

MANAGING RISK
YOUTH PROGRAMMING AND VOLUNTEERS

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INTRODUCTION

Many organizations whether for-profit or not-for-profit that work to prevent child abuse are dependent on the involvement of substantial numbers of volunteers to achieve the Organization's mission. This is particularly true for not-for-profit organizations. Indeed, the very essence of most not-for-profit organizations is the active participation of volunteers. The volunteers participate in the Organization at all levels, from Board membership to program management to operations. Because of the roles played by volunteers in not-for-profit organizations, they have the ability to create substantial legal liability. Every not-for-profit organization needs to have in place a program to manage the liability issues.

Many not-for-profit organizations are increasingly involving youth in new and broader roles in the Organization. Some Organizations are including youth as Board members, others are setting up programs in which youth play an active, and sometimes predominant, role in determining the nature, direction, and implementation of the program. Youth as managers and decision-makers create unique legal liability issues for an Organization. The interaction of adult employees and volunteers, and youth with youth, also creates liability issues. Every not-for-profit organization should have in place a program to manage these risks. Many not-for-profit organizations continue to operate under the belief that because not-for-profits are charitable, they are not subject to the same liability as for profit organizations. This perception of "charitable immunity" does not exist in today's legal environment.

Nothing in these materials should be taken as discouraging the use of volunteers or limiting the role of youth in a not-for-profit Organization. Indeed, both youth and volunteers are vital to many Organizations. It is simply necessary that the Organization be aware of potential risks and take preventative steps to address them.

The information in these materials is equally applicable to any type of for profit or not-for-profit Organization, be it a school, community foundation, sports club, church, or other entity.

I. GENERAL LIABILITY

To understand the potential liability a not-for-profit Organization risks because of the conduct of volunteers or youth leaders participating in the Organization's programs, it is first necessary to look at the liability an Organization faces for its employees. The law involving liability for volunteers and youth leaders has developed from the law concerning employee liability.

A. An Organization, Whether For-Profit or Not-For-Profit, is Responsible for the Acts of Its Officers, Managers, and Employees.

Managers or officers who engage in employment discrimination, harassing conduct, financial improprieties, or negligently cause injury to co-workers or third parties while acting within the scope of their duties create liability for their employer. In the case of employment law, an employer is liable for lost pay and benefits, and compensatory damages, to employees who are unlawfully discriminated against by a manager or officer. Similarly, an employer is liable for workplace harassment directed at employees by their co-workers or anyone else with whom the employee comes in contact as a result of his/her job. In the case of physical injuries to co-workers or third parties, an employer is liable where an employee injures another (co-worker or non-employee) and the employee was engaged in the employer's business at the time of the injury.

B. The Types of Conduct for Which an Employer may be Liable Include Negligent Acts, Intentional Acts, and Unintentional Acts.

In most cases, it is not the state of mind or intent of the employee who commits the wrong that creates liability, the issue is solely whether damage or injury occurred because of the employee's conduct.

1. Negligent Acts. An individual, or Organization, is negligent when they fail to exercise a "reasonable degree of care" in performing his/her work or conducting its business. Examples of these types of acts include:
 - assigning someone who has a known drinking problem to drive a vehicle or operate equipment is negligent;
 - assigning someone with a known physical abuse or sexual abuse history to deal with the types of persons whom the individual has abused in the past (i.e., females or children) is negligent; and
 - not taking necessary affirmative steps to avoid injury or harm to others is also negligence. For example, failing to conduct an adequate background investigation as to a prospective employee, or an employee who is to be assigned to work with youth or engage in other activities that could create risk, is negligent. The courts reason that "surely a responsible Organization would not hire an employee to work with youth without carefully checking the individual's background and suitability for the assignment."
2. Intentional Acts. An individual's purposeful act that could foreseeably cause injury or harm to another creates liability. Again, the standard is what a reasonable person would expect as the result of his/her actions. Examples of these types of acts include:
 - an individual engaging in harassing conduct of another could reasonably expect to cause emotional injury to that person, or force them to leave their employment to avoid the harassing situation;
 - an individual driving after using drugs or drinking could reasonably expect to have impaired his/her reaction time and ability to drive safely; and
 - an individual taking money from an Organization is engaged in an intentional act. Organizations have liability when any of their employees or officers engage in this type of conduct.
3. Unintentional Acts. Many times injury or harm is caused when no one was negligent and there was certainly no intent of loss. However, if the conduct or action is such that an injury or harm was caused by the action,

