

# Key Concepts for Clubs



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## NCSF is an all-volunteer nonprofit organization

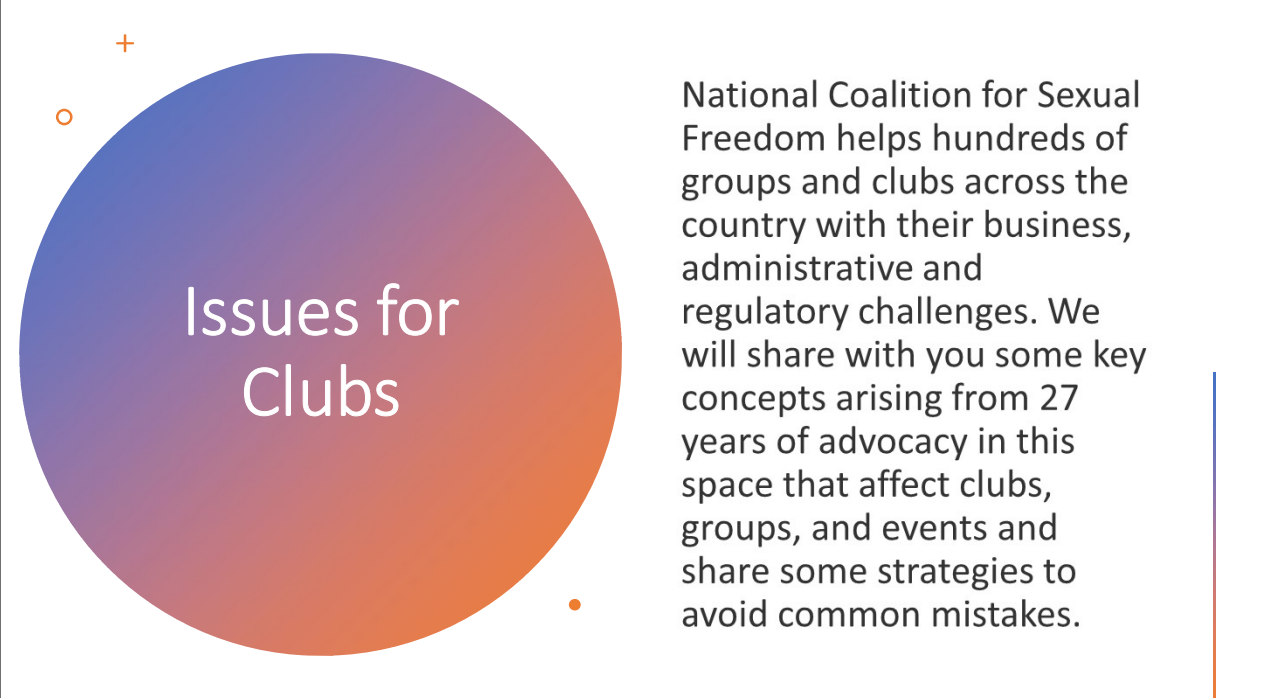
- A coalition of over 150 educational and social groups and businesses that serve consenting adults
- An advocacy group that challenges systemic discrimination in government and private sector services
- Educating law enforcement, agencies, state and local officials, and professionals about the Alt-sex communities
- A media advocacy and training organization that is changing the way people think about diverse sexualities among consenting adults
- A resource for information on dealing with consent incidents and creating a consent policy
- A non-profit membership organization that provides direct services
- A charitable foundation that provides education about diverse sexualities



Who We Are

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Issues for Clubs

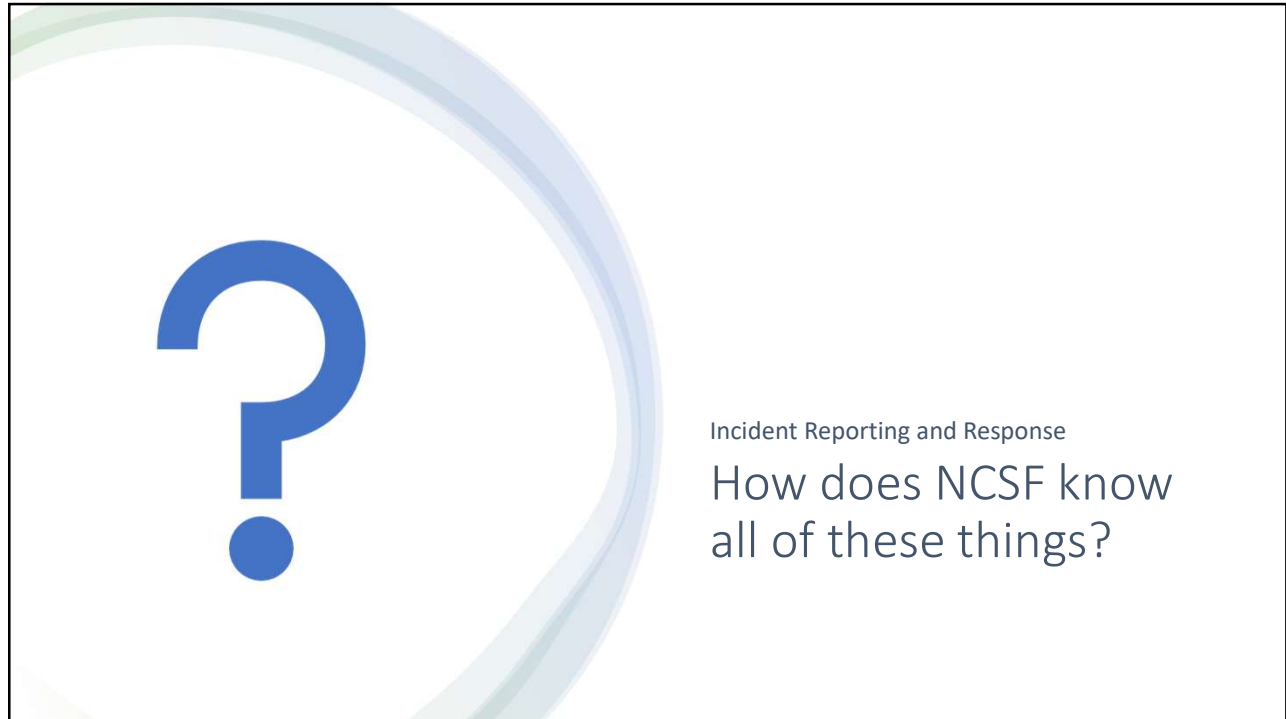
National Coalition for Sexual Freedom helps hundreds of groups and clubs across the country with their business, administrative and regulatory challenges. We will share with you some key concepts arising from 27 years of advocacy in this space that affect clubs, groups, and events and share some strategies to avoid common mistakes.

