

Sexual Misconduct: Abuse and Molestation Guidance

While the effects of sexual misconduct can devastate the victim and the victim's family, the damage does not stop there. Just one incident of sexual misconduct can destroy the trust, credibility and reputation of an organization for years. Adding further pain to an incident of abuse or molestation are the legal costs of a lawsuit, which can ruin an organization financially.

One of the challenges GuideOne faces as an insurance carrier is defending organizations in suits involving alleged abuse. These claims are typically brought years or even decades after the alleged activity. The defense of these claims is often dependent on reconstructing the personnel records such as background checks and training records as well as the policies and procedures that were in place at the time. Having these documents allows the claims team and litigation counsel the best chance to defend the organization. Without these documents, it is extremely difficult to defend the organization's abuse prevention efforts in a deposition or trial. This is why GuideOne requests documented procedures from organizations that substantiate the abuse prevention efforts of the organization.

Screening

The first step in preventing sexual misconduct is to thoroughly screen the backgrounds of employees and volunteers. Legitimate workers will not be offended, and the process often scares off unwanted individuals. To screen staff members and volunteers, organizations should take the following actions:

1. **Six-Month Rule** – Volunteers working with children or youth in your organization should attend your church for at least six months, go through a membership process, or be well known to leadership in another way. Sex offenders look for easy opportunities to get access to children and youth. By requiring a longer commitment to the church, those who are looking for easy access to children will move on to other opportunities and those who truly wish to serve your organization will get to know your ministry better.
2. **Written Application** – All persons seeking to work with children should complete and sign a written application. The application should request basic information from the applicant and inquire into previous experience with children, previous affiliation with organizations, reference and employment information and disclosure of any previous criminal convictions. The application form should be kept confidential and on file.



3. Personal Interview – Upon completion of the application, a face-to-face interview should be scheduled with the applicant to discuss not just the ability to accomplish the task, but his or her suitability for the position.
4. Reference Checks – Before an applicant is permitted to work with children or vulnerable individuals, at least two of the applicant's references should be checked. Ideally these should be professional references, preferably from organizations where the applicant has worked with children or vulnerable individuals in the past.
5. Criminal Background Check – After securing the proper permissions, a check of the National Sex Offender Registry as well as a criminal history for any county in which the applicant has lived for the previous seven years should be conducted for all employees, regardless of position, and for multiple categories of volunteers.
 - a. Those who will be involved in a school/preschool/daycare center
 - b. Those who will be involved in overnight activities with children or vulnerable individuals
 - c. Those counseling children or vulnerable individuals
 - d. Those involved in one-on-one mentoring of children or vulnerable individuals
 - e. Those having occasional one-on-one contact with children, such as sponsored athletic team coaches and vehicle drivers

Individuals with a criminal history that includes any of the items listed in the appendix of this document should be excluded from contact with minors or vulnerable adults.

Training

All employees and volunteers should complete training on how to properly work with youth and vulnerable individuals.

1. The organization should provide training on abuse identification and prevention policies to all new employees and volunteers.
2. Employees and volunteers should be trained on mandatory reporting requirements for the appropriate jurisdiction.
3. Employees and volunteers should be trained on organizational policies and procedures.



4. Training should be conducted at hire and at regular intervals thereafter.
5. Training should be documented through written attendance records.
6. The organization provides training to all employees and volunteers subject to state mandated reporting training requirements
7. There should be a written disciplinary policy for failure to attend training.

Prevention

There are detailed ways to minimize occurrences of sexual misconduct, which include:

1. Two Adult Rule - A minimum of two unrelated adult workers should be present at all times when youth are being supervised during programs and activities. When only one adult is present, doors to the room should remain open. No adult should be alone with a child or vulnerable adult in any sponsored activity unless in a counseling situation.
2. Open Door Policy – Interior doors should remain open unless there is a window in the door or right beside it. Doors should never be locked while people are inside the room.
3. Teenage Workers - The following guidelines should apply to teenage workers:
 - a. Must be at least 14 years of age.
 - b. Must be screened as specified above.
 - c. Must be under the supervision of an adult, and must never be left alone with children.
4. Restroom Guidelines - For the safety of the children and the organization, all employees and volunteers should follow the standard guidelines when taking children to the restroom.
 1. Children five years of age and younger should use a single stall bathroom if one is available. If a single stall bathroom is not available, workers should escort a group of children to the hallway bathroom. They should always go in a group – never take a child to the bathroom alone.
 2. For children over five years of age, at least one adult of the same gender should take children to the restroom.
 3. The workers should check the bathroom first to make sure that it is empty, and then allow the children inside.



