



To Develop, Improve, and Support Competitive Swimming in the Inland Empire

May 25, 2022

RE: Operational Risk Chair Report to Spring 2022 HOD

Inland Empire Swimming HOD:

As it is my honor and pleasure to serve the LSC as their Operational Risk Chair. As chair, I am tasked with coordinating safety enhancement and training of USA Swimming Safety Education within the LSC. Additionally, I review all reports of occurrences for USA Swimming functions within the boundaries of our LSC.

Report of Occurrence (ROC)

The Report of Occurrence shall be submitted by the coach, official, or someone affiliated with the club/facility any time there is an accident or injury during any USA Swimming activities such as Sanctioned or Approved swim meets, swimming practices, contracted Swim-a-Thons, or approved social events. <https://fs22.formsite.com/usaswimming/form18/index.html>

- This needs to be completed for any injuries requiring medical care (via lifeguard, facility staff, or others).
- It needs to be completed regardless of if the facility has its own form
- You can print a blank form if you do not have internet access to allow submission as soon as possible.

As USA Swimming and our LSC, we get quarterly reports of injuries. Note these are only reported injuries so if a ROC is not filled it is not reported. In 2021, Inland Empire had no reported injuries.

USA-S reported 1,456 reports

- 34% occurred in practice
- 27% occurred at competitions
- 92% involved athletes

In 2022, our LSC has received 6 reports. In reviewing the cause, they align with typical occurrences with USA-S (scrapes and bumps treat at the facility). No changes to LSC practices are recommended at this time.

Is it an insured activity?

Review USA Swimming Coverage FAQ, which is attached to this report and can be found at: <https://www.usaswimming.org/about-usas/top-resources/operational-risk/insurance>

Are you hiring New Staff/Coaches?

Article 2.6.11 of the [USA Swimming Corporate Bylaws](#) requires all member clubs to comply with the USA Swimming Pre-Employment Screening Procedures for New Employees for all new employees who are

required to be USA Swimming members under Articles 2.6.6 and 2.6.7 of the USA Swimming Corporate Bylaws. This must include:

1. Past Employment Reference Checks or Verifications. Where there have been multiple employers, minimum of the three most recent employers.
2. Education Verification (highest held)
3. State Motor Vehicle Report Examination

If you are employing Jr. Coaches on your staff, most states have additional requirements depending on their age.

Develop a Culture of Safety:

Safety is and should be a team mindset/culture for all age groups.

10& Under Children in this category enjoy compliments, games, coloring contests, and immediate feedback. They live in the here and now, with a shorter attention span, and will need constant reminders about their actions. Adults and older swimmers are their yardsticks to measure acceptable behavior. This group is easy to teach safety skills to because they haven't yet developed long-standing bad habits. They still try to please adults and aren't as influenced by peer pressure yet.

11-13. This group is in a transition stage. They want and need to be treated like adults some of the time, but sometimes they want and need to be treated like children. They are testing and challenging limits constantly, trying to develop their personalities. Peer pressure is a strong factor in this group. They don't like to stand out in a crowd and common goals will be a key to effective safety education. Give them respect and don't talk down to them.

14+. The team leaders. They believe they are invincible. They will prefer discussion over worksheets. There is still the factor of peer pressure in this group; they will be more selective about their friends. The coaches' attitudes are extremely important for this group. They will follow rules for the "sake of the younger children."

Sincerely,

Jeff Sutton

LINKS FOR REFERENCE:

Concussion Information:

Heads-Up Youth Sports: <https://www.cdc.gov/headsup/youthsports/index.html>

Information from USA Swim: <https://www.usaswimming.org/docs/default-source/risk-management/safety-and-operational-risk/concussion-info-sheet-for-parents-and-swimmers.pdf?sfvrsn=12>

Concussions at the Pool: <https://www.usaswimming.org/docs/default-source/risk-management/safety-and-operational-risk/possible-concussion-at-the-pool---checklist.pdf?sfvrsn=10>

Concussion Training: <https://www.cdc.gov/headsup/youthsports/training/index.html>
<https://nfhslearn.com/courses/61129/concussion-in-sports>

Pre-Employment Screening:

<https://www.usaswimming.org/safe-sport/club-tool-kit/preemployment-screening>

Reporting of Injury:

USA Swimming Report of Occurrence: <https://www.usaswimming.org/news-landing-page/2017/02/07/report-of-occurrence-form>

Insurance:

<https://www.usaswimming.org/coaches-leaders/team-leaders/managing-your-team>

Meet Resources:

<https://www.usaswimming.org/about-usas/top-resources/operational-risk>



Insurance Coverages

“Frequently Asked Questions”

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USA Swimming Insurance Programs

What Coverages Do I Have?

One of the most frequently asked questions by USA Swimming members is, "What coverages do I have under the USA Swimming Insurance Programs?" Hopefully, the following will clarify the matter of coverages provided for the various types of membership.

