plan. Include emergency contacts and method(s) of communication.
3. Inspect the activity site or course for potential hazards.
4. Announce to all participants the skills and abilities necessary to participate.
5. Announce all safety policies and procedures you expect participants to follow.
6. Announce all information regarding expected and potential hazards relevant to the activity and paddling in general.
7. Evaluate each participant's ability to participate. Be willing to turn away less skilled paddlers or direct them to another activity.
8. Require all participants to read and sign a waiver and release of liability that affirms their acceptance of what you expect of them.
9. Require all participants to wear properly fitted, US Coast Guard approved PFDs.
10. Follow your pre-planned schedule and/or route.

For a complete checklist, see the **Requirements and Guidelines for ACA Sanctioned Events**

What is liability insurance?

Despite your best efforts to enforce safety procedures and prevent accidents, losses may occur and your club may be found liable. Just as each individual should carry some form of personal liability protection, the club should also purchase or otherwise arrange general liability insurance. The insurance is like a life jacket for the club. You wear it for the unexpected tumble.

As an ACA member club, liability insurance is relatively inexpensive and easy to arrange. ACA clubs are eligible for event sanctioning, which includes liability coverage for the club, its leaders and volunteers. This coverage may be applied for a full season of club activities or on a case-by-case basis. Simply call the ACA National Office to request an Event Sanctioning Packet.



Prepare a safety plan

What does the ACA's liability insurance policy cover?

The ACA's Commercial General Liability Policy covers bodily injury, property damage, personal injury, advertising injury, medical expenses and legal defense, solely as respects the negligence of the named insured. Under this policy, the named insured are *The American Canoe Association And Its Member Clubs*. This protects everyone who represents or acts on behalf of ACA and the club - such as officers, directors, coaches, instructors, volunteers and safety personnel - **for all directly supervised club activities sanctioned by ACA.**

What does the ACA's insurance policy NOT cover?

There are limitations and exclusions to this liability protection. ACA member clubs may request a copy of the ACA's Commercial General Liability Policy to fully review coverage limits and conditions. Here are a few commonly misunderstood exclusions.

The policy does not automatically provide medical or liability coverage for all club members and activity participants. Paddlesport's inherent risks demand that each participant take responsibility for his or her actions and choice to participate. The club is not responsible simply because an accident occurs at a club activity. The club is liable for an accident only if event organizers fail to prudently plan and supervise the sanctioned activity.

The policy does not cover impromptu club gatherings. The coverage only applies during specific activities supervised by a club representative, promoted to the full club membership and registered with the ACA National Office in advance.

The policy does not cover transportation to or from an activity. Any automobile accidents, including loss of equipment from roof racks or trailers, defer to the vehicle driver's automobile insurance. The club should ensure designated drivers are appropriately licensed and insured.

The policy does not provide primary liability coverage for commercial outfitter businesses. Clubs may charge membership and activity registration fees, but ACA's insurance policy excludes the club from charging for equipment rental or transportation of goods and people (i.e., loading people in a raft and steering them down a river).

Additional limitations include selling alcohol at club functions, discharging fireworks and deliberately violating the law. If you have questions about other excluded activities, please contact the ACA Programs and Special Events Department.