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Why don't you know about some of these things?  
Because these cases hit the media and are gone, or never even pop up on the media at all.

**The latest appellate case involving kink last year, Sunny Sky Stone vs. Oregon, wasn't covered by the news at all.**

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## What is IRR

NCSF's Incident Reporting & Response (IRR) program is a resource for the members of the kink, polyamory and Lifestyle communities and for people seeking information about them. IRR provides individuals, groups, clubs, events, and professional with educational information and referrals to services.

We help hundreds of people each year, which is where NCSF gets data and statistics to help us develop resources.

Things we can help you with:

- Legal issues
- Discrimination issues (including the government)
- Consent issues
- Policy and Procedure
- Legal liability

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**IRR Stats:** The IRR Team assisted with 239 reports received by NCSF's Incident Reporting & Response program in 2024. 94 of those were group issues.



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## 2024 Group Stats:

94 groups, events and businesses requested assistance or a member requested assistance with their group.

- 29 groups asked about attendees/presenters/organizers or reported they had banned someone
- 17 groups asked for a consultation on their consent policies & procedures or training their Consent Response Team
- 11 people were banned by a group (3 people made defamation accusations after a group banned them)
- 5 people needed information and KAP attorneys for setting up an organization
- 5 groups needed a KAP attorney for zoning issues
- 5 groups needed assistance with DEI issues
- 4 groups reported shadow-banning – loss of social media accounts, etc.
- 4 groups asked about liability issues
- 2 groups needed social media advice
- 2 clubs needed assistance dealing with “sexually oriented business” regulations
- 2 groups needed information about an equal opportunity issues with volunteers
- 1 person questioned a group’s adherence to fiduciary duty
- 1 group was threatened with being reported to the attorney general for organizational noncompliance
- 1 group needed information in case they were raided by the police
- 1 group asked for assistance because their website was labeled as dangerous
- 1 group needed a no trespassing order
- 1 group needed assistance with local ordinance laws
- 1 group asked about the legality of BDSM
- 1 group needed insurance



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## CRIMINAL

82 people made reports & requested assistance about legal issues in 2024:

- 69 reports came from people who were assaulted, sexually assaulted, injured, choked, blackmailed, stalked, harassed, threatened, revenge porn, kidnapped, stealthed, exposed to an STI, recorded without consent, safeword ignored, limits ignored, nonconsensual hypnosis, threatened with a gun, looking for a Domestic Violence shelter or applying for a restraining order. **14 out of 69 (20%) were about a kink/CNM community organizer, compared to 19% in 2023 and 22% in 2022.**
- 5 people requested resources and referrals for attorneys and resources to assist in defending themselves against allegations of sexual assault or assault
- 2 people inquired about prostitution laws, FOSTA and kink
- 2 reports were about public records for convictions of child sexual assault or sexual assault

## CIVIL

23 requests for assistance in civil legal issues :

- 15 reports involved defamation accusations: 8 accused of defamation for talking about a consent violation; 5 people reporting they were defamed/slandered; 1 reporting defamation of business; 1 person being sued for defamation by a group
- 2 people reported they were fired (1 for being transgender & kinky)
- 2 requests for referral for a tax professional
- 1 request for a referral for a copyright attorney
- 1 person reported discrimination by the Google Play Store when their app was refused
- 1 report on financial discrimination – shadow-banned by banking institution
- 1 person was looking for non-monogamy-friendly cities to move to



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## Professionals

15 requests from professionals about kink and nonmonogamy:

- 5 professionals needed info on consent and nonmonogamy/kink
- 3 people needed a referral to a KAP therapist
- 2 students asked us to broadcast their survey (neither met our criteria)
- 1 person was looking for a KAP attorney to deal with immigration
- 1 student needed information for a policy brief for their masters course
- 1 person needed a professional to remove a hypnosis trigger
- 1 professional sex educator needed a referral for an attorney about setting up their business
- 1 professional inquired about possibility of filing a class action lawsuit against shadow-banning on social media platforms

## Outing & Doxing

18 groups or individuals reported being outed or doxed:

- 8 people reported they were outed (1 to their mother, 1 by FetLife and OnlyFans images)
- 3 groups needed assistance with outing/doxing involving their members
- 2 people threatened with outing to their job
- 1 person was outed to their job and put on administrative leave
- 1 person was recorded without consent and posted on OnlyFans
- 1 person was accused of doxing/outing and harassment
- 1 person was threatened with outing on FetLife
- 1 person reported their FetLife photo was used in a negative media article



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## A Giant Disclaimer

There is no substitute for appropriate legal counsel: while legal advice may be expensive, it is essential to have the support of attorneys in the formation and maintenance of a club. That includes a **corporate attorney**, a **criminal attorney** and a **tax attorney**. Any changes to your club policies can have big impacts, and by consulting with your attorneys, you can avoid the slippery slope of non-compliance over time. NCSF is not a legal aid service, nor do we offer specific legal advice for clubs or individuals. NCSF provides publicly available information for consenting adults in the kink, poly and Lifestyle communities and for professionals seeking information about them.