What Is Covered:

General Liability Insurance- Provides coverage for **claims alleging** bodily injury and property damage, products/completed operations, personal injury and sexual misconduct occurring during an "Insured Activity."

Excess Liability Insurance – Provides additional liability limits in the event the General Liability limits are not adequate.

THESE COVERAGES ARE EXCESS TO ANY OTHER LIABILITY INSURANCE THAT MAY BE AVAILABLE TO ANY INSURED.

A. (1) **Named Insured** includes USA Swimming and USA Swimming Local Swimming Committees and USA Swimming Foundation. (2) **Other Insured(s)** include USA Swimming member clubs whose athletes or participants and coaches are members of USA Swimming; group members, member coaches, officials and volunteers of USA Swimming while acting at the direction of and within the scope of their duties for a **Named Insured** for "Insured Activities."

B. **Insured Activities** include USA Swimming sanctioned or approved meets, practices, tryouts, dryland training, USA Swimming Foundation contracted Swim-a-thons®, Swimjitsu events, officials attending observed meets, STSC, CPR and Lifeguard Certification of USA Swimming member coaches done by USA Swimming member coaches that are member representatives of one of the approved agencies listed on the USA Swimming STSC In-Water Skills checklist and approved social and fund-raising activities.

C. Limits of Insurance

General Aggregate Limit (Other than Products-Completed Operations)	\$10,000,000 per event
Products-Completed Operations Aggregate Limit	\$2,000,000
Personal and Advertising Injury Limit	\$1,000,000
Each Occurrence Limit (Bodily Injury/Property Damage)	\$1,000,000
Damage to Premises Rented to You Limit	\$1,000,000 any one premises
Medical Expense Limit	\$5,000 any one person
Legal Liability to Participants	\$1,000,000
Sexual Molestation Each Occurrence/Aggregate	\$1,000,000/5,000,000
Excess Liability Each Occurrence/Aggregate	\$5,000,000/5,000,000

D. Definitions:

Bodily Injury means bodily injury, sickness, or disease sustained by any person which occurs during the policy period, including death at any time resulting therefrom."

Property Damage means physical injury to tangible property not owned by the insured including all resulting loss of use of that property."

Personal Injury means injury arising out of false arrest, detention or imprisonment, malicious prosecution, wrongful eviction, invasion of privacy, oral or written material that

slanders or libels a person or organization or a person's organization's goods, products or services or violates a person's right of privacy, the use of another's advertising idea, infringing upon another's copyright, trade dress or slogan. (continued on next page)

Sexual Molestation means injury to any person for sexual abuse, sexual molestation, sexual exploitation or sexual injury. There is no coverage for the person that personally participated in committing any sexual abuse or molestation or who failed to take action to prevent recurrence after having personal knowledge of any sexual abuse or molestation, exploitation or injury.

What Is Not Covered (Limited Listing)

- ♦ Intentional Acts
- ♦ Diving boards or from other than USA Swimming regulation starting platforms
- ♦ Climbing walls, amusement device including rides, slide, water slide, bounce houses or Other inflatables and bungee operation or equipment
- ♦ Concerts or theatrical events
- ♦ Automobile Liability
- ♦ Workers Compensation
- ♦ Directors & Officers Liability (wrongful acts/decisions not resulting in bodily Injury or property damage)
- ♦ Crime (employee or volunteer dishonesty)
- ♦ Employment/Employer related activities.

Excess Accident Medical / Dental Coverage is provided for all USA Swimming members and volunteers for insured activities including travel to and from practice, meets, etc., if at the direction of the club coach or member of the club's Board of Directors.

Options that clubs or members should consider purchasing to supplement the coverage provided by the USA Swimming Program:

Coach Members

Workers Compensation
Health Insurance
Disability Insurance
Automobile Liability

Non-Athlete Members

Automobile Liability

Athlete Members

Automobile Liability

Local Member Clubs

Same as recommended for coach members plus Directors & Officers Liability, Employment Practices Liability, Property Insurance if club has an office or own equipment, General Liability for offices and lesson programs or activities involving participants who are not members of USA Swimming.

Non-Owned and Hired Auto Liability Insurance:

USA Swimming has entered an agreement with National Car Rental/Enterprise Car Rental which allows a club to rent a vehicle from these rental agencies at a reduced cost and which provides liability and physical damage coverage for the rental vehicle. The program discount code is XZ12940 and applies to all Enterprise or National locations and types of vehicles.

Most of the coverage not provided by the USA Swimming program may be purchased from Risk Management Services, Inc., or the USA Swimming Marketplace (IOA) at the web site www.usaswimmingmarketplace.com or a local agent. Risk Management Services has a program where a club can purchase Non-Owned and Hired Auto Liability Insurance Policy which is required by contract for some facilities. IOA has a Workers Compensation program for member clubs.

***Directors and Officers Liability /Employment Practices Liability Coverage**

What coverage is provided by Directors & Officers Liability insurance and why should a swim team consider purchasing the insurance.

