

THE CAMPLINE

Providing Camp-Specific Knowledge on Legal, Legislative, and Risk Management Issues

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CAMPER MEDICAL MADE EASY

CASE STUDIES, LESSONS LEARNED, AND RESOURCES HOTLINE PHONE NUMBER 800-573-9019



The American Camp Association (ACA) just completed our thirtieth year offering confidential crisis support to camps through the Camp Crisis Hotline! Since 1985, ACA has been providing resources, support, and a calm third-party perspective whenever camps need someone to talk to in a crisis. Available 24 hours a day, every day of the year, camps consistently tell us that the Hotline is one of the most valuable ACA services. ACA tracks the trends and lessons learned from each confidential call, then provides an annual overview of what was learned, as well as case studies for camps to use in their own staff training and risk management planning. All of the most popular resources and case studies from the past two decades can be found online at www.acacamps.org/camp-crisis-hotline.

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TOP TRENDS

Continuation of the seven-year trend in health/medical issues as the top calls. Many camps seem to have difficulty finding healthcare staff who understand the implications of providing healthcare in a camp setting – including familiarity with childhood illnesses and common infestations.

Significant increase in calls about the business of operating a camp. Operating a camp business is increasingly complex, so knowledge of applicable federal, state, and local laws and regulations is critical.

Sharp increase in the number of calls about accommodation and inclusion of individuals (staff and campers) who identify as transgender, gender non-conforming, and gender-variant.

A rise in the number of calls about immunization requirements. As state school immunization laws change and media coverage of immunization-preventable disease outbreaks grow, camps are questioning the legal and health issues regarding immunization requirements for campers and staff.

Growth in the need for help in developing communication strategies in the event of unexpected situations (ranging from minor infestations, such as lice – to tragedies such as the death of a staff member).



HEALTH AND MEDICAL

31% of the calls

- Threats of suicide
- Accidents (water, land, vehicular)
- Bats
- Bed bugs
- Chickenpox
- Cutting
- Death from natural causes – and grief support
- Food poisoning
- Health care staff training
- Immunizations

Icon Key

The icons below correspond to article topic areas. Use them to find the



ISSUES



POSITION



PUBLIC POLICY
AGENDA



REGULATORY



RELATIONSHIPS



31% of the calls continued

- Lice
- Medication administration
- Murder of a staff member in the off-season
- Mysterious flu-like outbreaks
- Snakebites

LESSONS LEARNED – Health and Medical

1. Trained healthcare staff is critical to the health and well-being of your campers and staff. The Association of Camp Nurses (www.ACN.org) provides excellent resources and training for camp healthcare staff. In addition, consider having your healthcare staff review ACA's Hotline resource pages on health issues (www.acacamps.org/health-issues) and participate in health-related online courses and webinars through ACA's Professional Development Center (www.acacamps.org/professional-development-center).

2. In the event of a serious accident, injury, or infestation, an excellent communications plan is critical. Many callers just want help crafting messages about an incident that they can share with families, the media and others. An excellent resource is our Crisis Communications Toolkit (www.acacamps.org/members/toolkit/crisiscomm).

3. Lice outbreaks happen. It is what you do next that matters. ACA's single most popular call to the Hotline this year was regarding lice outbreaks and whether to treat and

Top Resources

Communicable Diseases www.acacamps.org/knowledge/health/diseases

Crisis Communications Toolkit www.acacamps.org/members/toolkit/crisiscomm

Immunization Issues www.acacamps.org/campline/spring-2015/

keep those impacted at camp, or send them home. There is no single right answer — and even the experts disagree. Determine if you will be a “nits” or “no-nits” community. Know that there are new strains of lice that are resistant to over-the-counter remedies and prescription treatment may be required (www.acs.org/content/acs/en/pressroom/newsreleases/2015/august/lice.html).

