

# thESource *Resource Kit*

## Let's Lead - Liability & Legality

*by Leroy Wilke*

These days, legal complications may rear their ugly head in the life of the most dedicated youth worker. It is helpful to know what kinds of liability you may have if you participate actively in youth ministry. In this age of litigation, it is a good idea to understand what the issues are and how to protect yourself from having to confront them.

Two general rules apply in the area of liability. The first is to use common sense. No youth worker will be covered under an insurance policy for his or her "outrageous conduct"—those things that "reasonable" people would avoid. If an activity seems dangerous or risky, appropriate precautions should be taken or the activity should be avoided altogether. The second rule is to know. That is...

**Know your kids and their families.** Often, youth leaders are considered substitute parents just like teachers, scout sponsors, pediatricians, and baby-sitters. As such, your actions should reflect those of a responsible parent. How? Know your youth and their home lives. What are parental expectations? How do parents handle discipline issues? Knowing the parents of your youth opens a door for good communication regarding special needs, requests, and instructions for supervision of their sons and daughters. Parents' wishes should be followed (except in extreme cases—and then consult your pastor or youth director). If parents are chaperons, your obligation as a "substitute" parent remains the same. Parents should understand that you and other adult leaders will continue to treat their child as "one of the gang."

Certainly, parents should be "in the know" also. Communicate information to them. A list of dates and program titles is often inadequate. Be sure to let parents know addresses and phone numbers when you will be away from the church for an activity. Encourage parents to call you with any questions that they have regarding an event. For risky activities, make sure that parents know that their children will be expected to do something that is physically risky. Qualified medical people should always be accessible.

Leave nothing to chance. No one wants to learn that their insurance policy is inadequate after an accident occurs. You need to know exactly what your insurance coverage is under your church's liability plan. Insurance policies are not created equally—and just because someone says you have a policy does not mean that you are appropriately covered. It is your responsibility to know what your policy says. Do not assume that the person who purchased the policy checked everything out. Consider the following:

- Most policies have exclusions. These exclusions are normally for activity that is higher risk and specifically not covered in the policy. For example, some policies might exclude transportation out of state. Overseas mission trips are especially vulnerable areas.
- Some policies have very small coverage limitations. Your coverage may not be adequate in terms of dollar amount to handle a claim.
- A conversation with your church insurance agent is helpful. But, above all, read the policy! Only the written policy counts, not the agent's verbal assurances.

Driving youth to events is one area which should be investigated before you start the engine. The good folks at the Department of Transportation have developed a series of guidelines for churches using large vans, buses, and "people movers". These guidelines include driver qualifications, vehicle identification, and vehicle maintenance. Check with the Department of Transportation for complete information.

Have information on paper. Your motto should be, "When in doubt—write it down!" Information on paper is your best bet if you encounter a problem. This should include:

- Discipline policy. Develop a general written policy on discipline and youth responsibility, with parent input. Make sure that it is distributed to parents, young people, and volunteer youth leaders. Include the general expectations as well as consequences for the "biggies"—drug, alcohol, breaking curfew on a youth trip, etc.
- Business and ministry arrangements. One of the hardest jobs in the world is communication where both people understand the same words in the same way. Again, don't leave it to chance. Have each and every business transaction and partnership in writing. Each party should know the exact times, places,

responsibilities, and all details (e.g. equipment needs and set up, clean up requirements, etc.).

Always read and understand the entire contract before signing. What is written is what counts in any dispute resolution. Verbal agreements regarding facility and equipment arrangements made after a contract is signed have no value in a dispute.

- Medical releases and health forms. Most of us plan a trip event assuming that our journey will be without trouble or difficulty. Consequently, items like insurance papers, medical releases/health forms and registration forms come to mind. But the first time we encounter trouble, it is suddenly clear how important paperwork is. Taking time to gather various information makes your trip event well organized, safe, and legal.

Medical forms should be completed by youth and parents in ink, and it is wise to have them notarized. Be sure that they are legible. Adult leaders (including yourself) should have one also! While traveling, make sure that you and one other person know where the forms are.

(The Youth Ministry Travel Pack, available at thESource, includes a sample Consent and Liability to Release Form, as well as an Authorization to Consent to Medical and Dental Care Form.)

### **What about "counseling"?**

Do not be in the business of offering counseling or professional assistance. Indeed, it may be your job to explain religious matters, says the law in most states. The courts, however, are increasingly ruling that religious instruction is different than counseling or professional assistance. Laws vary state by state, so check your state law carefully.

In general, you should not position yourself as a professional counselor, even with a seminary or professional church work degree, unless you are licensed by your state for professional care giving.

It is critical that you stay current on your area's laws concerning counseling. Ask a local social service agency or bar association to send you information on your area's counseling liability laws.

Following are some general guidelines regarding counseling:

- Be cautious in your approach to counseling.
- When appropriate, urge kids to involve their parents.
- You may be required by law to report suspected abuse or other illegal acts to a human-services or law enforcement agency.
- Keep records for yourself.
- Avoid compromising situations.
- Suggest including a mutually trusted adult.
- Be accountable to others in your youth ministry team.

### **What about...**

This publication is merely an introduction to liability and legality issues. If you have additional questions, get answers from an attorney. The key is to know the laws regarding a situation before trouble occurs. As a famous coach once said, "The best defense is a good offense" (or something like that).

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