Directors and Officers Liability is an optional coverage that may be purchased from Risk Management Services, Inc. See their web site at www.rmsswimminginsurance.com. Local agents also offer the coverage.

The Directors & Officers/Employment Practices Liability insurance provides coverage for wrongful acts or decisions **not** resulting in a bodily injury or property claim which would be insured by a General Liability policy. Examples of the types of claims that would be insured by a Directors & Officers Liability are a) wrongful termination of an employee; b) not filing a report of occurrence on a timely basis causing additional medical expenses to a swimmer's family; c) mismanagement of investments; or d) disciplinary action against an athlete whose parents allege the action prevented the athlete from making a "Q" time or elite team.

USA Swimming Coach Members and Insurance

Coach membership requires satisfactory completion of safety training, criminal background checks, athlete protection education and other coaches' education as required by USA Swimming or Safe Sport. All coach members, except Jr. Coaches, must be 18 years of age. See Coach Membership Checklist link <https://www.usaswimming.org/utility/landing-pages/coach-membership-checklist>

Failure by a coach member to renew the required certifications results in no liability coverage for the coach or potentially for the club.

Assisting a Coach

Article 502.6.4 of the USA Swimming rulebook states that "Anyone who coaches swimmers at a USA Swimming practice or competition must be a coach member of USA Swimming and must have satisfactorily completed safety training, criminal background checks and other coaches' education as required by USA Swimming."

The above article was previously passed by the USA Swimming House of Delegates to clarify that coaching by any person who is not a registered coach member, including USA Swimming athlete members, is not permitted.

An athlete member can demonstrate strokes to age group swimmers, the athlete being in the water and the coach on deck; however, no athlete can provide instruction or do any coaching without being a USA Swimming registered coach member. Remember, a coach member of USA Swimming must be at least 18 years of age.

Effective September 1, 2018, the following new designation of non-athlete membership was established, Junior Coach. The individual must be age 16 or 17 and is required to take the same courses as a coach. No background check is required and the individual must operate under the supervision of a coach on deck.

There is now an exception for individuals who are not doing any coaching in the water but who are only providing dry land training activities. In those instances, if the person and the club for whom the individual is providing services want the benefit of USA Swimming's insurance coverage, then he or she must register as a non-athlete member of USA Swimming, complete USA Swimming's background screening and Athlete Protection Training.

Dryland Training – An Insured Activity

Is dryland training considered an insured activity under the USA Swimming Insurance program? The USA Swimming insurance program does cover most dryland training activities. Dryland training may include general fitness types of exercises, such as calisthenics, weight training, running and biking, as long as the activity is under the direct supervision (direct line of sight) of a USA Swimming member coach. It can incorporate specialized equipment, such as surgical tubing, paddles, and the swim bench. **Running and biking are restricted to off road training only unless a specific event is granted approval.**

Who may Coach or Supervise a Dryland Training practice?

Rule 502.6.4 of the USA Swimming rulebook states that "Anyone who coaches swimmers at a USA Swimming practice or competition, must have satisfactorily completed safety training, criminal background checks and other coaches' education as required by USA Swimming." Coaching by any other person who is not a registered coach member, including USA Swimming athlete members, is not permitted with the exception of the now available non-athlete dryland only coach.

There is now an exception for individuals who are not doing any coaching in the water but who are only providing dryland training activities. In those instances, if the person and the club for whom the individual is providing services want the benefit of USA Swimming's insurance coverage, then he or she must become a non-athlete member of USA Swimming and complete the required background screen check and take the Athlete Protection Training test. The insurance company is not requiring that the individual become a registered coach member because the person is not coaching athletes at swim meets or practices is only doing dry land training.

What types of dryland training activities are not insured?

The USA Swimming insurance program does not provide coverage for participation in

biathlons or triathlons, or similar types of activities. Why? The USA Swimming coach has no way of actively supervising a group of athletes who will, by necessity, spread throughout the field and may become mixed in with other competitors.

Tryout Issues

The USA Swimming Insurance Program provides **General Liability** coverage for the club, coaches and USA Swimming members when a non USA Swimming member is swimming with a club during a tryout period. However, coverage is only valid if (a) all the coaches on deck are USA Swimming members and (b) the tryout period is limited to 30 consecutive days within a twelve month period for any one individual for team practices or clinics sponsored by a USA Swimming entity (such as USA Swimming club or LSC). **Tryout period only applies to individuals who were never a member of USA Swimming.**

Note: The non-member is not provided any coverage under the USA Swimming program. If said individual was injured or caused an injury, he/she would have to look to his/her family medical and/or family liability insurance.

People on Deck

Anyone on deck during a swim team practice must be a registered USA Swimming coach or USA Swimming registered athlete member. Our insurance company advises that athlete members who are NOT actively involved in the practice or swim meet should not be on deck due to problems with crowding and supervision. For USA Swimming's insurance to be in effect for the coach and the club the coach must maintain direct line of sight and supervision at all times.