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Adults Only

- You must make it clear on your website and promotional material that your club is for adults only. That means 18 and older, and over 21 if your club offers BYOB service, i.e. members bring their own bottle of alcohol, and the club holds and serves it to that member. It does not matter what the age of sexual consent is in your state. You must card every single person that enters the club, no exceptions. You never know when an undercover officer is present: sex trafficking is an increasing concern among law enforcement, so they are vigilant about pursuing reports of sexual activities with those under 18.

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## Improper Organization: Don't Cheat

Hoping your State or local officials don't catch you is a mistake.

Get Proper Licensing

Make sure you are zoned properly.

Make sure you follow building code.

Health Department Strategies

Make sure you have three (3) lawyers:

- Tax Attorney
- Corporate Attorney
- Criminal Attorney

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## Licenses

- As a business, you will need to get licenses to operate. There is licensing paperwork that needs to be taken care of and maintained annually. If you are a business and rent out your venue, you may have to get a license for that - (501(c)7 social groups aren't supposed to rent out their premises). Also, if you sell food, even if it's packaged snacks, there may be a license for that, and you must pay sales tax in most states. If you allow toys to be sold on-premises, then your business could be selling adult entertainment merchandise.

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## Public Nuisance

- Each city has its own code on public nuisances, which includes a wide variety of offenses that threaten the health, safety, welfare and even morals of a community. Maintaining a public nuisance is knowingly causing or permitting a condition to exist which injures or endangers the public health, safety or welfare. Violation may result in the revocation of your business licenses.

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## Sexually Oriented Business Tax

- This is a fee that must be paid for every customer by businesses that provide live nude entertainment, or live nude performances as defined by the jurisdiction, and authorize on premises consumption of alcoholic beverages regardless of whether the business is required to hold a license or permit under the Alcoholic Beverage Code. A SOB tax can be applied retroactively for every customer who has entered if your club is labeled as an SOB by the authorities.
- In United States law, a sexually oriented business (S.O.B.[1]) is a business that is part of the sex industry, such as sites of erotic performance and erotic paraphernalia stores. Often regulations of SOBs enter law as part of zoning regulations by jurisdictions when trying to maintain the character of a particular community and discourage elements of society that may be considered harmful for their connection to the sex industry.[2] Though many regulations of SOBs arguably violate First Amendment rights in the United States, lawmakers will use the secondary effects doctrine—in which restrictions of First Amendment rights are legal if the restrictions can prevent harm to the larger community—to justify regulation of SOBs.[3]

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## Special notes on SOB Tax

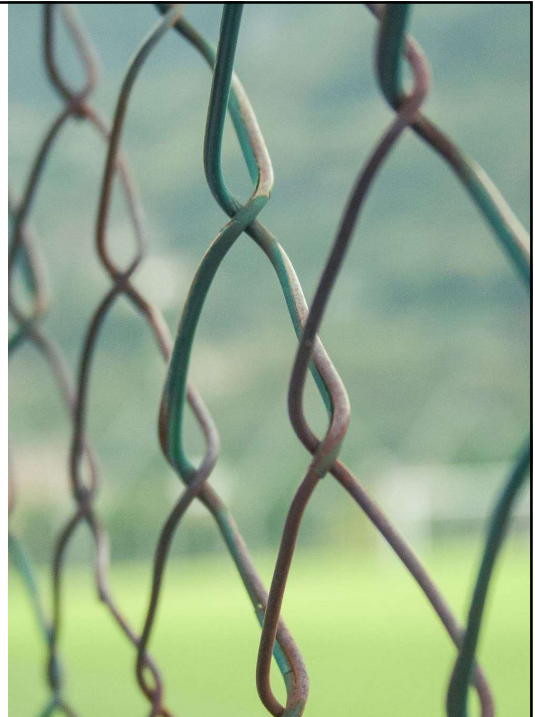
- **This is heating up, since 2023 NCSF has helped several groups successfully fight the SOB tax**
- **They key to doing this is knowing early**
- **Pay attention to your Board of Supervisors, City Council, or whomever levies these taxes. Once they've done it, it is much harder to fight**



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## Key Notes on not “looking” like a SOB

- Health and Safety
- Barriers to entry
- Crime
- Reach out to NCSF for more information



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## Vice Laws

- Sometimes called "blue laws," these are laws that govern people's moral behavior in regard to sexual activities. They are often no longer enforced. However, a vice law has had a chilling effect on BDSM play parties in Massachusetts, for example, because legally you cannot facilitate sex or "abuse" which is often interpreted to include BDSM activities.

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28 States still have "blue laws" and some are still enforced

- Cannot be open on Sunday
- Cannot have events where liquor is present or sold on Sunday

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## Obscenity Laws

- Obscenity laws prohibiting sexual activity in the view of the public
- The municipality will see you as “public” if you don’t have a “barrier to entry”
- A barrier to entry must be ‘real’. If someone can pay and walk in, that isn’t a barrier to entry. There is some well-defined case law about this: *Eagle v Chicago*, *Power Exchange v California*.
- In many jurisdictions, obscenity laws are invoked when someone goes to an authority and says, “I am offended”, and that is enough for probable cause. Then you are on the defense.

