



E-Mail Newsletter

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Issue # 1

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The Centre for Sport and Law's handbook series now includes ten volumes of practical legal and risk management information for the sport and recreation administrator. Written in plain language and illustrated with actual sport cases and scenarios, this series is an essential part of every sport and recreation leader's personal library.

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- Your Risk Management Program
- Administrative Appeals
- Insurance in Sport and Recreation
- Negligence and Liability
- Waivers and Other Agreements
- Rights & Obligations

About This Newsletter

Welcome to Issue #1 of our electronic newsletter! Our intention with this newsletter is to share information with you on new developments that may affect your sport organization. Each newsletter will be the equivalent of two pages long: the first page will highlight two or three short items that we think will be of interest to you, while the second page will contain a more in-depth feature. Our feature this issue is PIPEDA (the new federal privacy legislation).

New Industry Canada Non-Profit Corporation Requirements

On June 29, 2004 Industry Canada published new guidelines for non-profit corporation bylaws. These replace earlier guidelines published in August 2000. Of interest to sport organizations are requirements for conducting directors' meetings that take into consideration new communication technologies.

In particular, a common bylaw clause that allows written resolutions signed by all directors and placed in the minutes to be binding as if passed at a directors meeting, is now no longer acceptable. Many organizations have used such resolutions to handle straightforward items, rather than dealing with them in a directors meeting.

A second important change is that telephone meetings are allowed, provided the bylaws are very explicit about the terms and conditions that apply to such meetings. Many organizations have used telephone meetings for years, even though their bylaws, and Industry Canada, may not have permitted them. Now Industry Canada has indicated in detail what the bylaws must say for your telephone meetings to be valid.

Contact us to learn more about these two requirements, and others that have been set out in these new guidelines.

Lessons Learned in Selection Disputes

In the last five months, the Centre for Sport and Law acted for sport organizations in 15 selection disputes. The majority of them related to the Athens Olympics and Paralympics. We also helped to negotiate resolutions to 3 other disputes, without needing to resort to a formal hearing.

The majority of these cases arose from disputes over the exercise of discretion in selection decision-making. Many of them might have been avoided altogether if the persons or committees charged with the task of selection, had been more careful in ensuring criteria were fully considered, points of discussion were noted, and minutes of their meetings were duly recorded. Discretion is entirely appropriate in team selections, but to withstand scrutiny such discretion must be exercised in a careful and deliberate manner.

While our clients prevailed in nearly all these cases - much was still learned. The selection process has to be thoughtfully implemented, and you need to be able to demonstrate this later through a paper trail. One suggestion is to have us review your selection criteria and process first, before you put them into effect. This small step can help prevent significant problems later on.

- Managing Risks

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Services

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- Privacy Issues & Policies
- Business & Commercial Issues
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Are You PIPEDA Compliant?

On January 1, 2004, sport organizations in much of Canada became subject to a new piece of federal legislation relating to privacy rights. The statute is called [Personal Information Protection and Electronic Documents Act](#), or PIPEDA, and it has come into force in all but the three provinces – British Columbia, Alberta and Québec – which recently passed their own, similar privacy legislation.

The purpose of this legislation is to set out rules to govern the collection, use and disclosure of personal information in a way that balances the individual's right to privacy with the need of organizations to collect and use personal information. The legislation is in part a response to the growing ease with which information can be exchanged using new technology and the unprecedented growth of e-commerce transactions in Canadian society.

Overnight, PIPEDA has created a whole new set of legal responsibilities. While for some time there have been laws restricting the use of personal information by governments and public institutions, we now have a law that imposes significant administrative obligations on the entire private sector.

There has been considerable debate in the last year about whether PIPEDA would apply to the not-for-profit segment of the private sector. Although the authors of the legislation have stated that it was not their intention to cover non-profits, the way the law is written it is quite clear that it will apply to the extent that the non-profit organization collects and uses personal information in the course of "commercial activity", where commercial activity is defined as any transaction of a commercial character, including marketing, fundraising or solicitation of donations.

There is an emerging consensus that sport organizations engage routinely in commercial activities when they register members for a membership fee, deliver instructional programs or clinics, sell coaching manuals and rule books, sell sports equipment, solicit donors, or market their programs through direct mail, a Web site or e-mail lists.

PIPEDA sets out 10 principles of "fair information practices" that form the ground rules for managing personal information and the responsibilities sport organizations will have when collecting personal information including appointing a privacy officer, implementing policies, procedures, safeguards, retention periods and identifying purposes for collection.

For more information on PIPEDA, please contact the Centre for Sport and Law and learn about our complete privacy package. As well, visit our web site and check out our [technology standards](#) for web site development, software applications and IT management. These standards will promote best practices and encourage PIPEDA compliance among technology providers. See how your web site measures up!

A note for those sport organizations in Ontario: the Ontario government is in the process of preparing specific privacy legislation for the province, in line with what has been done in British Columbia, Alberta and Québec. This legislation will likely impose similar obligations as PIPEDA, but may contain some sport exceptions, as was done in British Columbia. Stay tuned!

About the Centre for Sport and Law

The [Centre for Sport and Law](#) is a consulting company of four professionals offering services and practical resources on legal and risk management issues. We started our business in 1991 after perceiving that sport organizations needed the law to be more understandable and more accessible. We are not a law firm – but our multidisciplinary team can help your sport organization find practical solutions to problems you may experience and, better yet, help you avoid problems in the first place.

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