

Sexual Abuse Prevention

For Children and Teens



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Sexual Abuse Prevention for Children and Teens

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How to Use This Booklet

Throughout the booklet we use the word “insurer” to mean the company that takes in premium dollars and pays out money to defend and settle claims. Whatever the form of the “insurer,” the word is used interchangeably. However, in some cases where we express our company philosophy or where we refer to a service we offer that other “insurers” do not, we use “Nonprofit Insurance Alliance Group” or “The Group” instead of the more generic, “insurer.”

This publication is based on our many years of experience handling lawsuits against nonprofit organizations. It is designed to provide general information to help nonprofit managers better understand how to avoid sexual abuse in nonprofit organizations. It does not provide legal advice of any kind.

Introduction

Nonprofit youth-serving organizations offer services that range from art to athletics, childcare to counseling, mentoring to music, and scouting to schooling. They serve children from all economic and ethnic groups and of all ages. These organizations strive to create a safe environment for youth, employees, and volunteers so that youth can grow, learn, and have fun. Their services improve the quality of life for hundreds-of-thousands of boys, girls, children and teens.

Part of creating a safe environment is making sure that youth are not harmed in any way while participating in activities sponsored by the organization. One risk in any organization working directly with youth is child sexual abuse.

As defined by the Center for Disease Control (CDC), child sexual abuse is any sexual activity with a child where consent is not or cannot be given. This includes sexual contact that is accomplished by force or threat of force, regardless of the age of the participants, and all sexual conduct between an adult and a child, regardless of whether there is deception or the child understands the sexual nature of the activity. Sexual contact between an older and younger child can also be abusive if there is a significant disparity in age, development, or size, rendering the younger child incapable of giving informed consent. The sexually abusive acts may include sexual penetration, sexual touching, or non-contact sexual acts such as exposure or voyeurism.

Legal definitions vary by State, so look up your State guidelines using the Child Welfare Information Gateway.

This booklet is intended to help members of the Nonprofit Insurance Alliance Group (the Group) that offer services to children and teens make it clear to their employees, volunteers, and mentors that supervision of youth never includes sex.

Advice in this booklet is intended for those who care for youth of all ages (from zero to the age of majority, age 18). It is not meant to replace training provided by your organization, but to augment it. If any information published here seems to contradict advice provided by your nonprofit organization, please consult your supervisor for clarification.

Chapter 1

Risky Behavior: Stop Problems Before They Start

Employees and volunteers who supervise youth must never abuse their power and authority by permitting or engaging in any form of sexual activity with their clients. Balancing caution and care can be challenging. The same dynamics that create a nurturing environment, and may ultimately protect against child sexual abuse, can also open the doors to sexually abusive behaviors.

Research has shown that youth who are emotionally insecure, needy, and unsupported may be more vulnerable to the attention of offenders. By promoting close and caring relationships between youth and adults, organizations can help youth feel supported and loved and thus reduce their risk of child sexual abuse. However, that same closeness between a youth and an adult can also provide the opportunity for abuse to occur.

When developing policies for child sexual abuse prevention, organizations must balance the need to keep youth safe with the need to nurture and care for them.

In some cases of sexual abuse or exploitation, inappropriate, if not illegal behavior comes first. Paid and volunteer staff need to understand that the supervision of children and teens never includes sexual contact, sexual behavior, or sexual flirting or innuendos. Period. Your training should include actions that are considered inappropriate behavior, such as:

- Telling sexual jokes or stories
- Exposing children to pornographic material
- “Making eyes” or giving seductive looks
- Discussing one’s sex life or relationships
- Sitting too close or lying next to a child or teen
- Finding ways to be alone with a child or teen
- Confiding in a child or teen about personal issues
- Giving gifts
- Touching unnecessarily

Guidelines on interactions between individuals should be determined by your organization’s mission and activities. For example, organizations that promote one-on-one activities between adults and youth may need different interaction guidelines than programs built around group activities. You should develop interaction policies before situations arise and they should be tailored to the developmental age and maturity of the youth and employees/volunteers. Strategies should also match the cultural context.

A significant problem faced by organizations offering services to youth is that individuals who sexually abuse children are not easily identified. The majority of perpetrators involved in these incidents at nonprofit organizations have no prior abuse convictions. Also, they are often highly regarded by their peers and the families of the youth they are secretly abusing.

Of special concern at residential programs is the risk of young adult counselors or supervisors, usually males, abusing teenage clients. With age differences as little as only two or three years, these employees sometimes engage in illegal sexual activity with teenage clients.