While some of the coaches enroll their toddlers as athlete members, for safety reasons, they should not be on deck. Most places of employment will not allow you to take your toddler to work, why would a swim coach think they should be able to do so? Professionalism on the part of a coach includes insuring that the athlete members will be recipients of the coach's undivided attention. Obviously, this is impossible if a coach's child is running around on deck. By allowing the toddler (or infant in some instances) on deck at any time seriously jeopardizes the safety of the athlete and potentially, the assets of the coach, club, and board members.

The question has also arisen regarding spectators in the "on deck" area. If having spectators in the area is not a distraction to the coaching staff, USA Swimming's insurance is not affected. Each local member club should make their own determination as to whether it is appropriate to allow people other than coaches in the "on deck" area. If allowed, there should be a separate area designated as the deck area for the spectators. At meets, because of the number of people at a swim meet, we strongly suggest that the LSC implement a policy as to who can be on deck during a swim meet. Deck space is limited and only those individuals who are directly involved with the meet should be on deck.

USA Swimming Insurance Coverage for the Club

Question: What must a club do to have the benefit of USA Swimming's insurance coverage?

Answer: A club's USA Swimming insurance coverage is in effect when all three of the

following conditions are met:

1. The club is a member in good standing of USA Swimming.
2. All participants swimming for the club are athlete members of USA Swimming (*exception: see Tryouts*)
3. All coaches, whether they are full-time or part-time, are coach members of USA Swimming with current certifications, education and background checks as required by USA Swimming.

If all three of these conditions are met, the USA Swimming club has the benefit of USA Swimming's liability coverage for insured activities.

“Unattached” Coaches and Insurance

Occasionally a current coach member, not attached to a USA Swimming club, who is coaching member athletes will ask, “Will I have the benefit of USA Swimming's insurance coverage? Can I provide the facility an insurance certificate as proof that I am covered?” USA Swimming's insurance coverage is a benefit of membership and both the USA Swimming coach and the member athletes would be covered under USA Swimming's insurance program. However, insurance certificates are only issued on behalf of a USA Swimming member club. Therefore, the coach would only be able to get an insurance certificate on behalf of himself/herself (the individual) verifying by virtue of his/her USA Swimming membership he/she was afforded insurance but he/she would be unable to request an Additional Insured Endorsement for the facility.

Insurance Coverage for Independent Contractors or Vendors

USA Swimming Headquarters has received questions regarding independent contractors, not including coaches, that perform services on a fee for service basis, e.g. an individual or entity that provides dryland training programs. USA Swimming provides no insurance coverage for an individual or entity that provides services on a fee for service basis. The individual or entity should provide liability and property insurance for their business operations and should provide evidence of such insurance to the USA Swimming organization that is utilizing the services of the independent contractor. The fact that an individual is a member of USA Swimming does not alter the no insurance coverage situation.

Other examples of “independent contractor” exposure would be a swim coach who, during meets when he/she was not coaching, sells merchandise at the venue for his/her personal financial benefit or outside vendors who sell swimming apparel or food. Again, the USA Swimming insurance will not provide any insurance coverage for the swim coach for his/her business pursuits.

Membership and Insurance - The Link

"Can we become a member club of USA Swimming if only a portion of our athletes or participants are members of USA Swimming? If so, does the club have insurance coverage in this situation?

The Club may become a member, but there is no liability insurance if non-USA Swimming members are allowed to participate in USA Swimming activities other than tryouts. Non-member athlete participation is an insured activity only in a "tryouts" situation which is subject to certain time and supervisory conditions. In the event of a claim, the insurance company will verify that all in the water at the time the claim occurred were USA Swimming members and that all the coaches are USA Swimming members.

What about the situation where, because of duplicate coverage, the club does not care about USA Swimming insurance protection? Perhaps the club and its athletes are insured by a YMCA or municipality.

As a general rule of thumb: "When participating in a 'USA Swimming insured activity', a club must meet the definition of a USA Swimming member club for insurance purposes." Let's look at an example involving a dual YMCA-USA Swimming club member.

1. When the YMCA/USA Swimming member club swims in a USA Swimming sanctioned meet, all swimmers and all coaches must be USA Swimming members. The YMCA may have 100 swimmers, but when it goes to a USA Swimming sanctioned event with 75 of its swimmers, all coaches and all 75 swimmers must be USA Swimming members.
2. When swimming as a YMCA team in YMCA competition, there is no USA Swimming insurance coverage.
3. In a non-hosted "approved" meet, where all the team members are USA Swimming members, all coaches are USA Swimming members, the USA Swimming insurance is excess coverage to that provided by the "Y" or other non-USA Swimming organization. If the USA Swimming team hosts the "approved" meet, the USA Swimming coverage will apply **subject to specific terms, conditions and exclusions**.

Coverage for Summer Leagues

During the summer months many USA Swimming member clubs recruit new athletes who want to join the team for a four-month season only. Other USA Swimming clubs operate only during the three or four month summer season so this is their only opportunity to recruit.

