



*2-10: Legal And Ethical
Considerations As They Relate
To Psychomotor Training*



Legal Considerations

- Effect on the instructor
 - Personal liability
 - Agency liability



Legal Terminology

- Codes
- Regulations
- Standards
- Guides
- Laws



Civil Rights Act of 1964 (Title VII)

- Prohibits discrimination during the employment process
- Prohibits harassment
- Created the EEOC
- Apply to protected groups



Affirmative Action

- A program designed to correct past and current inequities in hiring members of underutilized and minority groups



Americans with Disabilities Act

- Prohibits the discrimination against a ***qualified individual with a disability*** during the employment process
- Disabled person
 - Has a physical or mental impairment
 - Limits one or more life activities
 - Has a record of the impairment
 - Regarded as having the impairment



Americans with Disabilities Act

- ***Qualified individual with a disability***
 - Person with a disability who, with or without ***reasonable accommodations***, can perform the essential functions of the position



Americans with Disabilities Act

- ***Reasonable accommodations***

- Making facilities readily accessible to and usable by individuals with disabilities
 - Acquiring or modifying equipment
 - Providing qualified readers or interpreters



State and Local Laws

- State
 - Legislative law
- Local
 - Ordinances
 - Applies to people, things, and activities in a jurisdiction



Cal/OSHA General Safety Orders

- Training Instructor is exposed to both criminal and civil liability
- Cal/OSHA is the state agency that regulates and enforces California workplace safety and health standards
- Issues citations for any violations of the standards
 - A citation is a written notice of a safety or health violation
 - Usually based upon an inspection of a workplace or industrial accident



Five Violation Categories

- Regulatory violation
 - Employer fails to comply with administrative safety and health requirements

- General violation
 - Injury or illness results from a safety or health violation that is determined not to be likely to cause death or serious harm



Five Violation Categories

- Serious violation

- Substantial probability that a safety or health violation could result in death or serious injury
- Employee suffers any loss of a body part, any degree of permanent disfigurement, or any injury requiring hospitalization (other than for observation) for more than 24 hours



Five Violation Categories

- Willful violation
 - An intentional and knowing safety or health violation, no reasonable effort to eliminate the resulting hazard
- Repeat violation
 - Employer repeats the same safety or health violation within three years



Training Records

- Clerical purposes
 - ISO ratings
 - Fire Fighter I and II documentation
- Liability purposes
 - SCBA fit testing
 - Injury and fatality investigations
- Record retention length
 - Varies with record type and state/local laws



Family Education & Privacy Act

- Established in 1974
- Prohibits release of confidential info
 - Test scores
 - Personnel records
 - Individual training records
 - Medical files
 - Social security numbers
 - Exposure reports



Public Access

- Many records are able to be accessed by the public
 - Meeting minutes
 - Financial records



Legalese

- Liability
 - Legal responsibility
- Negligence
 - Breach of duty where there is a responsibility to perform



Foreseeability

- The act of foreseeing consequences and taking reasonable precautions
 - Trip hazards
 - Damaged or unsafe equipment
 - Environmental hazards
 - Students that are not fit or physically capable of performing the skill
 - Lack of appropriate supervision or safe operating conditions



Vicarious Liability

- Blame for actions of one person can be transferred to another person or organization



Liability Reduction

- Court expectations for instructors
 - Develop a safety plan or a strategy to prevent injuries
 - Follow the safety plan
 - Provide for health and safety of students and participants
 - Give proper instructions



Liability Precautions

- Check equipment's operating condition
- Ensure students are fit and prepared
- Instruct and test in the safe operation of equipment
- Do not leave students unattended
- Do not exceed individual's skill level
- Predict/anticipate potential for injuries



Liability Considerations

- Instructors can be held liable for the actions of students
- Individuals can be held personally liable for contributing to their own injuries and/or the injuries of others
- Employers can be held liable for injuries caused by their employees involved in a sanctioned training activity



Copyright

- Copyright laws protect the works of artists, photographers, and authors
 - Giving them exclusive rights to publish
 - Can recover damages from any infringements
- Fair use doctrine
 - Allows copying for material used in a "reasonable manner"



Copyright

- Digital Millennium Copyright Act of 1998
 - Impact of the internet and digital copying created a need
 - Limits on-line copyright infringement liability
 - Educational institutions, instructors, and research graduate students performing research have limited exemptions from liability
 - Must provide information materials describing and promoting compliance with copyright law



Copyright and Privacy

- Use proper citations when using others work to support instruction regardless of copyright
- Photos and video used to support instruction must not invade the privacy of individuals in the media



Student Rights

- Family Educational Rights and Privacy Act (1974)
- Americans with Disabilities Act (1990)
- Title VII of the Civil Rights Acts (1964)



Student Rights

- Additional rights related to skills training
 - Reasonable regulations are necessary to protect students during training activities and are justified even though they may be perceived as infringing on students rights
 - Disagree with the instructor or institution
 - Safe learning environments



What are Ethics?

- Philosophical principles used to determine correct and proper behavior by members of a society
- A glue for civilization



Where Do Your Ethics Originate?

- Origins of personal ethics
- Family
- Religion
- Education
- Peers
- Institutions



Unethical Conduct

- Causes
 - Financial reasons
 - Advancement reasons
 - Exploitive mentality
- Exploiting your power
 - Favors demanded from students for passing grades
 - Taking credit for student's work or ideas



Formal Ethics Programs

- Written code of ethics
- Organizational and individual codes
- Define acceptable and unacceptable behavior
- Establish standards of practice



Ethical Training

- Recognize and define the situation
- Obtain the facts
- List all options
- Compare all options to established criteria
- Select the best option
- Assess the decision subjectively
- Implement the decision