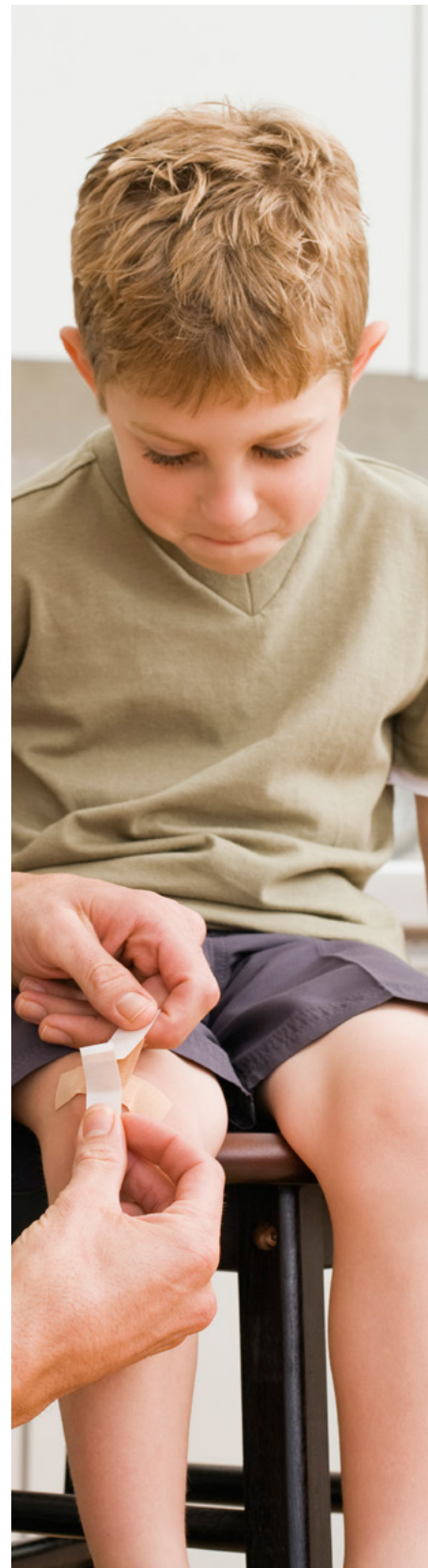
4. All staff need to understand the issues regarding distribution of medication. As more people bring prescription medication to camp, and more camps seek to provide “out of camp” adventure experiences (such as overnights away from camp), the issues related to the distribution of medication become complex. The answers to the questions of who can manage, administer, and distribute medication vary by state.

5. Mental health concerns continue to grow. Have a support system in place. ACA has seen a sharp increase in calls of a mental health nature that seem to reflect the trend in society overall. Add mental health resources and experts to your healthcare plan and team.

STAFF TRAINING QUESTIONS – Health and Medical

- If a staff member had a heart-attack and died in their cabin at camp in the middle of the night, what would you do?
- If one of your day campers died at home one evening during camp season, where would you access grief counseling resources for the rest of the camp?
- If an adult staff member is ill and your onsite health care staff recommend sending the staffer off site to a hospital or doctor, what would you do if the staff member refuses saying their parents would be mad since they would have to pay a deductible? (The staffer is under 26 and covered under parental insurance.)
- What would you do if you suspect a camper is self-mutilating?
- What would you do if you find that a dozen of your campers and staff are infested with lice and not responding to over-the-counter remedies?

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BUSINESS OPERATIONS

12% of the calls

- Applicable laws
- Arrest of former staff member
- Camp business closing
- Handling negative social media
- International insurance considerations (See Case Study 3 on Page 18)
- Legal counsel
- Liability questions
- Rental group requests for increased security (See Case Study 6 on Page 22)
- Risk and release waivers

Top Resources

ACA Buyer's Guide www.ACAcamps.org/buyers-guide

ACA Camp Business Operations Report 2015 www.acacamps.org/research/improve/2015-business-operations

ACA's Camp Business Research, Summaries, Data, and Maps www.ACAcamps.org/research/research-reports-summaries-and-data

ACA Camp Director Certificate of Added Qualification Course www.acacamps.org/pdc/certificates-of-added-qualification/camp-director

Releases and Related Issues: Revisited www.ACAcamps.org/campline/winter-2012/releases

The Business of Camp book by Anne Sheets and Dave Thoensen available through the ACA Bookstore www.acabookstore.org/p-6245-the-business-of-camp.aspx

All ACA business operations resources can be found online at www.acacamps.org/knowledge/business

LESSONS LEARNED – Business Operations

1. Operating a business is becoming more complex – seek and retain expert counsel. Calls regarding business operations issue jumped from near the bottom to the second most popular call to the Hotline this year. While ACA cannot provide legal advice, we do help callers understand w questions to discuss with legal counsel.

2. Understand the laws applicable to your camp – state, federal, and local. One camp called to discuss their decision to keep a camper in camp after discovering her flushing marijuana down the toilet. They stood behind their second-chances decision, but some parents believed that they were required by law to call the police. This decision led to an after-the-fact scramble to learn the laws relevant to their previous decision.