Insurance requirements for seasonal member clubs are the same as those for year-round teams. For a seasonal club to be covered by USA Swimming General Liability coverage, the following conditions must be met:

1. The club must be a USA Swimming member in good standing.
2. All coaches must be USA Swimming coach members.
3. All athletes must be USA Swimming members.

Frequently, year-round USA Swimming member clubs ask about holding a meet for a non-USA Swimming summer league. The club may wish to use the meet as a fundraiser and as a means to introduce new athletes to year-round competitive swimming. USA Swimming member clubs in this situation have three options for running the meet:

1. **Conduct as sanctioned meet.** This requires that all league swimmers purchase USA Swimming memberships, either year-round or seasonal.

2. **Conduct as an approved meet.** Have the summer league or USA Swimming club request an approval for the event. USA Swimming members participating in the meet are covered if USA Swimming coaches are supervising. Non- USA Swimming members do not have the benefit of USA Swimming excess accident or liability insurance.
3. **Obtain insurance outside of the USA Swimming program.** If your club wants to run an event not covered by one of the above definitions, you may purchase separate event coverage for your particular situation.

If the USA Swimming member club wishes to participate in dual meets or championship meets that they are not hosting, both general liability and excess accident coverage is provided for this activity as long as all of the athletes are USA Swimming members and USA Swimming member coach accompanies them to the meet.

Fundraising and Social Activities

Did you know your club has coverage for **approved** fundraisers or social activities. Each fundraising or social activity is judged individually for approval. The following are examples of typical activities that would be approved:

Socials:

1. USA Swimming member club is having an outing at a water park.

Fundraisers:

1. USA Swimming member club is selling hot dogs and soft drinks at a fair booth to raise funds.
2. USA Swimming member club has a yard sale at the local flea market.

Activities that would **not** be considered "approved" would be, white water rafting; triathlons; ongoing bingo games; lesson programs for non USA Swimming members.

Club coaches and administrators should use common sense when considering a social or fund raising activity. "Is this an activity that I would consider normal to our operation? Does it present an unusual or unacceptable risk to our swimmers? To our chaperones?"

It is suggested that you receive prior approval for your club's social and fund raising activities.

Open Water Swimming

The same requirements apply for open water swimming practices and sanctioned meets as apply for pool practices and sanctioned meets.

Practices must be under the direct supervision of a USA Swimming coach or coaches and those in the water must be USA Swimming or USMS members, unless a tryout situation exists.

Meets-Sanctioned. All participants must be USA Swimming or USMS members. In order for insurance to be in place for both organizations, sanctions must be obtained from both organizations.

Facilities

Where does the USA Swimming insurance begin/end versus the facility's insurance beginning/ending?

The USA Swimming program provides coverage for USA Swimming activities, primarily in the water activities. The program does not provide coverage for facility maintenance issues (i.e. over-chlorination, potholes on the premises, failure to salt icy walkways, etc). When a facility is added to the USA Swimming General Liability policy as an Additional Insured, coverage is provided for the facility for claims resulting from the USA Swimming entity's negligence. In other words, including a facility as Additional Insured on the USA Swimming policy does not include coverage for premises issues (sole negligence). We urge you to review the contracts you have with the facilities you use to be sure that you are not agreeing to provide coverage for premises/ maintenance claims. There is no coverage for these claims.

Example: Mary Smith, a non-member parent of USA Swimming, comes to watch her son, Bobby, swim at a practice. When she is leaving the pool area, she steps in a gopher hole breaking her ankle. A claim is submitted to USA Swimming and is denied. The facility is responsible for the maintenance of the area around the pool.

Hired, Non-Owned Auto Liability Explained

Did you know...There is **no*** coverage provided under the USA Swimming insurance program for any type of automobile liability exposure.

The primary purpose of the USA Swimming insurance program is to "get the swimmers in the water while maintaining reasonable costs." Therefore, the coverage provided by the program centers around the water activities.

When a coach, parent, or swimmer provides transportation for others to a club function, any accidents and resulting claims would be the responsibility of owner and/or operator of the vehicle (*see also page 13 regarding Team Traveling*).

When a team is out of town for a meet or function and they rent a vehicle for transporting team members or others, the same situation would exist. The individual renting and/or operating will be the responsible party.

The only coverage provided for claims resulting from an automobile accident is the Excess Medical Accident coverage. The transportation must be authorized by a club coach or club official in order for the coverage to be valid.

There are three ways for a member club to address the automobile liability exposure. (1) To purchase a Hired and Non-Owned Automobile Liability policy from a local agent; or (2) To be sure that anyone providing transportation for others carry adequate limits of liability on their auto policy. (Discuss with your local agent); (3) To have athletes' parents transport only their own children.

***USA Swimming has entered an agreement with National Car Rental/Enterprise Car Rental which allows a club to rent a vehicle from these rental agencies at a reduced cost and provides liability and physical damage coverage for the rental vehicle.** The program discount code is XZ12940.

