

NEEDS ASSESSMENT SURVEY OF TRAINING LIABILITY*

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Generating usable information that focuses attention on practical issues is one of the many reasons for conducting a needs assessment. Completing the survey below will heighten the awareness of those responsible for protecting the integrity of the human resource development program and its sponsoring organization. Interpreting the results and communicating to others within the organization can be a bit challenging, if not unnerving! As a general admonition, do not discuss the results of the survey outside the walls of the organization. Such information can be considered proprietary (a trade secret) and may arouse the suspicions of plaintiffs' attorneys who might target the organization through disgruntled employees.

The questions below are designed to help you to better determine potential liability for your organization. Read each statement and note those statements which likely apply to your organization. If you are not sure, check with the appropriate people in your organization to decide if the statement applies. Each potential area of liability is discussed by Dr. Sample in his 2007 book, *Avoiding Liability for Adult Educators, Human Resource Developers, and Instructional Designers*.

This organization . . .

- _____ 1. Makes decisions about who will or will not attend training and development programs.
- _____ 2. Has had an EEO investigation that alleged unfair practices regarding methods used to select who will attend training programs.
- _____ 3. Uses qualifying tests as a predictor for successful completion of training and development programs.
- _____ 4. Uses evaluation of participant learning as a predictor to validate employee or promotional selection methods.
- _____ 5. Will likely have participants who have learning or physical disabilities apply for and attend HRD programs.
- _____ 6. Has a history of complaints from OSHA alleging unsafe business practices.
- _____ 7. Requires employees or contract personnel to perform tasks that are deemed hazardous by industry standards or government regulatory agencies.
- _____ 8. Requires employees or contract personnel to use equipment that could result in injury or death if not used properly.
- _____ 9. Requires employees to have contact with chemicals, hazardous materials, or blood borne pathogens.
- _____ 10. Has a history of litigation alleging negligent selection, retention, training or supervision.
- _____ 11. Has a history of claims for workers' compensation and other types of insurance claims.
- _____ 12. Pays a higher percentage rate for worker's compensation insurance compared to other similar organizations.
- _____ 13. Mandates adventure based training programs for developing employees and managers.

- _____ 14. Uses experiential exercises in a classroom setting in which participants may be expected to reveal and discuss personal beliefs and values.
- _____ 15. Uses business practices or processes considered proprietary or secret.
- _____ 16. Has subscriptions to magazines and technical, trade, or academic journals.
- _____ 17. Provides mediated instruction (Internet based online learning programs) by a governmental agency or public college or university.
- _____ 18. Develops training and development programs using print, computer-based instruction, multimedia applications, or elearning software applications.
- _____ 19. Has employees who are required to follow strict ethical guidelines during the performance of job duties, or by regulatory agencies.
- _____ 20. Employs officers, managers, or employees who could engage in criminal activities, such as fraud, embezzlement, insider trading, money laundering, and crimes against the environment, and so forth.
- _____ 21. Uses external auditors who have statutory and regulatory responsibility to report fraud and other illegal and unethical activities.

The items used in this assessment are associated with the following state and federal laws:

Items 1 – 5 are associated to state and federal laws regarding equal opportunity, employee discrimination, disability, and related laws.

Items 6 – 12 are associated with state and federal laws regarding safety and health laws and negligent training.

Items 13 and 14 are associated with laws and court decisions associated with adventure based and radical experiential learning techniques.

Items 15 – 17 are associated with federal copyright and state and federal trade secret laws.

Items 18 – 20 are associated with serious ethical violations and criminal activity committed by senior officers, employees and their organizations.

Based on your survey results, does your organization appear to be at risk? Should you discuss your findings with your chief learning officer, training manager, human resource manager or legal counsel?

For additional background information, access articles by Dr. Sample on the subject of liability and the training function from the main menu at Publications.

Sample & Associates will assist your organization with confidential audits, program development and instructional design services, as well as case preparation assistance with your organizations legal counsel.

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You do not need to contact Dr. Sample for permission to use this assessment tool unless you plan to survey people outside of your organization, use the survey for research purposes, or for use in a public workshop for which you will be paid a fee.