Youth Preparedness

Guide to Risk Management for Youth Preparedness Programs

FEMA

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This document is offered for informational purposes only and should not be construed as providing legal or other professional advice.

Contents

INTRODUCTION

Youth preparedness programs provide a valuable service to the community. Training children on preparedness empowers them to act confidently during an actual emergency, encourages them to spread the message of preparedness to their families and communities, and helps to develop future generations of prepared adults.

There are risks and liabilities to consider when putting together a youth preparedness program—just as there would be with any other program or activity. Programs should acknowledge and confront liability issues, and openly address the realities of the situation. At the same time, however, program managers will want to be careful not to dissuade parents/guardians from allowing their children to participate.

There are several types of liability that apply to all programs (and people). Liability can arise from intentional acts as well as unintentional acts or negligence that result in harm. Four primary types of civil liability are identified on page four. Risk management refers to the process of identifying, analyzing, controlling, and mitigating risks so as to reduce the likelihood or impact of negative events for which the organization is liable.

This document presents a five-step approach for developing a risk management plan and provides sample risks and mitigations for youth preparedness programs. The document is intended for anyone operating or developing a youth preparedness program, whether or not the program is part of a larger organization. Much of the material in this document has been excerpted from the Federal Emergency Management Agency (FEMA) Community Emergency Response Team (CERT) document titled *CERT Liability Guide: A Risk Management Overview for Local CERT Programs*. Additional information about liability, including sample materials, can be found in the *CERT Liability Guide* at http://www.fema.gov/library/viewRecord.do?id=6219.

Individuals starting or running youth preparedness programs are encouraged to read *Youth Preparedness: Implementing a Community-Based Program*, available from FEMA at http://www.ready.gov/youth-preparedness, for more guidance on developing a program.

Specialized liability issues that are not addressed in this guide may arise within individual programs. Persons responsible for addressing risk management for a youth preparedness program are encouraged to consult a lawyer, human resources professional, and/or professional risk manager. Youth preparedness programs that fall within a larger organization may have access to that larger organization's risk management and liability mitigation capabilities. If that is the case, the program manager should consult the appropriate personnel at the larger organization for more information. It is essential to work within both federal laws and the laws of the state(s) in which the program operates. As you think through potential risks and associated mitigations, keep in mind the needs of youth and adults (e.g., participants, leaders, trainers, parents) with disabilities and others with access and functional needs, including accommodation needs. There may be unique risks that they face while participating in the program, so additional mitigations may be necessary.

RISK MANAGEMENT

Advanced preparation for potential liability issues can benefit the program by[1]:

- Enhancing confidence in the program
- Promoting a positive public image
- Increasing participation in the program
- Reducing expenses and insurance costs

> **WHAT IS RISK MANAGEMENT?**
>
> Risk management refers to the process of identifying, analyzing, controlling, and mitigating risks, so as to reduce the likelihood or impact of negative events for which the organization is liable.

There are multiple types of liability that can result from either intentional or unintentional acts. Page four includes definitions of four types of civil liability that may apply to youth preparedness programs. The best way to think through and plan for potential risks and liability is to develop a risk management plan. The following five steps can guide a program manager through developing a risk management plan. The resources provided in Appendix B can provide additional information and tools related to risk definition and mitigation.