Report of Occurrence / Online Reporting

How is USA Swimming notified when an accident occurs? The Online Report of Occurrence form, available on the USA Swimming website at this link: www.usaswimming.org/ROO, is used for this purpose. Reporting all incidents, no matter how minor, is important to put both USA Swimming and its insurer on notice of accidents and potential claims.

A Report of Occurrence form should be submitted any time an injury occurs at a USA Swimming function, whether or not it involves a USA Swimming member. Injuries involving spectators should also be reported. The form should be filled out by a meet director or by any club personnel responsible at the time of the incident; *the parents of the injured athlete should not be asked to complete the report form.*

After receiving the report, USA Swimming National Headquarters enters information about the incident into the USA Swimming database for future safety education and insurance references. When a Report of Occurrence form indicating an athlete or non-athlete participant is a USA Swimming registered athlete, information about the Excess Accident Medical Insurance Policy and claim forms are sent to the injured party(s) family. This program is excess of other primary insurance in place through the member family's employment, school or family. The deductible is the greater of the total of other collectible benefits from primary insurance sources applicable to the injury or \$100 when there is no primary insurance.

If, through technical reasons, a form cannot be submitted online at the time of the incident, you may document the details on the paper copy of the form found on the USA Swimming website and then you, or someone from your club, may enter them into the online system as soon as possible. The paper copy is found by clicking on www.usaswimming.org/ROO. The online link and the paper copy of the form can both be accessed at this location.

Contact information if you have a problem submitting the incident reports:

USA Swimming Risk Management
One Olympic Plaza
Colorado Springs, CO 80909
Phone: (719) 866-4578 Email: George Ward at gward@usaswimming.org

Worker's Compensation - Do We Need It?

Worker's Compensation Insurance is the policy that pays for medical and rehabilitation expenses when an employee is injured on the job. The USA Swimming Insurance program does not provide any type of Worker's Compensation coverage for USA Swimming Clubs or their coaches.

In part, to avoid paying Worker's Compensation premiums or taxes, many USA Swimming Member Clubs consider their coaches to be "independent contractors" rather than employees. This strategy can backfire on the club, however, should a coach who is really an employee of the club become injured or disgruntled.

If a club is found to have "misabeled" a coach as an independent contractor, the club (and therefore its Board of Directors) may become liable for medical and rehabilitative expenses

in case of an injury and substantial penalties for failure to pay premiums as required by law. In addition to Worker's Compensation implications, the IRS is closely monitoring independent contractor versus employee situations to ensure that taxes are being filed and paid as required. The relationship between the club and its coaches should be carefully examined to ensure the club is not in violation of state and federal law.

The following test, devised by the Social Security Administration, may be used to assist USA Swimming member clubs in determining whether their club's coach is an employee or independent contractor. This test is also by various Worker's Compensation administration agencies as well as the Internal Revenue Service.

Factors that support employee status...

- ◆ Does the employer have the power to hire or fire the individual?
- ◆ Does the employer furnish tools, equipment and a place to work?
- ◆ Does the employer train the individual in question?

Is the individual required to follow the employer's instructions?

- ◆ Does the employer require the individual to personally perform the assigned work?
- ◆ Does the employer set the hours and conditions of work?
- ◆ Does the employer pay business and travel expense?
- ◆ Does the employer pay the individual by the hour, week or month?
- ◆ Does the individual have the authority to hire, supervise or pay an assistant?

Factors that support independent contractor status...

- ◆ Does the individual make a profit or suffer a loss as a result of this work?
- ◆ Does the individual agree to do a specific job and is that individual subject to penalty for failure to do so?
- ◆ Does the individual work for a number of different entities/people at the same time (e.g., high school coach, swim club coach, "Y" coach)?
- ◆ Does the individual advertise to the general public?
- ◆ Does the individual pay his own business expenses, provide his own equipment or allocate work space?

If the club answers "yes" to several of the first set of factor questions, the coach is likely to be an employee and should be accounted for as such. A local employment specialist or tax attorney can best advise the club.

Even if Worker's Compensation coverage is not required by the state due to a "minimum number of employees" clause or other condition, USA Swimming member clubs may wish to purchase it on behalf of their coaches. Coverage can be purchased through the USA Swimming Marketplace. See www.usasmarketplace.com under club insurance for the application or contact JD Wallum at jd.wallum@ioausa.com or Marilyn.Janczy@ioausa.com.

Consider how a coach might pay for employment-related injuries. Is he covered by another medical insurance program? If not, a Worker's Compensation policy may be in order even if it's not mandatory.

SOME MORE FREQUENTLY ASKED QUESTIONS AND ANSWERS

Automobile Liability Coverage

Question: Does a USA Swimming club have automobile liability coverage under the USA Swimming program?

Answer: No. If a parent or coach uses their car to transport athletes or other club members to/from a practice or meet, the club has coverage under the car owner's policy. This is also true when the club rents a vehicle. Whoever signs for the rental vehicle is the individual whose insurance would respond for the club if an accident occurred and people in the vehicle were injured. Exception: When a club rents a vehicle from Enterprise or National under the USA Swimming Program Code XZ12940.