and was not an "Act of God," then the Organization will have liability. Examples of these types of conduct include:

- an employee driving to an assignment is in an automobile accident, injuring a third party. The employee was a safe and sober driver. There was no reason to foresee the accident. The Organization still has liability. The Act of God exception applies where an event occurs that is completely unpredictable. For example, an employee is standing at the door of the Organization's office, at the top of a flight of stairs. The individual has a heart attack, falling down the stairs and injuring someone who is also on the stairs. There is likely no liability in this situation for the injury to the third party because of the unique circumstance. However, the employer would have worker's compensation liability for the individual who had the heart attack.

C. Examples of Conduct by Officers and Employees for Which Organizations are Liable.

1. Financial Misconduct. When an individual steals money from an Organization causing harm to a third party, the Organization is liable for that loss. Needless to say the Organization suffers its own loss if the money is stolen from it. However, where the money is taken from a third party, the Organization is answerable for the employee's conduct.
2. Automobile Accident. In many cases, employees drive a vehicle as part of their job. The individual may travel from one job site to another, or one program to another, or transport co-workers or program participants to and from the activities of an Organization. If the individual is in an automobile accident in the course of his/her employment, all injured persons, including those in the employee's car and those struck by the employee, have a cause of action against the employer. The employee is acting on behalf of the employer at the time of the injury. In most cases, an employer is not liable for injuries caused by an employee on his/her way to and from work (beginning and end of day), as that time is not on the employer's behalf. It is the time spent during the workday, or transporting others to an Organization's activity, that creates liability.
3. Assault and Battery. A battery is defined as the aggressive and intentional touching of another person. An assault is defined as placing another person in fear of harm by belligerent conduct. Individuals who are injured as a result of an assault or battery may bring a claim for damages against the employer of the individual engaged in the conduct, if it occurs in the course of employment. As an example, if an employee strikes a visitor on the employer's premises, or a participant in an Organization's program, this is a battery, and the Organization is liable. This is true even though

the employee was obviously not hired to engage in this type of conduct, and it was unforeseen. The employee may have criminal liability for his/her conduct, but that would not relieve the employer of its civil or financial liability. As another example, an adult striking a child who is participating in an Organization's activities creates liability, even though the child may, in fact, sustain no real injury.

4. Sexual and Other Types of Harassment. Harassing conduct based on sex, race, national origin, religion, disability or age is prohibited by both federal and state law. Managers or employees who engage in conduct that is considered sufficiently harassing create liability for their employing Organization. If the conduct is the very occasional telling of a sex or race joke, that is not likely to create liability. However, repeated conduct of that type is actionable. Certainly, single instances of harassing conduct, if sufficiently severe (i.e., a sexual touching or gross racial or ethnic comments that could be considered threatening), will create liability.
5. Hazing. Some Organizations and activities have developed an "initiation" ritual to which new members or participants are subjected. This may range from the type of activities seen by a college fraternity directed at its pledges, to the more mundane of new employees being required to endure insults. This type of activity is frequently seen in youth-based programs. Examples include a swim team's shaving of new members' heads, "horseplay" conduct directed at new members (i.e., locker room type activities), or requiring new members to eat raw meat, etc. Where such conduct occurs, the Organization is liable for any injury/or emotional distress caused by it.

