

Appendix 4 Program Risk Management



APPENDIX 4: PROGRAM RISK MANAGEMENT

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SOURCE: www.servicelearning.org

Refer to the web site above and search for “Risk Management”. The underlined text in this section represents documents available on-line.

Introduction

The terms risk management and liability strike terror into the heart of service-learning program managers. However, this does not need to be the case. Quality programs can effectively address these issues and take the necessary precautions to limit their risks and liability and improve their service-learning program. The key to staying on top of liability issues and limiting risk is comprehensive planning and quality training for all staff and volunteers.

The Limits of Insurance

Insurance is one way to off-set financial losses when accidents and other losses happen, but it is no substitute for a risk management plan. An effective risk management plan works to limit the potential for losses by providing adequate training, site supervision, screening of volunteers and sites, and a close look at relevant safety precautions. In essence the goal is to never have to rely on an insurance policy. While insurance will help with the financial repercussions of losses, it cannot restore the time spent finding a solution, poor publicity and morale that may be generated from an accident.

Developing a Risk Management Plan

It is important to develop a plan to protect your agency or school and the young people who participate in your service-learning program. Before developing the specifics of a plan, organizations should develop a risk management policy that addresses: the risk management goal of the organization, what measures will be taken (training, insurance, etc.), and how the policy will be implemented. Once the policy is in place a person or group of people should develop a specific plan by:

1. Identifying the risks
2. Measuring the risks (cost of replacement, legal fees, etc.)
3. Select and implement methods (training, supervision, policy, waivers)
4. Manage claims and losses (keep records)
5. Monitor program and make changes as necessary (on-going analysis of plan)

Participant Preparation and Risk Management

One way to limit risk in any activity is to properly educate, train, and prepare participants. It is especially important to spend time educating and training participants in safety procedures, potential dangers, and the risk management policies of your organization, as well as policies at any service sites. Time spent here can help avoid future problems by bringing potential problems to the attention of participants. If your participants are under 18 it is a good idea to include their parents. This can take the form of orientation for parents, sending parents information, or having parents sign waivers and consent forms. Another important tip is to give participants a way to opt out or choose a different project if they are not comfortable with potential dangers. Remember the best kind of accident is the one that never happens.

Waivers, Consent forms and Permission Slips

In addition to proper education, waivers and informed consent forms can help decrease the likelihood of lawsuits and improve the legal defense of your organization if a lawsuit is filed. However, it is also important to realize that minors cannot sign contracts and parents cannot legally waive the rights of their children. Instead waivers and informed consent forms can help document how organizations communicated potential risks and that participants understood those risks. Such documents only protect organizations against specific risks identified in the document and if the participant had a reasonable choice to decline signing. For example, if a student was performing a service project that must be completed in order to graduate, any waiver or informed consent form would be useless, because there were serious repercussions (i.e. not graduating) if the student failed to sign. If on the other hand there were several other service projects to choose from and the student understood they could simply choose a different project, then the form would hold more weight. Additionally, when people sign well crafted forms they are less likely to file suit. Permission slips also help to inform parents about what their child is doing. They are a good idea if for no other reason than to let parents know what's going on. However permission slips also protect your organization from claims that it interfered with parental custody and authority over a minor. Permission slips do NOT transfer liability or take away the right of parents to file suit.

Site Visits and Supervision

When sending students to a service site it is extremely important to visit the site beforehand to assess any risks. Training and orientation before service may need to include additional information about risks inherent to the site or to the activity to take place at the site. You cannot determine the risks if you have not seen the site or do not understand what students will be doing. Also consider providing a site supervisor, especially if the site does not provide supervision, to make sure the policies of your organization are being enforced on site. Remember, you must take responsibility to ensure adequate supervision on site. Ignorance is not an excuse. In other words, avoid taking a "hands-off" approach to limit knowledge hoping it will limit liability. The limited knowledge of your organization does not limit its liability in any way.

