



# Legal Issues in Event Planning:

Tips and Recommendations for  
Hosting a Younger Member Event

2011 Younger Member Spring Webinar



## Issues to consider:

1. Contract
2. Alcohol and other liability risks
3. ADA Compliance
4. Insurance
5. Sponsorship
6. Meeting content
7. Liability protections for volunteers



## The Contract

### What does a contract do?

- a. Sets out business details in clear terms
- b. Allocates each party's risks and responsibilities
- c. Solves problems before they occur
- d. Describes how to solve problems that aren't anticipated

### Tips:

- a. If you want something, make sure it's spelled out in the contract
- b. Be careful when discussing terms by e-mail
- c. Read carefully, and question any provision you are unsure about



## Provisions to look out for:

### 1. Indemnification

- a. One-sided indemnification
- b. “Sole” or “gross” negligence of venue
- c. Responsibility for guests, members, invitees, exhibitors

#### Best provision is:

- a. Mutual
- b. Based on fault
- c. Coverage limited to group and its authorized representatives



## Provisions to look out for:

### 2. Performance guarantees and fees

- a. Food and beverage minimum
- b. Attrition
- c. Sometimes vendor will “double up” on performance fees

#### Tips:

- a. Make sure the minimum is a conservative estimate
- b. Try to base fees on profit, not revenue: 70-80% of rooms, 30-40% of food
- c. Require hotel to “mitigate” damages
- d. Negotiate for repeat business in lieu of fees



## Provisions to look out for:

### 3. Cancellation

- a. Venue may try to reserve right to cancel contract
- b. As with performance, may impose steep fees for group cancellation

#### Tips:

- a. No cancellation by hotel/venue
- b. Negotiate reasonable cancellation fees/duty to mitigate
- c. Push for rights to terminate without liability in certain cases:
  - i. Force majeure, “acts of God”
  - ii. Construction/renovation at the venue
  - iii. Bankruptcy of venue



## Related issues:

### 1. Alcohol service

- a. 43 states plus the District of Columbia have some form of “dram shop” law
- b. Most states also enforce some form of “social host” liability

#### Tips:

- a. Lowest risk = no alcohol at meeting
- b. Any alcohol should served by a vendor: hotel, restaurant, caterer
- c. Get provision in contract where vendor assumes liability for service and indemnifies group for liability



## Related issues:

### 2. ADA compliance:

- a. Two-part obligation
  - i. Physical accessibility; e.g., wheelchair access
  - ii. Full Participation; e.g., close-captioning, sign language interpreters
  
- b. May not shift cost to disabled attendee; may not refuse unless “undue burden” or “fundamental alteration”

### Tips:

- a. Facility should confirm ADA compliance in contract
- b. Check with facility for assistance in providing auxiliary aids



## Related issues:

### 3. Insurance

- a. Certain types of events may be excluded from coverage under ASCE's policy; e.g., golf tournaments, cruise boats
- b. Some vendor contracts may try to shift liability beyond our policy's coverage; beware of words "waiver of subrogation," "primary," "noncontributory"

#### Tips:

- a. Use attendee waivers with sporting events, vehicle tours, community service programs
- b. Consider "special event insurance"
- c. Review contract language with ASCE's legal counsel and/or insurance brokers



## Fundraising:

### Corporate Sponsorships

- a. “Charitable contribution” to the extent donor receives no tangible benefit in return
  - i. Tangible benefits = free tickets, gifts, advertisements
  - ii. Does not include “acknowledgment of sponsors”
  
- b. Amount of “tangible benefit” not a contribution, but may be treated as a business expense
  - i. E.g., company donates \$500, gets free ticket worth \$100. \$100 of the donation is a business expense; the remaining \$400 = charitable donation



## Election Year Issues

### 1. Not Permitted

- a. Public statements for/against political candidates or parties
- b. Solicitation of contributions, distribution of flyers supporting or opposing candidates

### 2. Permitted

- a. Voter registration or “get out the vote” initiatives
- b. Nonpartisan voter guides, voter education
- c. Issue advocacy



## Election Year Issues

### Candidate Forum/Debate

- a. Equal opportunity for all candidates to participate
- b. No indication of support or opposition of candidate
- c. No political fundraising
- d. If formal debate, questions should be neutral and cover a broad range of topics

### Appearances in Non-Candidate Capacity

- a. Speaker chosen for reasons other than candidacy
- b. No mention of candidacy or election at any time
- c. Event must be nonpartisan



## Liability Protections

### Types of Protection

1. Federal Volunteer Protection Act
2. State laws
3. ASCE indemnification policy
4. ASCE's management liability insurance

### Common Themes:

1. Acting within scope of authorized duties
2. In "good faith," for benefit of the Society
3. Gross negligence, willful misconduct, illegal or criminal behavior excluded



## Liability Protections

## Risk Management

Contact ASCE's National Office for assistance

Tara Hoke

Assistant General Counsel

(703) 295-6151, (800) 548-2723 x6151

[thoke@asce.org](mailto:thoke@asce.org)



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Questions?