



Arthur J. Gallagher & Co.



Managing the Risk of Minors on Campus

Gallagher Higher Education Practice



When I was a child, I talked like a child, I thought like a child, I reasoned like a child.
When I became a man, I put the ways of childhood behind me.
—Paul the Apostle, First Epistle to the Corinthians, 13:11

Disclaimer

The information in this document is intended to help administrators at educational institutions understand and manage risk. It is offered to the higher education community as *general advice*. It is not intended as professional guidance on particular situations involving risk, insurance, or legal issues. Arthur J. Gallagher does not provide legal advice, as we are not qualified to do so. Neither this document, nor any recommendation associated with it, is a substitute for legal advice. Every circumstance and institution is different. Each institution must, therefore, consult its own legal counsel or other qualified professional for advice on the legal implications related to these issues and determine for itself what steps are appropriate for personal or institutional assistance.

This monograph does not create, and is not intended to create, a standard of care or a legal duty of any kind. The failure to implement any item from the proposed guidelines and checklists is not intended as, and should not be construed as, evidence of negligence or wrongdoing of any kind. The checklists are merely aspirational and illustrative. The items listed are by no means required or recommended in all circumstances. The appendices contained in this document were obtained from sources that, to the best of the writers' knowledge, are authentic and reliable.



Managing the Risk of Minors on Campus

..... Preface

The 2012 Arthur J. Gallagher Think Tank for Higher Education Risk Management addressed the knotty problem of how to manage the risks of those on our campuses for whom adulthood is still out of reach. How should our campus community effectively deal with minors? The intended audience for this publication includes higher education risk managers, administrators and anyone responsible for minors on campus, whether in an advisory or supervisory capacity.

This year's Think Tank participants included leaders in higher education risk management and insurance, along with a selection of experts in sexual abuse prevention. We attempted to identify the particular risks to higher education institutions arising from the presence of minors on our campuses and in our programs, and to suggest possible strategies for your consideration in managing these risks. While prevention of molestation and sexual abuse is prominent in our minds and in the news, premises liability and bodily injury risks were discussed and addressed as well, along with notoriously difficult-to-manage reputational risks.

The Think Tank participants recognize the enormous benefits institutions derive from hosting minors on our campuses and in our institutional programs. Candidates for admission, sports team recruits, and casual visitors are not risks to be avoided—they

are literally our future students and customers. But under the law they are not considered capable of reasoning like an adult. Properly managing the elements of risk they bring is essential to the long-term health of every college and university.

As one Think Tank participant observed:

Here's where the risks are: we've got interactions with minors peer-on-peer, student/employee-with-minor interactions, premises exposures, alcohol/substances added... We are not just trying to address sexual abuse and molestation. What about athletic and admissions recruits? If we have summer camps on campus, what are the medical exposures we have? How are these different from our everyday operations? What about waivers and releases? Food allergies? Other medical emergencies? Part-time employees? Lab research assistants? As bad as an injury to a student is, an injury to a minor is even worse. We have 17-year-old freshmen ('Doogie Howser' types)... The list goes on.

The art of risk management is often simply being careful not to overlook something that could cause harm. This paper is not meant to identify every conceivable risk. But we hope it will help readers realize and remember the major risks involving minors.

In the sections of this document you will find the classic operational risk management cycle applied to minors. We start with risk identification: what are “minors” in my state? What is the duty owed them? Where *are* the minors? The next section offers risk analysis: What are the major areas requiring best practices for taking care of other people’s children? We then discuss loss control: What policies should be in place? Supervision? Training? After a thorough discussion on sexual molestation prevention and response (an “excursus” that can be read on its own as a standalone document on molestation), we briefly review risk financing: what terms should be included in our insurance policies to address the special risks related to minors on campus, especially sexual molestation risk? Also attached are a few appendices with sample policies and resources we thought might be helpful.

This publication would not have been possible without the participation and commitment of each member of the Think Tank:

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Special thanks goes to Ann Franke of Wise Results, who prepared the section on preventing sexual abuse and molestation, and who provided useful editorial assistance.

This document is not intended to provide best practice solutions for every conceivable situation involving minors. Rather, it is a clarion call to identify and care for minors. Managing these risks has major implications for the reputation and well-being of the minors, of those managing risks of the various programs and activities, and of the institution itself. Assisting children—safely—on the path to adulthood is indeed a worthy goal for colleges and universities.



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..... Table of Contents

Introduction.....	5
Who is a Minor?	6
Risk Identification: Where are the Minors at Your Institution?.....	7
Analysis of Risk: What to Worry About Most.....	10
<i>Excursus</i> : Preventing Sexual Abuse of Minors	16
Loss Control: Best Practices	27
Response and Recovery: Post-Incident Best Practices.....	30
Insurance, Risk Transfer and Financing.....	33
Summary.....	36
References.....	38
APPENDIX A: Criminal Background Checks.....	39
APPENDIX B: Sample Volunteer Application Form Information.....	42
APPENDIX C: Sample Policy on Minors (The Pennsylvania State University).....	44
APPENDIX D: Risk Factors and Loss Control Measures Scoring Sheet.....	50
APPENDIX E: Medical Care Authorization.....	54
APPENDIX F: Self-Administration of Prescription Medication Authorization.....	56
APPENDIX G: Camp Waiver/Release.....	58

..... Introduction

Children sweeten labors; but they make misfortunes more bitter.

—Francis Bacon (1561–1626), *Essays, Civil and Moral*

Higher education is traditionally regarded as the province of adults. Certainly those of us responsible for risk management at institutions of higher education may sometimes question the maturity of some “adult” members of our student clientele. But for most colleges and universities, the great majority of people studying, living and working on our campuses, and participating in our various programs, are indeed considered adults under the law. They are able to account for themselves, sign contracts, and bear legal and moral responsibility for their own behavior.

Yet most institutions of higher education have significant interaction with minors on our campuses and in our operations. Minors flock to sports camps we host. They buy ice cream in our student centers, and skateboard on our walkways and steps. They arrive as freshmen, not yet turned eighteen.

grant recipients, and child actors in our theater performances.

Because of the increased legal, moral, and social duty owed to minors, they pose a particularly sensitive risk management challenge. Juries of our peers, and the courts of public opinion, tend to render harsh judgment on colleges and universities that are perceived to be negligent in managing the safety of minors. However, it is not always easy to determine exactly who *is* a minor, nor where they are, nor who has invited them to the campus (or to participate in off-campus programs), or for what purpose. In addition, the legal doctrine of “in loco parentis”¹ has been shifting for higher education over the last three decades, giving enrolled students more freedoms but not removing obligations to care for true minors.

“Prodigy” students can be well below eighteen. A 16-year-old *graduate* student recently sought permission to join an archaeology field study in Israel as part of an M.A. program.

Minors take music lessons and attend pre-college bridge programs. They sit in their off-campus classrooms under our student teachers. They come to us as sports team recruits, and as candidates for admission, and as siblings of current students. They sleep in our residence halls as our guests. We invite them to all sorts of functions and events, free and paid. They are our future students, our primary customers. They work part-time on our grounds crews and in our labs. They are research assistants for our faculty

¹ Peter F. Lake of the Stetson College of Law has written definitively on this subject; see, for instance, *The Rise of Duty and the Fall of In Loco Parentis and Other Protective Tort Doctrines in Higher Education Law*, 64 Mo. L. Rev. 1 (1999); *The Special Relationship(s) between a College and a Student: Law and Policy Ramifications for the Post In Loco Parentis College*, 37 Idaho L. Rev. 531 (2001); and, with Robert D. Bickel, *The Rights and Responsibilities of Modern Universities: Who Assumes the Risk of College Life?* (Durham: Carolina Academic Press, 1999).

Who is a Minor?

Before we begin investigating our institutions' exposures to the presence of minors, we must answer the question, "Who *is* a minor?" Perhaps surprisingly, there is no uniform answer to this question, despite the fact that we owe greater duties to minors than to adults. Good risk management requires knowledge of the applicable statutes.

Minors typically cannot enter into contracts, nor, in most circumstances, bear legal responsibility for their actions. So they can't sign waivers or releases for themselves in most situations, nor refuse medical treatment such as sending away an ambulance that has been summoned. Parents or guardians exercise these responsibilities and *can* be held responsible for the actions of minors.² Harsher penalties may apply to those who abuse or assault or otherwise injure a minor, intentionally or not.

States define "minor" differently. Many, but not all states, set 18 as the age of majority.³ North Carolina, for instance, has a typically simple and clear statement: "A minor is any person who has not reached the age of 18 years."⁴ Many states lowered the age of majority from 21 to 18 after the 26th Amendment to the U.S. Constitution, ratified in 1971, set 18 as national voting age. Many states set different age limits for different purposes. Connecticut, for example, provides that

Except as otherwise provided by statute, on and after October 1, 1972, the terms "minor", "infant" and "infancy" shall be deemed to refer to a person under the age of eighteen years and any person eighteen years of age or over shall be an adult for all purposes whatsoever and have the same legal capacity, rights, powers, privileges, duties, liabilities and responsibilities as persons heretofore had at twenty-one years of age, and "age of majority" shall be deemed to be eighteen years.⁵

Connecticut further defines a "child" as any person under 16 years of age, and a "youth" as "any person sixteen or seventeen years of age."⁶ Likewise, depending on the state, a "juvenile" is variously defined as someone under 18, or 17, or 16 years of age. Different statutes may apply to each of these age and title categories.

A college or university must adapt risk management plans for minors to its legal context. Examine the laws on minors for all states, and even all countries, in which your institution operates. You may need to consult an attorney to determine exactly where your vulnerability lies, by definition, before you begin the next step: identifying where minors are congregating at your institution.

Takeaway: Consult with an attorney to determine the definition of "minor" in all states and countries in which your institution operates. Make sure you understand all statutes that might apply to your institution's care of minors.

² On occasion a university employee may become the legal guardian of a minor, increasing institutional responsibility. At a leading music conservatory, for instance, staff members may become legal guardians of a few young students who live in the residence halls. This allows the staff members, for example, to make medical decisions in emergency situations.

³ States and U.S. possessions using an age older than 18 for legal majority, as of January 2012, were: Alabama (19), Mississippi (21), Nebraska (19), Pennsylvania (21), and Puerto Rico (21). Source: DoD Financial Management Regulation, Volume 7B, Appendix H, "Age of Majority by State and United States Possession." Found at http://comptroller.defense.gov/fmt/07b/07b_appendix_h.pdf.

⁴ North Carolina General Statutes §48A-2 (1971, c. 585, s. 1; 2003-207, s. 1.).

⁵ Connecticut General Statutes §1-1d (1972, P.A. 127, S. 1., rev. 2007).

⁶ Connecticut General Statutes §46b-120(1) and (2) (2007).

..... Risk Identification: Where *Are* the Minors at Your Institution?

“It’s 10:00 p.m. Do you know where your children are?”

—Public Service Announcement, ca. 1971

After canvassing the legal duties that institutions owe to minors, the next steps are to identify where the institution interacts with minors and to gauge the potential risks of those interactions.

Sexual abuse and molestation have a high public profile and deserve further in-depth consideration (see separate *Excursus* section below). However, molestation is actually much less prevalent than bodily injuries to minors on our campuses. Premises liability remains the single greatest exposure when we bring children to facilities sometimes not designed for them, to participate in programs sometimes led by people not accustomed to managing risk factors related to minors. It is vital to identify

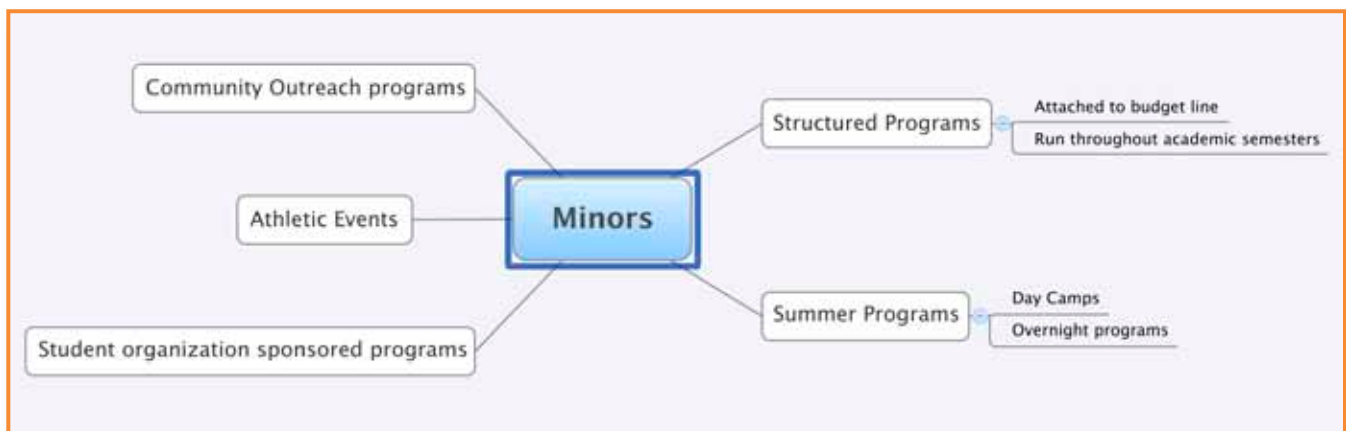
Many institutions that inventory their youth-serving programs find more programs than they expected. The daycare center and the sports camp have high profiles. Smaller programs may be scattered throughout the institution, from community service projects to the president’s Halloween party. Syracuse University did a full assessment in 2003 and found over 70 programs having significant involvement with minors, not including casual campus visitors.

The Think Tank participants initially hoped we could group campus programs serving youth into a few simple categories, each under the supervision of a Vice President or Dean responsible for owning the risks in that area—and for implementing proper

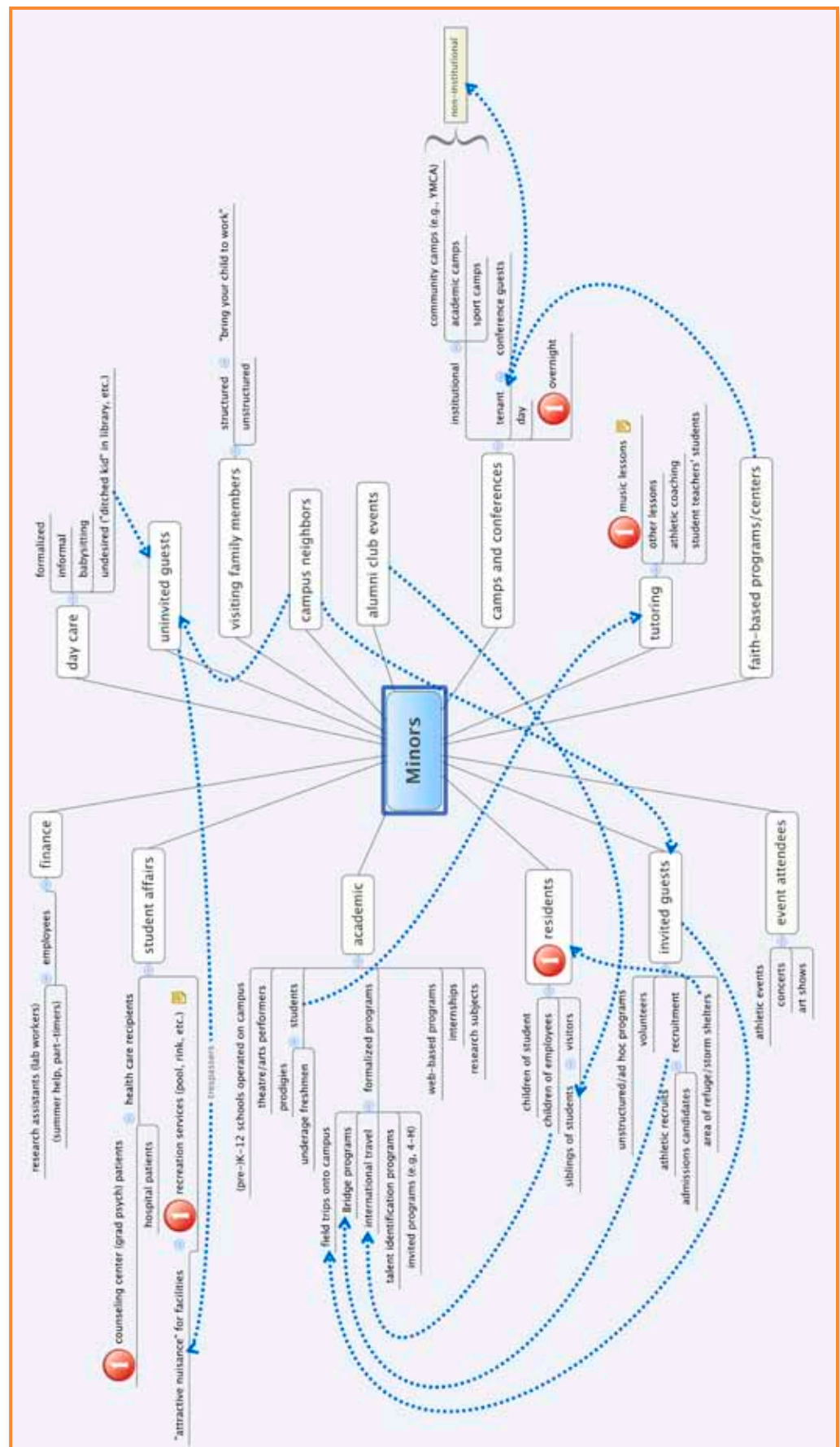
One university thought it had two programs that involved minors. When a full risk assessment was done, it discovered it actually had 166.

these risks and advise and train those responsible on how to manage them.

risk management techniques. We began a chart looking something like this:



But upon further reflection, we realized the list of exposures was much longer and more diverse—and extremely interconnected and overlapping. We affectionately dubbed the new version “the spiderweb chart,” with bright red “1”s representing heightened risk for molestation. But we are quite sure we have *not* captured all risks; many more lines could be drawn linking various areas of oversight:



This “spiderweb chart” illustrates one of the most difficult issues in classifying these risks: determining whether to track risk by the *functional area*, such as by the VP or Dean overseeing the area of exposure, or by the minor’s *role*, such as event attendee or uninvited guest.

