Managing Child Sexual Abuse and Avoiding Litigation

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How it Happens: A Case Example

Common Claims in Child Sexual Abuse Litigation

- Negligent screening
- Negligent training
- Negligent supervision
- Negligent retention
Factors Affecting the Development of Litigation

- **History**: Perception that past interactions with child or family create a pattern of behavior / inaction
- **Communication**: Perception of not being heard
- **Compassion**: Perception of not caring
- **Trust**: Perception that litigation is the only method to establish change or make a statement

***Be Transparent, Be Confident and Be Compassionate***

Create a Response Roadmap

**The Program’s Response**

1. **Activate**: Activate your written response procedures/management plan.
2. **Gather**: Gather information.
3. **Initiate**: Initiate response communications.
4. **Provide**: Provide resources.

**The Pool’s Response**

1. **Have a plan**: 
2. **Assemble your team**: 
3. **Offer to assist and support the program**: 
4. **Follow-up and identify any lessons learned**
Tools for Defense

- Immediately assemble your team:
  - Don’t wait until a claim is filed to assign an attorney
  - Find the best PR expert you can

- Manage your reputation:
  - “No comment” is no longer an option
  - Your staff may not understand how FOIA/RRA can be used to be build a case before discovery is ever commenced
  - Immediate use executive session with your boards/council

- Understand the landscape:
  - Extortion letters with threats to sue
  - Use of cub reporters to “tell their story”
  - Board/council meetings are fair games for the press to ask their tough questions
  - “Upon information and belief”
Promote a Culture of Safety From a Pool’s Perspective

- Standards are clear
- Standards are enforced
- Everyone knows safety is part of their job
- Everyone takes warning signs seriously
- Everyone reports their concerns
Defenses: What Can the Risk Pool Do?

Voice from the Top
- City Managers, County Executives, Councils, Parks Department Directors, Superintendents

Establish Model Standards of Care
- Detailed Policies, Specific Internal Reporting Requirements, State Mandated Reporting/Penalties for Non-Report

Facilitate Access to Abuse Prevention Resources
- Pool Funded Training, Proactive Paid Attorneys/County Counsel, Public Relations on Call and by Request of Pool Member

Integrate Incentives for Prevention
- Pool Paid Initial Investigations into Sexual Abuse allegations by Pool’s Designated Investigator, Reduction in Deductible for Early Report, Reduction in Liability Premium for adoption of all components of Pool’s Sexual Abuse Prevention Program

Examples of Implementation

✔ Developed Board Policy on Abuse Risk Management.

✔ County Counsel worked with each district in the pool to adapt the Board Policy to their specific programs and make changes where necessary.

✔ Trained Board of Directors in abuse risk management.

✔ Trained all Superintendents/Principals in abuse risk management and Board Policy.

✔ Asked Superintendents/Principals to conduct annual training on Board Policy with all employees.
What’s Left for a Pool to Do

✔ Train Staff
  ✔ Custodians/Security
  ✔ All line staff

✔ Students/Youth
  ✔ Boundaries
  ✔ Age Appropriate Curriculum

✔ Parents
  ✔ Churches
  ✔ PTSAs
  ✔ Parks/Recreation
  ✔ Youth Sports Groups