Youth may offend against their peers, younger children, or even adults. Juvenile molesters are representative of all ethnic, racial, and socioeconomic classes. Typically, children select a younger victim they know - a sixth grader with a third grader, for instance. The crucial element here is the lack of equality between the two children; the sixth grader is clearly bigger, more powerful, and more "adult-like" than the third-grader.

A challenge for youth serving organizations is separating normal sexual behavior by children from sexual behavior that is abusive. All children and teens exhibit sexual behavior that varies depending upon their stage of development. Understanding child development and age-appropriate sexual behavior is a prerequisite for knowing how to react. Even "normal" sexual behavior may be problematic in the wrong context. For example, it may not be unusual for youngsters to "play doctor." Playing doctor at summer camp would be inappropriate, but not necessarily abusive.

Most inappropriate sexual conduct perpetrated in nonprofit organizations is not conducted by individuals who have had prior convictions for such offenses. In many cases, the abuse is perpetrated by individuals who at first may not recognize that behavior that would be acceptable with another adult is wrong when engaged in with a child or teen.

One simple rule to guide staff and volunteers in their behaviors with children or teens is, "if you would not do it in front of your supervisor or another adult, don't do it at all!" Behavior that at first may seem innocent to the employee or volunteer could be inappropriate in a professional situation and lead to illegal actions.

Appropriate/Inappropriate/Harmful Behaviors

You should identify behaviors that fall into the categories of appropriate, inappropriate, and harmful. This will help guide staff and volunteers in setting appropriate boundaries for their conduct. Sometimes it is unclear if a behavior is appropriate, inappropriate, or harmful. For example, intimate contact, such as kissing, may be developmentally appropriate for older youth, but may be inappropriate within the confines of the organization. Another example involves hugging. Hugging may be appropriate and positive in some circumstances, but it can also be inappropriate if the child is not receptive, if the employee/volunteer is hugging too often or for too long, or if the contact is romanticized or sexually intimate.

The following considerations can help you develop or review your own policy on touching:

- Touching should be in response to the need of the child, and not the need of the adult
- Touching should be with the child's permission—resistance from the child should be respected
- Touching should be open and not secretive
- Touching or other physical contact should be governed by the age and developmental stage of the child; for example, sitting in an adult's lap may be appropriate for a three-year-old, but less so for an eight-year-old unless the adult is the child's parent

The following are examples of appropriate/inappropriate/harmful behaviors:

Verbal Communication

Appropriate:

- Praise
- Positive reinforcement for good work/behavior

Inappropriate/harmful:

- Sexually provocative or degrading comments
- Risqué jokes
- Referring to a client or participant as “Baby”, “Sweetie”, “Honey”, or other suggestive names

Physical Behavior

Appropriate:

- Pats on the back or shoulder

Inappropriate/harmful:

- Patting the buttocks
- Intimate/romantic/sexual contact
- Corporal punishment
- Showing pornography or involving youth in pornographic activities

Other Actions for Staff and Volunteers to Avoid:

- Discussing their personal life with clients or participants
- Contacting youth outside of their duties with the organization (this includes social media)

These can be spelled out in your code of conduct or ethics. You should carefully balance the benefits of appropriate interactions with the risks associated with inappropriate interactions.

Ratios of Employees/Volunteers to Youth

The goal of setting ratios for the number of employees/volunteers per youth is to ensure the safety of the youth. There is no standard ratio for all situations. When making decisions about ratios for your organization, consider contextual variables such as:

- Age and development level of youth and employees/volunteers: If youth or employees/volunteers are young, you may need a lower ratio (fewer youth per adult).
- Risk of the activity: Does it involve a great deal of isolation from others?
- Location of the activity: Is in a classroom that is easy to monitor, or at a park where it is easier to lose track of individuals?

Even with a satisfactory ratio of employees/volunteers to youth, the youth are not being monitored if all of your employees/volunteers attention is elsewhere, such as on their email in their own conversations in a corner of the room. Encourage your employees and volunteers to actively interact with the youth to maintain adequate supervision and monitoring.

Chapter 2

Protecting Youth from Harm

Every nonprofit serving children and teens should adopt policies that limit opportunities for abuse to occur and ensure the prompt detection of abuse.

Limit One-on-One Interactions

Child abuse is less likely to occur when all contact between adults and youth is visible to others. Your organization should have a policy to limit one-on-one interactions between youth and adults (i.e., having at least two adults present at all times with youth). Preventing the isolation of one adult and one youth, a situation that elevates the risk for child sexual abuse, is the goal of such a policy. Your policy should consider the risk of the activity or situation. Modify the strategy based on the services offered by your organization. A mentoring organization may not be able to eliminate all one-on-one interactions, while another organization may determine one-on-one contact is prohibited entirely.

