

## PROGRAM LIABILITY AND RISK MANAGEMENT

*Note: These guidelines are geared toward workplace mentoring programs and can be used as a guide in designing other types of mentoring programs.*

The Nonprofit Risk Management Center ([www.nonprofitrisk.org](http://www.nonprofitrisk.org)) defines risk management as a “discipline for dealing with uncertainty.” The area of greatest uncertainty, or risk, in a mentoring program involves the potential for harm to the young person being mentored. A growing body of research and information on mentoring best practices provides a framework for designing a prudent risk management system.

The following information is adapted in part from *More Than A Matter of Trust: Managing The Risks of Mentoring* by the Nonprofit Risk Management Center, from “Program Liability: Sixteen Steps To Ensure Maximum Protection For Your Program” by Dr. Susan G. Weinberger and from *Elements of Effective Practice* by MENTOR/National Mentoring Partnership.

*None of the following information is intended to provide, nor should it be construed as, legal advice.* Mentoring programs and businesses should always involve their own legal counsel as they take on a youth mentoring role.

Businesses involved in youth mentoring need to be particularly concerned about two aspects of risk management: (1) program structure, policies, and practices of the school or community organization where their employees will mentor and (2) appropriate screening, training and supervision/support of employees who volunteer as mentors.

### **Program Design, Parameters, and Policies and Practices**

Before agreeing to involve their employees in a youth mentoring program, businesses should consider, and ask their legal department to review, each of the following factors. The business should also ask about the school or community organization’s liability insurance as well as examine its own liability insurance and review all applicable local and state laws and regulations (e.g., tuberculin tests required for school volunteers). Some larger programs establish a risk management committee involving legal and insurance expertise.

#### **Program Design**

The school or community organization should be clear about its definition of mentoring and its program design (i.e., school-based vs. community-based; one-to-one vs. group mentoring, etc.) Because the term *mentoring* is often used loosely to describe youth–adult contacts such as tutoring and job shadowing, which usually do not involve any volunteer screening, supervision, or observance of effective mentoring practices, businesses should make sure that the program actually *is* a mentoring program and, as such, meets the *Elements of Effective Practice* as defined.

The program design should also reflect special needs and circumstances of the youth being mentored. For example, the program design would be quite different for youth who just need extra attention and support at school vs. youth with disabilities vs. youth who are involved in the juvenile justice system vs. youth who are interested in pursuing a technology career and so on.

## **Partnership/Collaboration Parameters**

Businesses should make sure that the conditions and expectations for their involvement with a school or community organization are clearly defined. This includes issues such as where and when mentoring will occur; who is responsible for transportation if applicable; who will keep program records; who will screen, select and supervise the mentors; and who will enforce program policies. A process to respond to and resolve conflicts should also be defined. Roles and responsibilities of the school or community organization and its mentoring coordinator, and the roles and responsibilities of the business, its coordinator and employees who volunteer as mentors, should be clearly defined.

## **Program Policies and Practices**

Program policies and practices should be defined in writing. In addition to reflecting an appropriate program design and core quality standards, these policies and procedures should take into consideration special needs and circumstances of the youth being mentored. These policies and procedures should also explicitly address issues such as the following:

- **The mentoring site should be clearly defined.** Site-based mentoring occurs only at a specified location or at off-site locations (such as a field trip) and involves all the children in the program. Site-based programs always have program staff at the site. Community-based programs occur anywhere the mentor and mentee choose and require more intensive screening and supervision.
- **Contact between the mentor and mentee** outside the program should be prohibited in school-based or other site-based programs. Prohibited outside contact includes, especially, overnight stays at the mentor's home.
- **Safety measures** should be clearly defined, and all mentors should receive appropriate training to understand them. Training should address basic information about site safety and emergency evacuation procedures, use of seatbelts if mentors will be transporting youth, guidelines for bringing health or mental health issues to the program coordinator's attention, reporting of suspected child abuse to the program coordinator and so on.
- **The time commitment** should be clear up front to all volunteers. A minimum time commitment of one year or school year is recommended; premature relationship termination may be harmful to the youth. Most programs involve an hour-per-week commitment.
- **Conflict resolution, grievance, and relationship termination** policies and practices should be defined and agreed to by both the business and program site and should be explained to all mentors.
- **Mentoring activities** should reflect the goals of the program and special needs of the youth. The program may be prescriptive in defining activities or leave them up to the discretion of the mentors.