The Law

Lawsuits against nonprofit organizations are not commonplace, however lawsuits against volunteers became widely publicized in the media in the 1980s prompting the development of the Volunteer Protection Act. The Volunteer Protection Act, contrary to popular belief, does not protect organizations. The act protects individuals engaged in service on behalf of an organization. These volunteers are protected insofar as they are acting within the responsibilities of their volunteer duties and harm was not caused by misconduct or negligence, and did not occur while operating a motor vehicle or vessel. As you can see, the act does not mean volunteers are protected from all lawsuits. Additionally, each state has its own liability laws for individuals engaged in service, as well as the organizations through which they serve. As a result it is imperative that you consult a lawyer about your risk management plan and even ask if they can help you as you are developing the plan.

Transportation Risks

Transportation is one of the most frequently listed "barriers" to engaging youth in service. Partly that is because transportation involves bearing responsibility for an extra set of risks. Unfortunately if your organization has staff or volunteers driving any vehicle as a part of service activities it can be held liable for the driver, vehicles, and passengers. It does not matter who owns the vehicle. In order to offset these risks; organizations should screen all drivers, follow safety precautions, develop and implement training for all drivers, ensure all vehicles are safe, and provide policies for passenger behavior. Most state department of motor vehicles provide driving records for a nominal fee, but remember to develop policies and standards for drivers to qualify before doing any screening to ensure proper quality.

Risks of Working with "At-Risk" Youth

The participants in your service-learning program or the recipients of services might be considered to be "at-risk" youth. Start by considering how all youth can be a resource in their communities and will reach that potential if given the opportunity and support. This issue is really about partnership. Remember to include your partners in developing a risk management plan. Work with partners to address concerns they have about the students in your programs coming to their site or concerns and precautions about their clients whom your program intends to help. Remember there is a risk in any environment and with any group of people. The best judges of the true scope of risks are usually those who live and work in those environments. By working together with your partners you can help develop the most comprehensive and on target risk management plan.

In the National Service Learning Clearinghouse (www.servicelearning.org) Library

NSLC Item# 100/G/GOL/1990

Goldstein, M. (1990). *Legal issues in combining service and learning*. In Kendall and Assoc., *Combining Service and Learning: A Resource Book for Community and Public Service: Volume 2* (39-60).

Abstract: This volume merges all forms of external service and learning under the heading service-learning, whether it is internships, practica, work learning, cooperative education, community education, or volunteering. It considers whether the work is paid or unpaid, at a student level from elementary to graduate school and answers what the legal issues and responsibilities are under each of these cases, including compensation and discrimination. Also outlines the legal responsibilities of the educational institution, the work site, and the student and includes a legal issues checklist for each of the three.

NSLC Item#: 340/B/MCM/1996

McMenamin, R.W. (1996). *Volunteers and the Law: A Guidebook*. Tomac.

Abstract: A practical resource for anyone involved in volunteer activities and for organizations that rely on volunteers. It describes common pitfalls and how to avoid them, as well as the basic steps required to recruit, select and supervise volunteers. It addresses potential problem areas, such as counseling and confidentiality, child abuse, bad publicity, scandals, dismissing volunteers, and insurance. Sample case studies show how the law has developed concerning volunteer activities. An index and glossary are included.

NSLC Item#: 100/G/SEI/1994

Seidman, A. and Tremper, C. (1994). *Legal Issues for Service Learning Programs*. Washington, DC: Nonprofit Risk Management Center, Corporation for National and Community Service

Abstract: Reviews legal issues that service-learning administrators should understand including: liability, types of negligence, legally required or prohibited practices, risk management procedures, and insurance coverage. Alerts administrators to potential problems and guides users in developing solutions that are tailored to their program and situation. A checklist of items to review with a risk manager or legal counsel is provided.

NSLC Item#: 110/G/SIS/1997

Sisson, M. (1997). *Practical Steps to Guide District Planning and Implementation of Service Learning Programs! Tip Sheets*. Vancouver, WA: Project Service Leadership, Corporation for National Service.

Abstract: Includes a risk management tip sheet focused on the K-12 level.

NSLC Item#: 110/G/WRI/1997

Wright, J. (1997). *Administrator's Guide to Service Learning*. Clemson, SC: National Dropout Prevention Center.

Abstract: The book is part of the series Linking Learning With Life and concretely explains how service-learning is an educational methodology. Wright explains how administrators may deal with scheduling, transportation, funding, and liability issues; professional development, curricular integrity, student assessment, and program evaluation educational issues; and building an infrastructure, public relations, and community support and involvement as support issues.