

## Third-Party Use of Facilities and Sexual Abuse Risk Observations for Camps, Conference Centers, Colleges and Churches

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Any activity or locale where children are gathered engenders the risk of sexual abuse. Many of these gatherings take place in camps, conference centers, colleges and churches.

All child-serving organizations should make reasonable effort to reduce the risk of child sexual abuse. What constitutes ‘reasonable’ effort is largely defined by the legal concept known as ‘Standard of Care’—what a ‘reasonable’ organization should do to reduce a known risk. A reasonable safety system for any organization providing services to children includes at least five elements:

1. Sexual Abuse Awareness Training for staff members and volunteers;
2. Skillful Screening Processes;
3. Appropriate Criminal Background Checks;
4. Tailored Policies & Procedures; and
5. Effective Monitoring and Oversight.

(For detailed discussion of safety system elements and implementation, click [here](#).)

Sadly, many child-serving organizations have inadequate safety systems in place, and therefore run a higher risk of abuse (and corresponding liability). Some organizations DO have an effective safety system in place, but the system is designed to protect *only* children directly served by the organization within its particular program or service. Risk is reduced as to those children—as is liability. If an allegation does arise, a well-prepared organization is insured for that risk and equipped to report appropriately to law enforcement authorities, families, media and the organization’s insurance company.

### ***But what about ‘outside use’ of a host organization’s facility?***

This question circulates among organizations with facilities used by outside groups bringing children and adults onto the host organization’s campus. Specifically:

What is the organization’s responsibility for an allegation arising from an outside group?

What is the organization’s risk related to that allegation?

Should the organization require safety measures as a condition of facility use?

What should the organization reasonably require of an outside group?

Can the organization be held responsible for an allegation arising from an outside group?

These questions, arising out of recent lawsuits and claims, demand an answer.

## **What is ‘Reasonable’?**

‘Reasonable’ action or behavior is sometimes defined by licensure and legislation. Given the risk of sexual abuse arising from outside groups using a host organization’s facilities, what ‘reasonable’ efforts should a host organization exert to reduce that risk? Historically, host organizations have relied on the outside group to supervise its staff members and children. Is this reasonable? Will this protect the host organization from civil liability?

## **Host Organizations Impacted by Claims**

When an allegation is made or lawsuit filed, a host organization becomes involved in a myriad of contexts, beginning with initial press reports identifying the *location* of the abuse allegation, which may generate significant negative impact. When a lawsuit is filed, a host organization may be named as a party and forced therefore to defend itself, often requiring payment in some form or amount, if only to get the organization’s name off the pleading and out of the press. Many conference centers, camps, colleges and churches making their facilities available for outside use face this unfortunate situation.

## **Conference Centers**

Organizations maintaining a campus for outside use—conference centers—are often owned and operated by religious groups or denominations for use by churches and youth groups within the denomination. Conference centers occasionally create programs that are internally staffed, operating like a camp, in that children are hosted and supervised directly by conference center staff members. More commonly, a conference center employs administrative staff, medical staff, food service staff and groundskeepers for the purpose of maintaining a facility where various church or outside groups bring their own adult chaperones and program staff. Multiple programs may be occurring at any given time. Ostensibly, each group is responsible for the supervision of staff and protection of children within its own program.

## **Camps**

Camps are generally operated to provide summer and seasonal programming designed to gather children for camp programs. In this capacity, camps are responsible for administration and program staff, providing activities, food service, grounds, medical care and counselors (leaders assigned to particular children for a set period of time). When operating as a camp, the organization is responsible for all aspects of child protection and should employ a reasonable safety system to reduce the risk of child sexual abuse. This safety system should be tailored to camp programming.

Camps sometimes operate as a conference center when the camp has facilities available that are not otherwise used in its camp program, offering unused facilities to an outside group.

## Colleges and Churches

### (and other organizations offering facilities for outside use)

Often colleges, schools, churches or other organizations are asked by outside programs to use a building or facility. The outside group either cannot afford its own facility or does not own or lease its own facility, using instead what is available in the community (e.g., after-school programs, scouting groups, para-church ministries, mentoring programs).

## **State Law Mandates**

In Texas, most organizations allowing outside use have legislated responsibilities. The Texas legislature created specific requirements for youth camps, day camps and colleges related to child sexual abuse. Whether an organization provides services in Texas or not, this legislation is instructive, and will become, we believe, 'standard of care' for all organizations gathering children, regardless of whether the organization is acting merely as a host organization or facility provider. Subsequent to the passing of this legislation, many camps, conference centers and colleges across the country embraced the requirements of the Texas Youth Camp Act as 'reasonable measures' designed to reduce the risk of sexual abuse in camp settings.