We recommend identifying risks by *operational area*, and then making sure there is a champion to manage them for each program. As with the assignment of roles for Enterprise Risk Management, every program needs a responsible party overseeing implementation of best practices. Certain broad areas bring the highest exposures:

1. **Academic Programs:** You may have academic programs that invite or involve minors—music lessons, theater participation, ultra-young “prodigy” students, under-18 freshmen, high school/BRIDGE programs, student teaching, international travel programs, summer academic enrichment for youth, and similar programs.
2. **Student Affairs/Recreation:** These programs include Athletics events especially (under-age recruits, institutionally sponsored camps, community members using the pool or fields, etc.), but also such activities as “Model U.N.,” alternative spring break programs serving youth, and local community service projects organized by college students.
3. **Health Services:** Special issues arise with children’s allergies, administration of regular medications, and consent for treatment of minors at medical centers, speech and hearing clinics, and counseling centers. A student health center providing services to youth, such as summer campers, may require pediatric expertise and specially-sized equipment. Don’t forget exposures such as graduate students practicing counseling techniques.
4. **Admissions:** Most prospective students are minors, and they may stay in residence halls, enjoy campus visits, and participate in many campus activities. A first-year orientation program may have activities for younger siblings.
5. **Human Resources:** The institution may have job shadowing programs, or minors as employees. Human Resources may sponsor a “bring your child to work” day, or have staff “bring your family” barbecues, picnics, holiday parties, group amusement park days and other community-building events.
6. **Special Events/Advancement:** Special holiday events such as trick-or-treating may be held. Greek organizations may sponsor activities for special-needs or other children. Homecoming, graduation, and reunions may bring families to campus. Younger siblings may stay in residence halls, and local school children visit campus facilities on field trips. These are but a few examples of special events.
7. **Conference Services:** Many schools maximize revenue and facilities use by renting space to conferences, youth groups, sports camps, and church functions.
8. **Institutional Counsel/Office of Legal Services:** Many contracts are reviewed by this office, or perhaps by Purchasing/Procurement. These departments may be aware of contracts involving service to or programs for minors, and should be prepared to negotiate the appropriate expected terms and conditions.

Takeaway: “Important Conversations You Need to Have”: Each institution has a few key programs with the highest concentration of minors. Athletics, community service, admissions, and alumni relations may be among them. Conversations with the campus leaders in these areas are critical. The leaders should know which programs involve minors (a simple checklist or survey may be helpful), and what their responsibilities to minors are in your state(s) of operation. Identify the key responsible parties and bring them on board with risk identification, proper policies, training, best practices and supervision.

..... Analysis of Risk: What to Worry About Most

I remember a wise old gentleman who used to say,
“When children are doing nothing, they are doing mischief.”
—Henry Fielding (1707–1754), *Tom Jones*, Book XV, Part II

Things are not quite as bad as Fielding’s wise old gentleman would have it—minors at our institutions are not just sources of mischief. They are, indeed, our future students and customers, our employees and donors. But there are certain factors associated with their presence that our Think Tank identified as hazards, increasing risk. Many are listed in the checklist below, in no particular order:

- 1. **Alcohol and controlled substances:** Since some of our enrolled students have difficulty making wise choices concerning alcohol and drugs, it comes as no surprise that the situation can be compounded for minors. Away from their parents, minors may be eager to experiment with forbidden substances. Prospective applicants, for example, may easily be tempted to party along with the students on campus who want to “show the visitors a good time.”
- 2. **Unclear “ownership” of events:** Ambiguities surrounding events may reduce attention to risk. Is the program an institutional function? Or is it owned and run by an outside agency? Or is it a joint, mutual event? Who has management responsibility? Ultimate decision-making authority? Who insures the event and collects appropriate documents? Resolving such questions in advance clarifies the allocation of responsibility for safeguarding minors.
- 3. **Age of the individual/mixed age groups:** Complications can arise when two groups of minors of significantly different ages or interests are interacting together in the residence halls, dining halls, or athletic facilities. A younger or smaller child

might be bullied or otherwise injured (even accidentally) by older or larger minors, adult students, or others.

Ugly Scenarios

What if...

- ...a female 16-year-old high school junior on a campus recruiting visit was staying with host students in a residence hall overnight. She was sexually assaulted late at night by another visiting minor, a 16-year-old male on campus for a Model U.N. program, sponsored by the Political Science Department for area high school students and hosted at no charge by the institution. Apparently alcohol was involved.
- ...a sixth-grader visiting a campus department on a school field trip was cornered in a bathroom and bullied by two eighth-graders from a different school on a coinciding field trip.
- ...during a Homecoming “open gym” activity for the children of alumni attending concurrent “Class of ’--” functions, a few bored high schoolers shoved their way into a game of dodge ball set up by volunteer student supervisors recruited by the Advancement division. They taunted the younger kids, many of whom were injured by the force of the red rubber balls they threw. The volunteer supervisors either did not notice or were unsure how to respond. Alumni parents were outraged when they retrieved their bruised and crying offspring.

- 4. **No release for participation or medical care:** It may seem awkward to ask for a medical release, much less a participation release, from minors coming to campus as invited guests for admissions or athletics recruiting. But that awkwardness must be weighed against problems arising from the absence of a waiver in case of an incident, or lack of a release in case of the need for medical treatment. In many states, if a child is injured and a parent is not present or a signed permission-to-treat form has not been collected, obtaining medical treatment can become complicated. (Be careful to obtain authorization from *both* parents if there is a potential custody situation that might require it.)
- 5. **Facilities not designed or constructed for minors:** Some of our buildings have lead paint, or stairway balusters that are unusually low or lack modern safety rails, or old-style wide, non-code-compliant distances between upright rail supports on open stairs and balconies. Almost all of our campus furniture, door handles, light switches, bathrooms, and other facilities are adult-sized, and children can and do get hurt while using normal, undamaged items and furnishings. An “attractive nuisance” like an unsecured bulldozer or unlocked pool is also not meant for children.
- 6. **Inadequate supervision:** Deficiencies in supervision are a major problem

loss control. Inadequate supervision could mean too many minors per staff member (too large a ratio), or insufficiently trained staff. In addition to unsupervised activities, one of the

Right-Sized Facilities and Furniture Matter!

- A large conference rented the entire campus of a small college during the summer. Families with children were housed in residence hall rooms. During the conference sessions, conference volunteer staff offered impromptu childcare in the residence hall lounge areas. While playing “tag” around a ping-pong table, a small child tripped and fell forward, severely injuring his eye by striking it against the corner of the table at his head level.
- An Assistant Provost held a welcome-to-new-faculty banquet on campus, hiring students to provide babysitting services in a small dining room conveniently adjacent to the banquet hall. Not a single item of furniture or equipment in the room was meant for playing children, much less for the infants dropped off by parents for naps, feeding and diaper changes. New-faculty parents were hesitant, anxious and angry about the inadequate facilities. Some refused to leave their children there, and skipped the banquet entirely. It was a well-intentioned

A tennis camper was playing dodge ball with a tennis ball in a residence hall, while his counselor was eating dinner, unaware of what was going on. No one told the camper to stop, and unfortunately he severely damaged his eye.

and a primary source of injuries and lawsuits. Proper supervision is one of the most important elements to address in planning programs and managing

activity, but it set faculty-administrative relations on a wrong-footed start to the year.

largest concerns is unsupervised *time*. This is when the children are most likely to get into mischief—a particular issue for overnight camps and programs. If a minor is injured, the parents will demand to know why adults were not present or, if present, were inattentive to the children.

- 7. **Unplanned time:** While planning every waking second of a child’s time is a bad idea, not having planned activities for groups of supervised minors, especially large groups, presents a hazard. “Free time” for large groups of minors often devolves into questionable activities. Outdoor activities may be cancelled due to rain, heat, or other adverse conditions. With indoor activities, a building may unexpectedly become unavailable. Such cancellations of scheduled activities should always be anticipated, with leaders prepared to switch into a solid backup

staff numbers are low and people may be pressed into emergency service? Do the qualifications apply to both staff and volunteers?

- 9. **Regulatory risk:** Both federal and state law protect minors. The regulatory requirements for daycare centers are an obvious example. Do you have an unofficial “daycare center” that is unlicensed? Similarly, laws prohibit the employment of minors in dangerous occupations, such as working with power tools or on high ladders, or occupations illegal for them such as serving alcohol. Do you know the laws in your state concerning employment tasks prohibited for minors? Does your state require minors to have a work permit? Are minors in advanced academic programs using scientific laboratories, equipment, or chemicals without proper training, or with tools or personal pro-

On the *last* day of sports camp, a participant’s mother calls in to say, “Johnny won’t be there today because he’s broken out with the measles.”

activity plan. Note that *unplanned* time differs from *unsupervised* time. Unplanned time is unstructured, and adults may be present. In unsupervised time, adults are not present, or not present in sufficient numbers.

- 8. **Staff qualifications:** Closely tied to inadequate supervision, staff qualification is a vitally important area. Staff may gain qualifications through a combination of training, experience, maturity, and, in some positions, required licensure. Have programs established clear and justifiable qualifications for staff and supervisors who will be in charge of minors? Are these qualification requirements enforced, especially in the often-hectic and pressured times when camp or program

protective equipment sized to, or quantities designed for, adult use? Does your state require specific training for those who supervise minors?

- 10. **Mandatory reporting:** All states have laws requiring certain categories of adults, such as pediatricians and teachers, to report any suspicions or evidence that a minor has been sexually molested or otherwise physically abused or neglected. Many of your employees may be mandatory reporters. In some states, *everyone* is a mandatory reporter. Does your institution provide guidance to the Admissions counselors on what they *must*, *can*, or *should* do if an applicant for admission reveals abuse on an application essay?

- 11. **Pre-existing mental health issues:** Many minors have significant mental health issues, including prescription drug needs. Are your programs for minors able to accommodate these needs, and to monitor prescription drug use—and possible abuse? And how will staff distinguish between a minor’s consumption of acceptable over-the-counter medications, prescribed medications, and illegal controlled substances? Parents might see a program away from home as an opportunity for their child to scale back on therapy or medication. Some adolescents may reach the same conclusion on their own.
- 12. **Other medical issues:** Children may bring a host of medical conditions to institutional programs. Do all program staff know what to do if a minor has an allergic reaction? Diabetic coma? Reaction to medicine? How is this information collected from participants and shared with staff? Is the information stored with adequate protections for privacy? How and when is it destroyed afterwards? Do the programs follow an appropriate infectious disease policy to prevent MRSA, norovirus, and other transmissible illnesses? A policy to determine when minors will be barred from participation due to illness? Are staff trained in pediatric application of bloodborne pathogens protocols, first aid, CPR, and AED use, all geared to pediatrics? It is prudent to develop a plan for notifying parents of medical issues. In a situation, for example, of infectious disease, should *all* parents be notified?
- 13. **Meeting custody obligations:** Many children come from and return to households headed by adults with varying custody rights. Are all your programs confident they have secured sufficient participation permission from all relevant parties? Are the children being returned to the proper person at the proper time to satisfy custody and avoid charges of aiding kidnapping?
- 14. **Transportation risks:** State and federal laws regulate the transportation of minors. Small children, for example, require car seats or boosters in passenger vehicles.⁷ Parental written permission should be obtained for transporting minors in vehicles. A state may have safety requirements for school buses and restrictions on transporting children in 15-passenger vans or in the back of pickup trucks. Bicycle helmets may be mandatory for riders under a certain age. Institutional policy may address transportation issues, such as the use of 15-passenger vans. If a program picks up or drops off two or more minors at multiple points, there may also be a “first one in/last one out” issue: a sexual abuse risk exists if a minor is alone in a vehicle with an adult. One university has a policy requiring drivers to call campus public safety to report the timing and location when they drop off the next-to-last and the last minor passengers in a university vehicle.
- 15. **Media images:** Institutions wishing to use minors’ images in brochures, videos, websites, and other forms should secure parental permission. An institution may choose to prohibit staff and volunteers from taking photos or videos of minors on their cell phones or other personal equipment, to limit the risk of privacy invasion and inappropriate distribution. A program could prohibit youth from bringing cameras or taking photographs,

⁷ For instance, the 2004 Illinois Child Passenger Protection Act dictates that drivers must make sure all passengers under 18 are in seatbelts, unless they are under 8, in which case “**The parent or legal guardian of a child under the age of 8 years shall provide a child restraint system to any person who transports his or her child**” (as presented at <http://dot.state.il.us/trafficsafety/childpassengeract.html>, accessed 2012/5/2; emphasis in the original).

to reduce the risk that compromising pictures might be distributed.

- 16. **Making over-reaching or misleading statements in program brochures:** "... [C]onstant supervision in the dorms," claimed a major university's football camp brochure. But was that really true? Advertisements that make false or misleading claims, especially about staffing ratios, safety precautions, supervision, and scope of activities, may be grounds for legal action if something goes wrong.
- 17. **Internet and media exposure:** Do you have, or need, campus internet filters for your minor participants? Do you have, or do you need, a policy for cell phones, "smart phones," and other electronic devices? Should the policy

apply to staff, supervisors, and volunteers? To participants?

- 18. **Shared space/private space:** How does your program manage spaces shared by adults and minors? Do adult and youth groups eat together in the dining hall? Do minors change clothes alongside adults in locker rooms, showers, or steam rooms? Some facilities prohibit children over a specified age, often 3 or 4 years old, from entering locker rooms of the opposite sex. Conversely, are minors often alone in a program—especially, "alone" with other minors, essentially unsupervised? How do you balance public/private expectations and needs?
- 19. **Emergency management:** Children need extra guidance in emergencies. For severe weather, threat of a shooter, or other

One university had a 14-year-old science award winner on campus for a week over Christmas working in a lab. Her mother stayed with her the whole time.

"Do Not Call"?

After a few repugnant incidents of illicit photography in athletics locker rooms, pool-side changing areas and restrooms, many institutions are struggling with how to adopt workable mobile phone policies. One approach might be to forbid any use of mobile phones or any other devices capable of taking pictures in such areas. But can we reasonably expect users of our facilities to keep their electronic devices out of sight, in pockets or gym bags, or, more strictly, even to surrender their phones before entering? Locker room attendants typically need training on how to enforce such policies. How else can we prevent surreptitious snapshots from surfacing online? Worse—what if kids do it?

emergency event, do leaders know all shelter locations and procedures? Are they adequate for the size of the group? Do they have alternative plans for rain or other adverse conditions? Is there a lightning prediction or other warning system, and do all groups (particularly outside groups) know what it means and how to obey it? How do youth-serving programs factor into the institution's overall emergency plans? Could the dining service, for example, feed all overnight campers, including those in camps hosted by non-university groups, in the event of a power outage?

- 20. **Special needs programs:** By their very nature, programs that serve children with special needs require particularly sensitive and expert supervision. Staff must take charge of accommodating disabilities,

preventing harassment, and avoiding discrimination based on protected classes. Special needs children may participate in separate programs or in programs with non-disabled children.

- 21. **Accompanying family members or friends—“entourage” effect:** Programs should be very clear concerning the place or role, if any, of for family members accompanying minors. What if parents, siblings, or extended family arrive with campers, youth travel program participants, or young scientists doing research? Some communities and families may value family participation highly. Programs, however, may or may not easily accommodate extra people. A parent who assists with supervision may be an asset, while one who relentlessly advocates for his or her child may not be. Even worse, a parent or sibling may injure or abuse another child. Likewise with friends—in an age of cell phones, minors might call their local friends to come and visit. The program should have clear guidelines for these situations.