If private conversation is required, consider requiring that the child and adult may move out of earshot of others, but not out of sight. This precaution helps to protect the adult from possible false allegations of abuse, as well as protecting the child.

One place perpetrators may use to try to find ways to be alone with a child is the bathroom. When possible, the parent or guardian should assist the child in the bathroom. If the child's parent or guardian is not present, then procedures should be in place to instruct staff and volunteers of who is authorized to assist children in the bathroom (and under what circumstances).

Identify other ways to monitor interactions, such as instituting a buddy system to prevent isolation of youth with employees/volunteers.

Overnight Activities

When organizations include overnight activities in their programs, separate sleeping accommodations for adults and youth should be required other than for parents sleeping in the same room as their own children. The need for this is demonstrated by an incident in which an adult leader of a national youth organization was accused by two teenage boys of sexually assaulting them during a trip in which the three shared a room. Subsequent investigation proved the allegations were false, but if the adult leader had followed the organization's policy, the allegations may not have been made in the first place.

A minimum of two adults should accompany youth on overnight trips or outings. This is also known as "two-deep leadership." Additional adult leadership may be required depending upon the size of the group and the planned activities. The leadership should take into account the sex of the participants and, if both males and females are in the group, the leadership should also be coed.

Case in Point

A nonprofit organization that operates a residential care facility for teenage girls had a situation arise when a young male staff member impregnated one of the female residents. He had been signing-out the girl and her roommate for off-campus outings. The investigation revealed that the organization's operating procedures permitted staff members of the opposite sex to take residents away from the facility without a same-sex staff member to accompany them. The organization has since modified its practices.

Risk of Interactions Between Youth

In addition to monitoring interactions between employees/volunteers and youth, your organization needs to address interactions among youth. You can tailor many of the strategies that focus on the interactions between employees/volunteers and youth to address interactions among youth.

Address all situations where unsupervised youth can sexually or physically abuse other youth. As an example, a policy that prevents adults from being present in locker rooms may result in a situation where unsupervised youth can sexually or physically abuse other youth. A potential solution is adopting a policy that requires two or more adults be present at all times.

Policies that deal with bullying and sexual abuse should be developed so that positive interactions can be promoted, while acknowledging that some interactions are inappropriate or harmful.

Out-of-Program Contact Restrictions

There are two types of out-of-program contact restrictions. The first involves the contact of youth with employees/volunteers outside the context of the program. Your organization should limit contact to organization-sanctioned activities and programs. This includes having a social media policy.

If you allow social media contact between adults and youth, it must be about pertinent issues and not contain or relate to any of the following: drugs or alcohol uses; explicit language or photos; adult personal issues; and social activities. A good rule of thumb is that any communication should be appropriate or acceptable in a face-to-face meeting. If it is something an employee/volunteer would not say in the presence of parents or other adults, then it is not appropriate over social media either.

All communications between adults and youth should be clear, direct and free from innuendos or expectations. Everything shared between an adult and a youth must be considered public record. When possible, include parents or other adults in the communications. Adults should not "friend" youth on personal accounts. Use only official organization social media for communications between adults and youth.

The second type of out-of-program contact is between youth and individuals not affiliated with your organization, that occurs while youth are under the care of your organization. You should develop a system for monitoring the comings and goings of all youth and adults who enter and leave your facility. This might include procedures for signing youth in and out.

Develop specific policies about this type of interaction if your organization is located in a building that houses more than just your program or if your organization's activities take place in public areas (e.g., sports field).

Responsibility for Youth

Be sure it is clear to all parties when your organization starts and stops being responsible for youth. This information should be provided in writing to caregivers (i.e., parents and guardians), preferably in a document that requires an acknowledgement (e.g., registration package or an activity waiver). Also consider who is responsible for youth before and after activities officially begin.

Even the most conscientious of organizations are subject to claims for improper sexual conduct. Having solid policies and procedures in place and insisting these policies are followed can dramatically reduce the potential for these claims, but will not guarantee that such a claim will never happen.

Chapter 3

Screening and Selecting Employees and Volunteers

There are no foolproof methods to screening individuals who have the potential for abusing children. Organizations providing services to children have a duty to take reasonable steps to screen applicants. Failure to exercise due diligence in the selection of employees and volunteers could be considered negligent if abuse results.

Before you start screening, develop criteria that define how screening information will be used to determine an applicant's suitability, including who has the final say on an applicant. Your policies and procedures for screening and selection should be consistent and systematic. Include a sequence for the various steps of the process and a timeline. Be sure your policies are not violating any federal, state or local laws prohibiting discrimination in the workplace.

Who Should be Screened?

Screen all applicants for all positions that will have direct contact with youth. All means everyone—make no exceptions for people you know or have worked with in the past.

