Texas A&M University-San Antonio

24.01.06.O1 Programs for Minors
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Rule Statement

The purpose of Texas A&M University-San Antonio (A&M-San Antonio) programs for minors is to provide minors a safe, nurturing environment for recreational, athletic or enrichment/educational activities. Programs for minors sponsored and operated by A&M-San Antonio or third party programs for minors authorized to use A&M-San Antonio owned or controlled property/facilities shall follow this Rule.

Reason for Rule

This Rule implements legislatively mandated requirements regarding standards for programs for minors. This Rule is required by Texas A&M University System (System) Regulation 24.01.06, Camps and Programs for Minors.

Official Rule

1. REPORTING NEGLECT OR ABUSE

   1.1 Persons having cause to believe that a minor’s physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report to the University Police Department (non-emergency (210) 784-1900 or emergency (210) 784-1911) who will in turn notify Child Protective Services and other law enforcement agencies as appropriate. This legal requirement will be communicated by the university police department through memorandum and acknowledgment documentation to all individuals participating in the management/supervision of programs for minors or employees and volunteers of third party programs utilizing A&M-San Antonio owned or controlled property/facilities.

2. PROCEDURES FOR PROGRAMS FOR MINORS

   2.1 Before a request to host a program for minors utilizing university property/facilities can be approved, the responsible department will recommend a responsible program director to the Vice President (VP) for the Division hosting the program whether the program is
sponsored by A&M-San Antonio or by a third-party using A&M-San Antonio owned or controlled property/facilities. That VP or their designee will approve/disapprove the appointment.

2.2 All requests for authorization and approval for programs for minors to be hosted by A&M-San Antonio or on A&M-San Antonio owned or controlled property/facilities will be submitted by the program director and approved/disapproved by the respective VP or their designee.

2.3 As part of the approval process, it is required that the program director – for all expected program staff (whether an employee or not and whether compensated or not) will submit an authorization to conduct a criminal conviction, sex offender, and general background check to the Office of Human Resources (HR) in a sealed envelope, at least 15 working days before the program is due to start. HR will process all criminal conviction and sex offender background checks. Should any background check indicate a criminal history or other concerning information, HR shall consult with the VP regarding those findings and make a recommendation to the VP regarding the approval or disapproval for the appointment of the affected individual. If the background checks indicate no criminal history or concerning information, the designated program director will review and approve/disapprove the employment or assignment of employees or volunteers to programs based on findings. Criminal history conviction and sex offender background checks will be performed on a yearly basis or at any time the program director, VP, or the VP’s designee deems appropriate on any individual subject to this Rule. In addition, any time concerning information is communicated to A&M-San Antonio regarding persons subject to this Rule, the VP may suspend any such individual from participation in program activities immediately. Any rejection of an applicant by the VP will be reviewed by the Office of General Counsel (OGC) consistent with Section 4.5 of this Rule.

2.4 Communication, including by social media, between minors and counselors outside of official communications of the program is prohibited.

2.5 If abuse/molestation of minors is suspected by any program staff or volunteer, UPD will be notified immediately. UPD will notify Child Protective Services and other law enforcement agencies as appropriate.

2.6 The program director will inform parents or guardians of participants that A&M-San Antonio is not equipped to manage, store, or administer medications to minors.

2.7 As part of the program file, private and personal health information of program participants will be kept in a secure location to be accessed only by the program director and others deemed appropriate such as the Director of HR, the Risk & Safety Support Specialist, and the VP sponsoring the program for minors.

2.8 As part of the program development/planning process, the program director will consult with the Risk & Safety Support Specialist to discuss program activities and facilities. In
consultation with the Risk & Safety Support Specialist, a plan designed to mitigate identified risks or potential emergency situations will be developed.

2.9 The ratio of minors to counselors for day programs shall not exceed 20:1. The ratio for overnight programs shall not exceed 15:1. Each program for minors is unique and carries its own level of risk. Exceptions to these ratios may be approved by the VP on a case-by-case basis on the recommendation of the camp director.

