



YOUTH PROTECTION PUBLICATION (JUNE 2021)

WHAT IS A **YOUTH PROTECTION RISK AUDIT?** **AND WHY YOU NEED IT.**

Since 2016, the number of publicly reported large loss awards or settlements of at least \$250 thousand has more than doubled from 19 to 46 in 2021 (United Educators, 2021). In 2020, there were 11 sexual abuse/molestation awards or settlements ranging from \$1.49 million to \$73 million (United Educators, 2021). Also in 2020, seven preventable injury or death awards or settlements ranging from \$500 thousand to \$8 million (United Educators, 2021). The upwards trend of increased awards or settlements has led to increased annual insurance premiums for education institutions. The cost of insuring colleges raised premiums by double digits, between an average of 10% and 35%, and the top

liability claims include bullying, negligence, and sexual abuse and assault (Kafka, 2021; United Educators, 2021). The results of a 2013 Towers Watson D&O Survey stated that 63% of non-profit organizations in the United States reported a Directors and Officers liability claim within a ten-year period.

A youth protection risk audit provides proactive solutions to control risk while hosting, operating, or sponsoring programs for minors.

WHAT IS A YOUTH PROTECTION RISK AUDIT? AND WHY YOU NEED IT.

According to the Child Abuse Prevention and Treatment Act (CAPTA) of 2010, the American Society's responsibility is to respond to child abuse and neglect. CAPTA defines child abuse and neglect as

"any recent act or failure to act on the part of a parent or caregiver that results in death, serious physical or emotional harm, sexual abuse, or exploitation, or an act or failure to act that presents an imminent risk of serious harm" (CAPTA Reauthorization Act of 2010, 2010).

This definition affirms it is the responsibility of every individual employed or recruited as volunteers to assist with activities involving minors to prevent risks that cause physical or emotional harm to youth participants as state laws dictate.

Furthermore, this ACT also requires the federal government to hold states accountable for adopting child abuse assessments and intervention procedures designed to improve youth protection. Because of CAPTA, many states require mandatory reporters to take child (primarily sexual) abuse reporting training, and organizations need individuals working with minors to submit a comprehensive criminal background check.

To regulate compliance to CAPTA, The United States Sentencing Commission, 2018 Guidelines Manual states an organization must "exercise due diligence to prevent and detect criminal conduct; and otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law" through an effective compliance and ethics program.





A youth protection compliance and ethics program is responsible for establishing youth protection standards and procedures that guide the adherence to CAPTA. The compliance and ethics programs must also monitor and audit the program's effectiveness to detect criminal conduct. The types of criminal conduct detected through a youth protection compliance and ethics program may include but are not limited to neglect, child endangerment, emotional abuse, physical abuse, failure to report abuse, failure to report lack of or improper medical care, and the act of sexual abuse or assault.

Because CAPTA only mandates participating States to require mandatory reporters to take child abuse reporting training and submit a criminal background check, many organizations do not consider other areas of youth protection designed to prevent and detect most criminal conduct risks associated with providing programming for minors.

This oversight is the catalyst that causes the risks that leads to unwanted fines, settlements, and legal fees.

Real-life Examples of Potential Criminal Conduct Risks During a Program for Minors

Criminal Conduct	General Definition	Real-Life Examples
Neglect	Any action, inaction, or lack of attention that breaches a custodian's duty and that results in or is likely to result in physical injury or serious or protracted impairment of the physical, mental, or emotional condition of a youth participant, including but not limited to food, clothing, shelter, medicine, supervision, and medical services, that a prudent person would consider essential for the well-being of the vulnerable youth participant.	<p>A youth participant is lost during a field trip, but the adult leaders are not aware the youth participant is missing because the organization did not establish proper field trip procedures.</p> <p>Leaving a youth participant unsupervised in the dining hall for more than 40 minutes after dinner ended without noticing the youth participant was missing.</p>
Child Endangerment	The negligent violation of a duty of care or protection owed to a child or negligently inducing a child to engage in conduct that endangers their health or safety.	<p>Allowing youth participants to walk alone on a dark road by themselves at night without any adult leaders to escort the youth participants.</p> <p>Youth participants engage in a multi-person food fight causing injury to a youth participant while adult leaders slept.</p>