- 22. **Emergency response/missing children:** All institutional programs and facilities users should be aware of the procedures to be followed in case of emergency.

Procedures should be designed for typical emergencies and should address, among other elements, procuring emergency assistance, notifying parents, and following up. Particularly important is to have a plan for recovery of a missing child, with properly sequenced notification of parents, authorities, and others. Parents are understandably unforgiving when a child is unaccounted for, even for a short time.

Takeaway: Several specific factors increase the risks of working with minors. Many of these also heighten risk for programs with students or other adults, but because minors are not considered under the law to be able to care for themselves, *our program leaders must be aware of these risks and address these particularly.* **TIP:** Having an information handout sheet, or dedicated e-mail or website for parents & attendees, or even a 24-hour hotline for program-related questions, goes a long way toward showing there are competent people in charge. Preparing for these questions also prompts leaders to address the risks behind them.

..... *Excursus*⁸: Preventing Sexual Abuse of Minors

No one is more truly helpless, more completely a victim,
than he who can neither choose nor change nor escape his protectors.

—John Holt, *Escape from Childhood* (1974)

Child molestation at colleges and universities can make headline news. Internationally publicized allegations at The Pennsylvania State University have prompted many institutions to reflect on the question “Could this happen here?”

Child *molestation* is a type of child abuse. *Abuse* more broadly covers impairment of a child’s physical or mental welfare. Child *neglect* is the passive failure to nurture a child, such as through inadequate supervision. While child molestation occurs most often in family settings, it also arises in youth-serving programs. Some molestation is perpetrated by children on other children rather than by adults. A molester, whether adult or child, may target victims from underprivileged circumstances or who have mental impairments. Molestation occurs infrequently in colleges and universities. When it does occur, or when allegations arise, the stakes can be enormous. In the parlance of risk managers, child molestation in higher education is a low frequency, high severity occurrence.

Most pedophiles are not strangers who leap from behind bushes. Rather they are known to, and liked by, their victims. About 75% of teens who are molested knew the assailant well. The molestation risk for boys peaks around puberty, and for girls it increases as they move through adolescence.

Child molestation is encouraged by three conditions:

1. **Access to children.** As described in the introduction, college campuses offer many opportunities for adults to interact with minors. The overwhelming majority of the adults have benevolent motives, but a few do not.

Who is the “typical” child molester?

- I am probably well known and liked by the child and by you.
- I can be a man or a woman, married or single.
- I can be a child, adolescent, or adult.
- I can be of any race, hold any religious belief, and have any sexual preference.
- I can be a teacher, tutor, camp counselor, parent, stepparent, relative, family friend, member of the clergy, babysitter, or anyone who comes into contact with children.
- I am likely to be a stable, employed, respected member of the community.
- My education and my intelligence don’t prevent me from molesting a child.

Adapted from “Advice from Child Molesters,” prepared by the Vermont Department for Children and Families. [http://dcf.vermont.gov/sites/dcf/files/pdf/protectkids/Protecting Your Children.pdf](http://dcf.vermont.gov/sites/dcf/files/pdf/protectkids/Protecting%20Your%20Children.pdf).

2. **Privacy.** The molester seeks opportunities to be alone with a child. Some activities, such

⁸ “A detailed discussion of a particular point; a digression in a written text.” This term was suggested by Vince Morris as the appropriate one for such a chapter, even if it is a bit of a vocabulary-builder. This chapter addresses a highly sensitive topic prominent in the press and in the minds of risk management. We call it an ‘excursus’ to indicate that this issue, while difficult and in need of attention, is neither the *sole*, nor *most frequent*, source of risk involving minors.

as tutoring, music lessons, and counseling, regularly bring a single adult into contact with a single child. On other occasions, an adult may create the opportunity to be alone with a child. An athletic trainer or camp counselor might give a child one-on-one attention in a private space. An adult may drive one child somewhere. A staff member may befriend a child and invite the child to visit the staff member's home.

3. **Control.** Child molesters are masters at manipulating both children and adults. The systematic molester engages the child in a grooming process—gaining trust, establishing secrecy, and testing the child's reactions to increasing physical contact. The molester manipulates the child to prevent the child from reporting the abuse. The molester may, for example, give the child alcohol or drugs and then threaten disclosure of that transgression if the child "tells." The molester may make threats against the child's family members or pets. Molesters 'groom' adults to overlook or excuse behavior that crosses boundaries with children. The molester may appear trustworthy, charming, and generous, and others may be reluctant to report or address emerging problems.

A young adult may discover an attraction to children while working with them and then take advantage of a vulnerable child when an opportunity arises. Experienced molesters may prefer victims of a particular age, gender, or appearance. From the vantage point

In this chapter we address broad action areas for institutions seeking to address child molestation.

Dr. Richard Dangel, a Think Tank participant, has identified **eight areas as crucial** to the prevention and detection of abuse. The areas are:

1. Policies
2. Screening and selection
3. Training
4. Monitoring and supervision
5. Consumer participation
6. Feedback systems
7. Response
8. Administrative practices

Because of its special importance to campus financial officers and risk managers, we add here a ninth area—9) risk financing.

There is no single formula defining best institutional practices in all nine categories. An institution may wish to select certain action areas for emphasis. Within each area, some suggestions may be more appropriate to a given institution than others. We encourage readers to draw from these ideas, and add their own, to reduce the risk of child molestation and, should molestation occur, increase the likelihood of an appropriate response. On this challenging topic, there is no "one size fits all."

Adopt policies and procedures to protect children.

Some basic requirements can establish appropriate boundaries for adult behavior and limit the possibility of molestation. (See, for instance, the example

There is no one profile that identifies a child molester. These factors compound the difficulty of addressing suspicions and charges of molestation.

of parents, supervisors, and co-workers, molesters may appear excellent in relating to children. *There is no one profile that identifies a child molester.* These factors compound the difficulty of addressing suspicions and charges of molestation.

policy and procedure document from The Pennsylvania State University, included as *Appendix C.*) If a youth-serving program prohibits, for example, adults from showering with children, then an adult may

Examples of Child Sexual Abuse in Higher Education

Drawn from recent media accounts:

- A noted scientist in California was sentenced to 14 years in prison for continuously molesting a colleague's daughter, starting when the child was in fifth grade.
- An 8-year-old student was allegedly molested at a university's lab school.
- In 2007 a college received a 169-page complaint that five years earlier a summer camp counselor had shown pornography to two campers and the three had each masturbated. The counselor, who was a recent graduate of the institution and recipient of its annual award for excellence in public service, vigorously denied the charge. He went on to marry, become the father of triplets, and work at several area private schools. He was also active in youth sports. In 2011 he was arrested on multiple counts of molesting young teenage boys. Authorities believe he may have molested at least 23 victims. The families of some victims have sued the college for its inadequate investigation. The college president and board chair have made public apologies about the investigation the institution conducted.
- A family sued a religiously-affiliated university for placing a ministry student with them thirty years earlier without disclosing that the student had been convicted of child molestation. According to the lawsuit, the university was aware of the conviction, and the student molested the family's 6-year-old daughter and 2-½-year-old son. The state in which the university and family were located had lifted the statute of limitations for child molestation, allowing a lawsuit over events allegedly occurring three decades earlier.
- Administrators from three universities, including a campus police chief, have been arrested in sting operations for soliciting sex online with police officers posing as young teenage girls.
- An administrator was sentenced to a prison term of 27 years after streaming video images of himself sexually abusing his adopted 5-year old son and offering the child for sex to police officers posing online as pedophiles.
- A community college music instructor allegedly advised a 17-year-old voice student that he was conducting research on sexual activity and vocal range. He told the student, who was dual-enrolled in high school *and* college, that she could increase her vocal range by engaging in sexual activity while singing.
- University faculty and other employees have been arrested and, in some cases, convicted of accessing child pornography on their campus or home computers. At least eight institutions have faced these issues in recent years. One professor was reportedly viewing child pornography on his laptop during an airline flight. Another was an expert in children's spirituality. An emeritus professor from an Ivy League university was sentenced to 15 years in prison for possessing images of himself performing sexual acts with a young child.

A community college music instructor allegedly advised a 17-year-old voice student that he was conducting research on sexual activity and vocal range. He told the student, who was dual-enrolled in high school and college, that she could increase her vocal range by engaging in sexual activity while singing.

be disciplined or dismissed for violating the policies and procedures, regardless of whether molestation has occurred. Potential requirements include:

- Respect for personal boundaries
- Two adults present with children whenever possible

- No showering, massage, undressing, alcohol, drugs, or risqué jokes around children
- In accompanying a single child to a restroom, check first for suspicious activity in the restroom, then exit and permit the child to use the restroom alone
- No gifts over nominal value
- No driving with a single child in the vehicle.
- No outside contact, e.g., babysitting, home visits
- No overnight visits
- No covering of windows to restrict visibility into classrooms or similar spaces
- No doors locked from inside except in emergency situations
- No photos of children taken on staff/volunteer personal cell phones or cameras
- No dating

Procedures restricting or prohibiting outside contact reflect the reality that a child molester may use outside settings for “grooming” a child and then committing molestation. Another useful type of procedure is unannounced, random check-ins on one-on-one interactions such as tutoring sessions or music lessons. Penn State University now requires an adult who wishes to communicate electronically with a minor to include another adult on the message.

Some institutions adopt policies imposing on all staff and volunteers an obligation to report concerns about child sexual abuse to external authorities. Such a policy may mirror state law or may be more rigorous.

Use screening and selection procedures to deter potential molesters.

Thorough screening and selection procedures may discourage molesters from even applying. Many institutions rely on criminal background checks, which are covered in greater detail in *Appendix A*. Criminal background checks are not, however, the whole solution. Only about 3-4% of molesters have criminal backgrounds, and background checks themselves are only about 45% accurate. Many organizations, however, consider criminal background checks to be a matter of good practice. State law may mandate criminal background checks for certain categories

Analysis of Positions

A college or university may wish to reduce risk by analyzing every staff, faculty, and volunteer position that involves access to children and other vulnerable populations. Dr. Benjamin Saunders suggests structuring hiring, training, and supervision procedures according to these elements of paid and volunteer positions:

- Level of contact with vulnerable populations
- Age/developmental capacity, education level, dysfunction and sophistication of children being served
- Level of contact the position will have with children. Degree of potential “alone,” unsupervised time with children
- Responsibilities position will have with children
- Level of authority, power and control the position will have over children
- Contact off-premises required
- Contact after business hours required
- Online contact required
- Ability of the position to isolate children from others in organization
- Potential to intimidate, threaten, and frighten children
- Level of day to day supervisory responsibilities the position will have
- Level of visual observation
- Sensitivity to and knowledge about possible abuse by other staff and children served
- Eligibility criteria for position, such as:
 - History of arrest for certain crimes
 - Felony conviction
 - Sexual offender registry
 - Other exclusionary factors.

of individuals such as daycare teachers and health-care professionals. Effective screening and selection processes can incorporate many other protections beyond criminal background checks.

Advertising. A job advertisement that emphasizes the opportunity to work independently and creatively with children has the potential to attract molesters. Consider, instead, stressing in an advertisement that the incumbent will receive excellent supervision and support and will work as part of a professional team.

Application forms. Signal on the application that you take the process seriously. Include language such as:

“I understand that every statement on this application is subject to independent verification and that failure to provide a truthful answer will result in consequences, up to and including refusal to consider the application or dismissal if accepted for position.”

Use application forms for all hiring and also consider using application forms for volunteers. Two Think Tank participants reported that their institutions require applications from volunteers. Volunteer application forms are also common in youth-serving organizations such as 4-H Clubs. See a sample volunteer application form in *Appendix B*.

Screening. While it is helpful for a candidate to have a background in working with children, exercise

Interviews. Conduct in-person interviews with applicants. Emphasize the robust supervision that employees will receive in their interactions with children. Pose questions about specific scenarios and solicit the candidate’s response. Think Tank participant Dr. Benjamin Saunders (Professor and Associate Director, National Crime Victims Research and Treatment Center, Department of Psychiatry and Behavioral Sciences, Medical University of South Carolina) suggests presenting these sample scenarios to an applicant and asking how they would react if they witnessed the following:

- Hug between a staff member and a child
- Staff member taking a special interest in a child
- Staff member bending the rules for a child
- Staff member kissing a child on the cheek
- Staff member taking a child to the store alone
- Child stating that he is afraid of a staff member
- A child being sexual with another child

The same questions may be used for volunteers.

Reference checks. Have conversations with people who know the candidate both professionally and personally. Inquire about topics such as the candidate’s ability to maintain healthy boundaries with kids and his or her respect for rules. Ask whether any complaints or allegations about possible child abuse arose, whether or not they were investigated, and, if investigated, the outcome. Ask whether they have any reservations about having the individual work with children. Also ask “*Is there anything else I should*

Training has the added benefit of signaling to potential abusers that the institution is serious about protecting children.

caution with someone who works with many youth organizations. One serial molester worked with six youth groups simultaneously. Another alleged molester started his own group serving underprivileged children. Be on the alert for candidates who convey the attitude that “children meet my needs” or who seem to enjoy interacting with children more than with adults.

know about this candidate before I make my decision?” This is a better question than “is there anything else you would like to share,” because most people would not like to share suspicions about molestation.

A manager seeking to fill a vacant position may be tempted to proceed hastily, taking shortcuts in the hiring process that can lead to critical mistakes.

In one situation, the last-minute substitute for a counselor at a summer soccer camp proved to be a child molester. Institutions should hold hiring officials accountable for thoroughly vetting candidates.

Conduct ongoing training programs to reduce the risk of molestation and increase the chance of receiving reports of concerns and suspicions.

At a bare minimum, a training program would provide adults with information on the mandatory reporting of child abuse and neglect. Every state has a law requiring adults to report suspicions of child abuse, including molestation, to a state agency—typically either the police or child welfare authorities. In some states, only designated professionals such as teachers, counselors, and doctors are required to report. In other states, all adults are mandatory reporters. If the abuse occurred in another jurisdiction, a state may accept a report from the professional or may direct the reporting person to authorities in the location of the abuse. Laws on mandatory reporting change from time to time, so institutions and trainers should check on current legal requirements before explaining who is or is not a mandatory reporter. (See more under point 7 below.)

Training confined simply to mandatory reporting is insufficient—training should focus on *prevention* as well. Topics might include, for example: signs of child abuse and molestation, information on how molesters operate, appropriate boundaries with children, safety and ethics responsibilities, reporting procedures, and employee discipline and dismissal for rule violations. Each individual should learn how to remain vigilant and take action if suspicions of child abuse arise. Training has the added benefit of signaling to potential abusers that the institution is serious about protecting children. By heightening awareness through continual training, “hardening the target,” the institution can discourage potential abusers from pursuing their goal and may in fact drive them to seek other employment or avenues outside the institution in which to pursue their activities.

Institutions can use a variety of training approaches. They can distribute publications, provide updates

during regular meetings, offer special in-person training sessions, and rely on computer-based training. While computer-based training can be convenient to implement and monitor, it may not engage participants as fully as a live, multi-media session. Computer-based training also does not offer the institution useful feedback from frontline staff and deprives participants of the opportunity to interact with peers. Training must be repeated over time and kept fresh to engage participants. A variety of topics and formats will deepen appreciation of the message.

State law may impose training obligations. Texas recently adopted a statute, for example, requiring all volunteers and employees who work with children at Texas higher education institutions to complete a sexual abuse and child molestation awareness training course approved by the Department of State Health Services. Institutions should retain for an extended period of time documentation showing the content of training and the recipients of training.

Why Organizations Fail to Address Molestation

Think Tank participant Dr. Benjamin Saunders explained some reasons why youth-serving organizations fail to take steps to prevent molestation:

- Lack of knowledge about the scope of the problem and the potential for great harm
- Attitude of “it can’t happen here”
- Embarrassment in even discussing the issue
- Fear of offending employees and volunteers
- Fear of complaints and lawsuits
- Lack of understanding of legal obligations
- Lack of understanding about the liability exposure for negligence, in failing to meet the legal obligations
- Simply not knowing what to do

These records may prove invaluable decades later for defense of a lawsuit.

Follow good protocols for monitoring and supervision.

Whether program managers are volunteers or paid staff members, they need to understand that youth-serving programs require more monitoring and supervision than programs for college students or adult populations. Ideas for monitoring and supervision include:

- Hold frequent discussions of rules and boundaries. These conversations might occur during regular team meetings. Include elements such as adherence to rules, respect for boundaries, and an organizational culture of protecting children.
- Conduct unannounced checks on interactions between adults and youth. At a children's hospital, the staff make unannounced rounds. In a music program, the director announces that she makes occasional random visits as teachers are giving individual lessons.
- Hold staff and volunteers accountable for rule violations they commit. If, for example, a program has a rule prohibiting an adult (other than a parent) from undressing in the presence of a

Invite program “consumers” to participate in preventing child sexual abuse.