Two of the five safety system elements referenced above, Sexual Abuse Awareness Training and an appropriate Criminal Background Check, are directly impacted by Texas legislation.

For more information concerning the Texas Youth Camp Act (as amended in 2010), click [here](#).

## **Recommended Actions for Host Organizations**

What are 'reasonable' precautions for a host organization in Texas not directly impacted by the Texas Youth Camp Act and Texas Senate Bill 1414? What are 'reasonable' precautions for a host organization *outside* the state of Texas?

The following recommendations are meant to be practical recommendations or options based on systems and tools existing in the marketplace. These recommendations assume that child safety is a priority.

### Facility-Use Agreement Form

Host organizations should utilize some version of a Facility-Use Agreement form. This Agreement should include the costs and requirements associated with facility use. Within the Agreement form, the host organization should describe required safety efforts to be employed by any outside group.

### Require Safety Controls, and Verify

The safety system or measures utilized by an outside group using a host organization's facilities are its 'Safety Controls'. An outside group's safety system should include Awareness Training, effective screening (including an appropriate criminal background check), policies and procedures requiring a plan for adequate supervision designed to

reduce the risk of sexual abuse (perpetrated by an adult *or another child*), and a plan for reporting abuse/neglect consistent with respective state reporting requirements.

Host organizations should consider requiring a list of adult participants, with verification of criminal background checks and completion of Awareness Training within the previous two years.

**Verification.** Verification may occur through written assurance from the outside group. *Is it reasonable for the host organization to trust the outside group to have met this requirement by simple acknowledgement?* Optimally, verification is provided by paper or electronic copies of completed criminal background checks and certificates of completion for Awareness Training, as currently required in Texas in compliance with legislation related to youth camps, day camps and colleges. This option shifts some responsibility to the host organization to ensure compliance.

The tracking system and Control Panel offered by MinistrySafe and Abuse Prevention Systems allows for relatively simple verification of Awareness Training and completed criminal background checks.

When outside groups arrive, the host organization should have a system in place to verify completed criminal background checks and certificates of completion for Awareness Training corresponding to all participating adults. [In many cases, this type of process is already in place regarding medical releases related to outside group participants.] In the event either is not completed, the host organization may undertake a criminal background check (at the outside group's expense) and have the adult complete Awareness Training online upon arrival at a designated computer terminal (at the outside group's expense). Sexual Abuse Awareness Training is available online at [MinistrySafe.com](http://MinistrySafe.com).

Some host organizations provide Sexual Abuse Awareness Training online to all participating adults prior to arrival, so the host organization can ensure completion of Awareness Training for all adults with an outside group. The cost of training is then passed to the outside group in the form of facility fees or per-participant costs.

**Policies/Supervision.** Ensuring an outside group has adequate policies or supervision is more difficult. Programs vary, making a one-size-fits-all policy or plan implausible. Some degree of this risk is addressed by *simply requiring* Awareness Training, because all adults from the outside group will be trained to understand the 'grooming process' utilized by an abuser and the *possibility* of peer-to-peer abuse, thereby better understanding the importance of supervision AND 'high risk' behaviors—and reporting, when necessary. At a minimum, host organizations should require *written* policies addressing the risk of abuse and reporting responsibilities, in conformance with state law.

Proactive host organizations provide suggested resource links to outside groups, allowing outside organizations to obtain sample policies and procedures, sample screening forms and training resources.

## Recommend that Outside Groups Implement Safety Controls

If 'requiring and verifying' is overly challenging, a host organization may opt to strongly 'recommend' that an outside group implement 'Safety Controls', providing suggested resource links for consideration.

A recommendation is better than *no action*, but will a jury consider this 'reasonable'? In some sense, to 'recommend' is to acknowledge a risk without any corresponding requirement of action to address a known (and acknowledged) risk.

## 'Hope for the Best'

Consistent with outside *legislated* requirements such as those in the state of Texas, a host organization may elect to implement a safety system directly related to its own staff and program, and hope that abuse does not occur within an outside group utilizing its facilities. For obvious reasons, this practice involves risk.