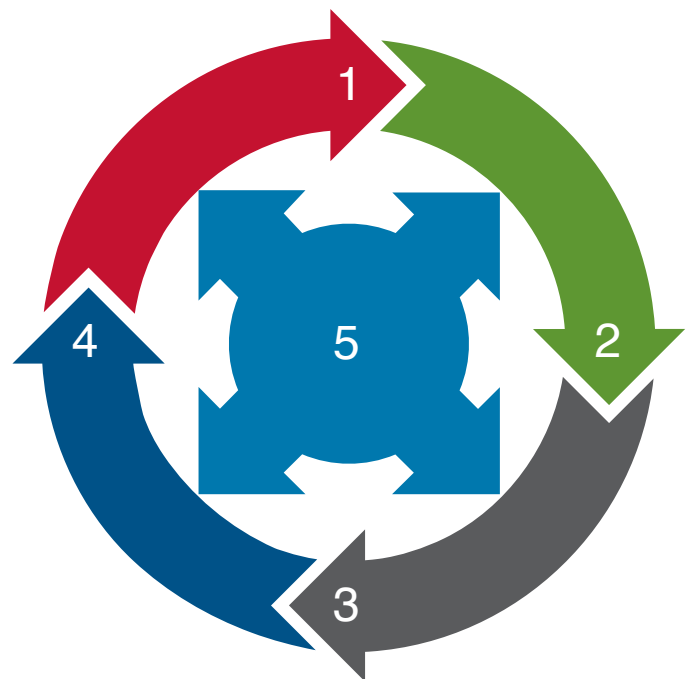## STEP 1: GET LEADERSHIP SUPPORT

Ensure that organizational leadership understands the benefits of a youth preparedness program and is willing to provide the necessary resources. Leadership should understand and be involved in mitigating risks. Depending on the structure of the program, the youth preparedness program may have its own specific leadership, or the program's leadership may reside within a larger organization.

STEP 2: GATHER INFORMATION

Having a well-rounded vision of the youth preparedness program is essential to identifying and mitigating associated risks. The types of activities or trainings that will be conducted, the ages of participants, and the other organizations that will be involved can all impact risks and mitigations. *Youth Preparedness: Implementing a Community-Based Program*, available from FEMA at http://www.ready.gov/youth-preparedness, can help with developing a program.

If the youth preparedness program is part of a larger organization, determine which tools are available through that larger organization. Examples of tools that might be available from a larger organization include an existing risk management plan, insurance policies, standard operating procedures (SOPs) or organizational policies, and/or templates for Memoranda of Understanding (MOUs) or permission slips. These tools may guide the program and inform a process to reduce any associated risks. The larger organization may also have information about past claims, losses, or "near-miss" events. Taking these things into consideration can help clarify the liabilities associated with the program. If the youth preparedness program is not part of a larger organization, the documents and websites identified in Appendix B of this document can serve as a starting point for conducting additional research.

FIGURE 1: DEVELOPING A RISK MANAGEMENT PLAN

KEY	
■	STEP 1: GET LEADERSHIP SUPPORT
■	STEP 2: GATHER INFORMATION
■	STEP 3: IDENTIFY RISKS
■	STEP 4: ADOPT STRATEGIES TO MANAGE RISKS
■	STEP 5: MAINTAIN THE MOMENTUM

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[1] The benefits to the program and the five steps in this section have been duplicated, with minor changes, from the *CERT Liability Guide*, available at http://www.fema.gov/library/viewRecord.do?id=6219. The content has been tailored to youth preparedness programs. Please see the *CERT Liability Guide* for more information about liability and risk management.

STEP 3: IDENTIFY RISKS

Think through any issues that may arise with the program. In thinking through potential risks and issues, keep in mind that there are four primary types of civil liability that apply to any type of program (see Table 1); criminal liability would apply to acts that are illegal.

In general, youth preparedness programs may face risks related to (1) the general management of a program, regardless of the topic; (2) working with minors; and (3) any liability that may arise if participating youth cause harm while applying training learned through the program.

Use a table (like Table 2) to identify problems that could potentially arise with the program, and solutions or preventative measures that could be used to solve those problems. It is impossible to predict everything that could possibly go wrong, but thinking through common issues is a good exercise. A few examples are provided in Table 2.

TABLE 1: TYPES OF CIVIL LIABILITY

Types of Civil Liability[2]
Negligence or acts of omission—failure to use ordinary care, defined as the care that a reasonable and prudent person would use under similar circumstances. Negligence may arise from any activity in which carelessness can lead to injury or damage to individuals or property.   **Vicarious liability**—in some cases, an individual or organization may be held liable for the actions of its agents. The most common example is of an employer being responsible for harm caused by an employee in the course of doing his/her job.   **Intentional tort**—harm that was intentionally caused.   **Strict liability**—even if harm is not intentional or related to negligence, an individual or organization can still be held responsible for the harm itself, especially if the harm is caused while doing an inherently dangerous activity or while using inherently dangerous equipment or materials. Workers' compensation is also a form of strict liability. Strict liability may have limited applicability to youth preparedness programs.

TABLE 2: IDENTIFYING POTENTIAL PROBLEMS AND SOLUTIONS

Problem	Solution
A child could fall and injure him/herself.	Keep a stocked first aid kit and emergency contact information for parents/guardians.
A child could have an allergic reaction to tools used or snacks provided during the program.	Ask parents/guardians for information about any known allergies, have emergency contact information for all parents/guardians, and learn steps to take in the event of an allergic reaction.
An emergency could occur while the program is in session.	Know and practice evacuation routes and shelter plans for the facility.