In the first example, the parent's or coach's insurance is the primary coverage. In the second example, the rental agency's insurance would be the primary coverage with the parent's/coach's insurance coming into play on an excess basis. Risk Management Services can apply for Non-Owned and Hired Auto Liability Insurance Policy for a club through K&K Insurance Services. Contact Risk Management Services at 1-800-777-4930, x10 (Kim Tate) or x13 (Debbie Williams) or x12 (Sandi Blumit).

Team Traveling and Insurance Coverage

Question: My team is planning to travel to Hawaii for a very important swim meet. I would like to know what insurance coverage the team has while traveling, while at the meet, and while sightseeing under USA Swimming. Every member of our team is a USA member.

Answer: Coverage is same no matter where/how far traveling. All participants must be USA Swimming members and coach or parent must be supervising. Parent volunteers are covered while in an official capacity with team. The travel itself is not covered. We do not provide any auto coverage at any time. Drivers of cars/vans would have to look to their own insurance company for coverage in event of an accident or the team can purchase the additional insurance when renting the car/van.

The general liability coverage and excess accident medical coverage is in effect for the USA Swimming members.

Sightseeing is covered. Please use common sense and caution.

Accidental damage to hotel/dorms may be insured by the liability insurance program.

USA Swimming has entered an agreement with National Car Rental/Enterprise Car Rental which allows a club to rent a vehicle from these rental agencies at a reduced cost and provides liability and physical damage coverage for the rental vehicle. The program discount code is XZ12940.

Starting Block

Question: Does a USA Swimming club have liability coverage if they design and build their own starting blocks or make changes to existing blocks?

Answer: Yes. The club may build or alter starting blocks to suit their needs. The blocks must comply with standards as stated in USA Swimming Rules and Regulations. The club is not covered for alterations performed on blocks for other clubs or facilities.

Supervision

Question: *What level of supervision is required for the liability insurance to apply in the event of a claim?*

Answer: There must be direct supervision for in water or out of water activities for coverage to be in place. Direct supervision has been defined as meaning “line of sight” between the supervising coach and the athletes involved in the activities.

Question: *What if the coach is in the water swimming with the athletes?*

Answer: If the coach were in the water swimming, there is no way the athletes are under his/her “direct supervision or direct line of sight.” Therefore the insurance would be void.

THE SITUATION: An athlete has joined a USA Swimming club many miles away from where he lives. The coach faxes/e-mails workouts to this swimmer.

QUESTION: *Does the swim club have an exposure if the member gets hurt while doing the prescribed workouts?*

ANSWER: Yes, the club would have an exposure if the club is aware that the coach is sending workouts to the swimmer. The swimmer would have NO liability coverage as he/she is not under the supervision (direct line of sight) of a USA Swimming member coach.

Non-Member

Question: *What happens to my club's insurance if non USA Swimming members are in the water at the same time as USA Swimming members. e.g., at a USA Swimming practice?*

Answer: This is not an insured activity **unless:**

- a. There is a distinct lane separation (USA Swimming members are in lanes 1-3 and non-USA Swimming members are in lanes 4-6). *One coach cannot supervise both groups at the same time.*
- b. An individual(s) is involved in a USA Swimming tryout.
- c. The non-USA Swimming members are USMS members.

In order for the General Liability coverage to be in place for a USA Swimming Local Member Club, see page 7 for the requirements.

Parents Working Out Same Time as Team

Question: *Some parents want to workout (laps) while their children are at swim team practice.*

Answer: Two different situations. If they want to swim with their kids in the same lanes while the kids are practicing, they have to join USA Swimming as an athlete member. If they are swimming in separate lanes and are not being coached by the USA Swimming club

coach, they don't have to join. However, this activity is not an insured activity.

Masters Swimmers at Practice

Question: *A member of the United States Masters Swimming, Inc. practices with a USA Swimming team. What is the status of the liability insurance for the USA Swimming member club and its members?*

Answer: This would be an insured activity. There is an agreement between USA Swimming and USMS allowing their members to practice with either organization as long as a USA Swimming member coach is on deck.

Officiating at Masters Meet

Question: *A USA Swimming member acts as an official or in a volunteer capacity at a USMS event. How is the USA Swimming member insured for this USMS activity?*

Answer: USA Swimming coverage does not apply. Coverage for a USMS activity would be provided by the USMS insurance program.

Parents on Deck/Locker Rooms During Practice

Question: *Should parents be allowed on deck and/or in locker rooms during practice?*

Answer: Parents being allowed on deck during practice is a liability and safety issue. The policy against such a practice is in place to prevent distractions for the coach(es) as well as the athletes. The only individuals that should be on deck during a practice are the USA Swimming coach members and those individuals the coach(es) deems necessary to assist in conducting the practice, e.g. senior swimmers helping with age group swimmers; volunteers acting as timers.