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## Some Examples of Barriers to Entry

- Things that have been tested to pass various tests:
  - Waiting period
  - Orientations prior to taking money
  - Evidence of “vetting”
  - Proof you can demonstrate that you both deny entry (Membership) and revoke entry (Membership) on equitable grounds.
    - Equitable grounds means something objective not “we don’t like them”.
  - Put these kinds of policies on your website and at entry. Make it public.
    - Stopping a problem before it starts

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## Zoning Ordinance

- Zoning defines how a property in a specific geographic zone can be used. You must be sure your club is in the correctly zoned area, which is typically in rural, industrial or industrial/commercial zones. Some zoning ordinances have a requirement that adult clubs must be a certain number of feet from a school or church.



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## Live Entertainment

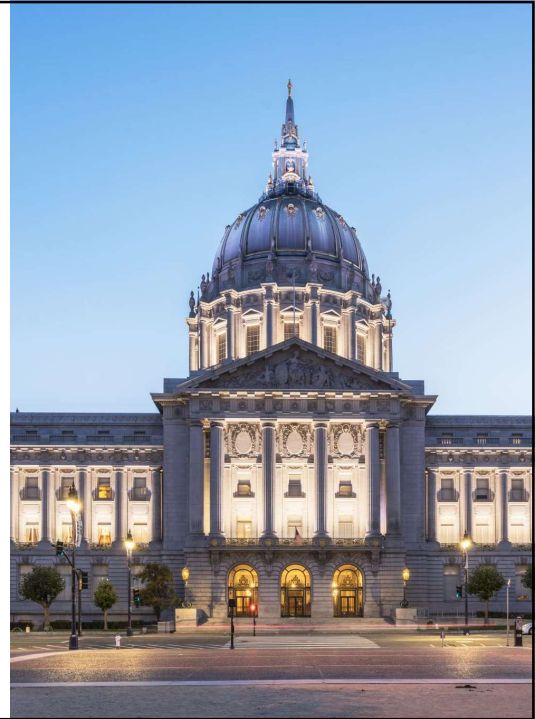
- Even if you don't pay performers to dance on a pole, your club may be considered to be "providing" live entertainment if you are providing a venue where people can see others have sex. "Watching" is the hallmark of live entertainment, so allowing people to watch someone have sex has been used to label clubs as a Sexually Oriented Business. Clubs have gotten around this by creating cubicles with doors that can be closed. That way any sexual activity is technically taking place in private, though doors can be cracked or left unlocked to indicate others are welcome inside. Notice should be given that there is no expectation that any door you close will remain closed, and that staff can enter to ensure safety.



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## Live Sex Act Business Code

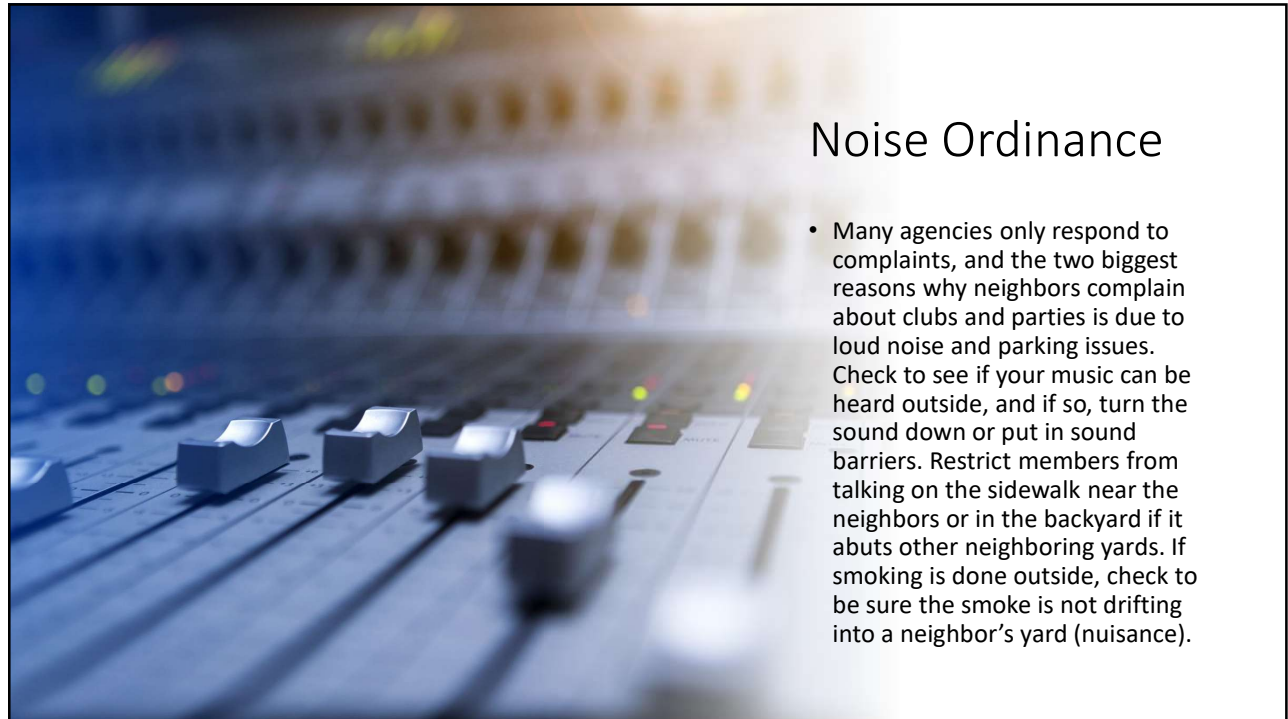
- Also known as the Phoenix Ordinance. On December 9, 1998, the Phoenix City Council unanimously passed an ordinance which made it a nuisance crime to own or operate a swingers club, resulting in fines and closure. The Scottsdale-based National Family Legal Foundation, a conservative Christian organization, helped Phoenix city attorneys draft the law. Since then, a number of other cities have passed their own version. In August 2019, the City Council in Ft. Wayne, Indiana, considered a Live Sex Act Businesses ordinance to shut down The Champagne Club. City Council Member John Crawford argued successfully against it because it was based on morality, stating, "Based on all the evidence and data I've found on this club, I don't think they are hurting anyone and the citizens are living their lives as they see fit."