The *Risks and Mitigations* table in Appendix A will help program managers think through many of the applicable risks.

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2 This content has been derived and updated from the *CERT Liability Guide*, page 8, available at http://www.fema.gov/library/viewRecord.do?id=6219.

Organizational responsibility refers to the responsibility/ liability that an organization may have for its employees/ staff/participants. Since there may be multiple organizations involved in the program (for example, the instructors may be from various government agencies), it is important to know who is responsible to prevent any particular undesired outcome/risk. Each group is generally responsible for the actions of its own employees (assuming they are acting within the capacities of their jobs).

Considering the likelihood and impact of identified risks is critical to effective implementation of mitigations, as you may want or need to prioritize risk management activities based on which risks can cause the most harm. Determine how often each potential issue is expected to occur, as well as what the costs or consequences would be if/when it does, to both the program and its partners. Costs may include judgments, settlements, and member injury claims, as well as damage to the program's (or larger organization's) reputation—which may lead to a decline in participation. Though these larger costs are unlikely, they still should be taken into consideration.

STEP 4: ADOPT STRATEGIES TO MANAGE RISKS

Implementing standardized processes and procedures is one of the most effective ways to manage risks. Identify precautions that can be taken to mitigate risks, and develop ways to consistently implement and document those precautions. Again, the *Risks and Mitigations* table in Appendix A may be helpful in identifying and implementing mitigations. Consider ways that the program will interact safely with (1) participating children; (2) participating adults (both staff and volunteers); and (3) the general public.

If possible, risks and liabilities should be considered and mitigations should be implemented before the program begins working with youth. Some circumstances cannot be predicted, however, and mitigations should be adopted as the need arises. Whether the program is in development or currently operational, the risks and mitigations identified in Appendix A (and any others that may be relevant to a given program) should be taken into consideration.

STEP 5: MAINTAIN THE MOMENTUM

Risk management should be an ongoing activity. Implement changes as needed, and periodically hold an in-depth review of the previous four steps to identify the areas that need improvement.

CONCLUSION

Youth preparedness programs have positive impacts on both the youth they train and the larger community. All programs are subject to potential liability issues, but there are additional risks associated with running a youth program. The risks and liabilities of the program will be dependent on both the characteristics of the program and the laws of the state(s) in which it operates. Ideally, program managers should identify and mitigate risks before they begin a program. Periodically, they should re-assess risks and mitigations, to ensure that they are accurately and adequately protecting their programs. As mentioned previously, there will always be risks that are unforeseeable. These risks should be addressed as they arise.

Youth preparedness programs that follow the risk identification and mitigation process outlined in this document will be better prepared to deal with potential issues. Effective risk management strategies will also make the program more appealing to participants, participants' parents/guardians, and staff/volunteers, as well as to partner organizations and the community. Effective risk management strategies can enhance confidence in the program, promote a positive public image, increase participation in the program, and reduce expenses and insurance costs. Thus, effective risk management can help facilitate the overall long-term success of the program.

APPENDIX A: RISKS AND MITIGATIONS

This appendix will help program mangers think through the risks associated with their youth preparedness programs and the ways to mitigate these risks. As mentioned previously, youth preparedness programs may face risks related to (1) the general management of a program, regardless of the topic; (2) working with minors; and (3) any liability that may arise if participating youth cause harm while applying training learned through the program.

Consider each of the following risks and potential mitigations when thinking through risk mitigation techniques for a particular youth preparedness program. Please note that this list provides just a few examples of potential risks and mitigations—additional risks may exist that are not addressed here. The more risks that a program manager can identify and prepare for, the better protected and more effective the program will be. However, there will always be unforeseeable risks, and no risk management plan can include preparation for every possible situation.

Risk	Mitigation
GENERAL PROGRAM: ANY PROGRAM CAN FACE LIABILITY	
State laws vary, and unfamiliarity with the laws of the state(s) in which the program operates may lead to actions or harm for which the program is found liable.	• Comply with state laws, especially as related to volunteering and working with children, and consult local legal counsel with specific questions. The Nonprofit Risk Management Center's *State Liability Laws for Charitable Organizations and Volunteers* (http://www.nonprofitrisk.org/downloads/state-liability.pdf) provides state-specific information related to volunteers. • Ensure that staff and volunteers have completed all training applicable to the state (safety training, etc.).
Adults or children involved in the program may behave irresponsibly or engage in risky behavior that may cause harm to themselves or others.	• Develop codes of conduct for everyone involved (adults and minors). Consider topics such as attire, attendance, cell phone use/texting, social media, and safety rules. • Set standards for the required youth/adult ratio.
Emergencies can arise from inside or outside the program; confusion about what to do may lead to harm.	• Stock a first aid kit and keep it readily available. • Ask parents/guardians for information about known allergies or other health concerns of participants, as well as information on the precautions to take and ways to respond. • Keep emergency contact information on file for all parents/guardians. • Learn the steps to take in the event of an allergic reaction or other illness or injury. • Ensure that facilities and equipment meet safety standards. • Learn evacuation routes and shelter plans for program facilities.