4. The workers should remain outside the bathroom door and escort the children back to the room. If a child requires assistance, the workers should prop open the bathroom door and leave the stall door open as they assist the child.
5. For the protection of all, workers should never be alone with a child in a bathroom with the door closed and never be in a closed bathroom stall with a child.

Identification

Employees and volunteers should know the events, patterns and trends that indicate abuse. The goal is to be able to identify the patterns of grooming behavior.

1. Training should be provided on identification of potential abuse as well as behavior of potential abusers keeping in mind that more than 30% of claims come from peer-to-peer abuse.
2. Any individual with access to children should be trained to identify patterns of potential abusers and be alert for potential misconduct.
3. All employees and volunteers should have the training of “see something; say something.”

Reporting

Ensure that your staff, volunteers and any visitors not only understand the importance of reporting even low-level concerns, but also have a reporting avenue they are comfortable using.

1. Training should be provided to all employees and volunteers on reporting procedures, including mandatory reporting according to state requirements.
2. Suspected abuse should be reported to a minimum of two designated individuals within the organization.



Investigation

In a case of sexual misconduct, your organization must identify the responsibilities of all parties, which include reporting to police as indicated.

1. Civil authorities should be notified of any suspected abuse of any individual. The organization should comply with the state's requirements regarding mandatory reporting of abuse. The organization should fully cooperate with the investigation of the incident by civil authorities.
2. A neutral third party – most often legal counsel – should investigate the claims presented by the reporting person. This is especially important if the alleged offender is an employee.

Protection

During an investigation, victims should be protected from further harm.

1. Procedures should be enacted that protect the victim during the investigation process.
2. Ensure that those who come forward to report abuse are received with dignity and compassion.
3. The accused abuser should be removed from any interaction with the victim.

Response

The organization should conduct an analysis of occurrences to determine what changes are needed, if any, to policies and procedures to prevent further incidences.

In the event that an incident of abuse or neglect is alleged to have occurred at or during sponsored programs or activities, the following steps should be followed:

1. The parent or guardian of the child should be notified.
2. The individual alleged to be the perpetrator of the abuse or misconduct should immediately be placed on leave from working with children or vulnerable individuals pending an investigation and instructed to remain away from the premises during the investigation.



3. Your insurance company should be notified and an incident report completed. Any documents received relating to the incident and/or allegations should immediately be forwarded to your insurance company.
4. One individual should be designated as a spokesperson to the media concerning incidents of abuse or neglect, unless he or she is alleged to be involved. The organization should seek the advice of legal counsel before responding to media inquiries or releasing information to members of your organization or the general public. All other employees and volunteers of the organization should refrain from speaking to the media.
5. Any person who is found guilty of the alleged abuse or misconduct will be removed from their position working with children or youth.



Criminal History Disqualifiers

Any of the following offenses would be grounds for exclusion of an individual from contact with minors or vulnerable individuals:

1. Murder
2. Manslaughter
3. Reckless homicide
4. Homicide
5. Any sex offense
6. Kidnapping
7. Harboring a runaway
8. Aiding and abetting child abduction
9. Abduction
10. Assault
11. Battery
12. Tampering with food, drugs, or cosmetics
13. Infliction of great bodily harm
14. Hate crime
15. Stalking
16. Home invasion
17. Criminal abuse or neglect of an elderly or disabled
18. Child abandonment
19. Endangering the life or health of a child
20. Ritual mutilation
21. Abuse of a child
22. Vehicular endangerment
23. Domestic battery
24. Intimidation
25. Abuse and criminal neglect of a long-term care facility resident
26. Violation of an order of protection
27. Felony unlawful use of weapons
28. Aggravated discharge of a firearm
29. Reckless discharge of a firearm
30. Obstructing justice
31. Concealing or aiding a fugitive
32. Armed violence
33. Contributing to the criminal delinquency of a juvenile
34. Unauthorized manufacture or delivery of controlled substances
35. Controlled substance trafficking
36. Criminal drug conspiracy
37. Sale or delivery of drug paraphernalia
38. Felony possession of a controlled substance

