



Youth Protection Practices and Policies for Nonprofits

Like any corporation, nonprofit organizations may be exposed to legal risk, including liability for actions or inaction by the organization or on behalf of the organization. While there are several types of liability, often claims against a nonprofit involve an allegation of negligence that has resulted in an injury of some kind. In the case of nonprofits that serve youth, this could take the form of child abuse, cyberbullying, or injury while participating in a program. In order to both protect youth from these types of injury and reduce the organization's exposure to liability, youth-serving nonprofits should carefully examine their programs and the risks involved, and consider implementing policies and practices such as the ones outlined below.

Protecting the Child

Screening/background checks

Nonprofits that hire employees or enlist volunteers to carry out their programs should conduct a thorough screening process, including background checks. This may be particularly important for nonprofits where volunteers or staff have direct relationships or otherwise work very closely with youth participants. Under the Safe Mentoring Act, mentoring organizations may also fingerprint prospective employees and volunteers. Once prospective employees or volunteers have been brought on board, nonprofits should ensure appropriate training and ongoing supervision.

Codes of conduct

Nonprofits should consider a written code of conduct for employees and volunteers or mentors working with youth. The code of conduct may include an agreement to follow the rules of the organization and behave professionally generally, as well as specific responsibilities and limitations on the relationship between the staff and the youth. A mentoring organization may, for example, define the times and duration of each mentoring session and disallow contact outside such times or only under specified circumstances. A comprehensive code of conduct may also address topics such as confidentiality, anti-harassment and anti-discrimination, and drug and alcohol use.

Protecting the Organization

When working with minors, nonprofits should work to keep channels of communication open with parents or guardians both for the protection of the child and the organization. An important part of this communication is to keep parents and guardians informed about the services and programs the nonprofit provides, including any risks that may be involved. When considering risks involved, it is important to keep in mind that not all injuries are

physical. Mentoring organizations, for example, may consider whether curriculum or discussion guidelines include sensitive topics that could give rise to mental or emotional distress.

Permission slips

Permission slips provide a way for organizations to keep parents and guardians informed, while at the same time obtaining a document that may be helpful in limiting liability if necessary. A permission slip should include a clear description of the activity to take place, including risks, and should include a place for the parent or guardian to acknowledge and consent to his or her child's participation in the activity.

Waivers and releases

A waiver and release will also describe the activity and its risks, but its defining feature is that the signer agrees to release certain rights. Specifically, a waiver will typically require the signer to acknowledge the risks outlined and agree that he or she will not sue in the event of misconduct by or on behalf of the organization. It should be noted that waivers may have limited enforceability under New York law, particularly in the case of a minor. They may nonetheless be useful as part of establishing a legal defense as well as potentially discouraging lawsuits.

Written policies and insurance

Youth-serving nonprofits should prepare written policies outlining the steps it takes to prevent child abuse or injury (e.g., risk assessments, screenings, training), as well as the steps it will take in the event of alleged or actual abuse or injury. Adopting written policies as part of an overall youth protection plan can also help strengthen an organization's risk management by increasing its ability to obtain insurance. Insurance provides another level of security to youth-serving nonprofit organizations, and nonprofits who have written policies and procedures for youth protection are more likely to be able to obtain coverage for things like abuse or molestation.

This alert is meant to provide general information only, not legal advice. If you have any questions about this alert, please contact Ciarra Chavarria at (212) 219-1800 ext. 228 or visit our website at www.lawyersalliance.org for further information.

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