Programs hosted by higher education institutions serve not only the children but also their parents and guardians. The institution can educate parents and guardians on program rules and expectations. If, for example, staff must not give expensive gifts to children, the institution should advise families about this rule. Then if a child receives a gift of more than nominal value, the parent will know to bring the matter to the institution's attention.

The institution can educate parents and guardians on the signs of child abuse and sexual assault. Invite them to raise any concerns, and advise them about the various ways to contact the institution. A children's hospital that discovered a staff member had been sexually abusing patients changed its policies to increase the role of parents. It began offering, for example, in-room food service at the hospital for parents and required the presence of an adult caregiver during any home visit.

Develop and maintain internal feedback systems.

A survey found that about 85% of sexual assaults against teens went unreported. A college or university should maintain a variety of ways to receive

A college or university should maintain a variety of ways to receive feedback from staff, parents, volunteers, youth, and others who may have concerns about potential molestation. Having at least one anonymous reporting mechanism can be helpful.

child, dismiss a staff member or volunteer for violating the rule.

Another element of supervision and monitoring is allowing adults to request exceptions to existing policies. An adult may have an unusual reason, for example, to transport a single child, by automobile. Program managers can evaluate requests in advance on a case-by-case basis, granting or denying exceptions as appropriate.

feedback from staff, parents, volunteers, youth, and others who may have concerns about potential molestation. All adults should be alert to unusual statements or behavior from children, including fear at being alone with a particular person. Program directors should convey their openness to receiving concerns and complaints. Having at least one anonymous reporting mechanism can be helpful. An institution could advise parents, staff, and others that its ethics hotline, whether telephonic or computer-based, can be used for concerns about molestation.

Respond effectively to suspicions and allegations of child molestation.

In addressing child molestation, the worst approach an institution can take is to place the highest priority on preserving its own reputation. Efforts to downplay or hide allegations will likely fail, leading to a loss of public trust and enormous potential legal liability. *The first priority must be to protect the child.*

It is important to know the state's mandatory reporting law. State laws listing “teachers” as mandatory reporters may be ambiguous as to whether the term covers university faculty. The Illinois legislature recently passed a bill clarifying this point. It explicitly added college and university employees to the list of mandated reporters. Some states take a broader approach. Rather than defining certain mandated reporters in their child welfare laws, they require *any person* to report child abuse to a designated state agency. A summary of state laws on mandatory reporting of child abuse is available from the federal Child Information Gateway at www.childwelfare.gov/responding/how.cfm.

An institution's internal policies must be at least as strong as the state law. One university, located in a state designating a limited number of mandatory reporters, decided to broaden its own institutional policy after it faced severe allegations of child molestation. The university now requires anyone with a concern about child abuse to report externally to the state.

Molesters are typically charismatic and skilled at manipulating the children and adults around them. This can complicate the decision whether to report, yet a child's welfare must take precedence. Individuals in highly responsible positions, including university administrators, distinguished faculty, and successful athletics leaders, have molested children. No matter how lofty a position the accused individual holds, or how charming or responsible he or she is, institutions must take allegations seriously.

Reporting child abuse can raise legal issues. Legal counsel should consider, among other concerns, potential risks if the institution designates a broader class of mandatory reporters than exists in state law.

State law may grant immunity to a defined mandatory reporter who makes a good faith report, even if the report later proves to be incorrect. It may be unclear, however, whether immunity would extend to someone outside the group of mandatory reporters defined in state law. Sometimes it becomes necessary to “pick your lawsuit.” An institution may prefer to defend someone outside the scope of legal mandatory reporting rather than to defend itself against a molestation charge.

Consider another complication that might arise in a state requiring individuals to report abuse allegations to police. If an institution's public safety staff members are sworn police officers, could they receive a molestation report? The technical answer is probably yes, although the better course may be to report to a police authority external to the institution. This would avoid potential conflicts of

In the Courts

A five-year-old eating in a dining hall with a parent was raped by a campus employee while going alone to the restroom. The court found that the institution owed a duty to the child as a business invitee.

McMahan v. Crutchfield, 1997 WL 16338 (Wash. App. Div. 2 1997)

A student working as a counselor at a university-sponsored camp raped a camper.

Dismuke v. Quaynor, 637 So. 2d 555 (La. App. 1994), rev. denied, 639 So. 2d 1164 (La. 1994)

A contracted bus driver dropped off some participants in a youth sports program at the wrong campus building. Several of the participants raped another participant while they were unsupervised.

Glover v. Jackson State University, 968 So. 2d 1267 (Miss. 2007)

interest in the campus police investigating a member of the campus community, such as a high-ranking or high-profile individual.

Responding effectively to suspicions of abuse requires the institution to conduct a thorough *internal* investigation. Think Tank participants agreed that a police investigation does not suffice—although the internal investigation must coordinate with the police investigation. The institution has its own responsibility to protect children, maintain a nurturing climate for them, address allegations

Consistently enforce policies. Colleges and universities often suffer “policy fatigue” and ignore policies after they have been adopted. Laxity is unacceptable in matters of molestation prevention and response. Responsible individuals should oversee the thoroughness of hiring practices, the effectiveness of training, the education of parents and guardians, the consistency of discipline for rule infractions, the availability of multiple reporting mechanisms, and the institutional response to molestation suspicions or charges.

Because child sexual abuse cases are often complex and arise infrequently, an institution may be well advised to enlist assistance from external experts rather than having existing staff members conduct the investigation.

against members of the university community, and learn from past mistakes.

Because child sexual abuse matters are often complex and arise infrequently, an institution may be well advised to enlist assistance from external experts rather than relying on existing staff members to conduct the investigation, manage the media, and perform related tasks.

Follow sound administrative practices.

Many different administrative elements can aid in combating molestation.

Actively manage private spaces. Since molesters seek privacy with children, campuses can examine how they manage access to private spaces. Door locks are one option. Facilities staff might lock closets, sheds, and other outbuildings. If classrooms have doors that can lock from the inside (many of these were installed after the 2007 Virginia Tech tragedy), a policy might limit their use to emergency situations. Visibility limits privacy. A hospital installed new privacy curtains in patient areas that covered caregivers only from chest to ankle. A window may be installed in or alongside a classroom door, and staff may be prohibited from covering such windows with posters, artwork, or other obstructions.

It is best if a single individual is designated as the ultimate “owner” of child welfare policies and procedures. Other people, probably spread throughout the campus, can perform various functions under the general auspices of the issue owner.

Institute and enforce third-party requirements. A major issue for many institutions is the management of third-party use of campus facilities. An individual or group may, for example, operate a summer sports camp, or run or rent a swimming pool on a weekly basis. In the past such arrangements may have been informal, yet they pose significant risks of child molestation. Data suggest that about 20 percent of victims of campus sexual abuse claims are campers. Responsible institutions will impose requirements on third-party users that might include, among other features: background checks for staff working with children, training requirements, insurance coverage for molestation at acceptable limits, and indemnification provisions.

A molester may be a contractor present on campus to perform a specific function. Institutions may wish to consider imposing on contractors requirements such as background checks and insurance coverage similar to those for camps. Many institutions require contractors to wear badges while on the institution’s premises.

Have a plan for, and seek help with, media management. Should a molestation issue arise, a college or university should consider top-notch assistance with the media. In these high-profile, high-stakes situations, immediately enlisting external experts can be important to managing the institution's reputation.

Regularly review policies and lessons learned. Sound risk management incorporates continuous review. An institution should periodically review and update its policies, training, reporting mechanisms, and response protocols. After any incident or near-miss, a debriefing on "lessons learned" can guide future improvements. A regularly scheduled review of the child protection culture can work to an institution's great advantage.

Understand and designate financial resources ahead of time to address incidents.

Institutions use a variety of risk financing methods and techniques to handle sexual abuse incidents. Key matters needing advance attention are exclusions in insurance policies and policy monetary limits.

Molestation claims can be expensive, as the experience of the Catholic Church shows. The Church reportedly has spent \$2-3 billion on defense of child molestation cases. Awards continue to climb as numerous plaintiffs' attorneys around the country now have considerable experience in litigating abuse cases. Campus financial officers and risk managers must be attentive to insurance arrangements for sexual abuse and molestation. Some insurance policies exclude coverage for abuse and molestation claims. Others may provide coverage but only at low levels of liability.

Another wrinkle is the timing of the abuse relative to the time period covered by the policy. One of Penn State University's insurers went to court early in 2012 to seek a declaratory judgment that it would not be obliged to defend the university for molestation, except for abuse begun during a narrow window of time before March 1, 1992. The carrier maintains that policies it sold to Penn State in other years excluded molestation coverage.

The language of your institution's specific policies becomes important. A 2005 report from the reinsurance company American Re contrasted sample language from two policies:⁹

regardless of the number of acts of sexual misconduct, the period of time over which such acts occur, or number of persons acted upon, all injury arising out of all acts of sexual misconduct by the same person, or by two or more persons acting together, will be considered one claim, subject to the each claim limit of insurance in force at the time the first act covered by this or any other policy issued by us occurred.

Another policy provided:

incidents related to or arising out of sexual molestation, whether committed by one or

⁹ "Coverage and Liability Issues in Sexual Misconduct Claims," by Catalina Sugayan, at p. 3. Full text available at http://www.ficurma.org/misc/sexual_misconduct_claims.pdf (2005) (Last visited 3/29/2012).

Defending a Molestation Lawsuit

Think Tank participant Mark Chopko suggests that the successful defense of a molestation lawsuit will focus on these points:

- Did you follow your policies?
- Did you "show your work," or maintain good documentation of the processes and operations?
- Is your documentation complete and organized?
- Did you promptly report?
- Are you in hiding, unavailable to comment on media reports or claims?
- Was following your policies enough?

more individuals, and irrespective of the number of incidents or injuries, or the time period or area over which incidents or injuries occur, shall be treated as a separate occurrence for each victim.

Notice the distinctions being drawn in these two policy excerpts between the number of acts constituting an occurrence, with resulting effects on both limits available and deductibles or retentions to be paid. “Insurance, Risk Transfer

to bring a lawsuit many years after the event. Several Think Tank participants reported crawling around dusty records in storage to try to identify insurance coverage from past decades.

- **Know whether your policies include or exclude coverage for sexual abuse and molestation.** Is coverage provided on a claims made or occurrence basis?¹⁰
- **If the policies do cover sexual abuse and molestation, understand the dollar limits**

Retain all insurance policies indefinitely. A minor who is abused may have the right to bring a lawsuit many years after the event. Several Think Tank participants reported crawling around dusty records in storage to try to identify insurance coverage from past decades.

and Financing” for more details on appropriate insurance clauses.

Institutions typically carry excess insurance above the limits of their basic policies. As a general matter, excess policies will typically, and automatically, cover everything included in the basic policy. This is known as “following form.” Some excess carriers are now *excluding* sexual abuse coverage, *even if the underlying policy includes such coverage*.

Understandably, insurance policies tend to exclude wrongdoers—particularly known and/or intentional wrongdoers—from coverage. In situations of molestation, the wrongdoers are the perpetrator (or perpetrators) *and* any individuals who neglected a mandatory duty to report child abuse to government authorities. Insurers will not cover liability claims against such individual wrongdoers. Occasionally they will defray the costs of a wrongdoer’s defense, until proven guilty. As a matter of public policy, insurance policies do not cover fines, which are designed to punish wrongdoers.

Think Tank members offered these suggestions:

- **Retain all insurance policies indefinitely.** A minor who is abused may have the right

on the coverage and how the limits would be calculated.

- **Understand how your policies would apply, if at all, to alleged wrongdoers.** Wrongdoers include both alleged perpetrators and campus personnel who may have had a legal duty to report molestation and failed to do so.
- **Understand the institution’s responsibilities, as well as its rights, under its insurance policies.** A critical responsibility is timely reporting of a molestation incident or claim. Batch reporting for multiple claims may, or may not, be the best option.

Lawsuits over child molestation typically claim that the youth-serving program was negligent in screening staff or volunteers, in training its personnel, in supervision, in retaining a molester after reasonable suspicions arose, and in conducting a flawed internal investigation.

¹⁰ Policies may include, but are not limited to, Commercial General Liability, standalone Sexual Abuse and Molestation coverage, Excess Liability or Umbrella Liability, separate policies for camps, special events, Greek organizations, etc., Foreign Liability, and policies required of third parties where the institution has been named as an Additional Insured.

..... Loss Control: Best Practices

The children, left to themselves, had begun cooking raspberries over the candles, and squirting milk into each other's mouths with a syringe.

—Leo Tolstoy (1828–1910), *Anna Karenina*, Part VIII, Chapter XIII

Unlike Tolstoy's fictional children, minors on our campuses should generally *not* be left to themselves. Avoiding “inadequate supervision” is a fundamental principle of good loss control for managing the risk of minors on campus. As we are presented with such a wide array of exposures, along with a daunting list of hazards that increase the risks, it is something of a relief to note that only a few critical loss control practices will address almost all the issues of greatest concern. The areas on which to focus are:

1. Facilities design, maintenance and management
2. Policies
3. Procedures, including background and reference checks
4. Supervision
5. Training
6. *Consistency* of policies, application via procedures, and training
7. Reputation, reputation, reputation

Appendix D is a simple spreadsheet to which the Think Tank participants contributed. It attempts to prioritize risks and shows the difficulty of implementing loss control measures. While it is basic, it provides a glimpse of the type of analysis each institution should perform. The appropriate loss control measures do, indeed, hinge primarily on the seven major areas above.

Here are some fundamental steps for loss control as related to minors:

1. **Create a plan for risk mitigation:**
 - a. Establish strong policies and procedures for working with minors. (*Appendix C* is

an example of a policy, provided courtesy of The Pennsylvania State University.)

Note how your policies and procedures may conflict with the related policies and procedures of outside entities (for example, schools hosting student teachers). Determine how you will resolve such conflicts.

- b. Identify risk owners of programs that involve minors (a program advocate)
- c. Develop and provide training for those who work with minors
 - i. Note that, where minors and sexuality are concerned, training topics can be sensitive and difficult to deliver.
 - ii. Train mandatory reporting officers on any specific obligations they may have.
 - iii. Train students who work with minors; for example, as student teachers or counselors.
 - iv. Expect to see, over and over again, the inexperience of the receiver of the information in appropriately acknowledging it. Disbelief, de-emphasis, lack of action, and similar reactions are common among those who have not yet absorbed the seriousness of careful preparation for minors under their care.
 - v. Training will likely be different for groups such as:
 1. Coaches
 2. Chancellors and general counsel
 3. Students
 4. Others
- d. Create an application process for volunteers and employees who will interact

with minors. Notify candidates of this process both before they apply and during the process of screening. (This is called a “basic screen strategy.”). Include personal interviews in the process.

- e. Monitor and supervise: hold program managers accountable for following institutional policies.

2. **Conduct reference checks and, as appropriate, criminal background checks** appropriate to the level of contact people will have with minors. While there are tremendous weaknesses in the criminal background check system, not doing a basic check for people who work with minors leaves the institution vulnerable. Make sure you understand

decide whether alternative measures such as strong policies, screening, and training are an acceptable substitute. Develop and maintain sound procedures for reporting and investigations.

4. Check to make sure your **insurance policies** cover sexual abuse and molestation of minors. (See section below on “Insurance, Risk Transfer and Financing.”) Determine what requirements you will impose on outside programs, conference groups, and other third parties. Consider endorsements, exclusions, and limits adequate to address the risks. If outside groups are unable or unwilling to obtain a sexual molestation endorsement, decide whether alternative measures such as strong policies, screening, and training

Create an application process for volunteers and employees who will interact with minors. Notify candidates of this process both pre- and during the process of screening (this is called a “basic screen strategy”).

the laws applicable to reference and criminal background checks before implementing a program. Confer with legal counsel as needed. Sometimes an outside entity engaging students, such as a nursing home or school, will require background checks. The contract between the institution and the outside entity should clearly specify which party bears financial costs for the checks and which analyzes the results. (See *Appendix A* for more on background checks.)

3. Check to make sure your **insurance policies** cover sexual abuse and molestation of minors. (See section below on “Insurance, Risk Transfer and Financing.”) Determine what requirements you will impose on outside programs, conference groups, and other third parties. Consider endorsements, exclusions, and limits adequate to address the risks. If outside groups are unable or unwilling to obtain a sexual molestation endorsement,

are an acceptable substitute. Develop and maintain sound procedures for reporting and investigations.