In Loco Parentis, a Latin term meaning "in [the] place of a parent," is a legal doctrine under which a caregiver, also referred to as youth service personnel, assumes parental rights, duties, and obligations without going through the formalities of legal adoption. In U.S. Education Law, a caregiver has the responsibility to act as parents to prevent youth from anticipated harm, and in some cases, have additional responsibilities parents do not have when it comes to youth protection. In loco parentis essentially delegates parental rights and responsibilities to caregivers and organizations hosting, operating, and sponsoring youth programs, as well as the liabilities associated with these rights and responsibilities.

In addition to detecting criminal conduct linked to the adherence of CAPTA, organizations that offer programs for minors are responsible for having policies and procedures in place to avoid and control risk. The specific policies and procedures related to youth protection must go beyond mandatory reporter training and a criminal background check.

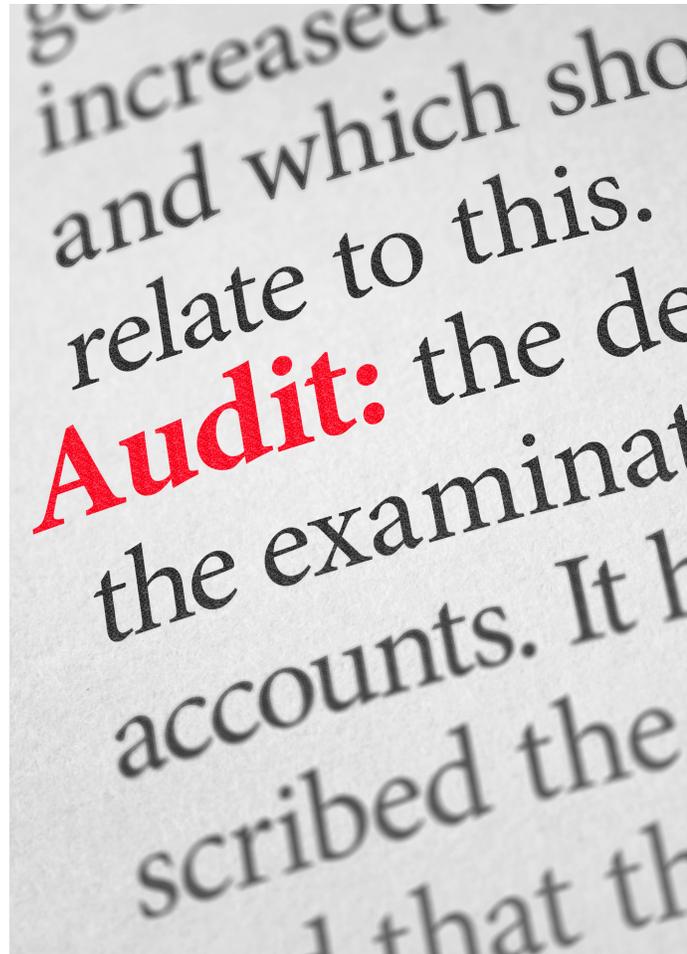
Youth protection policies and procedures must also focus on rights, duties, and obligations associated with assuming the role of a caregiver during programs for minors.

