### Liabilities and Risks—Does Your Plan Have Your Students Protected <u>and</u> You Covered?

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#### Disclaimer ©

We are not attorneys—consult your district's legal counsel for questions and concerns regarding potential risks and liabilities for not meeting minimum requirements. This presentation consists of discussions about the law and should not be considered legal advice.

### Arizona Revised Statutes (ARS), 15-341 (A) (32)

Arizona Revised Statutes (ARS), 15-341 (A) (32) <u>requires</u> each school site to have an emergency response plan that meets the minimum state requirements.

The Arizona Department of Education (ADE) and the Arizona Division of Emergency Management (ADEM) are responsible for developing the minimum standards for school emergency response plans in Arizona

## What Responsibilities do Schools Have?

- Have an updated Emergency Response Plan that meets the ADE's minimum requirements,
- Supervise students and secure the school, and
- Properly deal with threats and bullying.

#### What would a lawsuit look like?

- Was there <u>a</u> duty?
- Was the duty <u>b</u>reached?
- Did that breach <u>cause</u> the injury?
- If so, what are the <u>d</u>amages?

#### What would a lawsuit look like?

#### Was there a duty?

The school has a duty to supervise students and secure the school, according to their policies and procedures.

#### Was the duty breached?

In the case of Sandy Hook and the substitute teacher, if their policy was to go on lockdown and she could not lockdown, then yes.

#### What would a lawsuit look like?

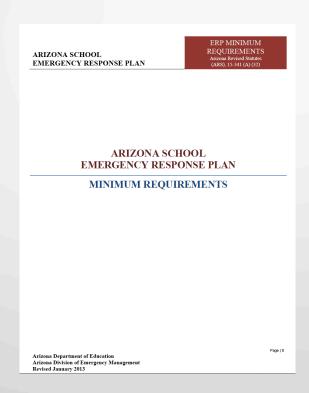
#### Did that breach cause the injury?

Because she was not able to lock the door, then yes, the breach caused the injury.

#### If so, what are the damages?

A jury will determine damages.

### 2006 ADE Arizona School Emergency Response Plan— Revised 2013



#### Minimum Requirements Include:

- Basis Plan to include functional annexes, hazard-specific annexes, lead agency information, etc.
- 2. Online FEMA training for IS 100, 200 and 700 for school/district emergency response team members
- 3. Incorporate Incident Command System as part of plan
- 4. Designate primary and alternate evacuation routes and assembly areas
- 5. Designate primary and alternate on and off site relocation areas
- Describe how access and functional needs and/or non-English speaking students will be provided for
- 7. To assist students and staff, develop a quick reference emergency response guide to be posted in all classrooms and offices
- 8. Develop procedures for off campus emergencies (field trips, bus accidents, etc.)
- 9. Develop and train staff and students on reunification procedures

### Plan Component Requirements Include:

- Student rosters
- 2. Master schedule
- 3. Staff roster and emergency contact numbers
- 4. Community emergency numbers
- 5. Map of evacuation routes and assembly areas
- 6. Critical Infrastructure maps
- 7. List of names and telephone numbers for emergency operations personnel
- 8. Student accountability/release forms

#### Plan Development <u>and</u> Maintenance

- 1. Conduct annual review and update plan as needed
- 2. Collaborate with law enforcement, fire, public health, etc.
- 3. Conduct annual training of all staff on plan
- 4. Annually review your Incident Command System w/staff
- Twice annually practice: Lockdown, Shelter-in-Place, and Evacution
- 6. Complete debriefings (After Action Report) after drills

#### Regarding A Plan--

- Do You Have A Plan?
   Do You Provide Training for Your Plan?
   Do You Practice Your Plan?
- 2. How do you defend not having a plan if you experience a significant real world event that results in loss of life, injury and property damage?
- 3. The time of the crisis is not the time to develop your plan. It is better to have a plan and not need it than to not have a plan and need one.