2.10 Should participants with special needs be identified, the program director will coordinate with A&M-San Antonio’s Disability Student Services (DSS) office to ensure that appropriate accommodations are provided as needed to ensure access. As warranted, DSS staff will be compensated for providing services outside of their normal work activities.

2.11 Job duty descriptions for programs for minors:

a) Program Director – Individual responsible for overseeing the program; also responsible for: making facilities reservations, developing program registration process, submitting background check and sex offender authorization forms for potential program staff, hiring and assigning program staff and/or volunteers based on needs and qualifications, coordinating risk assessment plan with the Risk & Safety Support Specialist, overseeing daily program activities, ensuring that general liability and accident medical coverage is secured (this may be purchased through the System Risk Management insurance program or third party insurance provider equivalent in limits and coverage to the program provided through System Risk Management), ensuring facilities are left clean after program activities have concluded, and submitting a final report summarizing program activities and any issues that arose. The Program Director must complete a Programs for Minors Checklist form for the program and include it in the program file.

b) Program Staff Member – Individual responsible for daily guidance, facilitation, and education of program participants.

c) The program director may create additional job duties for each position involved in the operation of programs for minors as the program requires.

3. TRAINING AND EXAMINATION PROGRAM ON WARNING SIGNS OF SEXUAL ABUSE AND CHILD MOLESTATION

Individuals hired or assigned to employee or volunteer positions involving contact with minors during the program are required to complete training and examination on sexual abuse and child molestation meeting the following criteria.

3.1 Successful completion of System-approved Child Protection Training course with a passing score of 100% every two years is required.

3.2 Training must be completed prior to employees or volunteers interacting with minors; new employees hired specifically for a position involving contact with minors at
programs for minors must complete the training within the employee’s first five days of employment.

3.3 A certificate of completion shall be kept for two years with the program file.

3.4 Employees or volunteers working third-party programs using A&M-San Antonio property/facilities may substitute the system-approved training course with an approved course as listed with the Texas Department of State Health Services (DSHS). (See Related Statutes section below)

3.5 Training will not be required for A&M-San Antonio employees/volunteers not hired or assigned to employee/volunteer positions involving contact with minors during the program.

3.6 When a program for minors is conducted for all or part of at least four days and has 20 or more participants, the program director must submit the training roster to the Texas DSHS on the approved DSHS form. See Forms below.

4. CRIMINAL CONVICTION AND SEX OFFENDER BACKGROUND CHECKS

4.1 Annually both criminal conviction and sex offender background checks will be conducted on all individuals hired or assigned to employee or volunteer positions involving contact with minors at a program for minors. The check will utilize a criminal history database and sex offender registration database (such as the TXDPS-Sex Offender Registry) for each adult employee and volunteer’s permanent address. Documentation that a search was conducted shall be maintained for a period of two years in the program file.

4.2 The VP is hereby granted authority to review and approve/disapprove the employment or assignment of an employee or volunteer to a program for minors based on the results of the required criminal conviction and sex offender background check, as well as other concerning information that is revealed during the process for the potential employee or volunteer. If concerning information about an assigned employee or volunteer is discovered while the program is in progress, the VP has the authority to revoke the assignment of the individual immediately with no guarantee of compensation for time that would have been earned during the remainder of the program.

4.3 A criminal conviction/deferred adjudication for any of the following offenses automatically disqualifies a person from being a program for minors’ employee or volunteer:

Felony or misdemeanor under Texas Penal Code § 15.031 (Criminal Solicitation of a Minor); Title 5, Ch. 22 (Assaultive Offenses); Title 6, Ch. 25 (Offenses Against the Family); Title 7, Ch. 29 (Robbery); Title 8, § 38.17 (Failure to Stop or Report Aggravated Sexual Assault of a Child); Title 9, § 42.072 (Stalking) or Ch. 43 (Public Indecency) or any like offense under the law of another state or under federal law.
4.4 A criminal conviction/deferred adjudication for any of the following offenses may disqualify a person from being a program for minors’ employee or volunteer:

Misdemeanor or felony committed within the past 10 years under Texas Penal Code Title 10, § 46.13 (Making a Firearm Accessible to a Child) or Chapter 49 (Intoxication and Alcoholic Beverage Offenses); Texas Health and Safety Code, Ch. 481 (Texas Controlled Substances Act); or any like offense under the law of another state or under federal law.