D. Volunteers/Youth Leaders are Considered "Employees" for Purposes of Liability.

The courts in Indiana have frequently considered the issue of an Organization's liability for the actions of its volunteers and youth leaders. The courts have held that the same standard of liability exists as if the individual were a paid employee. Thus, if an Organization would be liable for the action had it been engaged in by an employee (i.e., automobile accident, sexual harassment, hazing) and the conduct is engaged in by a volunteer or a young person who is placed in a leadership role, the liability is the same. Since an Organization will be held to the same standards for the conduct of volunteers and youth leaders that it is for its own employees, the Organization must take the same

degree of precautions in selecting, retaining, training, and directing the activities of its volunteers and youth leaders that it does its employees.

II. VOLUNTEER LIABILITY

A. Automobile Accidents.

Indiana courts have considered the liability of not-for-profit Organizations for automobile accidents caused by volunteers in the service of the Organization. In one case, an adult volunteer was delivering food to shut-ins on behalf of his Sunday School class. While driving from the church, where the food had been gathered, to the shut-ins home, the volunteer struck a motorcycle and injured the driver. The court imposed liability on the church even though there had been no negligence in selecting the volunteer, or in the volunteer's own conduct. The court reasoned the volunteer was the same as an "employee," he had caused injury to a third party while on his "employer's" business (delivering food) and, therefore, the church had liability. Similarly, volunteers (adults or youth) driving program participants to an Organization-sponsored activity and involved in an accident that injures the passengers en route creates liability. The liability exists even though the volunteer may have been carefully selected, and was acting in a reasonable way. (However, as discussed below, there is increased liability if the volunteer were not carefully selected.)

B. Sexual Conduct.

The involvement of youth in an Organization's activities or programs may bring that youth in contact with someone who engages in sexual misconduct directed at the youth. In one Indiana case, an individual was the coach of a Little League team and used his position to engage in sexual misconduct with team members at sporting events. The

not-for-profit Little League Organization was held liable for the coach's conduct. The coach was an unpaid volunteer.

C. Harassing Conduct.

Volunteers, donors, and others who are not employees but are involved in an Organization's operations or activities and engage in harassing conduct directed at employees, volunteers, or other participants have been held by the courts to create liability for the Organization. There are cases where volunteers sexually harassed an Organization's employees, and made derogatory racial, sexual, and religious comments to employees, participants, and volunteers, and the Organization was held liable for those comments and conduct.

D. Negligent Selection of Volunteers.

Indiana courts recognized several years ago a cause of action known as "negligent hire/retention." This involves an employer not adequately investigating the background of an applicant before hiring the individual. Because of the negligence in conducting the background check, an individual with a criminal or sexual record is hired, the record could have been found if an adequate background investigation were conducted, and, after hire, the individual engages in the same type of misconduct for which he/she has a record. Courts have reasoned the employer was negligent and, therefore, had greater liability because it put the person in a position where he/she could engage in that conduct again. In one Indiana case, an Organization allowed an individual to volunteer as a youth program leader, where that individual had a prior record for sexual misconduct with youth. The individual repeated this conduct with the youth participants in the program, parents sued, and the court found the not-for-profit Organization was negligent in its

volunteer selection process because it did not do a criminal background check. The court stated that any Organization would surely conduct a background check of a volunteer before they placed him/her in direct contact with youth. The court also found the Organization was negligent because it did not adequately supervise the volunteer.

III. YOUTH LIABILITY

A. Injury to Youth Participants.

An Organization must exercise due care in making certain that any program in which youth participate is structured and monitored such that risk of injury to the youth is minimized. There are many Indiana court cases involving not-for-profit organizations in which youth participants were injured (physically or emotionally) during the course of their participation, and the court imposed liability because of lack of adult supervision. In one case, teenage youth leaders were conducting sports programs for younger persons and one of the younger persons was injured when a fellow participant struck him with a baseball bat. The court imposed liability, finding that there was inadequate adult supervision because the individual running the program was 15 years old. The court stated it was reasonable to anticipate that young children will strike each other with baseball bats during a sporting activity and leaving a 15-year-old in charge of the program without on-site adult supervision was negligent. Indiana courts have also imposed liability on a not-for-profit Organization where youth participants in activities injured one another though the participants were all peers. The lesson is that minors (those less than 18 years of age) should not be left in charge of an Organization's activities, either of their peers or of younger persons, without on-site active adult

supervision. Further, youth leaders should receive training in safety before being allowed to run a youth program.