# Can You Be Held Responsible for A School Shooting?

Courts tend to rule that you are not liable if you are able to show efforts to prevent and mitigate such situations. Do you have a plan? Test the plan?

# Assessments to Assist in the Development of A Comprehensive Emergency Operations Plan (EOP)

- Threat/Hazard Assessment
- Behavioral Threat Assessment
- Capacity Assessment
- School Climate/Culture Assessment
- Site Vulnerability Assessment

#### **Threat/Hazard Assessment**

Natural Hazards in your school community--

Severe weather/ lightening, floods, wildfires, ...

Technological Hazards in your school community--

Power outage, loss of water, hazardous material release...

Biological Hazards in your school community--

Pandemic influenza, contaminated food outbreak...

**Human Threats** in your school community—

Bomb threats, fire, active shooter, cyber attacks, etc...

## Threat/Hazard Risk Index Worksheet

(Worksheet below from: U.S. Department of Education—A Guide to School Vulnerability Assessments, 2008)

#### Table 1: Risk Index Worksheet

**Instructions:** Use the worksheet below when analyzing the potential risk presented by each hazard you identify at your school.

Hazard	Frequency	Magnitude	Warning	Severity	Risk Priority
	4 Highly likely	4 Catastrophic	4 Minimal	4 Catastrophic	☐ High
	3 Likely	3 Critical	3 6-12 hours	3 Critical	☐ Medium
	2 Possible	2 Limited	2 12-24 hours	2 Limited	□ Low
	1 Unlikely	1 Negligible	1 24+ hours	1 Negligible	
	4 Highly likely	4 Catastrophic	4 Minimal	4 Catastrophic	☐ High
	3 Likely	3 Critical	3 6-12 hours	3 Critical	☐ Medium
	2 Possible	2 Limited	2 12-24 hours	2 Limited	□ Low
	1 Unlikely	1 Negligible	1 24+ hours	1 Negligible	
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				1	

#### Power Outage-do you agree?

#### Table 1: Risk Index Worksheet

Instructions: Use the worksheet below when analyzing the potential risk presented by each hazard you identify at your school.

Hazard	Frequency	Magnitude	Warning	Severity	Risk Priority	
Power Outage	4 Highly likely 3 Likely 2 Possible 1 Unlikely	2 Limited	4 Minimal 3 6-12 hours 2 12-24 hours 1 24+ hours	4 Catastrophic 3 Critical 2 Limited 1 Negligible	□ High □ Medium □ bow	

#### Active Shooter - do you agree?

#### Table 1: Risk Index Worksheet

Instructions: Use the worksheet below when analyzing the potential risk presented by each hazard you identify at your school.

Hazard	Frequency	Magnitude	Warning	Severity	Risk Priority
Active Shooter	4 Highly likely 3 Likely 2 Possible 1 Unlikely		4 Minimal 3 6-12 hours 2 12-24 hours 1 24+ hours	4 Catastrophic 3 Critical 2 Limited 1 Negligible	High Medium Low

#### **Behavioral Threat Assessment**

Student, staff member, or spouse of a staff member makes a threat to do harm to individuals at your school and/ or the school facility.

What's in your plan?

# Does Your District Have A Threat Assessment Protocol In Place?

#### Characteristics of the Threat Form

Explanation of the Characteristics of the Threat: (completed by Threat Management Team members as a group)

