

Community College Risk Management Consortium 2019



Everything You Needed To Know About Minors On Campus

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Issues Relating to Minors

Who is a minor?

- Capacity to sign contracts
- Capacity to sign releases and waivers
- Consent to medical treatments
- Drinking on campus



The Legal Issue With Respect To Districts



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Elements

- The District's obligation of duty and liability
- Is the District going to be liable if something bad happens to a minor?
- Negligence is a common cause of action against a District for injuries to minors
- The elements of a negligence action are:
 - District's duty of care to the minor
 - The District's breach of that duty of care
 - The breach caused the damage to the minor
 - The District must compensate the minor for that loss

Examples of District's Duties to Minors



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Various Duties

- Duty to supervise
- Duty to prevent harm by others
- Duty to provide a safe environment
- Duty to warn
- Duty to contact parents
- Duty to call the police

Liability and a District's Duty of Care to Minors



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Factors to Consider

- Inherent dangerousness of the activity at issue
- The age and skill level of those participating
- The maturity and number of children involved
- The inherent dangerousness of the surroundings and whether adequate measures have been taken to insure safety
- Whether the children have special needs
- Whether the activity is supervised by staff appropriate to the number and age of the minor



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Statutory Duties to Minors

Mandatory Reporting Laws

- Some states have mandatory reporting requirements to protect children from physical abuse, neglect, or sexual abuse
- Most states have mandatory reporting laws that apply to minors





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Scenarios Involving Minors

Things to Consider

- Admission visits
- Athletic camps
- Third-party camps
- Childcare centers
- Study abroad



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Scenarios Involving Minors

Things to Consider

- Transporting minors
- Residence halls
- Minors that trespass on campus



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Tricky Issues in Dealing With Minors on Campus

Scenarios

- Perspective applicants that are minors may be easily tempted to participate in alcoholic drinking with adults
- Diverse mix of age groups in participating in on-campus activities together in dining halls, athletic events and in the residence halls
For example, risks of bullying from older minors towards younger minors may occur
- Failure to obtain releases for events
- The District's facilities are not designed for minors and could result in accidents
- Inadequate supervision of minors
- Experience of District Staff in supervising minors



Steps to Minimize Risk

Action Plan

Conduct an audit when planning for hosting minors on campus to prevent injury and to limit the risk of the District

- Audit programs involving minors and identify the departments sponsoring the minor, its location, scope of activity, and ages of those participating
 - Know where your minors are
- Consider the following for the audit
 - Ages of the minors involved
 - Inherent risk of the activity
 - Skill and experience of District employees in charge of the program
 - Number of employees supervising the activity and determine whether the number is sufficient based on the age of the minors
- Obtain signed waivers and releases
- Check if the activity was accurately described in any written materials provided to the parents/guardians and the risk associated with the activity
- Inform parents/guardians and minors of where to file complaints
 - Determine whether adequate insurance is procured and protects the activity



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Tips for Waivers and Releases

- The activity involved
- Risk and degree of injury
- Relinquishment of duty that would fall on the District
- Consider obtaining physician statements especially for high risk activities or those activities with a high level of physical conditions
- Insure that all parents or guardians sign the release before a minor participates before a minor participates in the activity

Tips for Waivers and Releases (Continued)



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- Make the language clear, unambiguous and simple to understand
- Avoid legalese
- The release language should be conspicuous
- Make the document clear as to its function. –
“ General release”
- Use a separate release for each releasing party
- Have a statement that the person understood what is being released and that the activity is voluntary
- Give the releasing party sufficient time to review the release and to return it