B. Youth Hazing Activities.

It is not uncommon to see media stories about "hazing" activities or "initiation rituals" conducted by youths on new members in their Organizations. For example, in Illinois, a school was found liable for acts by female upper classman against new members in a "Powder Puff" football game. In Elkhart, youth on a swim club shaved the heads of new members, one of the individuals was cut during the shaving, and liability was imposed on the sponsoring not-for-profit Organization. It was shown the "shaving" ritual was well known to the adult leaders, and no action had been taken to stop it. It is virtually commonplace for youth on school sports teams, club sports teams, and band members to "initiate" new members by various types of "locker room conduct," both on the field, in the locker room, and at summer camps. Without hesitation, courts are imposing liability on the sponsoring Organizations on the theory the adult leaders knew of the "initiation" rituals and did nothing to stop them. The lesson is team activities and youth group outings must be closely monitored by adults and absolutely no initiation ritual conduct permitted.

C. Youth Sexual Conduct.

Because of the high hormone level, and prevailing community standards concerning youth sexual activity, it is not at all uncommon for youth to engage in extreme examples of public displays of affection, making of sexual comments, or general sexual banter. The types of conduct that 15 to 17 year old's (without regard to gender) consider appropriate is often impermissible sexual harassment. Organizations involving

youth volunteers and youth leaders must take extra precautions to make certain these individuals are not engaging in any sexual conduct at Organization-sponsored activities. Moreover, the Organizations must make certain the youth are trained as to what is, and is not, appropriate conduct. The lesson is that youth must be trained to leave their amorous and sexual behaviors at home.

D. Youth Decision-Makers.

In some Organizations, youth are being placed on the Boards of Directors. In other Organizations, Youth Boards are being created on which the youth make decisions concerning financial issues. Under Indiana law, "contracts" entered into by someone under the age of 18 are voidable. The term "voidable" means that any party may reject the transaction because of the youth's participation. The action is not illegal, it simply may be cancelled by either party, at-will. A "contract" may be as simple as purchasing items or agreeing to purchase items. No formal document is necessary. As an example, a youth group of a community foundation agrees to spend \$300.00 renting a meeting hall and buying food for a dinner. Adults are present at the time the motion is made and passed, and adults are even present when the youth visit the meeting hall manager to make the rental arrangements. The "contract" is still voidable, since it is based on youth actions. For the contract to be valid, it must be signed or entered into by an adult. There is also risk in situations where youth act as voting members of a Board of Directors that also includes adults, the youth votes are the "tie breakers" in making a decision for the Organization to take certain action or enter into a certain contract, and the action or contract is voidable because the youth, in essence, made the decision. This is true even though the contract or transaction is actually signed by Board officers, all of whom are

adults. The decision was made with active youth participation, and the youth votes were key to the action passing.

Another issue involving youth as "decision-makers" is their inherent lack of experience with business and financial matters. Allowing 16 or 17 year old's to make decisions concerning substantial amounts of money, particularly money entrusted to a not-for-profit Organization, may create liability because the Organization has not followed the "prudent person" rule. The question must be asked whether it is "prudent" to allow mid-teenagers to spend several hundred or several thousand dollars of money entrusted by donors to a not-for-profit Organization. The lesson is that all decisions concerning contracting or financial matters by a Youth Board must subsequently be approved by an adult in order to be enforceable. Similarly, youth votes on an adult Board should not be allowed to break ties or result in an Organization taking action or not taking action.