Circle one:	Circle one:
Fixed theme vs. Variable theme	Focused vs. General target identification
Are the themes fixed or variable?	
Fixed: (check if applies)	Focused as opposed to general target identification.
There are one or more primary themes	Focused:
Blame is expressed or implied	The person identifies specific
☐ The blame is for issues important to the	individuals
individual within the context of his/her	☐ The person perceives that these
life	individuals have a significant impact on
<b>KEY:</b> The more fixed the theme of blame, especially	them
within the important areas of one's life, the greater the	☐ The person attributes malevolence to
risk for harm.	their actions
Variable:	☐ The person expresses the need for the
When individuals are generally mad at	individuals to be punished
the world but express no attribution of	<b>KEY:</b> The more focused upon a target the greater the
<u>blame</u> beyond themselves.	risk.
Oh, it's just my lot in life."	Existence of violent action imperative
<b>KEY:</b> The risk of violence is diminished but monitoring	
may be indicated to detect shifts in perspective (may start	Check Tyes Tho
to blame others for his/her lot in life.)	
Circle one:	Violent action imperative exists when:
	The at-risk person perceives the legitimate avenues for
Organized vs. Disorganized	coping with his/her life situation have been exhausted
Is the communication organized or disorganized:	or are viewed as inaccessible or inadequate
Organized: (check if applies)	The person indicates or evidences a willingness to
Logical, coherent, able to stick to the	"step outside the box" for the solution to his/her life
topic or theme often represented in	situation
written and verbal communications.	<b>KEY:</b> The more indicators consistent with developing
Not hard to follow his/her thought	violent action imperative the greater the risk for violent

#### **Capacity Assessment**

Identifies resources available at the school relative to preparedness, response and recovery as well as those resources available within the school community. This includes resources available from law enforcement, fire, public health, etc.

### **Staff Skills Inventory**

#### ADD YOUR SCHOOL NAME HERE

#### STAFF SKILLS INVENTORY SUMMARY SHEET

Name	Room #/ Location	First Aid/ Triage	CPR	AED Trained	Other language?	Indicate:	Construction Experience	Emergency Planner/ Management	Search/ Rescue	Food Handler/Prep	Survivor Trained	Mechanical /Structural Ability	Bus/ Truck Driver	Camper/ Recreational Leader	

## School Climate/Culture Assessment

- Assesses relationships between students and staff relative to the school environment and potential serious behavior problems.
- Do students have enough trust and faith in staff to report potentially serious situations such as statements by a student(s) to do harm to others, the school facility, self, etc...?

### Site Vulnerability Assessment—Have You Completed SVAs for All Schools?

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Site:			District Offi	cial:				
Date:	Sit		ministrator					
Completed By:	_		.aw Enforc	ement:				
Area		ore			Comments	Action Needed		
	Yes	No	In Progress	N/A				
Athletic Fields, Gyms, Cafeteria Playgrounds								
Are the athletic fields and playgrounds secured by fencing?								
Do supervising personnel carry walkie-talkies or other communication devices?								
Can staff hear intercom announcements while on athletic								
fields/playgrounds, gym, <u>cafeteria?</u> Is vehicle access restricted from all recess/play areas?								
Fencing								
Is the school property completely fenced?								
Is the height of the fencing appropriate?								
Is the fencing clear of holes, tears or damage?								
Is the number of gates appropriate?								
Are there appropriate locking mechanisms on gates?								
Are gates kept locked during school hours?								
Lighting								
Are all entrance and exit points properly lighted?								
Are fields and athletic courts properly lighted?								
Is school perimeter properly lighted?								
Is lighting sufficiently maintained?								
Do interior courtyards have proper lighting?								
Is sufficient emergency lighting properly placed?								
Is emergency lighting checked and maintained?								
Landscape								
Are all tree roots that could become a trip hazard cleared from								

Site Vulnerability Assessments (SVAs) assess the safety and security of the school facility to include all school buildings, playgrounds, athletic fields, parking lots, point of entry, etc.

#### **Recommendations From SVA:**

- No cost to implement? Follow through with recommendation.
- Moderate cost to implement? Pursue funding to implement if possible.
- Cost prohibitive to implement? Can't buy what you don't have.

