Managing Volunteers and Facilities Liability

Presented by:
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Learning Objectives

- Gain a better understanding of the basics of liability coverage
- Identify steps to better manage the use of volunteers and your public facilities
- Implement best practices

Primex^3 Liability Coverage

- Part of a package coverage; proprietary
- Property
- Boiler & Machinery
- Crime
- ***Liability*** (personal injury, property damage, unfair employment practices, employee benefit liability, educators' legal liability)
- Schedule Bond
- Cyber
- Volunteer Medical Accident

Is our Volunteers' Liability Covered?

Multiple choice:

A. Yes, in all cases, they help out the community after all

B. No, they have their own health insurance

C. No, they can rely on their homeowners insurance

D. Yes, but only while acting on behalf of the municipality/school district

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Covered Persons under Liability

- Volunteers authorized and supervised by you while acting for or on your behalf and within the scope of their duties*

* subject to all terms, conditions and exclusions set forth by the coverage documents and declarations

Key Language

- Authorized and supervised by you
- Acting for or on your behalf and within the scope of their duties

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Which Volunteers Are Not Covered?

Multiple choice:

A. Volunteers acting under the influence of drugs or alcohol
B. Volunteers acting outside of the scope of their duties
C. Volunteers we don't like
D. Volunteers who are not helpful
E. All of the above
F. A. and B.

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Volunteer Best Practices

Applicable RSAs

- Schools: RSA 189:13-a, School Employee and Designated Volunteer Criminal History Records Check

- Municipalities: RSA 41:9-b, Employee Candidate Background Checks

True or False?

Only long term/designated volunteers should be rostered

False

All volunteers should be rostered

Volunteer Best Practices (Continued)

- Roster your volunteers
- Have volunteers sign release forms
- Provide clear instructions and training to your volunteers
- Primex^3 Volunteer Medical Accident

Train staff regarding the use of volunteers:

- maintain the volunteer file
- roster volunteers
- coordinate background checks
- review applicable policies and responsibilities with volunteers
- contact person/periodic check-in
- what should they do if a request to volunteer is made?

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- **Primex^3 Coverage Documents**
- **Sample Volunteer Release Form**
- **Volunteer Bulletin**

Use of Your Public Facilities

Is the Use of our Facilities by Third Parties Covered?

Multiple choice:

A. Yes, in all cases, they're our facilities after all

B. Yes, but only while we are using our own facilities

C. No, the third parties using our facilities should provide us with coverage

D. No, our facilities are only covered for property damage

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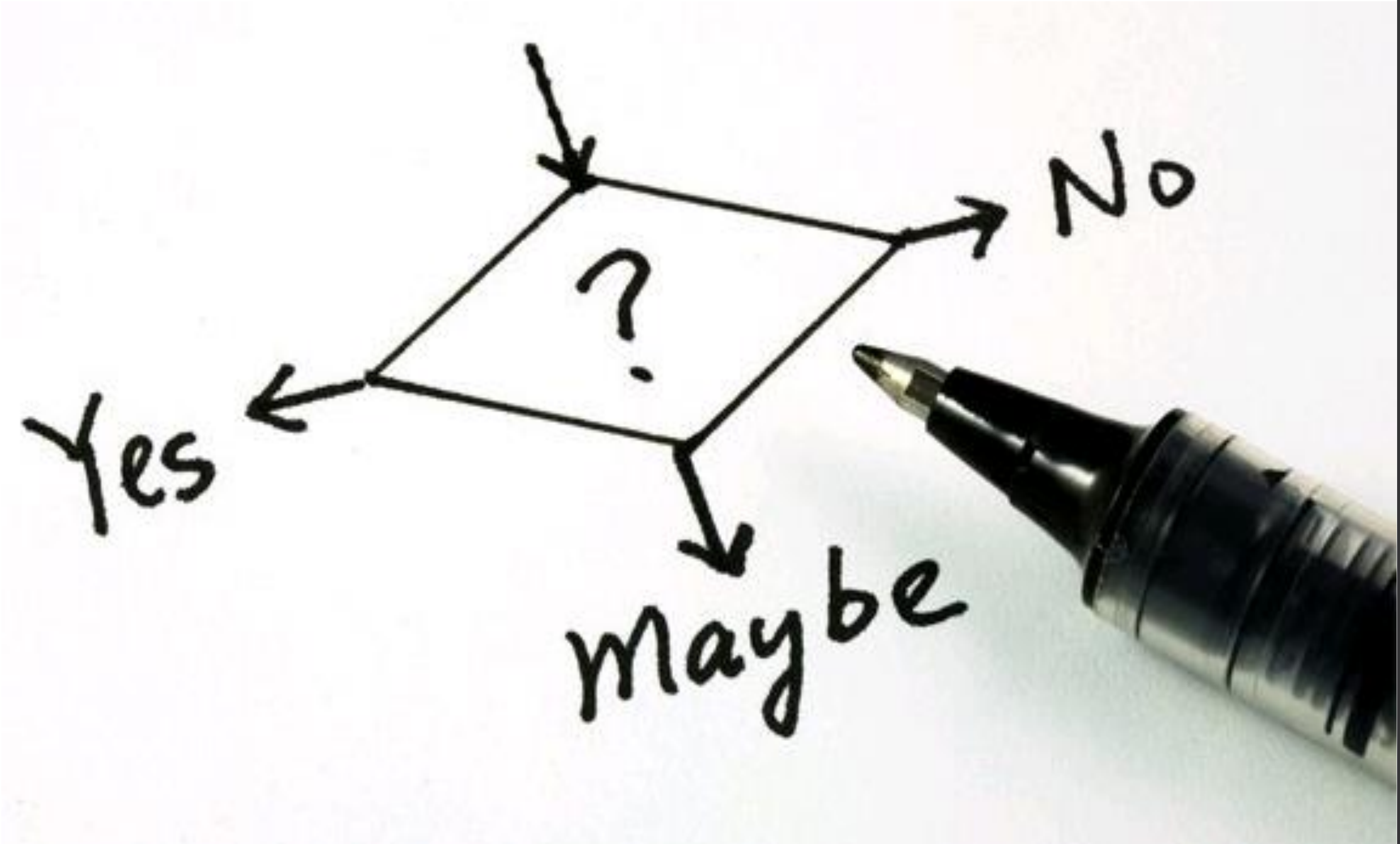
How Does Coverage Generally Work?