E. Acts that are Illegal for Youth.

Federal and state law prohibit youth from engaging in certain types of actions. For example, individuals under the age of 18 cannot operate power-driven equipment (lawn mowers excluded). Power-driven equipment includes such things as meat slicers, food fryers, ice machines, forklifts, etc. In one instance, a youth at a summer camp was instructed by an adult to attempt to service the ice machine that was jammed. The youth was injured. The court found that since the ice machine was a piece of powered equipment, it was negligent and, automatically illegal, to assign a youth to operate it and the Organization had liability for the injury caused. Driving a car is powered equipment. Just as a commercial enterprise cannot employ someone under 18 to drive a vehicle for

its business, a not-for-profit Organization should not allow youth to drive vehicles for the Organization's purpose. This does not include driving back and forth to Organization functions by the youth, but would involve the Organization sponsoring car pools in which the youth drive one another to activities. The lesson is minors should not be assigned any tasks that are prohibited to them by law.

F. Youth as Agents of a Board

Under Indiana law, each member of an Organization's Board of Directors is an agent. This means that actions by the Board members, within the scope of their membership, are imputable to the Organization, and it is liable for those actions. It also means that third parties can deal with the individual as a Board member, and reasonably consider the Board bound by such actions. The lesson is an Organization should place youth Board members in a different category than adult Board members.

IV. NECESSARY STEPS TO MINIMIZE RISKS¹

A. Board Member/Volunteer/Youth Leader Application Forms.

Just as an Organization has an employee job application form, so should the Organization have a similar form for volunteers (including Board members) and youth leader participants. A sample form is included with these materials. The form should seek information about the individual's employment record, school record, criminal record, and references. The purpose is to identify situations in which the individual may have engaged in misconduct that would disqualify him/her from service. Obtaining the application form is just the first step. There must be a thorough background check based

¹ Please note that the suggestions in this Section apply to individuals volunteering or serving as youth leaders with an Organization, and not individuals who are merely participating in a program.

on the information provided on the form. Employers should be contacted, schools checked, and personal references sought. An individual who cannot provide this kind of background information should not be allowed to serve as a youth leader or volunteer. It is negligent to allow someone to act as a youth leader or volunteer without investigating their background.

B. Police Record Checks.

Not-for-profit Organizations have the right to obtain police records on volunteers from the Indiana State Police or County Sheriff. The information can be obtained in one of two ways. First, the Organization can require the volunteer to get his/her own police record and provide it as part of the application process. This may save time and the small application fee. Second, the Organization may contact the County Sheriff and State Police, complete the required forms, pay the fee, and get the background report directly. This is the preferable method, because it prevents the applicant from forging a record. It is important to get both the County Sheriff and State Police records, because the information on each report is not always complete. If the individual has a conviction record, and the nature of the conviction calls into question the person's character as it relates to the not-for-profit Organization's activities, then the individual should be rejected. **CAUTION:** It is unlawful race discrimination to disqualify a minority from serving as a volunteer based solely on an arrest record. Instead, the facts concerning the arrest need to be investigated with the County Prosecutor and an independent determination made as to whether the individual engaged in the misconduct. The individual may then be barred based on the facts of his/her conduct, not the arrest itself.

In the case of youth, police records are confidential and will not be released. As a result, thorough checks through the school and individual references are necessary concerning youth leaders. It is generally common knowledge among youth as to whether their peers have a criminal, drinking or drug record. An Organization should not hesitate to ask youth leaders if they have any knowledge of misconduct by their peers. This is not an invasion of privacy if the individual is seeking a youth leader position.

Contacting personal references is also important, both for volunteers and youth leaders. This should include ministers, teachers, and other responsible adults. Unavoidably, individuals will give their "friends" as personal references. But that check is better than none. The issue on background checks of both references and criminal records is that failure to do such a check is considered negligence and allowing a volunteer or youth leader to participate in a program without conducting that check creates liability for negligent selection or retention.

C. References from School Officials.

For many reasons, including restrictions under federal law on schools releasing information about students, school officials may be reluctant to provide information about a youth. However, youth leaders should be required to obtain written references from teachers or other school officials before being allowed to participate. If there are substantial negative factors involving the youth, the teacher is not likely to provide any information. It is unlikely the teacher would provide false information. Thus, the need for the process.