- a. Know the requirements for mandatory reporting of sexual or physical abuse in every state and country in which the institution operates.
- b. Have institutional policies at least as strong as the mandatory reporting laws, written in simple and clear language. (Perhaps an institutional policy will be that “it doesn’t matter who is a ‘mandatory reporter’ under the law; you are to report!”) The policy should also define the reporting role of volunteers. Make a distinction among different types of reports—internal, legal, parental, public, and insurance reporting.
 - i. Maintain clear distinctions between types of observations; e.g., “witnessed *suspicious* behavior,” “*heard*

- about* improper activity,” and “*saw* improper activity”
- ii. Know how immunity provisions in your state apply to non-mandatory reporters
 - c. Decide in advance on the role of campus public safety officers in receiving and investigating reports of injury to, and molestation of, minors.
5. **Understand attorney-client privilege laws and their meanings**, and know what sorts of records, communications and conversations are privileged and which are not.
 6. Have a **communication plan** to follow up on internal reports. Decide when to contact legal counsel, the risk manager, and others. Who else will be contacted, and in what order? Who will contact parents? Consider developing a basic flyer or handout for parents and guardians of minors participating in institutional programs regarding *how* to report and *what* to report for incidents. Include ways to report injuries, dangerous situations, etc. Take a positive approach: “Welcome to camp! Here is our 24-hour response hotline!” Make sure that a well-trained person is available to respond. (You may wish to require all camps and similar programs to provide a cell phone number that will always be answered.) Provide a second number as well.
 7. Remember that, while sexual molestation/abuse cases attract much attention, simple bodily injury to minors is much more

common. A mismatch between facilities and users is a risk, and a common source of claims involving minors. Good risk management involves **in-person inspections** and visits to understand how programs, facilities and events are being managed. Ask yourself: “Would I let my family member participate in this program?”

8. Understand your state’s legal doctrine of “in loco parentis” as it applies to minors involved with your institution. What is your duty of care to them?

Know your mission. Be able to say “no” to programs and ideas involving minors that do not fit well with that mission and bring more negative risk than benefit.

Takeaway: Develop institutional policies and procedures for interacting with minors. Develop a system of background checks, including scope, vendor, and disqualification criteria, and implement appropriate background checks particularly for those who interact with minors. Provide appropriate training. Set up a hotline or other easy route for reporting incidents. Conduct timely and appropriate investigations of allegations of injury or abuse. Know when and how to protect documents related to incidents and investigations under attorney-client privilege.

..... Response and Recovery: Post-incident Best Practices

There never was a time when a major social problem was solved by beating a child. And there never will be such a time... For centuries adults have injured children and have lied about it, and other adults have heard those lies and then merely turned away.
—U. S. Surgeon General Dr. C. Everett Koop, 1989

After harm occurs to a minor, the family and, in high-profile situations, the public, will judge the institution largely on the adequacy of its response. The first step is an effective emergency response suited to the circumstances. The next step is effective communication with the family and then, as needed, the media. Here are some essential points the Think Tank participants determined were most important:

Things to Do:

1. **Integrate a harm-to-a-minor scenario into the institution's crisis communication plan.**
 - a. Define *ahead of time* who should be communicating, and to whom.
 - b. Have a plan to push information out to designated internal and external individuals and audiences. In effect, identify stakeholders in advance and assess their needs.
 - c. Know and follow statutes governing timeliness and content of communication about incidents, such as the Clery Act's requirements on timely warnings.
 - d. Plan and prepare so you will be communicating *before* people are expecting it, not *after*.
 - e. Know and define what has been reported.
 - f. Explain what the institution is doing about the problem.
2. **Understand the power of social media.**

The "news cycle" has accelerated into virtual nonexistence because of instant communications. You may need an internal PR expert on managing your message specifically through social media. Consider hiring a professional crisis communications team for assistance—sooner rather than later!

 - a. Many institutions *wait too long* to do this.
 - b. You *may* have insurance policy coverage for this. (Find out ahead of time. You may want to obtain this if you don't have it.)
 - c. Consider assigning a PR expert exclusive to social media.
3. **Have, and follow, institutional policies and procedures** for responding to the situation.
4. **Have a designated crisis/management team,** pre-chosen and prepared for such incidents.
 - a. Consider adding an outside party to prevent "groupthink." Do not assume you can be sufficiently impersonal and unbiased to overcome groupthink!
 - b. Practice and train with tabletops, simulations, and walk-through drills involving incidents with minors. *Training in advance* is critical, not just for staff but also for administrators and trustees
 - c. Consider adopting the National Incident Management System (NIMS) for situation management. Adapt your response plan to the roles in that incident management system.
 - d. Communicate very broadly to every conceivable constituency, with a message appropriate to the group.

- e. Make sure your plan includes the timely provision of information, assistance, and support to the victims and families of the victims.
5. **Promptly begin an *appropriate* investigative process.**
 - a. Identify triggers that start the investigation, such as receipt of a report.
 - b. Know laws and requirements for involving outside law enforcement. You will need to work closely with the police, and if possible work out a standard investigation plan with them ahead of time. Title IX requires the institution to perform an investigation, but this may conflict in timing or scope with law enforcement's perceptions of procedures such as who interviews witnesses, and when. It is essential to have a mutually agreeable plan in place in advance.
 - c. Consider using an outside firm to manage interview processes and other elements of the institution's investigation.
 6. Always **debrief** afterwards, and prepare an "after action report" for future reference.
2. Fail to launch an appropriate, timely investigation.
 3. Fail to have collected basic waivers, releases, and parental permissions for involvement.
 4. Fail to have standard policies and procedures that are clear, widely distributed, and enforced.
 5. Fail to have standard expectations and training across the institution for programs and relationships that involve minors.
 6. Be the institution in your area that has the most lax standards for minor involvement.
 7. Fail to maintain your facilities and equipment, and make sure they are safe and appropriate for minors if they will be *used* by minors.

Things to Know:

1. In cases of major allegations, such as assault on minors or deaths, expect higher levels of media exposure than a typical public relations department commonly handles.

Have a plan for, and seek help with, media management. A college or university should consider top-notch assistance with the media in high-profile, high-stakes situations. Immediately enlisting external experts can be important to managing the institution's reputation.

7. **Evaluate** very carefully your **rights and responsibilities under your insurance policies**. There is conflicting case law on what carriers must provide. (See section VIII below on "Insurance, Risk Transfer and Financing" for specific terms and clauses to seek.)
2. "Second hit" syndrome results from members of the news media circling back, looking for additional or related stories in and around the institution.
 3. There may be a significant lag time between an event involving harm to a minor and the institution's first notice of it. This delay tends to lead some people downplay the need for investigation. The best course is to investigate to the extent possible.

Things Not to Do:

1. Assume you have adequate and sufficient internal and local public relations staff for major incidents.

4. “Minors are never wrong” in the media—they are very sympathetic witnesses and victims.

Things to Remember:

1. After an incident, provide support for the family. Identify a point of contact for them. Solicit the family’s advice on what would be most helpful to them. The Catholic Church, for example, now has a victim advocacy coordinator in every diocese.
2. “Alleged perpetrators,” “respondents,” and other accused parties (by whatever names your policies use) have rights too. Your institutional investigative process probably have a lower standard of proof than the criminal standard of “beyond a reasonable doubt.” Nevertheless, given the possibility of false allegations, you must proceed with caution with investigations and public statements.
3. You may have an obligation to report to your insurance carriers news of incidents, as well as actual claims, to protect your rights under insurance policies.
4. In incidents involving serious harm to minors, such as injury, death, or sexual abuse, insurance is one of the *least* important players in your institutional response.
5. Don’t be afraid to avail yourself of the resources and professionals available on your campus in fashioning the response to an incident. Faculty in psychology or social work, for example, can help the institution improve and reduce future risks
6. Institutional policies and procedures are not static. Keep track of the changes. Educate staff and volunteers about policy changes. Monitor practices and procedures as they evolve.
7. Handling an incident well, rather than poorly, can enhance your institution’s reputation even if the incident is a really bad one.

Takeaway: Integrate a “response to harm to minors” into your general emergency response and communications plans. Make sure everyone on the team knows their roles regarding communication with all stakeholder groups, especially including the family of the minor involved. Assume you will need outside public relations help for any significant injury to or abuse of a minor. In advance, arrange with outside firms for these services. Determine whether your insurance company might pay for them as part of coverage. Investigate any incidents thoroughly, promptly and fairly.

Insurance, Risk Transfer and Financing

There are many ways to finance the potential economic loss arising from injury to a minor in your care, custody and (hopefully) control. Self-insurance, contractual transfer, excess insurance above identified retention levels, first-dollar insurance coverage, or a combination of these approaches are some of the more common ways to finance this risk. Each institution will have a different perspective depending on its individual risk factors, risk treatment practices, the local legal environment, and financial ability to assume loss. This section offers a process for better understanding and evaluating the key coverage pro-

terms are defined, and reporting requirements are amended can make it difficult to fully grasp underwriters' intentions—and your own institutional responsibilities.

Contractual Risk Transfer

Use of campus facilities by third-party organizations working with minors presents a classic risk/reward scenario for the campus “risk manager” (whoever is performing that function, titled or not). The ability of colleges and universities to use their facilities to encourage exploration and engagement in

The trend in the industry is for insurance carriers to specifically address, either in the policy form or by special endorsement, the questions of how and for whom coverage applies regarding allegations of sexual abuse and molestation.

visions controlling how your policies would respond to claims arising out of injury to minors.

With the important exception for sexual abuse and molestation, commercial general liability (CGL) policies make no distinction between bodily injury specifically to *minors* and bodily injury to any other third party. Some CGL policies are said to “remain silent” on the issue of coverage for sexual abuse and molestation because they make no reference to minors or to the terms “sexual abuse” or “molestation.” However, the trend in the industry is for insurance carriers to specifically address, either in the policy form or by special endorsement, the questions of how and for whom coverage applies regarding allegations of sexual abuse and molestation.

When it comes to “sexual abuse and molestation” coverage, the one constant is that there *is* no consistency among carriers in how coverage is provided. The good news is that the major markets serving the higher education community offer *some* form of coverage for this peril. The bad news is that the disparate ways in how coverage is triggered,

young people is a hallmark of higher education. In addition to promoting the development of minors in educational and athletic pursuits, this builds goodwill in the community, creates strong bonds between participants and the institution and, in many cases, provides a useful revenue stream during times when campus facilities are underutilized.

With appropriate oversight and risk management procedures, including the fundamental recognition that most campus facilities are not designed for minors, these events can be carried out with a high probability of success. Risk financing, the final backstop, helps institutions cope with the economic impact of an unexpected event. To begin the process of selecting appropriate contractual risk transfer practices, we encourage institutions to *weigh the risks* associated with different types of events. Not all activities pose the same challenges, nor require the same level of risk transfer.

Of course, there are cost implications attached to differing levels of risk transfer. Institutions might consider the following insurance requirements

for events classified as *high*, *medium* and *low* risk:¹¹

High Risk

- Commercial General Liability – \$1,000,000/occurrence with a \$3,000,000 aggregate
- Sexual Abuse/Molestation – \$1,000,000/occurrence with a \$2,000,000 aggregate
- Automobile Liability (if exposure exists) – \$1,000,000 each accident
- Umbrella/Excess Liability – \$1,000,000 to \$5,000,000/occurrence depending on perception of risk
- Workers Compensation with appropriate Employers Liability limits
- Participant Medical Expense and Accident – \$25,000 per accident, \$0 Deductible; Primary Basis

Medium Risk

- Commercial General Liability – \$1,000,000/occurrence with a \$2,000,000 aggregate
- Sexual Abuse/Molestation – \$1,000,000/occurrence with a \$2,000,000 aggregate
- Automobile Liability – \$1,000,000 each accident
- Workers Compensation with appropriate Employers Liability limits
- Participant Medical Expense and Accident – \$25,000 per accident; \$0 Deductible; Primary Basis

Low Risk

- Commercial General Liability – \$1,000,000/occurrence with a \$2,000,000 aggregate
- Sexual Abuse/Molestation – \$1,000,000/occurrence with a \$2,000,000 aggregate
- Automobile Liability (if exposure exists) – \$1,000,000 each accident

In all situations, the college or university should require that the institution be named as an *additional insured* on the General Liability policy and, if written as a separate coverage, on the Sexual Abuse and Molestation policy. We recommend requiring ISO endorsement CG 2010 or equivalent for obtaining Additional Insured status. For High Risk camps, the institutions may want to consider

requiring copies of the policies in order to confirm additional insured status, claim reporting requirements and defense provisions. All claims made against the third party organization must also be reported to the Institution.

Coverage Questions to Ask Before a Sexual Abuse and Molestation Incident Arises

It is impractical for the Study Group to address risk financing strategies for all individual colleges and universities. However, because of the diverse ways insurance carriers have chosen to offer Sexual Abuse and Molestation coverage (SAM), we thought it might be helpful to highlight important coverage provisions so that they may be considered in the context of your Institution's unique risk profile.

1. Does our Commercial General Liability policy specifically address coverage for SAM?
 - a. If not, do we have a separate policy specifically for SAM?
 - b. If our policy is silent, is there a clear understanding with our carrier that coverage may be available for SAM subject to other terms and conditions? Clarify coverage intentions as respects:
 - i. Separation of Insureds
 - ii. How the definition of "occurrence"¹² and the exclusion of "expected and intended acts" will apply in event of a SAM.
 - iii. Inclusion of expanded Bodily Injury wording adding mental injury and emotional distress
 - iv. Whether Crisis Response coverage would be triggered for this type of event
 - v. Deleting the "fellow employee" exclusion
2. If SAM coverage is written on a separate policy or if included in your CGL policy, by reference or endorsement, consider the following:
 - a. Are separate limits provided?

¹¹ Specific coverage requirements wording has been intentionally omitted, as policies differ significantly.

¹² The definition of "occurrence" commonly incorporates reference to an accident. SAM is not accidental; thus a discussion of how coverage will respond is required.

- b. Is coverage changed from occurrence to claims-made? If claims-made, is there a retroactive date?
- c. Is the occurrence definition amended or replaced? If so, does it tie the occurrence to
 - i. Each perpetrator
 - ii. The perpetrator or perpetrators if acting in concert
 - iii. Each victim
 All of the above terms have different implications relative to how limits apply and how your deductible or self-insured retention will respond.
- d. What constitutes “knowledge” of a claim/occurrence?
- e. Does coverage “pay on behalf of” or indemnify the Insured?
- f. What are the institution’s responsibilities for reporting a claim/occurrence? Must a report be in writing? Is there a specified time frame for reporting?
- g. Who is responsible for reporting a claim? Are the policy provisions broader, or more restrictive, than any State-specified reporting requirements? How is coverage affected if these individuals fail to report?
- h. How does coverage respond to SAM allegations against individual Insureds?
- i. Is coverage excluded for perpetrators?
- j. Is coverage excluded for those who knew of an event, but failed to report it?
- k. How does coverage for defense cost work?
 - i. Are defense costs covered until final adjudication determines individual(s) was guilty? In this situation be sure defense is also available to those *alleged* to have *failed to report* a claim/occurrence.
 - ii. If defense costs are not provided for those referenced, are defense costs reimbursable if final adjudication determines individual(s) did *not* engage in or did *not* knowingly fail to report an act of SAM
 - iii. Have defense provisions been amended to give the carrier the full rights to appoint counsel and settle claims—even claims within your Self Insured Retention?
- l. Is the definition of SAM limited to minors? We recommend this added clarification.
- m. Does the Insured retain the right to appoint counsel?
- n. Does the Insurer have the right to settle the claim at their sole discretion?
- o. How does coverage territory apply? If coverage is not worldwide, is other coverage available for suits brought outside the U.S., its territories, and Canada?
- p. Is Crisis Response coverage triggered by allegations of a SAM event?
- q. Review all Umbrella/Excess Liability policies to ensure they “follow form” with the SAM provisions contained in underlying insurance contracts. Reporting requirements for umbrella/excess policies may require the same claim reporting procedures as dictated in the underlying policies... Make sure you put *all* carriers on notice when you first become aware of a SAM claim or occurrence.
- r. Does your Educators’ Legal Liability policy have a specific exclusion for SAM? If so, attempt to eliminate this exclusion by having the carrier rely on existing bodily injury, personal injury and advertising injury exclusions to clarify coverage.

The above abbreviated list does not do justice to the complexity of coverage triggers, coverage grants, exclusions, self-insurance, and legal precedence that arise with a sexual abuse or molestation claim. A close partnership between your institution, your carrier(s) and your broker is critical to protecting your coverage rights, ensuring proper legal representation, and receiving prompt reimbursement of expenses in accordance with policy provisions.

Takeaway: Determine what standards and terms you need in your insurance policies to make sure your institution and its agents, employees, students and volunteers who interact with minors are covered for incidents of injury, sexual abuse or molestation, and other risks to minors. Make sure third parties using your facilities provide the same protection to your institution.