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## Noise Ordinance

- Many agencies only respond to complaints, and the two biggest reasons why neighbors complain about clubs and parties is due to loud noise and parking issues. Check to see if your music can be heard outside, and if so, turn the sound down or put in sound barriers. Restrict members from talking on the sidewalk near the neighbors or in the backyard if it abuts other neighboring yards. If smoking is done outside, check to be sure the smoke is not drifting into a neighbor's yard (nuisance).



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## Occupancy Permit

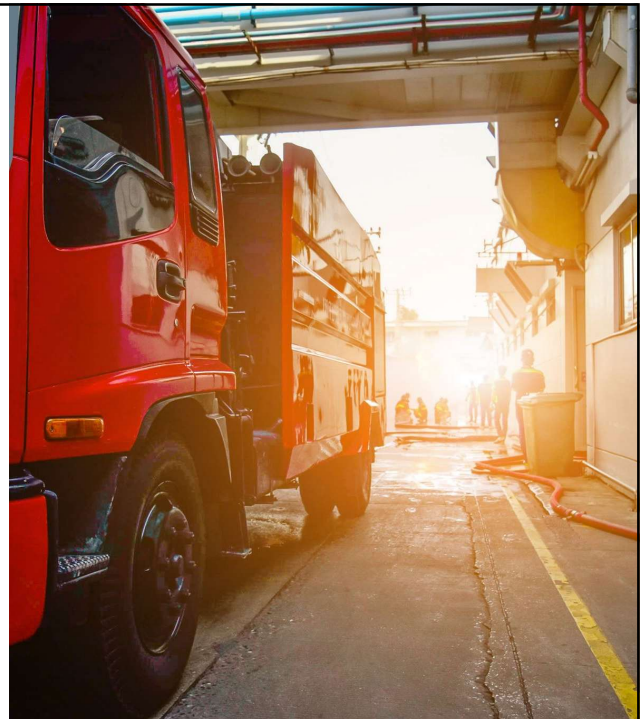
- A certificate of occupancy is often required when you purchase a property or when a property is changing from one use to another. The building department or department of housing conducts a series of inspections before granting a C of O. The certificate of occupancy describes what class the property is in: residential, retail, commercial, industrial or a mixed-use property. The Occupancy Permit also serves as proof that a property has complied with all standards and codes, such as the number of exits and bathrooms. It also ensures the property has passed inspection according to all housing and building codes, such as electrical wiring.



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## Fire Marshal

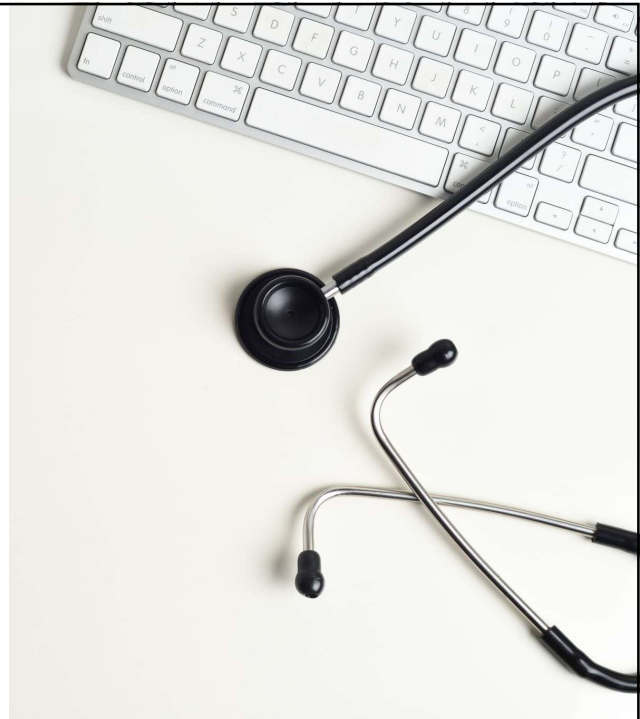
- A Fire Marshal can shut down your club if your property isn't up to code. Fire Marshals are government officials who are empowered to inspect the premises, with enforcement capabilities. Sometimes they work with the building department and sometimes independently. The International Fire Code (IFC) establishes minimum regulations for fire prevention and fire protection systems using prescriptive and performance-related provisions. The provisions of the IFC provide protection for public health, safety and welfare from the hazards of fire, explosion or dangerous conditions in buildings, structures and premises. You can hire companies to inspect your club for you prior to landlord and fire marshal inspections. This includes ingress/egress/maximum occupancy and sprinklers/hazards, etc.



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## Health Department

- The Health Department is a government agency. There may be Health Department regulations or Sanitary Codes against sexual activity taking place in businesses in your state/county due to the potential for STIs. Some clubs have reached out to their local Health Department or Private Organizations and arranged for free STI testing to take place at their club on certain nights/events. For testing, you need to provide a small private room or an area that can be curtained off for the testing.