If your applicant is a minor, your screening process should include a more in-depth written application, personal interviews and/or letters of reference from two or more non-family members (i.e., coach, teacher, pastor), as criminal background checks will not be available.

Screening and Selection Strategies

Inform applicants about your policies and procedures relevant to child sexual abuse prevention. Letting applicants know your organization is serious about protecting youth may deter some people that are at risk of abusing youth from applying for a position.

Your written application provides information needed to assess both background and interest areas. Questions should help you determine whether applicants have mature, adult relationships, as well as clear boundaries and ethical standards for their conduct with youth. Ask open-ended questions that encourage broad answers, which will assist in follow-up in the personal interview and throughout your screening and selection process.

The personal interview gives you an opportunity to meet applicants. The objective is to determine if they are a good fit for your organization and to ask additional questions to screen for child sexual abuse risk factors.

Here are two examples of questions for a written or personal interview:

- **What type of supervisory situation do you prefer?**
Individuals who are very independent may not fit in an organization with policies and procedures requiring close supervision.
- **What would you do in [insert a particular situation]?**
Gauge an applicant's response with scenarios that involve potential concerns, boundary issues, or youth protection policies and interactions.

Reference Checks

References should come from a variety of sources, not just family and friends. Obtain verbal references in addition to written references. A live conversation will typically provide much more information than a written response. Here are a few examples of questions:

- How would you describe the personal characteristics of [first name]?
- Why would [first name] be a good candidate for working with youth? Is there any reason you feel [first name] should not work with youth?
- Would you hire [first name] again?
- Have you ever seen [first name] interact with or discipline youth (other than their own children)?

Criminal History Background Checks

Unfortunately, a criminal background check will not identify most sexual offenders because many have not been caught. That's why a thorough criminal history search should just be one component of your child sexual abuse prevention efforts. It is an important tool in screening and selection, but using it alone may give your organization a false sense of security.

Check with your insurance carrier for any specific requirements related to criminal background checks. The Group requires members with an improper sexual conduct (ISC) liability policy to conduct a comprehensive criminal history recording screening on all employees and volunteers who work 1:1 in unsupervised situations with youth, have supervisory and/or disciplinary authority over youth, or have the potential for either of those scenarios

Use a reputable background check service and be sure you are getting a comprehensive screening. The free background check the local sheriff's office is giving you may only cover the state or possibly only the county of residence. Your background check should search at the federal, state and local level. It should also include a search of the sex offender database. Check with your insurance carrier for any discounted resources they may offer. Group members have access to a discounted resource for screening services.

Determine the type and level of check required for each position in the organization. Decide which offenses to examine in the background check and what type of an offense will disqualify an individual. Absolute disqualifiers include history of violent behavior and/or child sexual abuse perpetration. Depending on the services of your organization and the position, drug and driving offenses may also be disqualifiers. Keep in mind that arrest data is not grounds for disqualification; only offenses resulting in a conviction may be used.

Be sure to obtain permission from applicants before beginning a criminal background check. (Note: Group members can download a sample policy and sample authorization form from the member portal.) To save the organization money, conduct your screening as the last step of the screening and selection process. Applicants who do not make it through your written applications, personal interviews, and reference checks will not need a background check.

Ensure that your organization's process for conducting criminal history background checks is legally sound. As stated earlier, be sure your policies are not violating any federal, state or local laws prohibiting discrimination in the workplace.

Additional Strategies

Depending on the services offered by your organization, there may be a need to assess an applicant's home environment (i.e., a home tutoring program). Build this into your policies and procedures and be sure to include this information in your positions' description(s).

Consider keeping a list of applicants who are disqualified during the screening process and any employees/volunteers who are dismissed because of an offense. Check current applicants against this list during your screening and selection process.

Internet searches can also turn up some interesting information. Be cautious though, as more than one person can share the same name and it may be difficult to verify the accuracy of the information.

Caution: Criminal history databases are not perfect and sometimes a records check will falsely identify a person as having committed a crime. Applicants should be given a chance to challenge the accuracy of information that an organization receives. It is best to let the applicant resolve any disputes with the criminal justice agency from which the organization received the information. Until an organization receives a correction from the criminal history records repository, it should assume that the information it received is correct.

Chapter 4

Monitoring Behavior

Monitoring involves observing interactions and reacting appropriately. This includes both employee/volunteer to youth, as well as youth to youth interactions. You should define areas for monitoring based on your organization's mission and activities.

Refer to the organization's interaction policies and what has been defined as inappropriate or harmful behavior. Understand the boundaries your organization has established so you can identify when someone has crossed the line. You want to be extra alert in situations, such as with an overnight trip, that pose more risk for inappropriate or harmful behavior.