Summary

What's done to children, they will do to society.

—Karl Menninger (1893–1990), American psychiatrist

The essence of a “minor” is the limited ability to make mature decisions. When minors do make decisions, they can choose well, providing opportunities for maturity and growth—or they can choose poorly. Minors often also suffer the consequences

teachers and allied health students, as well as travel-abroad programs.

- *Student Affairs*, including Community Service, Athletics, and Greek Life, for under-age recruits, sports camps of myriad

Make sure those in charge of specific activities and spaces on campus are aware that they are the risk owners responsible for addressing risk issues for minors, and that they are aware of the several hazards that increase the risks of having minors on campus.

of the bad decisions of adults. With bad decisions and bad outcomes, the institution, and *individual members of it*, may become responsible for the results.

To provide minors with safe experiences in college and university settings, good risk management requires that we follow several steps. Below is a short summary list of the content of the preceding chapters. These are the basics of good risk management for minors:

1. Determine what constitutes a “minor” in all jurisdictions of operations, and what duties of care we owe to them beyond duties owed to adults;
2. Identify where minors are interacting with our programs and on our campuses. Use surveys or checklists, and have critical conversations with certain likely key players, particularly:
 - *The Provost and Academic Deans* for academic programs, “Bridge” programs, laboratory assistant programs, student

varieties, sponsored programs such as the Model U.N., and youth mentoring or babysitting programs.

- *Health Services and Counseling* concerning their treatment protocols and privacy compliance, including graduate students “practicing” on campus or doing off-campus internships.
- *Special Events/Advancement* regarding “little sibling,” family visits, reunion childcare programs and the like.
- *Conference Services* for the many off-campus/unaffiliated groups that rent space on campus and bring children.

This is not a complete list by any means, but it can be an excellent start.

3. Make sure those in charge of specific activities and spaces on campus are aware that they are the risk owners responsible for addressing risk issues for minors, and that they are aware of the several hazards that *increase* the risks of having minors on campus. This can be a lengthy list, but prominent on it are:

- alcohol and controlled substances
- unclear “ownership” of events
- inadequate supervision
- unstructured time
- failure to obtain appropriate releases, waivers and permissions
- transportation
- inappropriate facilities
- inadequate staff qualifications and
- the huge risk of sexual molestation and abuse.

4. Practice excellent loss control methods. We must keep our facilities in good order, have excellent policies and procedures (including background checks) related to minors, and enforce them. We must

consistently provide good training for an adequate number of staff per program.

5. Insist on appropriate insurance coverage terms and limits for our institutions and our outside contractors and guests, including coverage for sexual molestation and abuse. Know how claims related to minors would be funded.

Most importantly, the well-run institution will maintain vigilance in the fulfilling the duties it owes to minors. It will continuously improve its programs based on expert advice, its own experiences, and the experiences of other institutions. It will do what is right, not merely what is expedient.

References

Many articles, books, websites and reference works describe best practices on relating to—and protecting—minors. Here are a few we found helpful:

American Camp Association. Resources on topics including safety, staffing, training, emergency procedures, and child protection. www.acacamps.org

Bickel, Robert D., and Peter F. Lake. *The Rights and Responsibilities of Modern Universities: Who Assumes the Risk of College Life?* Durham: Carolina Academic Press, 1999.

Kumin, Laura A., and Linda A. Sharp. “Camps on Campus.” United Educators Risk Retention Group, 1997.

McKinney, Kay. “Guidelines for Screening Care Providers” Fact Sheet. U. S. Department of Justice: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (February 1999).

“Minors on Campus.” Video presentation, with Risk Assessment Tools and Questionnaires, courtesy of Syracuse University (<http://riskmanagement.syr.edu/RiskManagement/display.cfm?contentID=%23%28%28%3D%2E%0A>) Contact Dave Pajak at Syracuse for online access to this helpful resource.

National Highway Traffic Safety Administration, Child Safety web resources. www.nhtsa.gov/Safety/CPS.

Praesidium, Inc. (Dr. Richard F. Dangel, Ph.D., President and CEO). “Praesidium offers a full array of abuse risk management and loss control products and services.” www.PraesidiumInc.com

Safe Kids USA. Nonprofit group devoted to child safety, with resources on transportation, playgrounds, recreation, and many other topics. www.safekidsusa.org.

Sadler, Blair L. “How A Children’s Hospital Discovered Child Pornographers In Its Midst.” Narrative Matters column in *Health Affairs* September 2011 (30:1795-1798); doi:10.1377/hltha Available online at content.healthaffairs.org.

United Educators. *Educator Sexual Misconduct Audit Guide*. A helpful six-page audit checklist, broken into sequential sections for improving an institutional risk profile re. sexual misconduct. Available (to members only) at www.ue.org

Virtus. The Catholic Church’s carefully considered suite of programs for responding to allegations of abuse. “[D]esigned to help prevent wrongdoing and promote ‘rightdoing’”: http://www.virtus.org/virtus/virtus_description.cfm

Wilson, Annette R. “Hosting Campus Minors and Avoiding Major Headaches.” St. Cloud State University, St. Cloud, Minnesota. June 28, 2000. National Association of College and University Attorneys, available to members at www.nacua.org.

Appendix A: Criminal Background Checks

States typically require criminal background checks for individuals working in designated positions such as teachers, counselors, or healthcare professionals. Criminal background checks, however, are an imperfect way to identify child molesters. Only about three to four percent of molesters have criminal backgrounds, and background checks themselves

subset of these people. A tailored policy might cover, for example: anyone involved in an overnight program; anyone who may have unsupervised one-on-one contact with a child; and anyone for whom state law requires a criminal background check. Clinical placement sites may also insist upon background checks.

Regardless of whether institutions conduct criminal background checks, they are well advised to require written employment and volunteer applications, conduct in-person interviews, and check references. These traditional screening mechanisms remain important.

are only about 45 percent accurate. Yet the public generally expects employers to conduct criminal background checks on adults who work closely with youth, regardless of state law requirements.

Criminal background checks can serve a complement to, but not a substitute for, good practices in screening applicants and volunteers. Regardless of whether institutions conduct criminal background checks, they are well advised to require written employment and volunteer applications, conduct in-person interviews, and check references. These traditional screening mechanisms remain important.

If you are going to require background checks for potential employees, volunteers, etc., make sure you know what you will do when you “find something”—that is, what criteria you will be using for exclusion, or for further investigation. Background checks can be quite onerous—expensive, time-consuming, and potentially inaccurate—yet legal, or social, or reputational obligations may require them. Think long and hard about when and where and why and what you will require for background checks.

Some institutions conduct criminal background checks on *all* staff, students, volunteers, and other adults who interact with youth. Other institutions require criminal background checks for only a

Most colleges and universities rely on outside vendors to conduct criminal background checks. This creates legal obligations under the federal Fair Credit Reporting Act. The Federal Trade Commission offers useful guidelines to employers on complying with the Act. <http://business.ftc.gov/privacy-and-security/credit-reporting>. The Federal Trade Commission has taken the position that the Fair Credit Reporting Act *may* also apply to background checks conducted on volunteers.¹³

About 20 U.S. vendors have received voluntary certification from the National Association of Professional Background Screeners, a nonprofit trade group. Further information is available at www.napbs.com.

A criminal background check can identify the individual through name and Social Security number

¹³ “Forty Years of Experience with the Fair Credit Reporting Act: An FTC Staff Report with Summary of Interpretations,” July 2011, at page 32. (“Because the term ‘employment purposes’ is interpreted liberally to effectuate the broad remedial purpose of the FCRA, it may apply to situations where an entity uses individuals who are not technically employees to perform duties. Thus, it includes . . . a nonprofit organization staffed in whole or in part by volunteers.” Footnote cites Hoke, 521 F.2d at 1082; *see also* Allison, FTC Informal Staff Opinion Letter, Feb. 23, 1998; Solomon, FTC Informal Staff Opinion Letter, Oct. 27, 1998.). Full text of report available at www.ftc.gov/os/2011/07/110720fcrareport.pdf (last visited 5/21/2012).

or through fingerprints. Other biometric markers, including DNA matching and retinal scans, may become more common in the future. Criminal background checks typically cover convictions during the past 7 to 10 years and sex offender registries.

Note: The United States has no single database compiling federal, state, and local criminal records, so multiple searches must be conducted. These typically focus on jurisdictions in which the individual has lived during the relevant time period. Although the Department of Homeland Security announced after 9/11 that a nationwide criminal database would be established within 24 months, this objective has not been met.

According to the American Camp Association¹⁴, the FBI database contains over 200 million fingerprint-based arrest and conviction records. It includes all federal criminal convictions, as well as 70-90% of each state's criminal database. The FBI database excludes lower-level state misdemeanors, DUIs and other driving citations. State databases contain crimes committed in the state. Depending on the jurisdiction, they may be searched by name, fingerprint, or both. County or local criminal records cover only the relevant area, and these records may be checked through the local police department.

Most states also maintain an online sex offender registry. These duplicate crimes that appear in the FBI and state databases. The states do not, however, share a common definition of sex offender, complicating efforts to obtain reliable histories. Finally, in 2005 the federal government launched the Dru Sjodin National Sex Offender Public Registry. It links federal, state, tribal, and territory sex offender registries. See www.nsopw.gov (last visited 6/12/2012).

Vendors may also purchase databases and compile their own sources for criminal background checks. Many options are available for criminal background checks, so it is important to discuss the scope of a search with a potential vendor. Components might include, among others:

- Social Security trace, to verify past places of residence
- Alias check, for past names used

- Local criminal record check
- State criminal record check
- FBI criminal record check
- State central child abuse registry check (if such a registry exists in relevant jurisdictions)
- State sex offender registry check
- Motor vehicle registry record check
- Professional licensure/certification board background check

Some Practical Tips on Background Checks

1. Do not substitute a “clean” criminal background check for prudent hiring, training, policies, and procedures.
2. Some vendors of criminal background check services do not have access to certain types of data, e.g., crimes perpetrated by minors, from some states. Running a criminal background check through such vendors in such states will yield nothing about the person's prior interactions with minors. There are “background checks” and there are *background* checks. Know what databases the vendors are accessing, and what you will get for your money.
3. Non-fingerprint background checks can yield significant false-hit ratios.
4. Almost all traditionally-aged college students' criminal records will be masked as juvenile records and will not be detected through screening.
5. Campus police may be conducting the “gold standard” of checks on their employees. Human Resources may hire the vendors and oversee the process. You may be able to draw on assistance from these departments.

¹⁴ The discussion of offender databases draws heavily from the useful report by the American Camp Association “Criminal Background Checks: Background Information and Guidance for Camps.” The full text is available online at www.acacamps.org/sites/default/files/images/publicpolicy/documents/CBC_Education_7_2011.pdf (last visited 6/12/2012).

6. Institutions want to do the right thing by adopting and following a policy on criminal background checks. But what constitutes an effective job of screening? Each institution must set its own guidelines for screening.
7. Decide in advance how you will evaluate negative information uncovered during a criminal background check. What types of offenses, committed within what time period, would disqualify an individual? An offense committed against a minor might disqualify the individual regardless of how long ago it occurred. Some states have laws limiting the use of prior criminal convictions.
8. Unfortunately, the correlation between screening results and risk is very low. A positive flag on a criminal background check may not mean the person is currently an abuser; likewise a negative flag may not indicate that the person is trustworthy.
9. Solicit suggestions on vendors and guidelines from local schools, YMCAs, and similar organizations in your state or region.

A useful resource for additional information is “The Attorney General’s Report on Criminal History Background Checks,” U.S. Department of Justice (2006). Full text available at www.justice.gov/olp/ag_bgchecks_report.pdf.

Another excellent resource, from the American Camp Association, is “Criminal Background Checks: Background Information and Guidance for Camps.” Full text available at www.acacamps.org/sites/default/files/images/publicpolicy/documents/CBC_Education_7_2011.pdf (last visited 6/12/2012).

The Arthur J. Gallagher Higher Education Practice published, through author Leta Finch, a monograph on background checks as well:

Background Checks: Staff, Faculty, Students, and Volunteers, by Leta C. Finch (Arthur J. Gallagher: Itasca, Ill.: 2006), which can be found at this link: http://www.ajgrms.com/portal/server.pt/gateway/PTARGS_0_28406_547304_0_0_18/Background%20Checks.pdf.

..... Appendix B: Sample Volunteer Application Form

Name of Institution and Program _____

Address, phone, website _____

Name of Applicant

Mailing Address

Primary Telephone No. _____ Secondary Telephone No. _____

E-mail _____ Fax _____

Volunteer Position Applying For _____

Briefly, explain your interest in volunteering _____

Education/Training & Specialized Skills

High School College Graduate School Military Other _____

Degree(s) _____

Certification(s): Driver's License (_____ Type) First Aid CPR

Other (Specify): _____

Special skills (Describe any special skills, e.g. art, writing, computer, foreign languages, coaching, crafts, etc.)

[CAN ADAPT TO NATURE OF POSITION] _____

Current Employer _____

Current Job Title _____

Current Work Schedule _____

Name & telephone number of current supervisor _____

Volunteer Experience (Please list dates of any previous volunteer experiences, the agency for which you performed volunteer services, the type of services you provided, and the name and phone number of your supervisor.)

Availability for Volunteer Services (days of the week and available hours) _____

In case of an emergency, whom should we notify?

Name _____ Relationship _____ Telephone _____

PLEASE READ CAREFULLY

I certify that the information provided on this volunteer Application is true and any misrepresentation provided on this form may result in my immediate termination as a volunteer. I am authorizing the [PROGRAM] to contact my current employer and former volunteer organizations for references, and to perform criminal background and/or credit checks as required. If selected, I will comply with all requirements of my supervisor and acknowledge that the university may, at its discretion, terminate my participation in the volunteer program at any time.

Signature of Applicant _____

Date _____

For Internal Use Only

Volunteer Job Title _____

Date Interviewed _____

Selected _____ Not Selected _____

Number of Hours of Services _____

Category: Regular-Service Occasional Volunteer Stipend Volunteer Materiel Donor

Signature of Manager, VIS _____

Date _____

Appendix C: Sample Policy on Minors

PENN STATE—ADMINISTRATIVE

Text downloaded from <http://guru.psu.edu/policies/ad39.html> (last visited 4/18/2012)

Policy AD39 MINORS INVOLVED IN UNIVERSITY-SPONSORED PROGRAMS OR PROGRAMS HELD AT THE UNIVERSITY AND/OR HOUSED IN UNIVERSITY FACILITIES (Formerly Programs Involving Minors Housed in University Facilities)

Purpose

To provide for appropriate supervision of minors who are involved in University-sponsored programs, programs held at the University and/or programs housed in University facilities at all geographic locations. Supervision of minors who are involved in University research is addressed by the Institutional Review Board as outlined in RA14, and is not addressed by this policy.

Definitions

Minor

A person under the age of eighteen (18) who is not enrolled at the University, or who is considered to be “dually enrolled” in University programs while also enrolled in elementary, middle and/or high school; also referred to as a “participant” in this policy.

University Housing

Facilities owned by, or under the control of, the University.

Programs

Programs and activities offered by various academic or administrative units of the University, or by non-University groups using University facilities subject to Policies AD02 or AD03. This includes but is not limited to workshops, sport camps, academic camps, conferences, pre-enrollment visits, 4H or Cooperative Extension programs and similar activities.

Sponsoring Unit

The academic or administrative unit of the University which offers a program or gives approval for housing or use of facilities pursuant to AD02 or AD03.

Authorized Adult

Individuals, paid or unpaid, who interact with, supervise, chaperone, or otherwise oversee minors in program activities, or recreational, and/or residential facilities. This includes but is not limited to faculty, staff, volunteers, graduate and undergraduate students, interns, employees of temporary employment agencies, and independent contractors/consultants. The Authorized Adults’ roles may include positions as counselors, chaperones, coaches, instructors, etc. Authorized Adults are considered to be mandatory reporters as defined by Pennsylvania law. Further guidance on mandatory reporters is provided in University Human Resources policy(ies).

Direct Contact

Positions with the possibility of care, supervision, guidance or control of minors and/or routine interaction with minors.

One-On-One Contact

Personal, unsupervised interaction between any Authorized Adult and a participant without at least one other Authorized Adult, parent or legal guardian being present.