4.5 Should a criminal conviction and/or sex offender background check return an offense potentially disqualifying a person from being employed or assigned as a program employee or volunteer under Section 4 of this Rule,
   a) A&M-San Antonio will refer the matter, along with its recommendation, to the Office of General Counsel (OGC) for legal review; and
   b) OGC shall provide a written legal sufficiency review of the A&M-San Antonio’s recommended approval or rejection of the employment or assignment of the person as a program employee or volunteer.

5. RECORDS RETENTION

5.1 The program director is responsible for gathering all documentation to provide evidence of compliance with this Rule. All documentation should be assembled into one program file, which will serve as the A&M-San Antonio record copy.

5.2 The program director’s respective College Dean’s office will maintain the program file for at least two years after the completion of a program for minors unless other action involving the record is initiated before the expiration of the retention period.

Related Statutes, Policies, or Requirements

Texas Education Code Section 51.976

Texas Family Code Chapter 261, Subchapters A and B

Texas Department of State Health Services Approved Training

System Regulation 24.01.06, Camps and Programs for Minors

A&M-San Antonio Procedure 61.99.01.O0.01 Records Management

Forms
Definitions

**Abuse** – includes the following acts or omissions by a person:

a) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development or psychological functioning;

b) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development or psychological functioning;

c) physical injury that results in substantial harm to the child or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;

d) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;

e) sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of a young child or children under Section 21.02, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

f) failure to make a reasonable effort to prevent sexual conduct harmful to a child;

g) compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code, including conduct that constitutes an offense of trafficking of persons under Section 20A.02(a)(7) or (8), Penal Code, prostitution under Section 43.02(a)(2), Penal Code, or compelling prostitution under Section 43.05(a)(2), Penal Code;

h) causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph,
film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic;

i) the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental or emotional injury to a child;

j) causing, expressly permitting or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code;

k) causing, permitting, encouraging, engaging in or allowing a sexual performance by a child as defined by Section 43.25, Penal Code; or

l) knowingly causing, permitting, encouraging, engaging in or allowing a child to be trafficked in a manner punishable as an offense under Section 20A.02(a)(5), (6), (7), or (8), Penal Code, or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of those sections

**Contact With Minor(s)** – in the context of an employment or volunteer position described in this Rule, interaction with minors that is direct and reasonably anticipated. The term does not include interaction that is merely incidental.

**Counselor** – an employee or volunteer of a program for minors who is 18 years of age or older and is responsible for the immediate supervision of minors.

**Dedicated Program Director** – a person who is responsible for the development and management of a program for minors to include human resource, financial, marketing and strategic operations.

**Full Supervisory Duties** – when counselors of an A&M-San Antonio-sponsored or third-party program using A&M-San Antonio owned or controlled property/facilities are given direct and full care, custody and control of a minor for the purposes of attending and participating in a program for minors.

**Minor** – a child, under 18, who is attending a program on a day-care or boarding basis.

**Neglect** includes:

a) the leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;

b) the following acts or omissions by a person:

   (1) placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of
maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;

(2) failing to seek, obtain or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;

(3) the failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;

(4) placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or

(5) placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute “Abuse” under definitions (e), (f), (g), (h) or (k) committed against another child; or

c) the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.

**Programs for Minors** – programs for minors that are sponsored and operated by A&M-San Antonio or third parties using A&M-San Antonio owned or controlled property/facilities where full supervisory duties of the minor(s) are A&M-San Antonio or third party’s responsibility and that are held for more than two consecutive days with the same group of minors without an overnight stay or that involve overnight stays. A program that may have minor(s) involvement ancillary to the intended purpose of the activity and is not specifically for minors does not fall under this regulation.

**Program Staff Member** – camp personnel or youth group leader, 18 years of age or older, who is responsible for the immediate supervision of minors.

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**Contact Office**

Academic Affairs, Office of the Provost and Vice President for Academic Affairs (210) 784-1200