Your Legal Responsibility

By including young participants as volunteers, service recipients or employees, your organization assumes a duty to exercise a reasonable degree of care to protect them from foreseeable harm.

This means that you assume a greater duty to protect young participants than to safeguard your adult volunteers.

The Risk

The duty depends upon
- the age
- the nature of your relationship with them and
- other legal factors that may differ from state to state
Foreseeing the Harm

- At any particular developmental stage, you can usually predict the kinds of behavior, abilities and needs that a child will have based on the norms for his or her age group.
- Variations may be within the range of normalcy, or can signal the need for intervention.

Anticipate their needs based upon where they are in the developmental process.

An approach:
- Early childhood - birth - 5
- Middle childhood - 5 - 11
- Early adolescence - 11 - 14
- Late adolescence - 15 - 21

Children Aren’t Small Adults

- anticipate and develop strategies to manage the risks created by the normal maturation and development of children
Foreseeing the Harm

The Disabled

Children with disabilities go through similar physical, emotional and intellectual development as their peers.

For some risks, such as the risk of sexual abuse, children with disabilities are more vulnerable than children without disabilities.

The Risk Management Process

1. Acknowledge and identify
2. Evaluate and prioritize
3. Decide how to control
4. Monitor and update

Control the Risk

Develop a set of rules and policies that minimize the chance that the harm you envision will materialize.
Evaluating Risk

Step 1  What are my organization's key activities, programs and services?

Step 2  What could go wrong and what organizational response is in place?

Use an existing group of program leaders (board veteran, volunteers, staff, finance leaders) to ask and answer the following questions:

• What could go wrong?
• What will we do to prevent these things from going wrong?
• What will we do if something does go wrong?
• How will we pay for harm?

Review documents
• Personnel handbook
• Volunteer handbook
• Code of conduct
• Emergency procedures
• Insurance
Evaluating Risk

Talk to
• Adult supervisors
• Youth volunteers
• Program recipients
• Insurance agents
• Parents

Evaluating Risk

Critical Communication for Parents
• Understand the mission and program
• Expectations
  – Of the parent
  – Of the child
• Emergency contact
• The program's hours of operation
• The policies of the program

Controlling the Risk

Strategies to protect the young people
• Screening
• Two-deep leadership
• Instruct on inappropriate and appropriate conduct.
  – To adults
  – To youth
• Communicate your expectations and consequences of disregarding rules;
• Talk to youth
Controlling the Risk

Strategies (continued)

- Follow through on consequences;
- Provide age-appropriate toys, games and equipment;
- Keep your premises and equipment well maintained and in good repair.

Controlling the Risk

Strategies (continued)

- Don’t assume that your rules are self-evident!
- Customize your code of conduct….
  - Unique aspects of your organization
  - Your ability to enforce the code

“Permission slip” dos

- Provide sufficient detail regarding activity
- Identify the types of harm
- List the practical steps to reduce the chance of harm
- Demonstrate preparedness to respond to emergency.
Sexual Abuse

Necessary Preconditions for Sexual Abuse

1. An offender with motivation.
2. The offender overcoming internal inhibitions.
3. The offender overcoming external barriers that protect children.
4. The offender overcoming resistance by the intended victim.

Sexual Abuse

Do that which is possible to keep any of the four preconditions from existing.

- Rigorous screening process
- Proactive training
- Strong guidelines
- Desire to find abuse
- Quality education program

The Internet

Kinds of threats
- access to inappropriate materials
- harassment
- stalking
- physical injury
The Internet

- Establish rules for using the Internet
- Give orientation sessions before allowing children to use the Internet
- Use software filters that can limit access
- Educate and supervise access

Monitoring Your Plan

- Evaluate
- Communicate
- Educate
- Implement
- Appreciate
- Revise

Other resources from the Center

Hot off the Press:

New Software Tool:
My Risk Management Policies—create custom policies for your nonprofit
The first webinar of 2010 will examine methods for evaluating and addressing governance risks. The program will examine a wide range of topics including the composition of the board and best practices for empowering the board to discharge its legal responsibilities.

Any questions?

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