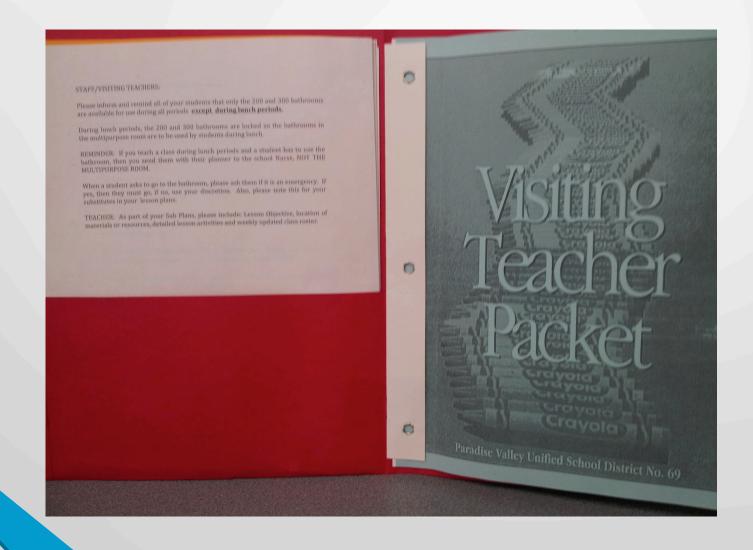
# Sandy Hook Elementary School December 2012 --Lawsuit Filed

# Sandy Hook Lawsuit Claims Negligence Based On:

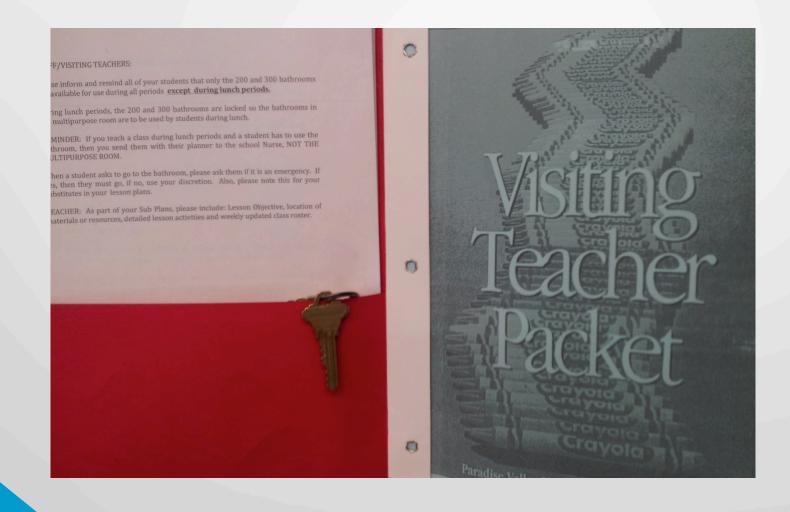
Substitute teacher in one of the classrooms where multiple students were killed did not have a key to the classroom to use for lockdown.

### What Is Your Practice for Providing Substitute Teachers With Classroom Keys?

#### This?



#### Or This?



Additional Claim of Negligence: The school's front door did not have security glass to protect against gunshots.



# Can Districts Afford \$12,000 to Do This?



#### **\$12,000** Includes

- Ballistic shield glass for receptionist window
- Ballistic proof wallboard installed to 8' height in lobby area

#### What If Your District Has 40 Schools?

Approximate cost would be nearly \$500,000 or more!

How many districts have this much money available for such projects?

Would this be considered cost prohibitive?

Additional Claim of Negligence: Classroom doors could only be locked from the outside, with keys, which left teachers and students at risk.



# Cost for Changing Classroom Hardware?

A minimum of \$200,000 for your typical high school.

#### District Sample for Changing <u>All</u> Classroom Hardware:

Paradise Valley Unified School District

5 high schools

7 middle schools

30 elementary schools

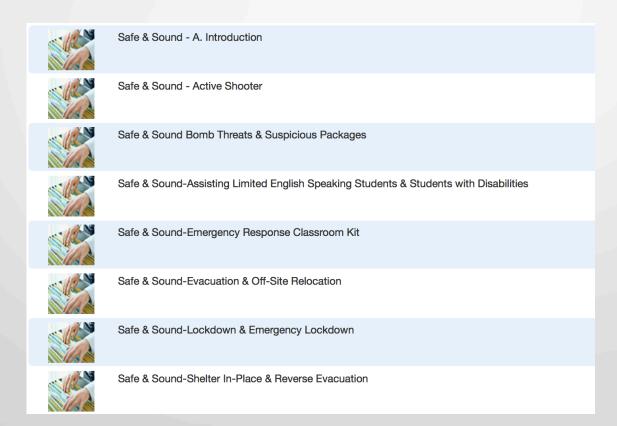
3 special program schools

Estimated cost?