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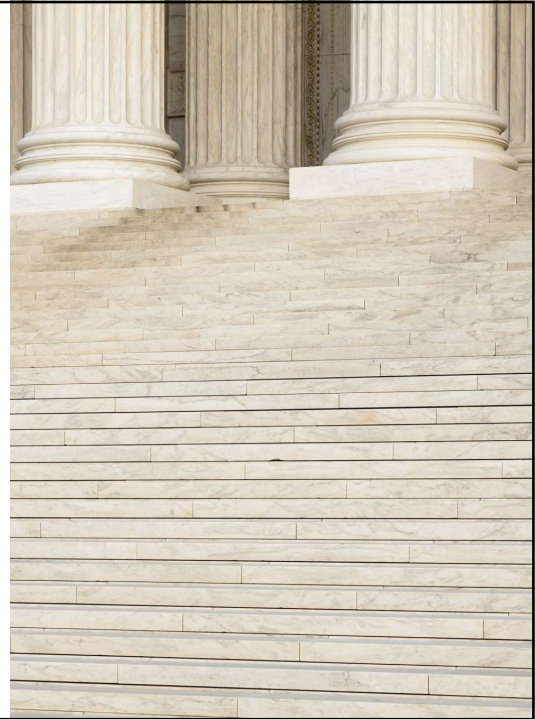
## Liquor Laws

- You can't sell alcohol unless you have a license to do so. Special events can get a temporary liquor permit depending on the venue and caterer. However, liquor permits typically require that there be no nudity or touching of genitals or breasts. It is typically not necessary to have a liquor license for BYOB, whereby members bring their own bottles which are stored behind a "bar" and served by the staff of the club.

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## Administrative Process

- Agencies can conduct an administrative process to determine if your club follows the law. This is a common way that clubs are shut down.
  - Since you need to be represented by an attorney, it is as expensive as a trial. Once a club has been shut down under administrative process, then you must appeal the ruling, which is another trial.
- An administrative process could be started by local and state agencies, including the Building Department, Fire Marshal, Health Department, tax, licensing or zoning officials. Law enforcement agencies enforce everything from noise and parking ordinances to Vice laws.



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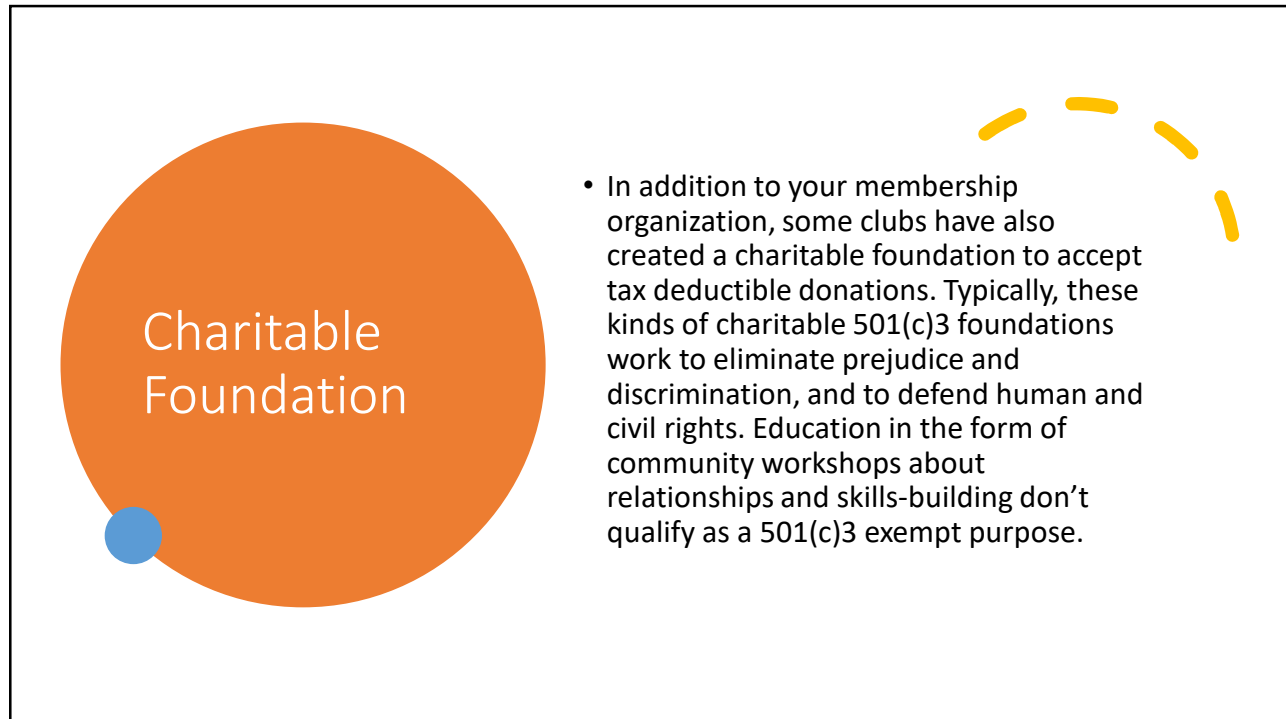
## Adverse Secondary Effects

Adverse Secondary Effects is a legal doctrine that enables cities to regulate sexually oriented businesses as long as the aim is to prevent crime, depreciation of property values and spread of disease. A Secondary Effects Study measures the adverse secondary effects, both direct and indirect, of a sexually oriented business on the neighborhood.

These studies are used to justify closing down sexually oriented businesses, or when no correlation to crime or lowered property values is shown, to allow clubs to remain open.

In *Los Angeles v. Alameda Books* (2002) the court found that evidence that was shoddy or not derived from a specific area does not justify regulation, and the ruling places the burden of proof on the government for collecting "substantial" data to justify the claims of adverse secondary effects.