The organization must be prepared to respond to interactions among youth and between employees/volunteers and youth. Your monitoring protocol should be clear about roles and responsibilities. Everyone needs to know how and what to monitor. Your goal is to create a culture that encourages people to question confusing or uncertain behaviors and practices.

Employees and volunteers should be prepared to respond immediately to inappropriate or harmful behavior, potential risk situations, and potential boundary violations. Depending on the situation, this could be uncomfortable. Training that includes role playing can be helpful.

Have a clear reporting structure so individuals know who to contact if they observe potentially inappropriate or harmful behavior. Include a back-up reporting system in the event the incident involves the direct-line authority.

Use multiple monitoring methods to get a clear picture of how individuals are interacting and use a combination of formal and informal supervision. Formal supervision should include regular evaluations, while informal supervision should include regular and random observation and frequent contact with employees/volunteers and youth who interact off-site.

Case in Point

A nonprofit operates residential group homes for teens. At least two staff members are always on duty, including overnight. Bed checks were required every half hour and were conducted. However, at one of the houses, a male staff member did most of the nightly checks while his co-worker did the daily paperwork in the office. The staff pairings varied, but whenever this particular worker was on at night, he volunteered to do the bed checks.

It wasn't until a co-worker reported the male staff person's consistent volunteering to do the bed checks that an investigation was begun and the actions were uncovered. It was later determined that he was involved in an on-going sexual relationship with one of the clients. Several clients and the employee conspired together to keep the relationship secret.

The investigation revealed that all background checks, including fingerprinting checks, were clear. The staff was trained to report any situations in which they were uncomfortable with either the behavior of another staff person or client. It was the fact that this person consistently volunteered to do the bed checks that finally alerted the organization to the improper sexual conduct.

Unlike other child abuse prevention strategies, it is harder to be sure adequate monitoring is occurring. It is important to document monitoring with written records. This emphasizes to your employees/volunteers that is an essential, non-negotiable part of your abuse prevention efforts. Remember to provide positive feedback/reinforcement too!

Chapter 5

Ensuring Safe Environments

Environmental strategies vary depending on the organization. An organization with a physical site (e.g., nursery school, club) will have different strategies than one with multiple sites for activities or an organization with an undefined space (e.g., mentoring). You should consider the risk of the environment regardless of your organization's physical space. Strategies should be used to ensure youth and employees/volunteers can be monitored in all situations.

The following are some critical strategies you should consider:

Visibility – Spaces that are open and visible to multiple people can create an uncomfortable environment for an individual at risk for sexually abusive behavior. The following are examples of methods to increase visibility:

- Landscape with open visible spaces; no possible concealment
- Fencing around play areas high enough to prevent a child from being lifted over the top
- Clear lines of sight throughout the building/space
- Areas not used for program purposes are secured to prevent youth from being isolated (e.g., lock storeroom and unoccupied offices)
- Install windows in doors
- Institute a “no closed door” policy
- Ensure all areas are brightly lit

Privacy – Develop policies and procedures for reducing risk during activities such as toileting, showering, and changing clothes. They should consider not just the risk of employee/volunteer sexual abuse, but also the risk of inappropriate or harmful contact between youth.

Access Control – Monitor who is present at all times. Your policies and procedures should include admitting and releasing youth so their whereabouts are always known. They should also include monitoring which people outside of your organization are allowed in and under what circumstances. Ensuring the safety of youth requires that individuals not be allowed to wander through a program area without the staff’s knowledge. Consider instituting a single point of entry or a check-in at a central location, where visitors can sign a visitor log and receive a visitor nametag.

Off-Site Activity – Develop policies for field trips and other off-site activities, such as how to handle bathroom breaks and use of public transportation (e.g., buddy system). Also be sure it is clear to all parties when and where your organization is responsible for the youth you serve. This is especially important in a multi-organization facility and on field trips.

Transportation – Define who is responsible for transporting youth to and from regular activities and special events. Questions to consider: Can youth ride with an employee/volunteer? If yes, under what circumstances? What are pick-up procedures at the end of the day or an event? You should clearly state transportation arrangements in writing to parents/guardians.

With the goal of keeping youth from situations in which they are at an increased risk for sexual abuse, think about other strategies your organization may want to adopt—installing video surveillance in the building/hiring a securing firm, or requiring all youth on field trips wear the same color.

Chapter 6

Responding to Inappropriate Behavior, Policy Breaches, and Allegations and Suspicions of Child Sexual Abuse

Your child sexual abuse prevention efforts aim to prevent abuse from ever occurring; however, your organization needs to have communicated clearly what it and its employees/volunteers should do if policies are violated or if child sexual abuse occurs.