STAFF TRAINING QUESTIONS – Business Operations

- Who is ensuring that your camp is compliant with all relevant laws and regulations?
- What state challenge course and zip line laws and regulations are applicable to your camp?
- If a child tells their counselor that her parents are alcoholics and “always drunk” are you required to report that to the authorities?
- If an international camper has an “international insurance card” what does that mean for your camp should the child need outside medical care?
- If one camp nurse trains another camp nurse at your request and the new camp nurse “does something wrong,” are there liability issues for your camp and the first nurse?
- Do you fully understand the coverages afforded your camp by your various insurance policies?





PERSONNEL AND EMPLOYMENT

12% of the calls

- Accommodation of staff who identify as gender non-conforming (See sidebar on Page 13)
- Advice on terminating employment
- Allegations of rape off-property (adult-adult)
- Former volunteer staffer arrested on child pornography charges
- Staff (adult and minor) drinking alcohol on property (See Case Study 2 on Page 17)

Top Resources

American's with Disabilities Act
www.ADA.gov

Camp Director and Day Camp Director Certificate courses www.acacamps.org/online-courses-webinars

Governmental Agencies Related to Employment www.acacamps.org/members/jobdesc/gov

Medical Marijuana and Camps www.acacamps.org/knowledge/health/medical-marijuana

International Staff Resources www.acacamps.org/international/practices

All ACA personnel resources can be found online at www.acacamps.org/knowledge/human

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Photo courtesy of Camp Howe, Goshen, Massachusetts

LESSONS LEARNED – Personnel and Employment

1. **Set and enforce clear policies about acceptable relationships between staff while at camp.** Numerous callers wanted to discuss sexual relationships between staff, including both consensual acts and allegations of force. Understand that where adults are concerned, if an allegation of force is made – that is a police matter and the alleged victim should contact the authorities. The authorities will help navigate what happens next with both the alleged victim and the alleged perpetrator.
2. **Prepare to address the accommodation and inclusion of staff who identify as gender non-conforming.** ACA has seen a rapid increase in calls of this nature. For an in-depth review, see

the sidebar on Page 13, and Case Study 4 on Page 19.

3. **Have a back-up plan for staff coverage in an emergency or unexpected loss of staff.** Supervision ratios are critical to ensuring the safety of your campers. What will you do if you have a policy against alcohol on property and you catch numerous staff drinking? Before the season begins, identify short-term options that you can turn to for staff coverage in an emergency.
4. **Enforce your personnel policies.** It's not enough to simply have personnel policies – you must enforce them as well. Establish a clear understanding of what the consequences are

(reprimand, suspension, dismissal, and so on) for the violation of the policies. If you don't enforce your own policies, you leave yourself open a variety of risks – including lawsuits – especially if you do not enforce consistently (i.e., treating one staff member differently than another when they have both ignored one of your policies).

5. **If you utilize international staff, understand your obligations to the U.S. Department of State Cultural Exchange Program.** By committing to infuse cultural exchange into your program, and welcoming international staff to your camp, you've accepted the obligations required under law. It is critical that you understand those requirements.

ACA-ACCREDITATION STANDARDS

INTRODUCING A NEW STANDARD 1:1 Camper/Staff Interaction



After much work, the American Camp Association (ACA) National Standards Commission is pleased to introduce a standard specific to 1:1 camper/staff interaction. We often receive questions from parents and the media asking if 1:1 camper/staff interaction is prohibited and while it is not, our response has always been that there should never be just one staff member and one camper in a situation where they can't be observed by others. Introduction of this standard brings ACA in line with many other youth serving organizations that currently have this policy and one we know is already being followed by many camps.

The following standard, that will become effective January 1, 2016, is mandatory and applies to resident camps, day camps, short-term resident camps, and camps that serve rental groups.

HR.XX One on One Camper/Staff Interaction (Mandatory)

HR.XX.1: Does the camp provide training to all staff to minimize the potential of any staff member being in a one on one camper/staff situation when out of sight of others?

AND/OR

HR.XX.2: Does the camp advise rental groups to provide training to all staff to minimize the potential of any rental group personnel being in a one on one camper/personnel situation when out of sight of others?