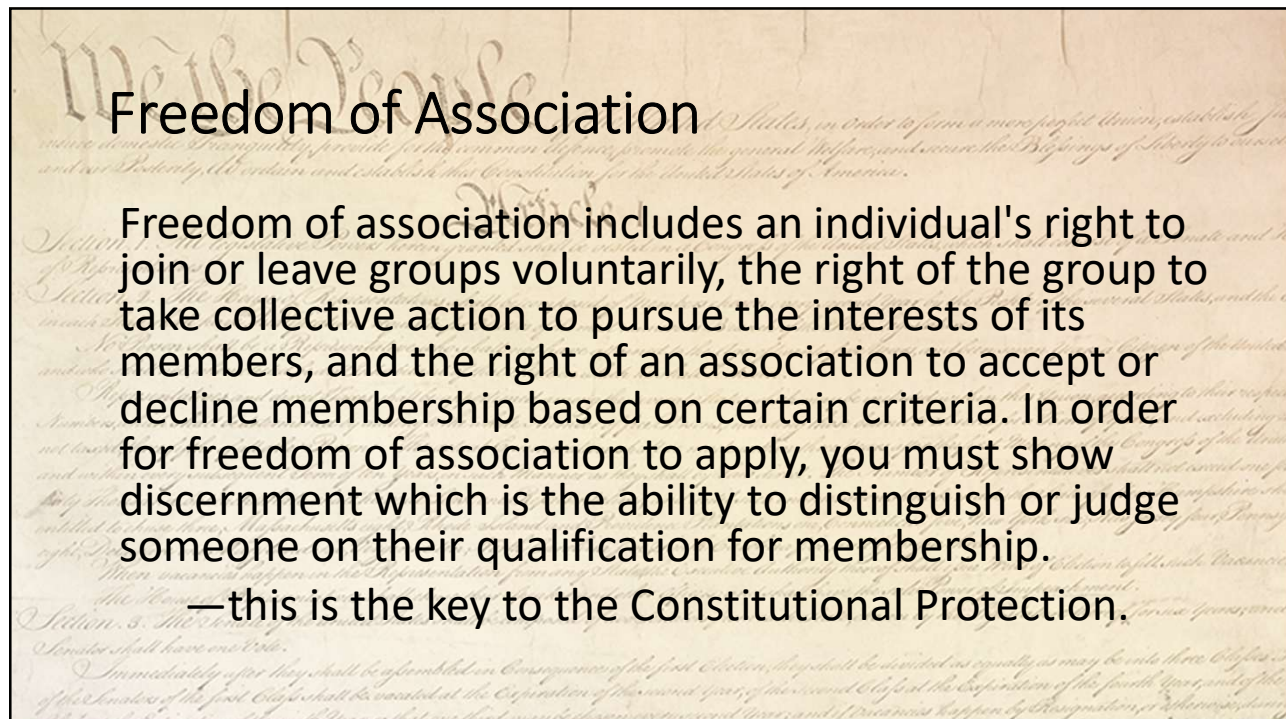
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Charitable Foundation

- In addition to your membership organization, some clubs have also created a charitable foundation to accept tax deductible donations. Typically, these kinds of charitable 501(c)3 foundations work to eliminate prejudice and discrimination, and to defend human and civil rights. Education in the form of community workshops about relationships and skills-building don't qualify as a 501(c)3 exempt purpose.

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## Freedom of Association

Freedom of association includes an individual's right to join or leave groups voluntarily, the right of the group to take collective action to pursue the interests of its members, and the right of an association to accept or decline membership based on certain criteria. In order for freedom of association to apply, you must show discernment which is the ability to distinguish or judge someone on their qualification for membership.

— this is the key to the Constitutional Protection.

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## Right to Assemble

- Clubs rely on the right to assemble and must defend this principle. The First Amendment to the United States Constitution states
- "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble..."



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## Right to Intimate Association

- Under the **14th Amendment**, there is the right to due process in the administration of justice that acts as a safeguard from arbitrary denial of life, liberty, or property by the government outside the sanction of law.
- One of the reasons the Phoenix Ordinance was upheld by the Supreme Court was that there was no right to privacy in "public" based on *Bowers v. Hardwick* (1986). This case has since been overturned by *Lawrence v. Texas*, in which the Supreme Court reasoned that Lawrence and Garner were free as adults to engage in the private conduct in the exercise of their liberty under the Due Process Clause. **The Court went further to say you cannot stigmatize private sexual conduct simply because some might believe it is "immoral."**



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## House Party

- If you hold parties that are “regular and habitual” and live in a residential zone, then you could be accused of running a business or social club from your home.
- If you collect money for attendance, either online or at the door, then you could be accused of running a business or social club from your home. This may result in a warning to cease the activities and/or a fine.
- House Parties have been featured in the media with the address and names of the homeowners publicized. Parking and noise complaints about house parties often lead to the involvement of zoning officials.




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## Private Members-Only Club

For-profit clubs can be incorporated as an LLC, partnership or sole-proprietorship, and are typically operated as private members-only organizations. When people come in, they buy a membership rather than entry to the club. This allows for club confidentiality for members.

According to the Supreme Court ruling in *Recreational Developments v. The City of Phoenix*, the following criteria must be met for a club to be private: membership must be selective with an established criteria that must be met; membership must be limited in size and limited in the frequency of adding new members; and the addition of new members is voted on.

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## Tax Status = Legal Issue

- If you are a private club, you must behave like one. You must show discernment to be protected.
  - There must be barriers to entry.
  - There must be criteria for joining.
  - You must follow the income rules.
- Please note: Not following these things can remove the exemptions and protections you have as a private club.

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National Coalition for Sexual Freedom

## Accessibility

- NCSF also offers a lot of information about how to make sure your club is welcoming and accessible under our Amplify Voices project, especially when it comes to holding events and workshops.  
[https://ncsfreedom.org/amplifyvoices/#December\\_Accessibility\\_Awareness](https://ncsfreedom.org/amplifyvoices/#December_Accessibility_Awareness)
- Organizers can also get training from DEI specialists – NCSF has a KAP section for DEI experts who can help. NCSF gets trainings regularly.
- A lot of this is about educating and raising awareness among members, not policing conduct. You're going to have neurodiverse members who don't have the same ability to read social cues, and they shouldn't be punished for "staring" for example. You're going to have older people who misgender people because they've never had experience in being sure they are using the correct gender. As a member and organizer, you need to be in education mode when these things happen, not punitive or punishment mode.