Define inappropriate and appropriate strategies for the organization. Clarify that child protective

services, law enforcement and child advocacy centers investigate allegations or suspicions. That is not the role of the employee/volunteer. Know that an organization's investigation can harm the youth or the legal investigative process.

What to Respond to Within the Organization and What to Report to Authorities

It is often difficult to find the balance between being vigilant and protective of youth and being so hyper-vigilant that the positive parts of your program (e.g., relationships between adults and youth) are lost. Recognizing the tension between over-reacting and under-reacting is the balance needed when responding.

Your policies should delineate what behaviors the organization will respond to internally and what behaviors will require reporting to the authorities. For example, if a youth tells a sexually risqué joke, you may inform a direct-line supervisor and/or the youth's caregiver and/or provide the youth with guidance, redirection, and instruction and file an incident report. However, if a youth or employee/volunteer forces sexual contact with a youth, this violation should always be reported to the appropriate authorities according to your established procedures.

Act on infractions of your policy immediately. If an employee/volunteer has breached a policy, the organization must take action, even when child sexual abuse is not suspected. The consequences of violating policies should be explicit. If abuse is suspected, it should be reported to the authorities immediately.

An incident report should be filed when an employee/volunteer witnesses or learns about sexual abuse of youth from another volunteer/employee, another youth within the organization or someone outside the organization (e.g., caregiver). The report should be completed as soon as possible after the suspicion arises and it should include:

- The name of the child
- The basis for the suspicion
- The date
- What specifically is thought to have occurred
- The name of the suspected perpetrator
- The date and time the report was made with Child Protective Services and with whom the report was filed
- The name and telephone number of the case worker, if applicable
- Actions taken by the organization to protect the child

You will need to identify to whom reports are made in the event the situation requires reporting to the authorities. In most states, Child Protective Services is responsible for caretaker abuse and law enforcement is responsible for abuse by all other individuals. Responsibility can vary by state, so consult with local experts to be sure you incorporate state guidelines into your policy.

Reporting Process

If evidence of child sexual abuse has surfaced or an allegation has been made, a formal report needs to be made to an outside agency. Ensure that your organization's reporting policies are aligned with current state law.

Who Must Report?

Each state has laws requiring certain people to report concerns of child abuse and neglect. While some states require all people to report their concerns, many states identify specific professionals as mandated reporters; these often include social workers, medical and mental health professionals, teachers, and child care providers. Specific procedures are usually established for mandated reporters to make referrals to Child Protective Services.

Your organization should have clear guidelines about how and when to report allegations and suspicions to authorities. These should be reported to very few people inside the organization before authorities are contacted to expedite the process and minimize the number of times a youth has to repeat allegations.

Be sure your procedure includes notification to your insurance broker at the time of the incident. When these matters are not reported until much later, the plaintiff's attorney may have already completed a thorough assessment of the facts, putting the Group in a difficult position while trying to "get up to speed" with the facts of the case after a lawsuit has been filed.

As stated earlier, do not conduct your own investigation. However, depending on the circumstances, it may be appropriate to ask a few clarifying questions of the youth or individual making the allegations to adequately report to the authorities. For example, a younger child may describe a situation that on the surface sounds like abuse, saying something like "my daddy put his thing in my mouth and it hurt." By asking what the child meant or a few careful questions, you could find that the father had stuck his fingers too far into the mouth attempting to get out a loose tooth.

Although your organization should not conduct an investigation, you should develop a system to track allegations and suspicions of child sexual abuse cases.

Conclusion

Child sexual abuse continues to be a significant concern among organizations that offer services to youth. Most youth-serving organizations have a pretty good idea of what they need to do to protect the children in their programs and have developed their policies accordingly. Incidents of child abuse often occur when these common sense policies are not followed. For the most part, staff members who decide to ignore policies intended to protect children are not incompetent or uncaring. In fact, they may be motivated to act in what they feel is the best interests of the child, never imagining that their actions may place a child or teen in danger. Such denial of risk is very common.

We know intellectually that sexual abuse may happen, but cannot accept in our hearts that it could happen in our programs—or be perpetrated by our staff or volunteers. These are all examples of denial that add to the risks present to youth in our programs. The best antidote for denial is to adhere to the policies the organization has established to protect children against the risk of abuse. If your organization is committed to preventing child sexual abuse and takes this charge on thoughtfully and with careful planning, it can and will succeed in creating a safer place for the youth under its care.

Appendix A

Frequently Asked Questions

How can our mentoring program, which encourages one-on-one bonding, reduce the likelihood of child abuse?