## Other Safety Steps

In addition to the measures described above, a host organization may consider one or all of these requirements for facility use:

- Require a particular staffing ratio (i.e., one adult to eight children with at least two adults present at all time).
- Require age limitations for youth volunteers (i.e., no youth workers under 15 years of age, and youth volunteers do NOT count in staffing ratios).
- Require outside organization to provide existing written policies aimed at reducing sexual abuse. (Suggest appropriate resources, if needed.)
- Require written acknowledgement that all adult staff members and volunteers have read, understand and agree to follow state reporting requirements. (Suggest appropriate resources regarding state reporting requirements).

## Challenges

### Cost/Competition in the Marketplace

From a business/budgeting standpoint, camps and conference centers work to fill their facility to 'make budget' or 'operate in the black'. Staffing requirements for operating a camp or conference center are oftentimes fixed, requiring the organization to market to outside groups to ensure full use. When the camp does not meet certain occupancy levels or use, the organization is forced to cut expenses—generally staff, as many other costs are 'fixed' (utilities, maintenance, grounds).

Given these economic challenges, organizations compete with other organizations to pursue the patronage of a limited number of 'camps' and outside groups. Raising prices or adding administrative requirements can often result in losing campers or outside groups

to other organizations that appear more attractive through lower costs or fewer administrative requirements.

The tension is clear: how does an organization ‘raise the bar’ through safety measures (which creates added costs and administrative requirements) and not lose campers and outside groups that make operation financially feasible? In pursuit of safety, is a host organization willing to risk financial viability as an ongoing concern? In the alternative, is the organization willing to ignore safety measures in order to gain a competitive edge in the marketplace—thereby risking exposure from an allegation arising from an outside group?

These questions are inescapable.

In Texas, these issues are becoming moot as a result of legislation requiring camps, conference centers and colleges to ensure certain sexual abuse safety measures. In other states, however, the tension will continue until legislative changes are in place.

### When Outside Groups Have a Right to Facility Use

In some cases (particularly in religious or denominational contexts), churches, scout troops or other bodies are entitled to access to a facility through joint ownership or membership.

Regardless of how access occurs, these questions remain:

1. Should a host organization require a reasonable (and demonstrated) safety system as a condition of using the host organization’s facilities?
2. HOW can a hosting organization effectively implement this requirement?
3. Is it sufficient for a hosting organization to *simply recommend* that the outside entity employ a reasonable safety system?

For outside groups that have such a right or membership, this issue will remain a challenge until both the host and outside group understand the risk and agree to embrace ‘reasonable’ efforts to reduce that risk.

### **Conclusion**

Every organization providing services to children should utilize an effective Safety System aimed at reducing the risk of child sexual abuse at the hands of adult staff members or volunteers, *or other children*. An effective safety system should contain the following elements:

1. Sexual Abuse Awareness Training for staff members and volunteers;
2. Skillful Screening Processes;
3. Appropriate Criminal Background Checks;
4. Tailored Policies & Procedures; and
5. Effective Monitoring and Oversight.

No single element provides a 'stand-alone' method for preventing or reducing sexual abuse in children's programs. Rather, each element works within the system to create checks, balances and accountability in an overarching plan of protection.

When a host facility provides its facilities (with or without payment) to outside groups, questions arise concerning the host's responsibility to take reasonable action to safeguard children enjoying use of its facilities through the outside group. In some states, these responsibilities are legislated; in others, civil cases are creating change in 'best practices' and 'standards of care' through litigation. Inevitably, 'standards of care' and legislation are trending toward practices more protective of children, including specific training and screening requirements.

Unprotected, both children and child-serving organizations are at risk.

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#### **Love & Norris, Attorneys at Law**

Gregory Love and Kimberlee Norris have a nationwide sexual abuse litigation practice representing victims of sexual abuse throughout the country. In addition, Love & Norris provide consulting services to secular and ministry organizations providing services to children. Representative clients include the United States Olympic Committee, Awana International, Church of the Nazarene, the North Texas Conference of the United Methodist Church, Gladney Center for Adoption, and many church and para-church schools, camps and ministries.

#### **MinistrySafe Institute**

MinistrySafe Institute was created by legal professionals who are sexual abuse experts. After decades of litigating cases and providing counsel related to sexual abuse issues, Gregory Love and Kimberlee Norris founded MinistrySafe Institute to equip ministry leaders with an understanding of the issues and how to best navigate through them.

Love and Norris are sexual abuse lawyers who have been providing guidance to ministry leaders since 1998, offering counsel, crisis response and seminary instruction. MinistrySafe Institute provides instruction that ministry leaders desperately need.