Contextual Education:

Appropriate supervision and interaction between campers and staff are key to camper/staff safety. Policies and staff training should be provided to all camp staff (counselors, administrative, and support staff) to make them aware of the need to avoid situations where they might be in a one on one situation with a camper. This includes:

- Restroom and shower protocols
- Health care settings

- Special needs campers needing personal care assistance
- Desire/need for staff/camper 1:1 conversations
- Program design

Methods to consider are: operating with “rule of threes”, being in auditory or visual range if a situation does require 1:1 interaction, and providing settings that are in visible sight of others yet not in the “middle of it all.” ACA resources include the spring 2014 The CampLine article (www.acacamps.org/campline/spring-2014/supervision) and the recorded webinar Camper Supervision Under the Microscope: What Your Staff Are Staff Missing and What You Can Do About It (www.acacamps.org/webinars/camper-supervision-under-microscope-what-your-staff-are-missing-and-what-you-can-do-about-it)

Compliance Demonstration:

Visitor Interviews:

- Explanation from camp personnel describing the type of training provided, and when that training is provided.
- When applicable, how this information is shared with rental group personnel.

STAFF TRAINING

QUESTIONS –

Personnel and Employment

- Would you recognize the signs of depression or other mental health challenges in your staff? If you did, what would you do to support that staffer?
- What would you do if a disgruntled terminated employee harasses you and threatens irrational acts?
- If you walk in on a 23 year old staffer engaged in sexual activities with a 17 year old staffer, what would you do?
- If you notice an adult staffer not taking care of themselves (not treating a rash, not bathing, not eating) and they do not respond to positive coaching, what would you do?
- What are your staff sexual harassment policies? What are your policies regarding the relationships between staff? >>



CAMPER BEHAVIOR

7% of the calls

- Allegations of bullying
- Daily deposits of human excrement on the bathroom floor
- Suicidal comments

Top Resources

Behavior Management – Parenting Skills for Counselors

www.acacamps.org/content/behavior-management-parenting-skills-counselors

Bullying Prevention www.acacamps.org/child-health-safety/bullying

Dangerous Games Every Camp Must Know About www.acacamps.org/knowledge/participant/training/dangerous-games

Mental Health www.acacamps.org/knowledge/health/mental-health

Time Tested Strategies for Dealing with Challenging Behavior www.acacamps.org/campmag/0005/time-tested-strategies-dealing-challenging-behavior

Understanding a Camp’s Right to Search www.acacamps.org/campline/fall-2014/camps-right-to-search

All ACA camper behavior resources and online courses can be found online at www.acacamps.org/professional-development-center

LESSONS LEARNED – Camper Behavior

- 1. Take all comments about suicide very seriously.** ACA saw an alarming increase in calls from camps regarding campers making suicidal comments. Often the camp thought the comments were “just to get attention” or “just joking.” However, unless you are a trained mental health professional, assume the threat is serious. Educate staff on the indicators and symptoms of mental health problems. Information breaks down the stigma surrounding mental health issues and enables people to recognize when to seek help.
- 2. Attentive and engaged staff supervision is the key to reducing negative camper behavior.** Almost all

reported incidents of alleged bullying and inappropriate behavior occurred when staff was not alert or even in the area. In one situation, the camp found human excrement on the bathroom floor over the course of a number of days. The number one question for that camp is – where was the staff?

- 3. Camper’s (and staff) belongings can be searched if you suspect illegal or unsafe activity.** It is a common question to the Hotline – “Can we search a camper’s belongings?” Generally, the answer is “yes” – with a few exceptions. Check out the top resources above for more details.

STAFF TRAINING QUESTIONS – Camper Behavior

- During the off-season, a staff member receives a private Instagram® message (or other communication) from a former camper expressing suicidal thoughts, what would you do?
- What would you do if a camper reports to you that another camper claims to have marijuana at camp?
- At a day camp at an urban park, a camper sees and picks up a discarded syringe. What do you do? (See Case Study 3 on Page 18.)
- When is camper “rough-housing” actually incidents of bullying and or abuse? Practice scenarios with your staff. (See the Abuse Allegations Report on Page 9 for further examination of this issue.)

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Photo courtesy of Camp Howe, Goshen, Massachusetts



PARENT BEHAVIOR

7% of the calls

- Divorced parents disagreeing about camper enrollment.
- Drunk/high parents delivering campers to day camp.
- Parents complaining about the hiring of a staffer who identifies as gender non-conforming (See sidebar on Page 13).
- Threats of a media story about camper behavior management policies.

