

**PARK CLOSURE/REDUCED SERVICES**  
**CHECKLIST FOR MITIGATING LIABILITY**

**(Form Created: September 8, 2009)**

**A. Dangerous Condition of Public Property**

1. Identify hazard areas – include developed areas and natural conditions that are known to be hazardous based on observation or past experience.
2. Anticipate any new hazards that could be created as a result of the closure itself, e.g. potential injury from closed or deteriorating structures, fire hazards from unmonitored fire pits, camping in areas where trees will no longer be inspected, etc.
3. Identify any protective services that the public may have grown to expect and depend on, so you can notify them that such services will no longer be provided.
4. Immunities apply to natural conditions and trails, so the emphasis for mitigation should be on developed areas where the immunities do not apply.
5. Eliminate hazards if possible. This might include removing such things as fire pits and picnic tables in order to discourage people from continuing to camp in or use a closed area as if it were not closed. This might protect the park from damage as well as liability (on the other hand, it might encourage trespassers to build fires in inappropriate places, for example, and thus increase the chances of damage to the park--- so Districts will have to weigh the pros and cons of any mitigation measure.)
6. If eliminating a hazard is not possible, post warning signs so that people assume the risk if they enter the hazardous area. Extensive use of warning signs is a good way to mitigate the lack of staffing. Warning signs should also be used for significant natural hazards whenever this is practicable, in order to promote public safety, even though the chances of incurring liability are less than for developed areas because of the immunities.
7. Post closure signs. The Districts should go through the formality of notifying the public of special restrictions such as park closures in accordance with the procedures required by the California Code of Regulations for superintendent's posted orders, so that violations of the closure cannot be challenged in court for lack of due process. Without an applicable regulation or superintendent's order, it would be difficult to enforce the closure or other special restrictions.
8. Post contact information so people can notify State Parks of any hazards, problems or nuisance situations that arise at the park, including hazards threatening adjacent property.
9. Even though a park is closed, State Parks should continue to monitor conditions and try to eliminate or mitigate any significant hazards that are discovered.
10. State Parks should also try to monitor its boundaries to prevent significant encroachments on its property. Otherwise it will be difficult to get the encroachments removed later if they are

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allowed to exist there for too long (generally 3 years from the time the permanent trespass is first made).

11. In some parks where wildfires are a potential danger, districts should continue to undertake measures to mitigate the fire hazard to some degree by allowing adjacent property owners to clear some vegetation under a right-of-entry permit, as may be appropriate and necessary.

**B. Contractual Obligations Related to Real and Personal Property**

- I. Did state or federal grant funds go to acquire or develop any part of this park or real property?
- A. If yes, identify the following:
1. The grant contract. Review the contract and determine whether there are any restrictions to closure (total or partial) Ask these questions:
    - a) Does the contract address park closures (it probably will not.)
    - b) Does the contract require public access? If so, for how long?
    - c) Does the contract require public access in perpetuity?
    - d) Does the contract require the return of grant funds if public access conditions are not met?
- B. The agency that administered the grant:
1. Did the grant funds come from the federal government? If so, the federal agency may require State Parks to return the property or a repayment of the funds. Most federal grant programs require public access in perpetuity.
    - a) If the park was funded by the Land and Water Conservation Fund Program or the Habitat Conservation Fund, it will have such conditions.
  2. Once the agency is identified, contact the agency to determine whether it would be amenable to a change in the grant contract that might allow a temporary or partial closure.
- C. The bond act that created the funding:
1. There may need to be a review of the bond act that funded the acquisition and/or development. As a general matter, however, most (if not all) restrictions are included within the contract.
- II. Was any part of the park donated to State Parks?
- A. If yes, review the deeds and transfer documents to determine whether the deeds have restrictions related to public access.
- III. Are there any other contracts associated with the operation, ownership or development of the park? For example, are there shared projects with private or public entities that involve the park?
- A. If yes, identify the projects and review the contract for the following:
1. Did State Parks receiving funding for the park?
  2. If yes, what did State Parks give in exchange?
  3. Will partial or total closure of the park prevent the other party for getting what it bargained for?