D. Youth Organization Decisions.

Because Indiana law provides that decisions by youth are "voidable," it is suggested that youth groups making decisions concerning spending money or retaining services should make those decisions in the form of a "recommendation" that is then forwarded to the adult sponsoring Board for approval. Thus, a Community Foundation's youth group that decides to spend \$300.00 on a program, should make that in the form of a recommendation to the Community Foundation Board, that then makes the decision based on the recommendation and actually enters into the contractual relationship. The Community Foundation Board could delegate approval authority to Board officers or to two or three of its Board members who are the liaisons to the youth group. The important point is that the youth group not make the final decision. Youth serving on adult Boards should not be allowed to vote. To do so runs the risk that the decision is subject to challenge as "voidable." The same is the likely result in counting youth as part of a Board's quorum. If the Board only has a quorum because of a youth member's presence, any action taken by the Board at that meeting may be voidable. The youth should not be counted as part of the quorum.

E. Separate Youth Entity.

Some writers in the area of youth liability have suggested that Organizations with substantial assets may want to consider creating completely separate not-for-profit Organizations of which the youth leaders are then the Board members or leaders. The entity would have to have adults involved in its operation for purposes of reasonable supervision of the youth. But the entity would have very limited assets. Thus, if a suit were brought against the entity because of the conduct of the youth, the assets that could be the subject of the suit are limited.

F. Orientation of Volunteers and Youth Leaders.

There must be a detailed orientation process for youth leaders and volunteers. This should include informing youth leaders and volunteers as to the Organization's mission and their role in it. In the case of youth leaders, it is also advisable to conduct parental orientation so that the parents understand their child's role and responsibilities. Parents should be introduced to Board members, so they have a contact point to address concerns. Some writers have suggested that there be a "Letter of Agreement" between an Organization and its youth leaders. The Letter spelling out what the Organization intends to provide to the youth leaders, and what is expected of the youth leaders.

G. Training of Volunteers and Youth Leaders.

Because volunteers and youth leaders stand the same as employees as it relates to creating liability for a not-for-profit Organization, they should be provided the same training that an Organization provides its officers and employees concerning legal issues. Indeed, because volunteers and youth may not think of themselves as "employees" and, therefore, not consider their actions as creating liability, it is arguably even more important that they be trained. The issues on which they should be trained include the Organization's policies prohibiting harassment and hazing. The youth leaders and volunteers should also be made aware that their conduct in general may create liability for the Organization and, therefore, the need to conduct themselves responsibly at all times. Indiana courts have held that not-for-profit Organizations should take "reasonable steps" to minimize loss because of the actions of volunteers and youth leaders, and training is one component in those reasonable steps. It is imperative that any training be documented, both as to the attendees (a sign-in roster) and the information covered. The

training should be conducted by someone who is himself/herself adequately trained concerning the issues covered.

H. Supervision of Volunteers and Youth Leaders.

The activities of volunteers in providing service to the Organization should be monitored. An officer or employee of the Organization should periodically meet with each volunteer to discuss what they are doing, problems encountered, and the Organization's expectation. These meetings should be documented showing both the positive actions of the volunteer and the steps needed to improve on a going-forward basis. A court is likely to find that an Organization is negligent if it does not monitor and direct the activity of volunteers in the same way that it "supervises" the activities of employees. In the case of youth leaders, and youth Organizations, on-site, active adult supervision is always necessary. Youth groups should not be allowed to meet or conduct a program without adult leaders present and actively monitoring the youth activities. As an example, a not-for-profit Organization that sponsors a sports league should not allow the youth to practice before a game, unless an adult leader is present at the practice. Youth should not hold a meeting of their Organization without adult supervision present.