- Coverage/Insuring Agreement
- Exclusions
- No exclusion regarding use of facilities

How Do I Make a Coverage Determination?



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Volunteer/Use of Facilities - Quick Coverage Assessment

Is the event sponsored by your Entity?

YES

Your liability coverage applies, including volunteer liability*

NO

Who is sponsoring the event?

Follow Use of Facilities procedures

- If coverage <u>is</u> available — additional insured
- If coverage is <u>not</u> available — consider Special Event Insurance

Communicate with parties involved that your coverage does not apply

** All terms, provisions, and exclusions set forth by the coverage document and declarations apply.*

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Use of Facilities Best Practices

- Implement a Use of Facilities Policy
- Sign a Use of Facilities Agreement with the party using your facilities
- Certificates of Coverage / Request to be named an Additional Insured
- Special Event Insurance
- Staff training

Use of Facilities Policy

- Sources: professional associations, other public entities
- Generally, outlines when facilities can be used, identifies different categories of users, whether fees apply, etc.
- Likely refers to the agreement for details
- Have your legal counsel review the policy

Use of Facilities Agreement

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What is an agreement/contract?

Multiple choice:

A. A blueprint of expectations
B. Several legal terms that no one understands
C. A document that recaptures a business arrangement
D. A. and B.
E. A. and C.
F. All of the above

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Use of Facilities Agreement

- Clearly define rights and responsibilities of both parties (involve legal counsel):
  - Procedures to be followed
  - Insurance and indemnification
  - Categories of organizations
  - Fee Structure
  - Prohibited uses
  - Securing the building, etc.

Insurance and Indemnification

- Typical insurance limits / Additional Insured

- Indemnification = assuming another party's liability

What are typical insurance limits for use of your facilities?

Multiple choice:

A. $5 million

B. $375,000 per occurrence/no aggregate

C. $325,000 per person/$1,000,000 aggregate

D. $1 million per occurrence/$2 million aggregate

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Statutory Protection for Public Entities

RSA: 507-B:4 Limit of Liability.

- Liability of a governmental unit for bodily injury, personal injury or property damage sustained by any one person in actions brought under this chapter is limited to $325,000.
- Liability of a governmental unit for bodily injury, personal injury, or property damage sustained by any number of persons in a single incident or occurrence is limited to $1,000,000.

Case Law: Discretionary Function Immunity

- The **discretionary function** exception restores the government's **immunity** in situations where its employees are carrying out governmental or 'regulatory' duties.

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True or False?

I cannot be liable if a third party uses my facilities, they have liability coverage and they named my entity as an Additional Insured

?

False

I could still be liable if a loss is caused by my negligence

Let’s Discuss…

The local book club would like to use your community center for a book sale.

They don’t have insurance coverage, but they will donate all the money raised towards replacing your playground in the public park.

What Will You Do?

A. Let them use the facility, no strings attached.

B. Let them use the facility if they agree to purchase special event insurance through the local agent.

C. The town will sponsor the event, and the book club members will be volunteers on behalf of the town.


RISK

Word of Advice…

- Consider First Amendment implications
- Contact your legal counsel
- Contact Primex[3]

http://www.nhprimex.org/

- **Primex³ Coverage Documents**
- **Community Use of Facilities Bulletin**
- **Quick Coverage Assessment Form**

Contact Information

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