YOUTH PROTECTION **RISK AUDIT**

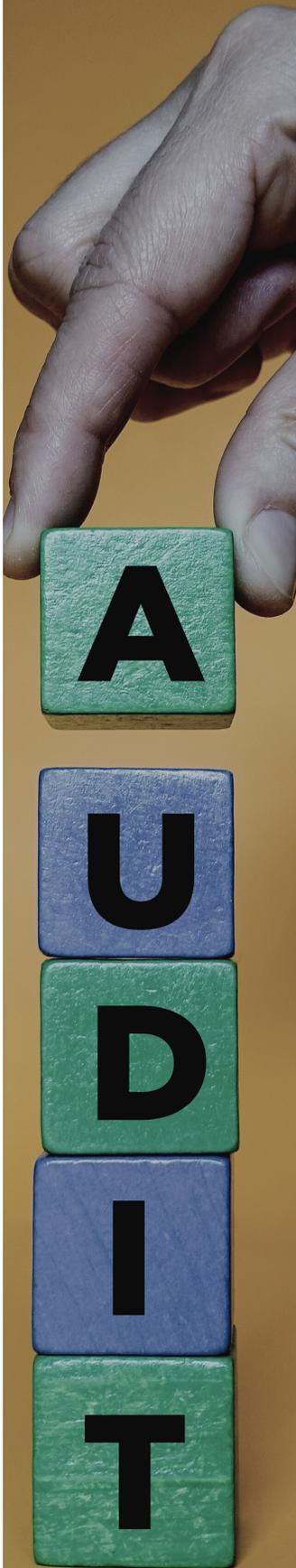
Organizations offering youth programs often make policies and procedures based on state and local laws and regulations. Many decision-makers do not regularly consider adding additional youth protection elements during policy development, which leaves the organization subject to risks.

A youth protection risk audit provides proactive solutions to control risk while hosting, operating, or sponsoring programs for minors.

Based on the identified effective practices of the Youth Protection Enterprise Risk Management System®, a youth protection risk audit would examine an organization's youth protection compliance policies, processes, and procedures to determine if these measures control risks as intended.



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A youth protection risk audit examines records and documentation of an organization hosting, operating, or sponsoring programs for minors. This audit provides an inspection of youth protection compliance programs to ensure consideration of the Youth Protection Enterprise Risk Management System® Effective Practices. The effective practices include:

- A comprehensive youth protection training program,
- An online reporting system,
- A youth protection policy statement,
- A comprehensive Standard Operating Procedures (SOP) Manual,
- A participant-parent portal, and
- A comprehensive tracking system.

A youth protection risk audit is an independent and impartial assessment that adds merit to every youth protection compliance program by exposing potential risks associated with providing youth programming. It assures credibility for maintaining a high-quality standard of care for youth participants. A youth protection risk audit examines and documents a response for controlling identified risks and their causes while providing insight into an organization's youth protection risk management system.

School of Solutions provides a complimentary youth protection risk audit to all organizations hosting, operating, or sponsoring programs for minors. The youth protection risk audit consists of

- A scan of online youth protection resources and documents available to participants, parents, and the public;
- A review of an organization's youth protection compliance policies and procedures;
- A review of state and local youth protection laws and regulations; and
- A review of available youth protection training documents and videos.

Each organization receives a youth protection audit findings report that outlines potential risks and areas of improvement.

The audit outlines findings based on the effective practices of the Youth Protection Enterprise Risk Management System® and offers recommendations to enhance a youth protection compliance program's policies and procedures. The youth protection risk audit report helps organizations make decisions regarding the enhancement or continuation of specific systems and processes involved in offering youth programming. It also assists with providing a detailed view of the standards to protect youth while participating in programs for minors.

REFERENCES

CAPTA Reauthorization Act of 2010, Pub. L. No. 111-320, 124 Stat. 3459 (2010).
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Thank you for reading this White Paper published by School of Solutions.

A complimentary Youth Protection Risk Audit may help you find previously unknown areas of risk, enabling your organization to address deficiencies that could lead to a loss award or settlement, but most importantly, it can help you ensure the highest level of protection for the youth in your care.

To get started with your youth protection risk management solutions, please contact us at www.theschoolofsolutions.com/contact-us.

The purpose of this guide is to educate and inform about youth protection compliance and risk management. The information contained herein is not intended to offer legal advice and should not be relied upon in lieu of consultation with legal advisors.