

Using effective waivers for youth program activities

 Primary casualty

Table of contents

About Markel's Risk Solution Services team	2
Using effective waivers for youth program activities.....	3
Source	4



About Markel's Risk Solution Services team

Risk Solution Services provides technical insight related to existing and potential insured risk at Markel. The team partners with our customers, claims, and underwriters to educate on both current and future risk trends and supports our clients with a broad offering of risk management solutions.

E-mail our team at riskolutions@markel.com.



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Table of contents

About Markel's Risk Solution Services team	2
Using effective waivers for youth program activities	3
Source	4



Using effective waivers for youth program activities

Waivers can be effective business tools if used in the proper context, but they require careful planning and implementation. Failure to do so may result in a document that does not provide an effective defense.

Constructing a waiver is a complex legal process. One should avoid using generic waivers or drafting a waiver without consulting an attorney. Review any waivers with legal counsel to ensure it is applicable in each state where it is used. It is well worth the minimal charge.

Some general guidelines for writing waivers include the following:

- Text should be easy to read, with understandable language. Some states outline specific requirements of the waiver's content, text size, and appearance.



- A waiver should be a standalone document, not included within another document.
- The title of a waiver or release should clearly state what it is.
- A waiver should warn of the risks being accepted and provide a clear description of the potential harm associated with the activity.
- A waiver should advise the participant or parent cosigner that they agree to assume the risk of their participation and affirm that acceptance is voluntary.
- A parent or legal guardian should sign a waiver if the participant is under 18 years old. It's a good idea to have both parents sign a waiver, especially if there are custodial issues. Some states do not consider waivers or releases signed by parents on behalf of minors as valid. Consult with personal counsel to be certain that your state will uphold these agreements. If not, create an alternative plan.
- A waiver should specify the parties to which the waiver applies, as well as other parties whose rights will be released.

Table of contents

About Markel's Risk Solution Services team	2
Using effective waivers for youth program activities	3
Source	4

- Give participants, parents, and volunteers time to review a waiver and ask any questions.
- If your program involves skills progression, as a student progresses in skill level, consider having a new waiver signed that describes potential risks at the more advanced level.
- If there is a change in exposure such as a new activity or program, or you have a change in exposure, new waivers should be signed.
- Waivers should be reviewed with participants, parents, and volunteers annually.
- Waiver language should be reviewed with your attorney annually to ensure they remain valid.
- Management of waivers received should include a process to confirm all participants have completed and returned a properly executed waiver.
- All waivers received should be properly filed for easy retrieval if necessary.
- Waivers should be retained in accordance with state and local jurisdiction guidelines, in addition to guidance provided by your attorney.

Source:

Playing To Win—A Risk Management Guide for Nonprofit Sports and Recreation Programs, by David L. Mair and Melanie L. Herman



Table of contents

About Markel’s Risk Solution Services team2

Using effective waivers for youth program activities.....3

Source4