I. Structural Changes.

1. By-Laws and Articles of Incorporation. Any Organization that is considering placing youth on its Board should carefully examine its Articles of Incorporation and By-Laws to see if this is permissible. Either the Articles of Incorporation or By-Laws may state that Board membership is limited to "adults." If necessary, the Articles of Incorporation or By-Laws may be amended to allow for youth participation as Board members. If that is done, the By-Laws or Articles of Incorporation should make clear the limited role of the youth so as to protect the Organization from liability. For example, the youth could be limited to "non-voting" Board positions.

2. Conflict of Interest Policy. The Organization should have a conflict of interest policy. The policy should be reviewed with youth leaders who are sitting on Boards, in the same way it is reviewed with all Board members or employees.
3. Position Descriptions. There should be written position descriptions for volunteers and youth leaders. The description should include details as to the role of the volunteers and youth leaders. The description should also include limitations as to the youth leaders and volunteers' authority and responsibility.
4. Informed Board. There should be open and thorough discussion with the Organization's Board as to the potential risks of allowing youth leader participation. It is important to emphasize this is not meant to limit or discourage the role of youth, but, rather, for the Board to make an informed decision. The Organization's minutes should reflect the discussion and decision.

J. Drivers Licenses and Insurance of Volunteers.

If volunteers drive on behalf of an Organization, either to deliver the Organization's services or transport others, the Organization should conduct an adequate investigation to make certain the individual has a driver's license and State law required insurance. (This does not apply to individuals driving to and from Organizational activities unless they are transporting others or delivering something to be used in the activity.) Each volunteer should be required to provide a photocopy of his/her driver's license and automobile insurance card. This shows the individual has either a restricted or unrestricted license, and adequate insurance. The Organization should retain copies of these records. The Organization should monitor expiration dates to make certain both the insurance and driver's license are kept current. There is no reason to keep this type of record for youth leaders, because they should not be driving on behalf of the Organization.

K. Off-Site Programs.

Many not-for-profit Organizations hold programs away from their office, such as at sporting sites, meeting rooms, or restaurants. Services by vendors may be provided at those sites, such as food service. The Organization has an obligation to investigate the host site to make certain it is safe and does not have any apparent hazards. For example, allowing an Organization-sponsored basketball event to occur at a gym where the bleachers are in ill repair could create liability for the Organization. Food poisoning because a vendor is not properly licensed, or prepares food in unsanitary conditions, creates liability. The Organization needs to check out both venues and vendors before contracting for services.

L. Insurance.

Insurance is available for almost every kind of liability. A not-for-profit Organization can purchase insurance to protect itself from misconduct by employees, volunteers, and youth leaders. Such insurance should be purchased. Liability should be **at least** \$1,000,000.00. The insurance policy should be carefully reviewed by either legal or insurance professionals to make certain all risks concerning youth and volunteers are covered. Some insurance covers only actions by employees. That is not sufficiently broad. Similarly, the insurance should be checked to make certain it covers programs sponsored by the Organization, such as sporting tournaments and transportation to and from those events. It should be made certain that the coverage includes not only injury to the volunteers and youth leaders, but to third parties who are either participating in the programs, or merely happen to be present at the event. As important as insurance

coverage is for not-for-profit Organizations, it should not be thought of as a substitute for an effective risk-management program.

M. Risk Management Planning.

All not-for-profit Organizations should have an established risk management plan. An Organization should designate a few individuals within the Organization to identify, evaluate and manage the risks mentioned above. These individuals should include not only Board Members, but the Executive Director, and, if applicable, select employees from the organization.

V. CONCLUSION

Volunteers are an essential part of any not-for-profit Organization. Unfortunately, as with any business, there are risks involved. As such, the volunteers and these participants can create liability for an Organization. The best way to minimize the risks associated with volunteers and avoid liability is to take preventative measures so that if the Organization is ever questioned or even sued, the Organization can show that it took reasonable steps to prevent any harm. By developing a risk management plan and instituting some of the preventative steps listed in these materials, an Organization has a better chance of minimizing liability that can result from its volunteers' activity.