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## Why does accessibility matter?

- While a 501 (c) 7 has some ADA exceptions, it is still the right thing to do.
- If you are open to the public, you must comply with the ADA
- According to PEW 16 percent of people in the US (39 million people) have a physical disability
- According to the 2021 American Community Survey (ACS), 11 million people in the US, or about 3.6% of the population, consider themselves deaf or have serious difficulty hearing.
- Findings from the 2022 National Health Interview Survey (NHIS) data release established that an estimated 50.18 million adult Americans (15%) reported they either "have trouble" seeing, even when wearing glasses or contact lenses, or that they are blind or unable to see at all.

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## Most Common ADA Violations

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Inaccessible Doors

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No Ramps

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No Accessible Parking Spaces

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No Accessible Restrooms / Inadequate

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Service Animals Not Permitted

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Improper ADA Signage or No ADA Signs

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Unwilling to provide interpreters for classes or performances

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## Other Violations To Consider

ADA compliance goes beyond ramps. According to the ADA requirements, for every business with 15 or more full-time employees (with very few exceptions), all commercial property owners and facility managers must be in ADA compliance. In addition, all new construction (after 2011) for commercial facilities are designed with accessible buildings using the 2010 Design Standards.

Do you know you can be fined for not providing an ASL interpreter if you were asked to do so with reasonable notice?

Federal law allows fines of up to \$75,000 for the first violation and \$150,000 for additional ADA violations. States and local governments may allow additional fines. They may require businesses to meet a higher standard of accessibility than the ADA requires.

NCSF Consent Counts

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## Social Club

- Social clubs are typically incorporated as 501(c)7 Tax Exempt Social and Recreational Clubs. As a membership organization, Social Clubs are considered “private” which allows for sexual activity to take place in the club.
- In order to be considered a not-for-profit Social Club, you must provide an opportunity for personal contact among members, with the membership limited in number and each member voted into the club (often by an elected Board or Membership Committee).
- In order to be tax-exempt, the club’s income must come from fees, dues, and assessments on the members, and the club may receive minimal income from nontraditional sources. The organization’s net earnings may not inure to the benefit of any person having a personal and private interest in its activities. Reciprocal memberships, lifetime memberships, and complimentary memberships may risk status.
- In order to be considered private, there is an expectation of barriers to entry, such as a membership application, an orientation, and a waiting period before attending club events.

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## Dealing with Law Enforcement

- Stand aside when saying, “I don’t give you permission to enter” or “I don’t give you permission to search,” because you can’t stop a law enforcement officer if they think they have probable cause of a crime being committed.
- If this is a domestic violence call, then ask your partner to talk to the police. Explain that you’re engaged in mutually pleasurable kink activities between consenting adults that don’t involve serious injury.
- Since certain forms of BDSM are likely illegal in your State, request that you speak to your attorney before answering any questions beyond “mutually pleasurable kink activities between consenting adults...”
- **DO use your common sense.**
- **Be polite.**
- **Provide your identification if asked.**



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## Gender Based Pricing

- Gender based pricing has become a hot-button issue.
  - There are two (2) recent court cases, both are in appeal.
- Also, “Couple’s Only” events have seen some legal action because it excludes other relationship styles.



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## Media

- You may be surprised by reporters. You need to be prepared in advance.
- Visit the NCSF Website for:
  - Media tips to prepare for an interview
  - Sound Bites which are carefully crafted to read positively
  - Reach out to the NCSF to help you prepare for interviews or do Media Training with us to get prepared

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**Criminal Complaints**

Consent Policy and Procedures

- Everyone is outed
- Liability Insurance becomes almost impossible
- The bad press can end your event or club for good

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## Consent Policy and Procedures

### Civil Lawsuits

You can be sued for advance knowledge and failure to protect

Liability and Directors and Officers Insurance do not cover things you knew about

The Volunteer Protection Act won't help

Legal Extortion

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## NCSF Resources

### Incident Reporting & Response

- Legal issues
- Discrimination issues (including the government)
- Consent issues
- Policy and Procedure
- Legal liability

### Kink Aware Professionals Directory

- Free referrals for service professionals

### Consent Counts

- Education
- Resources

### Educational Outreach:


- Education for groups and events



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**There are many ways to support NCSF!**


- **Join:** Become a Coalition Partner, Supporting Member or Individual Member. By becoming a member, you support our lobbying efforts, Incident Reporting & Response, Kink Aware Professionals Directory and Professional Outreach.
- **Give:** Make a tax-deductible donation to the Foundation of the NCSF. Or ask your group to do a fundraiser and donate to NCSF.
- **Volunteer:** Volunteer and be part of the solution! Give your energy to NCSF efforts that impact your lives, those of your friends and loved ones, and the community at large.
- **Spread the Word:** Order free NCSF brochures and materials, and take them to your groups and events.
- **Wear with Pride:** Shop for NCSF merchandise at Amazon, and wear your support of NCSF with pride.
- **Support KAP:** If you are a lawyer, doctor, therapist or other professional who can offer "Sex-Positive Support for Kink and Non-monogamy," please add your listing to the Kink Aware Professionals Directory. NCSF manages the largest known free directory of kink and polyamory Aware professionals.



Join NCSF



Donate to NCSF



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**TO REACH TESS**  
Tess@NCSFreedom.org



Additional Resources:  
Slide Deck and Links



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**CONTACT THE NCSF FOR HELP!**



Newsletter /  
Media Updates



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national coalition for sexual freedom inc.

[NCSFreedom.org](http://NCSFreedom.org)

Email: [Tess@ncsfreedom.org](mailto:Tess@ncsfreedom.org)

Contact the NCSF for Help!