Mentoring programs designed to promote one-on-one relationships between an adult role model and a child require different risk reduction strategies. For example, mentoring organizations should establish regular contact with mentored youth and their parents to monitor whether the youth is having any problems with their mentor. In one case involving a mentoring program, a boy was sexually abused over a six-year period. The boy's attorney alleged that for those six years, no organizational staff member asked the child about his relationship with his mentor. The only contact between the program and the matched participants was with the mentor—a fact that was confirmed by the organization's records.

Mentoring organizations should also guide the selection of activities (especially for new volunteers) so that contacts are generally in public areas subject to observation by others and are not excessively risky. Going to a public movie theater or sporting arena rather than watching a video at home, alone with the mentee, limits opportunities for abuse.

Our program attracts a lot of visitors and family members- should we be concerned about their contacts with our clientele?

Employees and volunteers are not the only potential perpetrators of sexual abuse. A study of childcare centers found that family members of the staff committed a significant amount of the total abuse. Several strategies can reduce this risk. The safest, but often impractical policy is to prohibit contact between children in your programs and individuals who are not subject to your screening, training, and other abuse prevention safeguards.

Although visitors will still need to be monitored, another approach would be to provide family members and visitors with guidelines for acceptable conduct and warn them that the organization will enforce its rules. These guidelines may limit contacts with children and require direct supervision by staff. Another policy might prohibit some or all visitors from helping children change clothes or performing other sensitive tasks. While family members and visitors may find these policies restrictive, the organization should enforce its policies consistently and in the best interest of the safety of the children.

Should we allow parents to make unscheduled visits to programs in which their children are participating?

Allowing parents to visit the program at any time without an appointment significantly reduces the risk of abuse. A study of abuse in childcare centers found much lower rates of abuse in programs that encouraged parents to drop in for unannounced visits.

Should we terminate staff members when allegations of abusive behavior are made?

If an allegation of abuse proves to be true, the staff member should be terminated. However, pending a determination of guilt, the safest way to protect children is to remove that individual from contact with any children in the program until the allegation has been investigated by an official agency. Because a suspension, termination, or change of assignment can have legal repercussions, organizations should consult legal counsel before terminating or suspending a staff member. We encourage Group members with a Directors and Officers (D&O) policy to

take advantage of the free consultation service and contact our employment risk managers before taking any employment related action.

An organization's policy may call for suspending the individual or assigning duties that do not include contacts with children until the charges can be resolved. The decision about continuing to pay a suspended employee may depend on the law and any applicable employment contracts or labor agreements, as well as the organization's financial condition or insurance coverage. Because most employment laws do not ordinarily apply to volunteers, an organization generally has greater latitude in suspending or terminating volunteers.

Case in Point

A nonprofit group home for teenagers had a 16 year-old female resident who complained that a male staff member sexually assaulted her. As required by law, the organization reported the allegations to the appropriate authorities. In addition, they placed the valued employee on administrative leave and hired a replacement employee in order to maintain the State mandated staff-to-client ratios.

The District Attorney investigated the charges and no evidence of misconduct was found. In this case, an aggrieved client sought to get a staff member in trouble by making these allegations. The DA declined to prosecute and the employee was reinstated.

[NOTE: If a Group member with ISC coverage is faced with this type of allegation, the group will provide up to \$10,000 salary reimbursement for staff in this type of situation. With insurance to reimburse the salary of an accused staff member, the nonprofit may be able to hire a replacement while the investigation is taking place and most importantly, not lose the staff member.]

What records should we keep on each child?

At a minimum, the organization should maintain sign-in and sign-out records that record dates and times of attendance. In addition, some programs should record the name of the adult who brought the child to the program and who picked-up the child. Sign-in and sign-out records should be retained by the organization, as they may be instrumental in the defense of a claim alleging abuse.

Case in Point

A nonprofit multi-service agency was sued by a 4-year-old child and her mother who claimed that the girl contracted gonorrhea as a result of a sexual assault in the bathroom on the nonprofit's premises. The girl's mother alleged that the gonorrhea was contracted on the nonprofit's premises and that both she and her daughter suffered emotional distress as a result. The plaintiff contended that the organization was negligent in that they allowed the girl to go to the bathroom alone and that a sexual assault occurred in the bathroom resulting in the infection.

In the investigation, all of the records were examined, including the sign-in sheets. Investigators inspected the premises and found that there were separate locked bathroom facilities for the preschool children and the children are never allowed to go to the bathroom unsupervised. There are other restrooms used by children not participating in the preschool who come to the center under the supervision of their parents.

Based on the investigation, and with the clinical progression of gonorrhea well documented, the probability that the sexual assault occurred on the organization's premises was minimal. It was not medically possible for the child to have contracted the disease in the manner alleged. The preschool's records were critical to this determination.

How can we defend against an accusation of abuse when the child was abused before he arrived at our program?

