

Prevent Sexual Harassment Liability

There are countless unique risks and liabilities associated with an educational facility. One such liability that has been highlighted in the media in recent years is the sexual harassment of minors. Some of the high-profile cases have involved legitimate instances of sexual misconduct or abuse, while others have been false allegations; however, whether false or real, such a lawsuit can have severe consequences on any school or child care facility. Sexual harassment or abuse lawsuits are serious issues for any business, but schools are especially at risk for this liability due to the frequent, unsupervised interaction between children and an adult.

Think of this risk as two-fold. Your top priority is to ensure the safety of the students at your facility, but you also need to keep in mind the financial, legal and reputational impact of such a lawsuit. You can take several steps to avoid this type of situation in your school, including careful screening of all employees and volunteers; strictly enforced supervision guidelines; sufficient education and training; and a specific plan of action to follow when someone suspects or reports inappropriate behavior.

Choose Staff Carefully

One of the most important things your facility can do to reduce the risk of a sexual misconduct or harassment allegation is to take proper precautions when bringing on new staff and volunteers. Require that all paid staff, whether part-time or full-time and regardless of job description, consent in writing to a federal criminal background check. Beyond teachers, this includes office workers, maintenance employees and any other staff.

Volunteers who have contact with minors, such as coaches, parent volunteers or club organizers, should also be subject to a background check before being allowed to mentor or conduct activities in your facility. If you sponsor or organize overnight trips, those volunteers should absolutely be required to consent to a federal background check. You should also search for all potential employees and volunteers in the National Sex Offenders Public Registry, to check for any type of sex offender record.

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In addition to conducting an official background check and examining the National Sex Offenders Public Registry, you should require all applicants—whether paid or volunteer—to provide a list of non-family references, complete with contact information. However, it is not enough to simply ask for this information—with every applicant, you should follow through and contact the references. Ask specific questions about the applicant's reputation and character to try and evaluate whether he or she will present a risk to your organization.

Depending on the size of your organization, many people may look at one application, and the review process could go through several hands. To make the process easier and more effective, require documentation for all background and reference checks conducted. Likewise, if

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any applicant is allowed to skip the background or reference check process, require that a waiver be signed by the person who made the decision to exempt the applicant.

Set Supervision Guidelines

It is important to set guidelines for staff conduct for two reasons. First, it protects minors from ill-intentioned adults and makes the environment safer. Second, it protects employees and volunteers from potentially false allegations.

Though the ideal situation would be to always have two adults in a room with students, this is often impossible in a classroom setting. However, for field trips and other special situations, you may want to institute the two-adult rule. In addition, you should discourage one-on-one contact, require that at least two students are in a room with one adult, and have a supervisor or principal randomly checking in on classrooms and after-school activities.

If your school sponsors any overnight trips, the risks and potential liability increases exponentially. Be sure to provide an adequate ratio of adults to participants for security purposes, and never allow male and female participants to sleep in the same area. Sleeping areas should also have supervision guidelines such as the two-adult and the two-child rules previously mentioned.

Provide Staff Training

An important step that some organizations overlook is providing adequate education and training to allow staff and volunteers to understand the risk of sexual misconduct allegations. If you educate your staff, they are more likely to work with you to help reduce the liabilities and risks associated with dealing with students.

Take the time upon hiring to educate staff on the policies and procedures. Be sure to emphasize that sexual misconduct training is not accusatory; rather, it is for their protection. Also, it is a good idea to re-train all staff annually as a reminder about the seriousness of the risk.

Take Suspicions and Allegations Seriously

Many organizations get into trouble not because they failed to conduct the necessary background and reference checks, but because when there was evidence of accusations or problems, they did not react quickly and appropriately.

In training sessions, stress that all staff members—including volunteers—are required to report suspicions or evidence of abuse to senior staff members. Senior staff should forward these reports immediately to the proper law enforcement officials.

To avoid further risk, take immediate action. Remove the employee or volunteer allegedly responsible from duty and do not allow him or her to supervise or come in contact with youth until the investigation is complete. This may be a difficult step, especially if it causes hardship or if there is widespread belief the staff member is innocent, but it is crucial in preventing expensive lawsuits claiming negligence.

Documentation is the key to reduced risk in allegation-response situations. Keep detailed, written records of the allegations and of any interviews with the victims or the alleged abusers. Re-visit your records and make sure they reflect the adequate background checks and reference checks you conducted to further document your efforts to prevent abuse situations.

The bottom line is your educational facility should work to avoid all circumstances that could lead to accusations of sexual misconduct or abuse, whether those claims are legitimate or false. You have the duty to protect your staff, volunteers and participants from the risks of harassment and harassment accusations. The nature of your organization makes this significantly more difficult, but with proper guidance and careful planning, you can mitigate risks and liabilities.