- **Transportation** needs of the program and mentors' roles should be defined. For example, a business might transport youth to its site, a school may include field trips in its program, or a church-based program for children of prisoners may want to take youth and mentors to visit the incarcerated parent. The program site and the business should determine in advance who will provide, pay for and be responsible for transportation liability issues. If the mentor will be expected to help provide transportation, the screening procedures should address this and include additional motor vehicle and insurance checks. Parent or guardian permission must also be obtained.
- **Participation of family members** should be decided as part of the program design, and parent permission should always be secured for youth participation. Some level of parent involvement is encouraged though special events during the program year; however, if siblings are going to be involved, they should be enrolled in the program.
- **Gifts** between the mentor and mentee are discouraged, especially in site-based programs where youth can readily see what others are getting. The business and program may decide to provide a gift from the program to each young person for a holiday or at the end of the year. A related area is the expectations regarding mentors' use of their own money for activity-related costs. Generally this is strongly discouraged, but in some cases mentors are provided a small stipend to cover such costs.

### **Volunteer Screening, Training, and Supervision and Support**

This is the area of greatest potential liability for all involved in a youth mentoring program. Following are issues the business should particularly pay attention to.

#### **Volunteer Screening**

Businesses can use the application and screening processes outlined in the Tool Kit with their potential school or community partner to ensure that appropriate screening practices are used. The screening should be appropriate to the program design. From a risk management perspective, it is always better to err on the side of more rather than less screening, and background checks are strongly recommended. The business should take into consideration the fact that employees do not always observe program policies. More than one business has learned that its employees are taking youth to their homes against program policies.

Most programs refuse to accept volunteers who have a history of child sexual abuse, convictions for a crime involving children or a history of violent or sexually exploitive behavior, even though they may now be rehabilitated. Other volunteer opportunities not involving direct contact with youth may be offered if available. It should be noted that there are no studies documenting a relationship between sexual orientation and child molestation.

#### **Mentor Orientation and Training**

Adequate mentor preparation is an important risk management issue to ensure that safe, appropriate mentoring relationships develop. The minimum recommended initial training is two hours.

After the initial training that covers the role and responsibilities of the program and the mentor, basics of effective mentoring, program policies and logistics, statutory requirements, confidentiality and accident/emergency procedures and special needs of the children, additional training should be available on topics of mentor concern such as cultural competency, conflict resolution, understanding child development and career mentoring strategies. Given the constraints of releasing employees to attend training, businesses may negotiate with the program site to develop a training schedule that fits their needs.

### **Mentor Supervision and Support**

The primary responsibility for this function lies with the program site coordinator; however, it is recommended that the business coordinator inquire about and monitor how employees are being supervised and supported. The Nonprofit Risk Management Center cautions that the standard of care is defined by the activity, so supervision should be appropriate to the level of activity involved. Being a reading mentor to a third grader requires less supervision than mentoring an at-risk high school student.

Following are some supervision practices recommended by the Nonprofit Risk Management Center:

- **General supervision** should include sign-in/out procedures, monitoring drop-off and pick-up activities, monitoring the program facilities and parking lots and oversight of mentoring activities.
- **Specific supervision** involves oversight of specific mentoring activities and monitoring of mentoring relationships. Such supervision should include the site coordinator being present during mentoring activities, weekly check-ins, and minimum monthly meetings during the first few months of the relationship. If the relationship is going well, monthly check-ins should occur and may be by telephone if meetings are not feasible. Monitoring the relationship during the early stages is particularly important so any problems can be detected and resolved and termination processes, if necessary, can be initiated earlier rather than later to minimize harm to the young person. Each supervision contact, any mentor or coordinator concerns and follow-up action should be documented.

Employees should also be told to contact their company program coordinator in case of concerns, conflicts, or questions that are not being addressed. The company coordinator can then address them with the program site coordinator. As noted earlier, the business and program site should have defined conflict resolution and grievance procedures that include steps to terminate a relationship if necessary.

Finally, businesses should inquire about the supervision process for the site coordinator to ensure that he or she is performing effectively.