Risk	Mitigation
Organizations involved with the program may be held responsible for the actions of their staff (such as trainers); confusion may result if organizational roles are unclear.	• Formalize interactions with other organizations through contracts or Memoranda of Understanding (MOUs). Consult with legal counsel about developing these types of documents.
Personal or sensitive information may be collected as part of the program, and its unauthorized use may cause harm to those involved in the program.	• Protect all sensitive information, especially the names and contact information of both youth and adults. • Identify the reason that personal and sensitive information is needed, before it is collected.

All organizations/programs may be liable if harm results from their activities. Not having sufficient resources (including insurance) to deal with that harm may increase the likelihood of damaging the program.	• Ensure that the program, larger organization, and/or facility carry sufficient insurance. Possible types of insurance to consider include:
	  – Commercial general or public entity liability insurance
	  – Directors and officers (D&O) or public officials liability insurance
	  – Non-owned and hired auto insurance
	  – Professional liability insurance (PLI)
	  – Property insurance
	  – Volunteer accident insurance
	  – Volunteer liability insurance
	  – Workers' compensation (In some states, volunteers can be covered under a nonprofit's workers' compensation policy.)

Inconsistent processes and procedures may open the program to charges of discrimination.	• Develop and use standardized processes and procedures whenever possible.
	  – Use standardized processes for selecting youth to participate in the program, if applicable.
	  – Use standardized procedures for volunteer and staff selection/hiring, supervision, warning, and termination.
	  – Avoid questions that could lead to actions that would be discriminatory in an employment setting. For example, omit questions related to age, race, religion, national origin, pregnancy, disability, health problems, and prior workers' compensation claims.
	  – It is advisable to have any forms reviewed by an attorney or a human resources professional familiar with federal law and the state's employment law.

Risk	Mitigation
People with disabilities and others with access and functional needs may take action against the program if reasonable accommodations are not made for them to participate.	• Develop protocols for ensuring that youth and adults (including participants, leaders, trainers, and parents) with disabilities and others with access and functional needs, including accommodation needs, can participate in the program.
If an individual's property (such as their home or car) is used in conjunction with the program, the program may be liable for harm caused while using that property.	• Determine what is or isn't covered by adult staff and volunteers' various insurance plans, including auto, homeowners', renters', and/or personal liability insurance. Based on the findings, determine if the program itself requires additional insurance.
MINORS: ORGANIZATIONS THAT WORK WITH MINORS FACE SPECIFIC TYPES OF LIABILITY	
Individuals participating in any type of program may face harm, but preparedness activities with youth may pose particular risks.	• Get program participation permission slips and liability waivers signed by the parent/guardian and the minor, if appropriate. • Secure signed permission slips for all activities that pose additional risks, including field trips, activities that require transportation, and activities that take place outside the regular program time or location.
Running a program for youth may increase the likelihood of harm or abuse.	• Screen all staff and volunteers—possible screening tools include the application process, interviews, reference checks, background checks, fingerprinting, drug testing, driving record checks, etc. • Discourage misrepresentation by requiring the applicant to sign a statement agreeing that the information provided is accurate and complete (the specific language may vary). • Secure a signed liability waiver for each staff member or volunteer. • Require staff and volunteers to report any changes that may impact their ability to participate in the program (arrests, moving violations, loss of professional credentials, etc.). • Encourage or require staff and volunteers to take training related to working with youth. • Implement policies to dictate how adults interact with minors in the program (e.g., two adults in the room at all times, all one-on-one interaction held in the same room as the rest of the group).