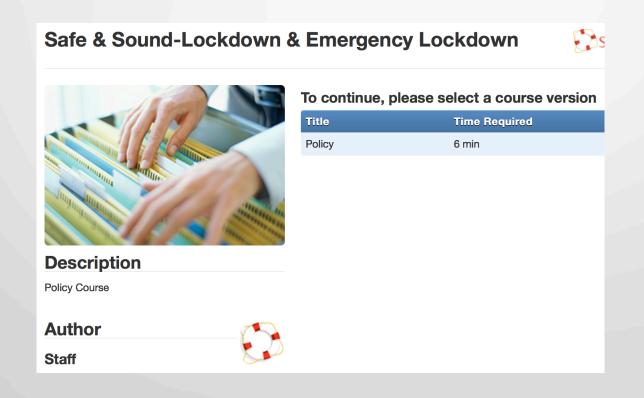
#### 3.4 Million Dollars!

Is this cost prohibitive?

#### Additional Claim of Negligence: Substitute teachers didn't receive training on the school's security protocols.



### Trainings Can Be District Developed and Available Online for Staff



# Teacher, Staff & Substitute Teacher Training

Is training for staff including substitute teachers cost prohibitive?

**Most likely not.** How can this be accomplished?

#### Westside Middle School Jonesboro, Arkansas March 1998

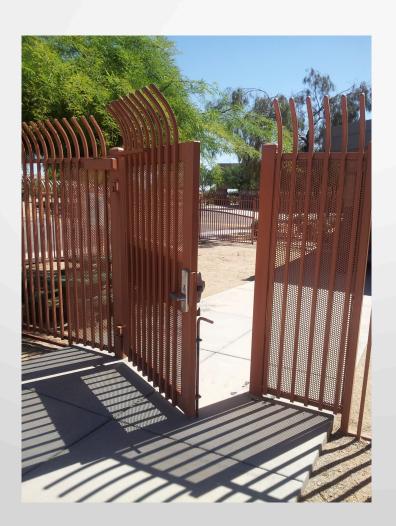
#### Westside Middle School Interior Hallway



#### Typical Exterior Side Entrance for AZ Schools



#### Safety vs. Convenience



#### Armin Jahr Elementary Bremerton, Washington - 2012

- 10 million dollar lawsuit filed
- 1.2 million dollar settlement
- Lawsuit alleged district failed to heed clues that the boy might be dangerous
- The girl's teacher had been concerned about the boy's behavior since late last year, as he became more aggressive...
- Suspect began telling other students that he was going to bring a gun to school information that apparently was never relayed to teachers or administrators.
- Family alleges that officials at Armin Jahr Elementary School were aware the boy had been acting out, should have known he had talked about bringing a gun to school and should have intervened.
- One goal of lawsuit is for the district to make changes to threat assessment protocol.

## Bremerton, WA Continued...

- "Unfortunately the people who are responsible for the safety of the school did not have a system in place that picked that up."
- "Campiche said the Bremerton School District's policies on controlling and stopping bullying fall short of state and national standards. The standards direct a school to gather information about the threat, assess the level of danger and to act, he said."

#### In fair weather, prepare for foul.

Thomas Fuller

#### In Conclusion:

- Have a plan that meets the ADE minimum requirements
- Train your employees and practice your plan
- Look at security measures that are within your ability to do

If disaster strikes tomorrow, how would your district fare in a lawsuit?

### Questions? Thank you!

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