Should parents be allowed in the locker room during a practice? Our recommendation would be that there should be some sort of monitoring/guidelines in place for the locker room in line with Safe Sport recommendations/requirements. Common sense should dictate what those guidelines/procedures should be. If parents are asked to be monitors, there should be two parents in the locker room, and, of course, they should be of the same gender as the locker room they are monitoring. Be advised that if a parent is monitoring locker rooms on a regular basis, they would need to become a non-athlete member of USA Swimming and be subject to the required background check and the Athlete Protection Training class.

Case Illustrations

There is no simple answer to the question, "Do we have insurance coverage?" It depends solely on the facts of each particular incident. One must also distinguish between accident coverage and liability coverage, although both are present in most cases.

1. A USA Swimming club is allowing non-member swimmers to practice and train with the club swimmers who are all USA Swimming members. Do they have insurance?

This is not an insured activity. Non-member athlete participation is an insured activity only for **"tryouts"** under certain time and supervisory conditions. If a non-USA Swimming member athlete were injured, he would not be entitled to accident medical insurance coverage. The insurance company would either reserve its rights to deny or deny coverage to the member club.

2. A YMCA club or high school team wishes to host a swim meet in which one or more USA Swimming member clubs will also be participating.

This meet can only be "approved." USA Swimming insurance will follow the participating USA Swimming athlete members if USA Swimming member club coaches are present and supervising them. USA Swimming insurance will also cover those USA Swimming officials designated to be present to attest to conformation to USA Swimming rules. USA Swimming will not insure the non-USA Swimming clubs or swimmers. The primary insurance coverage must be that of the YMCA or whomever is sponsoring the meet.

3. USA Swimming swimmer is member of USA Swimming Club A. He is also member of non-USA Swimming Club B (e.g., High School Team). Each club has different coaches. Club B enters non-USA Swimming meet (e.g., YMCA meet). LSC approves the meet. There is no insurance coverage for the USA Swimming swimmer.
4. USA Swimming athlete individually enters a meet, not sanctioned but approved. His USA Swimming coach is not present. No insurance coverage, either accident or liability. The USA Swimming athlete must be under direct supervision at any meet by a USA Swimming Coach.
5. Same as No. 4, but the swimmer's USA Swimming coach is present during the approved meet and supervises him. Both accident and liability would be applicable.
6. A swimmer on a college team wants to participate in USA Swimming-sanctioned competition. His college team has purchased a club membership in USA Swimming; however, not all of the team members are registered USA Swimming. Therefore the college team is not a club member of USA Swimming for insurance purposes. What, if any, insurance coverage does the college team/USA Swimming club have?

This particular situation requires a very careful answer, because it involves not only schools (including colleges) but also YMCAs and other allied members.

As a general rule of thumb: "When participating in an 'insured activity', a club must meet the definition of a USA Swimming Member Club for insurance purposes."

- a. When the college team, as a USA Swimming club, swims in a USA Swimming sanctioned meet, all swimmers and all coaches must be USA Swimming members to even have the right to participate at all; insurance coverage follows. The college team may have 100 swimmers, but when it goes to a USA Swimming sanctioned event with 75 of its swimmers, all coaches and all 75 swimmers must be USA Swimming members.
- b. When swimming as a College Team in college competition, there is no USA Swimming insurance coverage (because not all are USA Swimming members).

These answers apply also to the YMCA and other organizations with USA Swimming members.

7. USA Swimming club holds an **approved** fund-raising event, supervised by club officials.

Liability and excess accident insurance are applicable. (Approval from Risk Management Services, Inc. required or Swimming's Risk Manager).

8. Socials or fund-raising activities where alcoholic beverages are **sold are not approved** and are not an insured activity.
9. USA Swimming club owns its own pool facility. It must carry independent insurance at its own expense to cover premises liability. No coverage under USA Swimming program.
10. Dryland Training. The USA Swimming insurance covers member swimmers and member coaches during supervised dry-land exercises. The key word is "supervised." The same requirements of supervision must be observed whether the swimmers are in or out of the pool during training periods.
11. When does coverage begin and end?

Coverage begins and ends when it can reasonably be said that the coach or authorized club official has taken control or should have taken control of the swimmers and when they are no longer under his control. This will vary always with particular cases. It will extend into the locker room/bleacher area as well as the pool. The situation we are trying to avoid is the gathering (and perhaps gratuitous and unilateral commencement of practice) of swimmers without supervisory control, and the abandonment of swimmers by coaches or authorized club personnel when practice or training is over.

12. Do personal assistants for swimmers with a disability need to be members of USA Swimming to be on deck?

No, but personal assistants should be on deck only when their services are actually needed by the swimmer, and with permission from the meet director or meet referee.

In summary:

The key is USA Swimming member coach controlled supervision and the club is engaged in a USA Swimming covered activity.

There are going to be situations in which the dividing line is extremely difficult to draw, particularly in liability situations. Complete the Report of Occurrence form or contact the USA Swimming National Headquarters at once whenever an accident occurs, no matter how minor you might think it is. The online and paper forms can be found at www.usaswimming.org/ROO.