Policy

A sponsoring unit offering or approving a program which involves minors or provides University housing for minors participating in a program, or a non-University group being sponsored for a program, whether utilizing University housing or not, shall:

1. Establish a procedure for the notification of the minor’s parent/legal guardian in case of an emergency, including medical or behavior-

- al problem, natural disasters, or other significant program disruptions. Authorized Adults with the program, as well as participants and their parents/legal guardians, must be advised of this procedure in writing prior to the participation of the minors in the program.
2. Provide a list of all program participants and a directory of program staff to the campus unit(s) responsible for health services and police services (their contact information will be provided to the sponsors by the University). This list shall include participant's name; local room assignment (if applicable); gender, age, address, and phone number(s) of parent or legal guardian, as well as emergency contact information.
 3. Provide information to parent or legal guardian detailing the manner in which the participant can be contacted during the program.
 4. Provide a Medical Treatment Authorization form to the campus unit responsible for health services. Any request to amend the approved form must be approved by the Director of University Health Services prior to its distribution or use. All forms must include the following:
 - a. A statement informing the parent/legal guardian that the University does (or does not, as applicable) provide medical insurance to cover medical care for the minor.
 - b. A statement authorizing the release of medical information (HIPAA) and emergency treatment in case the parent/legal guardian/emergency contact cannot be reached for permission.
 - c. A list of any physical, mental or medical conditions the minor may have, including any allergies that could impact his/her participation in the program.
 - d. All emergency contact information including name, address and phone number of the emergency contact.
 5. Follow guidance from University Health Services concerning communicable diseases. University Policy SY21 shall be followed concerning first aid kits and epinephrine ("epi") pens. Participants' medicines may be distributed by program staff, under the following conditions:
 - a. The participant's family provides the medicine in its original pharmacy container labeled with the participant's name, medicine name, dosage and timing of consumption. Over-the-counter medications must be provided in their manufacturers' container.
 - b. Staff shall keep the medicine in a secure location, and at the appropriate time for distribution shall meet with the participant.
 - c. The staff member shall allow the participant to self-administer the appropriate dose as shown on the container.
 - d. Any medicine which the participant cannot self-administer, must be stored and administered by a licensed healthcare professional associated with the campus or, if no one is available, arrangements must be made with another health care professional in advance of the participant's arrival. The event coordinator should consult with the location's health service and the Office of Affirmative Action ADA Coordinator to discuss reasonable accommodations in the above situation.
 - e. Personal "epi" pens and inhalers may be carried by the participant during activities.
 6. Arrange to access emergency medical services at all locations and, for events at University Park, access to these services must be pursuant to ADG04. Medical care appropriate for the nature of the events, expected attendance and other variables should be discussed with the Director of University Health Services.

7. Follow appropriate safety measures approved by the Office of Environmental Health & Safety for laboratory and research work as outlined in SY01.
8. Ensure adequate supervision of minors while they are on University property. All activities involving minors must be supervised by at least two or more Authorized Adults or by their parent(s) or legal guardian(s) at all times. Some of the factors to consider in determining “adequate supervision” are the number and age of participants, the activity(ies) involved, type of housing if applicable, and age and experience of the counselors. See also, item 14 below.

When there are High School students, including prospective athletes, participating in pre-enrollment visitation, the requirement for two Authorized Adults will be waived.

All supervised participants in a University program or a program taking place on University property are permitted in the general use facilities [e.g. athletic fields, public spaces, academic buildings] but may be restricted from certain areas of the facilities [e.g. storage rooms, equipment rooms, athletic training rooms, staff/faculty offices] or from utilizing certain equipment.

9. Develop and make available to participants the rules and discipline measures applicable to the program. Program participants and staff must abide by all University regulations and may be removed from the program for non-compliance with rules. The following must be included in program rules:
 - a. The possession or use of alcohol and other drugs, fireworks, guns and other weapons is prohibited.
 - b. The operation of a motor vehicle by minors is prohibited while attending and participating in the program.

- c. The parking of staff and participant vehicles must be in accordance with University parking regulations.
- d. Rules and procedures governing when and under what circumstances participants may leave University property during the program.
- e. No violence, including sexual abuse or harassment, will be tolerated.
- f. Hazing of any kind is prohibited. Bullying including verbal, physical, and cyber bullying are prohibited.
- g. No theft or use of tobacco products (smoking is prohibited in **all** University buildings) will be tolerated.
- h. Misuse or damage of University property is prohibited. Charges will be assessed against those participants who are responsible for damage or misusing University property.
- i. The inappropriate use of cameras, imaging, and digital devices is prohibited including use of such devices in showers, restrooms, or other areas where privacy is expected by participants.

10. Obtain all media and liability releases as part of the program registration process. All data gathered shall be confidential, is subject to records retention guidelines, and shall not be disclosed, except as provided by law.

11. Assign a staff member who is at least 21 years of age to be accessible to participants. The staff member must reside in the housing unit, if applicable. Additional Authorized Adults will be assigned to ensure one-on-one contact with minors does not occur and that appropriate levels of supervision are implemented. See also item 15 below.

When there are High School students, including prospective athletes, participating in pre-enrollment visitation, the hosting Penn State University student(s) will not be required to be at least 21 years of age and the requirement for two Authorized Adults will also be waived.

12. All Authorized Adults who have direct contact with minors are required to have a current background check on record with the University at the time of hire and/or beginning work with minors. This background check must be reviewed and approved by the applicable Human Resources department prior to being hired and/or working with minors.

When there are High School students, including prospective athletes, participating in pre-enrollment visitation, the hosting Penn State University student(s) will *not* be required to undergo a background check.

- New hires will be required to complete the University background check process at the time of hire.
- All other individuals must complete the University background check process or provide evidence of completion of Act 34 (PA State Criminal History Record), Act 151 clearance (PA Department of Public Welfare Child Abuse Report) and FBI criminal history report clearance dated within 6 months of the initial date of assignment. This includes current employees who have not previously had a background check completed, as well as all other individuals, paid or unpaid.
- If Act 34, Act 151, and FBI criminal history report clearances are to be considered as a replacement for a University background check, verifications must be reviewed and approved by the applicable Human Resources department prior to being hired and/or interacting with minors.
- All Authorized Adults must also complete a self-disclosure form confirming that they have disclosed any arrests and/or convictions that have occurred since the date of a background check and/or clearance and will disclose any arrest and/or convictions within 72 hours of their occurrence. The cost for

completion of Act 34, Act 151, and FBI criminal history report clearances for non-employees will be the responsibility of the individual unless specifically authorized for processing and/or payment by the hiring unit.

- Overall guidance for background checks is provided in University Human Resources policy(ies).

13. If applicable, require the program to adopt and implement rules and regulations for proper supervision of minors in University housing. The following must be included:

- a. Written permission signed by the parent/guardian for the minor to reside in University housing.
- b. A curfew time which is age-appropriate for the participants, but in no case shall it be later than midnight.
- c. In-room visitation to be restricted to participants of the same gender.
- d. Guests of participants (other than a parent/legal guardian and other program participants) are restricted to visitation in the building lobby and/or floor lounges, and only during approved hours specified by the program.
- e. The program must comply with all security measures and procedures specified by University Housing Services and Police Services.
- f. Pre-enrollment visit programs for high school students housed overnight in residence halls must be registered with the Office of Residence Life.

14. Require the program to provide and supervise trained counselors (also considered to be Authorized Adults) who must be at least 18 years of age, in accordance with the following:

- a. The ratio of counselors to program participants must reflect the gender

distribution of the participants, and should meet the following:

Standards for resident camps are:

- One staff member for every five campers ages 4 and 5
- One staff member for every six campers ages 6 to 8
- One staff member for every eight campers ages 9 to 14
- One staff member for every 10 campers ages 15 to 17

Standards for day camps are:

- One staff member for every six campers ages 4 and 5
- One staff member for every eight campers ages 6 to 8
- One staff member for every ten campers ages 9 to 14
- One staff member for every twelve campers ages 15 to 17

- b. Training for the counselors must include, at a minimum, information about responsibilities and expectations; policies, procedures, and enforcement; appropriate crisis/emergency responses; safety and security precautions; confidentiality issues involving minors; and University responsibility/liability. Counselors must know how to request local emergency services and how to report suspected child abuse (counselors are considered to be mandatory reporters as defined by Pennsylvania law).
- c. Responsibilities of the counselors must include, at a minimum, informing program participants about safety and security procedures, University rules, rules established by the program, and behavioral expectations. Counselors are responsible for following and enforcing all rules and must be able to provide information included herein

to program participants and be able to respond to emergency(ies).

15. Each Authorized Adult, who will be participating in a program covered by this Policy shall attend annual mandatory training on the conduct requirements of this Policy, on protecting participants from abusive emotional and physical treatment, and on appropriate or required reporting of incidents of improper conduct to the proper authorities including, but not limited to, appropriate law enforcement authorities. If a program participant discloses any type of assault or abuse (at any time previously or during the program), or an Authorized Adult has reason to believe that the participant has been subject to such assault or abuse, the Authorized Adult, as a mandatory reporter under PA 02183, must inform the program director, University Police Services, Office of General Counsel and the Risk Management Department immediately. The program director will immediately notify the appropriate authorities through the Commonwealth of Pennsylvania's reporting ChildLine (800-932-0313) and provide written notification to the Department of Public Welfare within 48 hours of filing the oral report (utilizing form CY 47 available from the County Children and Youth agencies). Authorized Adults must make all reasonable efforts to ensure the safety of minors participating in programs and activities covered by this Policy, including removal of minors from dangerous or potentially dangerous situations, irrespective of any other limitation or requirement.

16. Authorized Adults participating in programs and activities covered by this Policy shall not:
 - a. Have one-on-one contact with minors: there must be two or more Authorized Adults present during activities where minors are present. Authorized Adults also shall not have any direct electronic contact with minors without another Authorized

- Adult being included in the communication.
- b. In the case of adults supervising minors overnight, Authorized Adult should not enter a minor's room, bathroom facility, or similar area without another Authorized Adult in attendance, consistent with the policy of not having one-on-one contact with minors.
 - c. Separate accommodations for adults and minors are required other than the minors' parents or guardians.
 - d. Engage in abusive conduct of any kind toward, or in the presence of, a minor.
 - e. Strike, hit, administer corporal punishment to, or touch in an inappropriate or illegal manner any minor.
 - f. Pick up minors from or drop off minors at their homes, other than the driver's child(ren), except as specifically authorized in writing by the minor's parent or legal guardian.
 - g. Authorized Adults shall not provide alcohol or illegal drugs to any minor. Authorized Adults shall not provide prescription drugs or any medication to any minor unless specifically authorized in writing by the parent or legal guardian as being required for the minor's care or the minor's emergency treatment. Participants' medicines may be distributed by program staff, following the conditions outlined in Policy IV. 5 in this document.
 - h. Make sexual materials in any form available to minors participating in programs or activities covered by this Policy or assist them in any way in gaining access to such materials.
17. If an allegation of inappropriate conduct has been made against an Authorized Adult participating in a program, s/he shall discontinue any further participation in programs and activities covered by this Policy until such allegation has been satisfactorily resolved.

Authorized personnel/signatories for non-University groups using University facilities must provide to the sponsoring unit satisfactory evidence of compliance with all of the requirements of this Policy at least thirty (30) days prior to the scheduled use of University facilities, as well as sign an approved agreement for use of University facilities, if applicable.

Effective Date: April 11, 2012

Date Approved: April 9, 2012

Date Published: April 11, 2012

Items 16a, 16b, and 16c, do not apply when there are High School students, including prospective athletes, participating in pre-enrollment visitation, hosted by Penn State University student(s).

Appendix D: Risk Factors and Loss Control Measures Scoring Sheet

The Think Tank group drew up a basic, preliminary ranking scorecard for the risks of minors. It is in spreadsheet form, and in future a downloadable, editable version should be made available from the Arthur J. Gallagher Higher Education Practice website. For now, notice that we found over 40 identified “risk factors” that increase the hazard level for managing the risks of minors. The simple 1-3 ranking of Impact led us to prioritize (with colors)

the risk factors. But when loss control measures are considered, along with their simple 1-3 ranked difficulty of implementation, as seen in our estimated “Effort Required” column, things change. We took a simple multiple of Impact X Implementation to give nine levels of priority, and this changed some of the values from the first look only at factors. Your valuation at your institution may vary widely; this is a simple demonstration.

Risk Factors	Examples/ Concerns	Impact	Loss Control	Effort Required	Score (Priority)
Mixed age groups	In residences, labs, etc.	1	Limit mixing; create subgroups; increase level of supervision; notify parents re. condition. Make sure program leaders take responsibility for this. Residence Life folks have to be major part of this. Training for staff re. expectations is essential. Low tolerance for horseplay.	1	1
Inadequate supervision	Of campers, overnights	1	Give definitions on what is “adequate” supervision. Make sure free time, housing, mealtimes, etc. as well as program times are fully supervised. Ratio awareness, management and enforcement is important. (Presupposes existing policies and procedures.) Vigilance on the part of the host institution is critical.	1	1
Legal and regulatory risk; mandatory reporting responsibilities	Daycare center without license	1	Talk with general counsel (or internal audit, or public safety...). Do compliance audit. Establish consequences for non-compliant supervisors.	2	2
Staffing mismatch	Employees who are not trained to work with minors	1	Proper staff training, selection, and ratios	1	1
Ratio of adults to students	Age-group dependent	1	Proper supervision. Use American Camping Association’s guide. See safekids.org or 4H, etc. State license extenders (depending on the type of program) may be more precise and/or require compliance. Very activity- and hours-of-operation dependent. Tendency to “cheat” to save \$.	1	1
Slack/unscheduled time/itineraries for groups	Formal, informal, or rental programs	1	Communication of schedules with campus police, grounds, etc. on when groups are supposed to be where.	3	3
Activities involving locker rooms, disrobing, partial nudity	Esp. with mixed groups (genders and ages)	1	Evaluate where and when this happens. Develop policy, procedures and training to avoid inappropriate mixing. Deploy two-adult rule, etc.	1	1
Peer-on-peer minor bullying, abuse, assault...	Additional risk of minor-minor sexual experimentation	1	Develop strong anti-bullying, -hazing policies. Enforce. Train staff to recognize and intervene.	2	2

Risk Factors	Examples/ Concerns	Impact	Loss Control	Effort Required	Score (Priority)
Multiple mixed groups occupying same space	No control over supervision and selection; incl. renting groups	1	Create separation in time or space; training of leaders to anticipate problems and separate people as needed	3	3
Alcohol, drugs and controlled substances	Esp. for recruits	1	Chaperones; enforcement of policy.	2	2
Events taking place in/around water	Pool, lakes, etc.	1	Lifeguards, limited access, possible waivers as appropriate. Note this is heightened risk factor for sexual predation. Staff should be trained and alert.	2	2
Foreign travel	Accompanying family members; planned groups for minors	1	Training, waivers, tracking software, communications policies and procedures	2	2
“Going AWOL”	Minors leaving the campus unexpectedly	1	Clery Act compliance policy; notification procedure; monitoring by staff; correct staff ratios	2	2
Supervisor qualifications	Employees, coaches, volunteers, other minors...	1	Set and enforce appropriate qualifications. Regular training and re-training on appropriate interactions with minors.	1	1
One-on-one adult/student activities	Personal coaching, voice/music lessons	1	Set and enforce appropriate qualifications. Regular training and re-training on appropriate interactions with minors.	1	1
Unclear (contractual?) responsibility for camps, events, etc.	E.g., coaches running LLC sports camps, “Physics Camp” etc.	1	Set and enforce appropriate qualifications. Regular training and re-training on appropriate interactions with minors.	1	1
Unclear (contractual?) responsibility for camps, events, etc.	Eager volunteers signing up for age-inappropriate activity	1	Volunteer screening; for minors, participation release	2	2
Off-campus field trips & events sponsored for minors	Incl. remote camps, campuses	1	Collect permission, medical forms, releases for transportation; make sure drivers follow transportation procedures;	2	2
Facilities mismatch	Machine shops, chem labs, wrong-size bathrooms, railings, etc.	1	Do not let minors use facilities that are not appropriate for them.	2	2
Not having medical information (release forms) for health treatment	Including athletics, admissions recruits	2	Establish and collect health information from all participants; train risk stakeholders on the importance of this	2	4