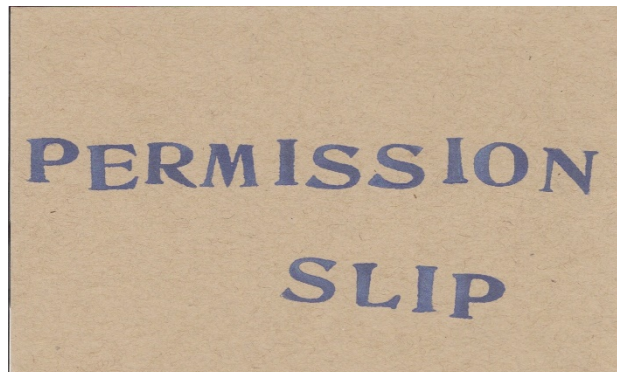
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Permission Forms

- Include acknowledgment by the parent and minor of the behavioral expectations of the minor and the minor agrees to abide by the expectations
- The form should also have a statement that the information provided on the fitness, medical conditions or minors limitations is accurate





Medical Release Consent Forms

- Obtain a consent form for medical treatment and emergency care
- Required elements of the consent form:
 - Child's full name, date of birth and address
 - Full names of the parents/guardians
 - Contact information for parents/guardians and another emergency contact
 - The dates of the events for which the medical release is covering
 - Any medications the minor is taking
 - Permission to obtain emergency medical treatment
 - Minor's health insurance information



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Preventing Sexual Abuse

Factors Conducive for Child Molestation

- Access to children
- Privacy
 - Some situations allow for privacy between the employee and the minor such as:
 - Tutoring, counseling, one-on-one lessons
- Control
- Molester grooms the minor to gain his/her trust and manipulates the minor to prevent the child from reporting the abuse

Preventing and Detection of Child Abuse



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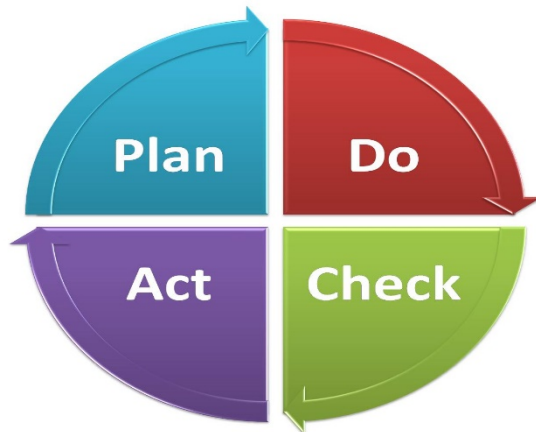
Action Plan

- Adopt policies to protect children
- Appropriate screening and selection procedures to prevent child molesters from gaining employment
- Conduct orientation training and ongoing training
- Establish protocols for the monitoring and supervision of employees and volunteers

Preventing and Detection of Child Abuse

Action Plan

- Have good internal feedback systems
- Implement good policies to respond to suspicions or allegations of child molestation
- Establish good administrative practices
 - Managing situations in which employees can be alone with the child



Something Happened – Now What?



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Action Plan

- The public judges the District based on the adequacy of its response
- Designate a point person for communication purposes
- Identify the key stakeholders that need to receive information and have a plan to communicate the information to these individuals
- Follow all statutory timelines with respect to response to complaints
- Well beforehand – have a crisis management team
 - The team should consist of both internal employees and outside consultants, such as counselors, public relations consultants, psychologists and attorneys
- Conduct a prompt and thorough investigation
- Know your rights and responsibilities for notifying carriers

Something Happened – Now What?



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- Action Plan
- Support the victim/family
 - Provide support for the family (i.e., counseling, transportation)
 - Provide follow-up communication to the family





Key Takeaways

- Audit all programs, premises and policies to identify the risks associated with minors on campus
- Draft appropriate policies to address the risks of minors on campus
- Periodically review all written releases, waivers, permission forms and consent forms to insure that the language is thorough, accurate, easily understood, appropriately waives, releases or provides consent for the activities in question
- Train all faculty and staff associated with minors on campus on identification and reporting of child sexual abuse and the duty of care imposed on District employees
- Develop a crisis response team



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Train, Train, Train

Implement good screening and selection procedures
in the hiring process



Thank You!

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