Risk	Mitigation
Youth participants may face risk from individuals outside the program.	• Develop protocols for when and to whom youth can be released at the end of each session.
Youth may face harm if they attempt to do tasks or trainings that exceed their developmental capabilities.	• Tailor the program's activities and trainings to the ages of the youth involved with the program. Reference current research about youth and their behaviors to properly tailor the program.
LIABILITY FOR ACTION: CONSIDER WHETHER THE PROGRAM COULD BE HELD LIABLE IF A MINOR TRIES TO APPLY HIS/HER TRAINING AND CAUSES HARM TO HIM/HERSELF OR SOMEONE ELSE.	
If youth attempt to use their training and end up harming someone, the program and/or its instructors may be found liable.	• Ensure that all instructors are appropriately credentialed and licensed. • The curriculum should include information about the appropriate roles for youth to play in an emergency and when youth are encouraged to act. • Keep records of all program participants—making sure to protect any sensitive information—and the specific training they have received, if applicable.

APPENDIX B: RESOURCES

The following resources provide additional information that may be useful for thinking through liability and risk management for a youth preparedness program. The following information and links are provided for reference only. FEMA does not endorse any non-government website, company, or application.

WORKING WITH YOUTH

Boy Scouts of America. *Youth Protection.*
http://www.scouting.org/Training/YouthProtection.aspx

Child Welfare Information Gateway. *State Statutes Search.*
http://www.childwelfare.gov/systemwide/laws_policies/state

FEMA CERT. *Teen CERT: Launching and Maintaining the Training.*
http://www.fema.gov/library/viewRecord.do?id=6218

FEMA Office of Disability Integration & Coordination.
http://www.fema.gov/office-disability-integration-coordination

Girl Scout Council of the Nation's Capital. *Volunteer Essentials.*
http://www.gscnc.org/files/pdf/pubs/volunteeressentials.pdf

Girl Scouts of Southern Appalachians. *GSCSA Volunteer Handbook.*
http://www.girlscoutcsa.org/content/dam/southern-appalachian/documents/Volunteer_Handbook_2013.pdf

Oliver, Barbara B., John C. Patterson. *The Season of Hope: A Risk Management Guide for Youth-Serving Nonprofits.* Washington, D.C., Nonprofit Risk Management Center, 2002.

Utah State University Extension. *ABC…123: Starting your Afterschool Program.* 2007.
http://www.afterschoolalliance.org/Utah4HAfterschoolGuide.pdf

LIABILITY AND RISK MANAGEMENT

FEMA CERT. *CERT Liability Guide: A Risk Management Overview for Local CERT Programs.*
http://www.fema.gov/library/viewRecord.do?id=6219

FEMA Citizen Corps. *Citizen Corps Volunteer Liability Guide: An Overview of Legal Issues and Approaches to Address Liability for Emergency Volunteers.*
http://www.fema.gov/library/viewRecord.do?id=6529

National Council of Nonprofits. *Risk Management and Insurance.*
http://www.councilofnonprofits.org/resources/resources-topic/risk-management-and-insurance

Nonprofit Risk Management Center (especially the trainings under "Web Tools").
http://www.nonprofitrisk.org

Nonprofit Risk Management Center. *State Liability Laws for Charitable Organizations and Volunteers.* December 2009.
http://www.nonprofitrisk.org/downloads/state-liability.pdf

Public Entity Risk Institute. *Citizen Corps Volunteer Liability Project.*
http://www.riskinstitute.org/peri/component/option,com_deeppockets/task,catContShow/cat,52/id,619/Itemid,80/

University of Wisconsin 4-H Youth Development. *Risk Management and Insurance.*
http://www.uwex.edu/ces/4h/resources/mgt/risk.cfm

42 USC § 14503 - *Limitation on liability for volunteers.* Available from the U.S Government Printing Office.
http://www.gpo.gov/fdsys/granule/USCODE-2000-title42/USCODE-2000-title42-chap139-sec14503/content-detail.html

INSURANCE

GuideStar. *Insurance Advice for Start-up Nonprofits.*
http://www.guidestar.org/rxa/news/articles/2006/insurance-advice-for-start-up-nonprofits.aspx

Nonprofit Risk Management Center. *Frequently Asked Questions: Insurance.*
http://www.nonprofitrisk.org/advice/faqs/insurance2.shtml

Nonprofit Risk Management Center. *Ten Tips for Buying Insurance.*
http://www.nonprofitrisk.org/library/articles/insurance01001995.shtml

U.S. Small Business Administration. *Running a Business: Types of Business Insurance.*
http://www.sba.gov/content/types-business-insurance

This document is intended to be used in conjunction with *Youth Preparedness: Implementing a Community-Based Program* and the supplemental tools for youth preparedness programs. These materials are available at http://www.ready.gov/youth-preparedness.