Risk Factors	Examples/ Concerns	Impact	Loss Control	Effort Required	Score (Priority)
Maturity level (expectations on participation)	E.g., 7th grader mixing chemicals	2	Work with risk owners to make sure announcement brochures, websites, etc. indicate age-appropriate enrollment, and that right-sized equipment, tools, and PPE are used	2	4
Pre-existing mental health issues	In multiple programs	2	Risk owners trained to be responsible to collect information, meds (stored and dispensed appropriately), and to interact with parents and MDs as needed	2	4
Allergies (incl food) and prescription drug issues	Esp. controlled substances—and ‘going cold turkey,’ “forgetting” to take them, or med sharing	2	Establish and collect health information from all participants; train risk stakeholders on the importance of this	2	4
Custody issues (pickup, dropoff, etc.)	To whom can you release the child? Information?	2	Collection of appropriately signed release forms from all custodial parents or guardians	2	4
Appropriate activity risk	Chemicals? Recreational activities? Sports?	2	Train risk owners on what is an age-appropriate activity	3	6
Transportation risk	Car seats; “school-bus” designation for campus shuttle? “last one out”	2	Clear policies and procedures for transporting minors; enforcement	2	4
Illicit taking of photos/video of minors	Including prevention of posting on line	2	Policy re. cameras in sensitive locations; training of monitoring personnel	1	2
Special needs/ disabled/vulnerable minors	Incl. autism, hospitalized/ medicated	2	Compliance with ADA, Title IX; staff selection and training with care to accommodate needs	2	4
Disability accommodation and/ or discrimination	ADA, protected class children; K-12 very different from higher ed	2	Compliance with ADA, Title IX	2	4
Student orgs/ministry groups: going to and bringing to campus	Model U.N., tutoring, etc.; “vicarious liability”	2	Screen and train volunteers; inform and enforce transportation policies; obtain participation and medical releases from minors	1	2
Student internships/ labor law issues	Machinery, chemicals, biohazards, PPE, etc.	2	Follow legal statutes re. hazardous work; implement basic safety training for all working minors	2	4
Disciplinary procedures and guidelines	Who disciplines, and when?	2	Establish policies and procedures; train and enforce	3	6

Risk Factors	Examples/ Concerns	Impact	Loss Control	Effort Required	Score (Priority)
Contractors and third-party invitees on campus	Including any outsourced service or campus visitor	2	Work with Purchasing/Procurement to establish criteria for vendors, including "Two Adult" rule or other similar protections	3	6
Room hosting/"hostess" activity	Residence halls; Athletic/other programming	2	Train "hosts" and "hostesses" concerning appropriate behavior, and enforce it	1	2
Release forms for media, video, photos, etc.	Advertising, etc.; local media stops by...	3	Develop standard releases and implement usage with program stakeholders	2	6
Contractual risk re. representation	"We have constant supervision for your child!"	3	Remind risk owners to be circumspect with their language and not engage in false advertising	3	9
The "entourage effect"	Groups visiting, including adult companions	3	Set, and publicize, policies on minors and residents having visitors	2	6
Cyber-risk: social media access on campus	Unfiltered access for minors used to filters	3	Determine appropriate filtering needs, if any, and technological capabilities (with IT). Implement.	3	9
Appropriate attire	Flip-flops, short skirts, shirtlessness, etc.	3	Training of staff to enforce policies	3	9
Infectious diseases	MRSA, Norovirus, measles, lice	3	techniques for early identification, notification	3	9
Dangerous demonstrations	Without "don't try this at home" warnings...	3	train staff to avoid these; collect participation waivers	1	3
Negligent referrals	Babysitters' lists, etc.	3	make sure departments are careful to minimize these and to put disclaimers on them, if they must be used	3	9
Weather-related issues	Lightning warnings, dehydration, tornado sheltering...	3	Prepare emergency shelter locations. Make sure program leaders are aware of procedures and locations.	2	6

Appendix E: Medical Care Authorization

AUBURN UNIVERSITY—Outreach Program Office Summer Camps Applicant Information and Confidential Medical Information

Auburn University Summer Camp Information

Camp Name _____

Date(s) _____ Time(s) _____

PLEASE READ THE FOLLOWING INFORMATION CAREFULLY.
AS A CAMPER, PARENT OR GUARDIAN I UNDERSTAND THAT:

The information requested on this form is intended to help inform our staff of any pre-existing medical conditions. If your child have a pre-existing medical condition, participation in any strenuous activities or recreational time may not be recommended. *This information will be kept in strict confidence and only shared with your permission.* The Auburn University

Outreach Program Office requests the information below so that, in case of an emergency, you have provided us with accurate information about you so that we can provide and/or seek appropriate treatment. You are accountable for providing an accurate medical history. *Final determination about whether to participate is the responsibility of you and your physician.* If you have any medical issue that is not requested below, but of which you think it is important, please include that information.

PART 1. GENERAL INFORMATION

Name _____ Email Address _____

Parent/Legal Guardian Name (if applicable) _____

Street Address _____

City _____ State _____ Zip _____

Home Phone _____ Work Phone _____

Date of Birth _____ / _____ / _____ Gender: M F

Please list two emergency contacts:

Emergency Contact #1 Name	Home Phone	Work Phone	Cell Phone	Relation
---------------------------	------------	------------	------------	----------

Emergency Contact #2 Name	Home Phone	Work Phone	Cell Phone	Relation
---------------------------	------------	------------	------------	----------

PART 2. MEDICAL INFORMATION

It is recommended that you consult with your physician prior to participating in this Auburn University Summer Camp. If you are uncertain about any preexisting medical conditions, it is your responsibility to consult with your own physician prior

to participating in this Summer Camp. Please answer all of the questions. If you answer yes to any of the following questions, please explain as indicated. Use back and/or additional paper if needed.

Physician's Name _____ Phone Number _____

Most recent tetanus toxoid immunization _____

Do you have health/accident insurance? Yes No

If yes, please indicate policy number, name and address of company. Please also include a front and back copy of your insurance card:

Do you have any limiting medical conditions that you or your doctor feel would limit your participation in the Camp?

Yes No If yes, identify and explain _____

Are you currently taking medication that may interfere with your ability to safely participate in the Camp?

Yes No If yes, please indicate the medication and the condition being treated _____

Do you have any allergies or reactions to medications, insect stings or plants?

Yes No If yes, please explain _____

Do you have a history, of or do you currently suffer from, any medical condition(s) with which we made need to be aware?

Yes No If yes, please explain _____

PART 3: AUTHORIZATION FOR MEDICAL CARE

Unless prior arrangements have been made, all medical needs of the students will be handled through the East Alabama Medical Center. In cases where medical attention is necessary, parents will be contacted for approval when possible. However, we are required to have on file a medical release form signed by the parent. The hospital will not perform services unless this form is presented at the time of needed treatment.

_____ (Camper's Name) has my permission to receive medical attention in the event of illness or medical emergency while participating in this Auburn University Summer Camp. I will assume the financial responsibility for any cost of health care for my child that may occur during this Camp.

PLEASE READ: As a participant, parent or guardian I understand and acknowledge that my failure to disclose relevant information may result in harm to myself/my child and/or others during this Camp. By signing my name I represent and warrant that I have provided all materials and important information to the Auburn University Outreach Program Office pertaining to my child's medical, mental and physical condition and that it is accurate and complete. I agree to notify the Auburn University Outreach Program Office of any changes in my mental, physical or medical condition prior to my Child's scheduled Camp.

By revealing or disclosing the above medical information it will not be used by Auburn University personnel or employees to determine my Child's ability to participate safely in activities. I understand that, if my child chooses to participate in activities, he/she do so voluntarily and of his/her own accord and the final decision regarding participation is solely the responsibility of myself and my Child.

SIGNATURE IS REQUIRED:

Camper's Name _____ Date _____

Camper's Signature _____

Parent/Legal Guardian's Name _____

Parent/Legal Guardian's Signature _____ Date _____

A PARENT OR GUARDIAN MUST SIGN THIS FORM FOR A MINOR UNDER THE AGE OF 19

Appendix F: Self-Administration of Prescription Medication Authorization

AUBURN UNIVERSITY—Outreach Program Office Summer Camps

Medication Prescriber/Parent Authorization

Auburn University Summer Camp Information

Camp Name _____

Date(s) _____ Time(s) _____

Camper Information

Camper's Name _____ Parent/Legal Guardian (if applicable) _____

Street Address _____ City _____ State _____ Zip _____

Home Phone _____ Work Phone _____

Date of Birth ____ / ____ / ____ Gender: M F

No, my child does not need to take any prescription medication while at Camp.

Yes, my child will need to take prescription medication while at Camp.

This form must be completed fully in order for campers to administer required medication to themselves. A new medication administration form must be completed for each camp attended by the camper, for each medication, and each time there is a change in dosage or time of administration of a medication. Requires licensed health care authorization and signature, and parent signature.

- Prescription medication must be in its original container labeled by the pharmacist or prescriber. Label must include the name, address and phone number for pharmacist or prescriber.
 - Containers must hold only the amount required for the time the camper will be attending the Camp.
 - *All prescription medications, including medications for conditions such as food, drug or insect allergies; diabetes; asthma; or epilepsy may be brought to Camp under the condition that the camper can self-manage care and delivery of medication with written authorization to do so at camp by a licensed health care provider.*
-

Prescriber Authorization for Self-Administration of Prescription Medication

Medication Name _____ Dose _____

Condition for which medication is being administered _____

Specific Directions (e.g., on empty stomach/with water,etc.) _____

Time/frequency of administration _____

If PRN, frequency _____

If PRN, for what symptoms _____

Relevant side effects _____

Medication shall be administered from ____ / ____ / ____ to ____ / ____ / ____ .

Special Storage Requirements _____

Is the camper capable of self-managed care? Yes No

Prescriber's Name/Title _____ Prescriber's Place of Employment _____

Telephone _____ Fax _____

I hereby affirm that this individual has been instructed in the proper self-administration of the prescribed medication(s).

Prescriber's Signature _____ Date _____

Parent/Guardian Authorization, Waiver and Consent for Self-Administration of Prescription Medication

I authorize and recommend self-medication by my child for the above medication. I also affirm that he/she has been instructed in the proper self-administration of the prescribed medication by his/her attending physician. I shall indemnify and hold harmless the Camp Staff, Auburn University, its Board of Trustees, Administration, Faculty, Staff, Student Leaders, and all other officers, directors, employees and agents against any claims that may arise relating to my child's self-administration of prescribed medication(s).

I/We have legal authority to consent to medical treatment for the camper named above, including the administration of medication at the above referenced Camp.

Parent/Guardian Signature _____ Date _____
Home Phone _____ Cell Phone _____ Work Phone _____

Parent/Guardian Authorization, Waiver and Consent for Over-the-Counter Medication

Over-the-Counter (OTC) Medication may at times need to be administered, if approval is indicated by the camper's parent or guardian. Please complete the following section to save time if your child needs any of these OTC medications during his/her stay. Note: Unless we have parental authorization, we cannot administer ANY medications.

I hereby authorize that the following medications may be given to _____ (Child's Name) if the need arises. You may dispense only those checked.

- | | |
|--|---|
| <input type="checkbox"/> Ointments for minor wound care, first aid as directed. (Antiseptic, anti-itch, anti-sting, antibiotic, sunburn) | <input type="checkbox"/> Visine or other eye drops for minor eye irritation. |
| <input type="checkbox"/> Tylenol/Acetaminophen as directed. | <input type="checkbox"/> Medicated lip ointment for dry, chapped lips, lip blisters or canker sores as directed. |
| <input type="checkbox"/> Aspirin/Ibuprofen as directed. | <input type="checkbox"/> Swimmer's ear drops as directed. |
| <input type="checkbox"/> Throat lozenges and or spray as directed for sore throat. | <input type="checkbox"/> Hydrocortisone ointment as directed for mild skin irritations, poison ivy, and insect bites. |
| <input type="checkbox"/> Micatin or anti-fungus treatment as directed for athlete's foot. | <input type="checkbox"/> Medicated powder for skin irritation as directed. |
| <input type="checkbox"/> Kaopectate or Imodium for diarrhea as directed. | <input type="checkbox"/> Robitussin or other cough syrup as directed. |
| <input type="checkbox"/> Milk of Magnesia, Pepto Bismol or Mylanta for upset stomach or nausea as directed. | <input type="checkbox"/> Calamine lotion for bug bites and poison ivy. |
| <input type="checkbox"/> Rolaids or Tums for acid reflux, heartburn or indigestion as directed. | <input type="checkbox"/> Sunscreen |
| <input type="checkbox"/> Benadryl for swelling, hives, allergic reaction, as directed. | <input type="checkbox"/> Bug repellent |
| <input type="checkbox"/> Actifed or Sudafed as directed for nasal congestion or allergy relief per instructions. | <input type="checkbox"/> Other (list any other approved over-the-counter drugs) |
| | _____ |
| | _____ |

Camp staff reserves the right to use generic equivalents when available for the name brand over-the-counter medications listed above.

I understand that such administration will be not done under the supervision of medical personnel. I also agree that any first aid treatment may be given as needed.

Any condition which is associated with fever, significant inflammation and/or did not respond to the above outlined treatment, would be followed-up with a consultation with the camper's parents. Parent/guardian will be contacted if any conditions develop requiring treatment with any of the above over-the-counter medications that are not checked.

I understand that these over-the-counter medications are not necessarily kept on hand and available to be administered immediately.

I authorize the administration of over-the-counter medications to my child as indicated above. I shall indemnify and hold harmless the Camp Staff, Auburn University, its Board of Trustees, Administration, Faculty, Staff, Student Leaders, and all other officers, directors, employees and agents against any claims that may arise relating to my child being administered the above indicated over-the-counter medications.

I/We have legal authority to consent to medical treatment for the camper named above, including the administration of medication at the above referenced Camp.

Parent/Guardian Signature _____ Date _____
Home Phone _____ Cell Phone _____ Work Phone _____

Appendix G: Camp Waiver/Release

AUBURN UNIVERSITY

Informed Consent, Voluntary Waiver, Release of Liability and Assumption of Risks

Camp Information

Camp Name _____

Date(s) _____ Time(s) _____

Location _____

Camper Information

Name of Camper _____

Address _____

City _____ State _____ Zip _____

Phone Number _____ Date of Birth _____ Gender: M F

PLEASE READ THIS DOCUMENT CAREFULLY BEFORE SIGNING. THIS IS A LEGALLY BINDING DOCUMENT. THIS FULLY SIGNED FORM MUST BE SUBMITTED BY A PARENT OR LEGAL GUARDIAN BEFORE ANY CHILD IS ALLOWED TO PARTICIPATE IN THE ABOVE REFERENCED CAMP.

I, the undersigned, wish for my Child (hereafter "Child") to participate in the above referenced camp (hereafter "Camp") on the date(s) and location indicated above and, in consideration for my Child's participation, I hereby agree as follows:

I acknowledge, understand and appreciate that as part of my Child's participation in the Camp there are dangers, hazards and inherent risks to which my Child may be exposed, including the risk of serious physical injury, temporary or permanent disability, and death, as well as economic and property loss. I further realize that participating in the Camp may involve risks and dangers, both known and unknown, and have elected to allow my Child to take part in the Camp. Therefore I, on behalf of my Child, voluntarily accept and assume all risk of injury, loss of life or damage to property arising out of training, preparing, participating and traveling to or from the Camp.

I, on behalf of my Child, hereby release Auburn University, its Board of Trustees, Administration, Faculty, Staff, Student Leaders, the Outreach Program Office, the Camp Staff, and all other officers, directors, employees and agents (hereafter "Auburn") from any and all liability as to any right of action that may accrue to my heirs or representatives for any injury to my Child or loss that my Child may suffer while training, preparing, participating and/or traveling to or from the Camp. This agreement is binding on my heirs and assigns.

I, on behalf of my Child, furthermore release, indemnify and hold harmless Auburn from and against any and all liability, actions, debts, claims and demands of every kind whatsoever, specifically including,

but not limited to, any claim for negligence or negligent acts or omissions and any present or future claim, loss or liability for injury to person or property that my Child may suffer, for which my Child may be liable to any other person, that may or does arise out of my Child's participation in the Camp. I understand that Auburn accepts no responsibility for my Child's personal property.

In the event of an accident or serious illness, I hereby authorize representatives of Auburn to obtain medical treatment for my Child on my behalf. I hereby hold harmless and agree to indemnify Auburn from any claims, causes of action, damages and/or liabilities, arising out of or resulting from said medical treatment. I further agree to accept full responsibility for any and all expenses, including medical expenses that may derive from any injuries to my Child that may occur during his/her participation in the Camp.

This RELEASE shall be governed by and construed under the laws of Alabama. I agree that any legal action or proceeding relating to this RELEASE, or arising out of any injury, death, damage or loss as a result of my Child's participation in any part of the Camp, shall be brought only in Lee County, Alabama.

This RELEASE contains the entire agreement between the parties to this agreement and the terms of this RELEASE are contractual and not a mere recital. The information I have provided is disclosed accurately and truthfully. I have been given ample to read this document and I understand and agree to all of its terms and conditions. I understand that I am giving up substantial rights (including my right to sue), and acknowledge that I am signing this document freely and voluntarily, and intend by my signature to provide a complete and unconditional release of all liability to the greatest extent allowed by law. My signature on this document is intended to bind not only myself and my Child but also the successors, heirs, representatives, administrators, and assigns of myself and my Child.

A PARENT OR GUARDIAN MUST SIGN THIS FORM FOR A MINOR UNDER THE AGE OF 19

Participant Name _____ Parent Name _____

Participant Signature _____ Parent Signature _____

Date _____ Date _____



Arthur J. Gallagher & Co.

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Gallagher Higher
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