Several childcare programs have been accused of maltreating children when signs of abuse were not detected until after the children were admitted to the program. One way to reduce this risk is to require adult supervisors to always conduct a visual inspection of the child. Check for bruises, cuts or other injuries when greeting the child or helping with coats and mittens as part of the arrival activities for programs involving young children. This is also a good time to note if the child appears to be healthy, is appropriately dressed for the season and meets reasonable standards of personal hygiene. Any discrepancies should be logged in the child's file and reported to authorities, if warranted.

Are special policies required if an organization transports children?

Children are susceptible to sexual maltreatment while being transported as part of an organization's program. Drivers are also susceptible to false allegations of sexual abuse when alone with a child being transported. For these reasons, organizations need to consider their transportation policies. The opportunities for drivers to be alone in a vehicle should be minimized.

Case in Point

A nonprofit for developmentally disabled adults uses volunteer drivers to transport clients. One afternoon, a volunteer driver who was off-duty spotted two of the organization's clients walking and offered to give them a ride. The next day, the female client, who was the last person to be dropped-off by the volunteer, accused the volunteer of making inappropriate sexual advances—although not of actual sexual molestation.

The subsequent investigation showed that the woman had a history of making unsubstantiated allegations of sexual misconduct. As part of the investigation, it was learned that the organization did not have policies that covered "off-duty" drivers. While the volunteer's intentions were in the right place, he did not stop to consider the potential exposure. The allegations caused the volunteer a great deal of emotional stress and disrupted the operations of the organization. The nonprofit has since instituted policies to address this kind of situation and trains all of its volunteers to operate within the boundaries of its policies.

Must we report all allegations of child abuse, including anonymous telephone calls?

Organizations may sometime receive anonymous telephone calls or letters accusing an employee or volunteer of child abuse. As a matter of policy, each of these should be reported to the officials responsible for investigating. You may not want to give credibility to anonymous reports, but too many children have suffered because no one officially reported suspected abuse. When forwarding an anonymous report to the child protective services agency, it should clearly be labeled as from an anonymous source.

Can we require employees to report suspicions of child abuse to the executive director before calling child protective services?

The organization should never attempt to discourage a staff member from fulfilling his or her legal responsibilities. When an organization requires employees to notify the executive director of suspected child abuse, the employee is not excused from his or her duty under the law to make a report to a child protection agency. However, the organization can require an employee to report suspected abuse to the executive director for the purposes of facilitating a report to the appropriate child protective services agency.

Laws on reporting abuse vary by state, so be sure your policies are in compliance with the requirements for your state.

Appendix B

Member Resources

Booklets

Written specifically for the nonprofit reader, our booklets explore liability issues faced by most nonprofits.

- ***Arrive ... Safe and Sound – Tips to Help With Your Nonprofit's Vehicle Safety Program***
- ***Collaboration Risks: Partnering with Confidence and Success***
- ***Directors & Officers (D&O) – Key Facts About Insurance and Legal Liability***
- ***Managing Volunteers: Balancing Risk & Reward***
- ***Sound Advice for Functions & Events***
- ***Surviving a Crisis – Practical Strategies for Nonprofit Organizations***
- ***What Nonprofit Leaders Need to Know About Lawsuits***

NOTE: Non-member organizations may request a single copy of our booklets or download a PDF from our website.

Criminal History Record Checks

We offer significant discounts on comprehensive background check screening services.

Employment Consults

Group members with a Directors & Officers (D&O) policy with employment practices liability can take advantage of free employment related consultations – discipline or discharge (pre-termination); discrimination/harassment; leaves of absence; ADA; wage & hour; personnel policies; etc.

Loss Control Consults

We offer free assistance with issues such as background checks, safely managing facilities and fleets, drafting and reviewing waivers, staff training, volunteer management and much more. If we don't have the answer, we find it for our members through our various resources.

My Risk Management Plan

My Risk Management Plan is a web-based interactive program to help you develop a customized risk management plan that reflects your organization's needs, priorities and culture. This is free for group members. (NOTE: Non-members can purchase a subscription to this resource from the Nonprofit Risk Management Center at www.myriskmanagementplan.org.)

Risk Management Forms and Templates

Members can take advantage of an extensive library of downloadable forms, templates and information available at the member portal. Resources mentioned in this publication:

- Criminal History Record Check Authorization Form
- Criminal History Record Check Policy

Webinars

Educational session that run from 30-90 minutes in length. They are ideal for in-service training on risk management skills, or for polishing and orienting senior management and board members to individual aspects of managing risks in nonprofit organizations. All regular live sessions are free to Group members. Group members also have access to a library of on-demand sessions on our member portal.