Top Resources

ACA Communications Toolkit www.ACAcamps.org/members/toolkit/crisiscomm
In the Trenches, Working with Camper Parents www.acacamps.org/content/n-trenches-working-camper-parents
When Behavior Becomes a Legal Issue www.acacamps.org/camp/s-2010/when-behavior-becomes-legal-issue
Who's in Charge? www.acacamps.org/content/whos-charge
Working with Camper Parents, A Prescription for Success www.acacamps.org/campmag/issues/0909/working-with-parents
ACA online courses www.acacamps.org/professional-development-center
All ACA parent behavior resources can be found online at www.acacamps.org/knowledge



LESSONS LEARNED – Parent Behavior

1. Communication is the key to positive parent behavior.

An informed parent is more likely to exhibit positive behaviors. Be upfront about your policies: your camper behavior management policies, your employment policies, and anything else parents need to know. When in crisis, utilize the above resources to communicate with parents.

2. You need not — and should not — be the private investigator, judge, or jury.

If you suspect a parent is neglecting or abusing their child, if you suspect parents to be driving drunk or high, if divorced parents are battling out custody issues, etc. — then contact the authorities and/or legal advisors. You don't have the legal authority to investigate or judge, so let those that do handle these situations.

STAFF TRAINING QUESTIONS – Parent Behavior

- What would you do if you find that a package that a parent has sent their child contains items that are not allowed at your camp (e.g., a cell phone)?
- If a custodial parent enrolls their child at camp, what would you do if the other parent calls demanding to see all the “paperwork” because they have not agreed to allow the child to come to camp?
- What would you do if a an irate parent calls upset because her daughter came home from camp talking about another camper who is gay – the mother is outraged that the camp would “allow” gay kids to “influence” her child?
- At a day camp, when parents are picking up their children, what would you do if you smell alcohol on the breath of one of the parents who is driving a vehicle?



ALLEGATIONS OF ABUSE

11% of the calls – Allegations of camper-to-camper abuse

7% of the calls – Allegations of abuse at home

2% of the calls – Allegations of staff-camper abuse

1% of the calls – Allegations of camper abuse by a member of public

- Allegations of camper to camper inappropriate touching.
- Allegations of camper sexual abuse by multiple other campers.
- Allegations of physical or sexual abuse by a family member.
- Allegations of sexual or physical abuse by a friend/significant other/acquaintance.
- Allegation of a camper being punched in the face while out of camp at an evening event (by someone not associated with the camp).
- Allegations of sexual abuse of a camper by a counselor.

Top Resources

All allegations of abuse resources have been collected in one place online:
www.acacamps.org/child-health-safety/child-abuse

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LESSONS LEARNED – Allegations of Abuse

- 1. Don't hesitate to contact the authorities if a child alleges and/or you have reason to believe that they are a victim of abuse or neglect.** Whether the allegation is that the abuse occurred at camp by another camper, by a staff member, or at home — it does not matter. Make the call. (See Case Study 1 on Page 15 for more on what can happen after contacting the authorities.)
- 2. Mandated reporting is the law, and you can be arrested for failure to contact the authorities.** ACA is aware of at least one situation where a camp director was indeed arrested and prosecuted for failure to make the call.
- 3. Don't try to investigate.** It is critical that you contact the authorities promptly so experts who are trained on these issues can begin their processes immediately. Resist the temptation to start your own "investigation" prior to contacting the authorities, even if you think it is possible that the child

is "making it up." The camp should rely on the proper authorities to step in and take over the matter.

- 4. Don't be surprised when a child reveals an allegation of abuse at home.** It has been ACA's experience that children who are the victims of abuse or neglect at home (or some other place outside of camp), once experiencing the safe environment of camp, can sometimes — for the first time — reveal their abusive situation to a caring adult at camp.
- 5. Attentive, active, and involved staff supervision is the key to keeping campers from harming each other.** In most of the situations explained by callers, the allegation of camper-to-camper abuse came in those brief moments in time when staff was not directly engaged with campers — shower time, trips to the restroom, changing for the pool, the time between program and mealtime, just prior to bedtime, etc. It is imperative that

your staff be trained to be even more watchful during these vulnerable times. If your camp does not have staff sleeping in the same room with campers, you must consider what you are doing to ensure there is no inappropriate behavior in the middle of the night.

- 6. One person's description of bullying is another person's description of abuse.** Camps and other youth-serving organizations find distinguishing between "bullying" and "abuse" challenging. For an excellent overview of the issues, read this resource: www.acacamps.org/child-health-safety/bullying. For your camp, make bullying prevention a priority from the first day of camp, and let all campers and staff know that bullying behaviors are unacceptable. Set bunk rules with explicit examples of acceptable and unacceptable behaviors. Post these rules in the cabins and talk about the issues often.



Photo courtesy of Camp Howe, Goshen, Massachusetts



7. One staff person should never be alone (out of the sight of others) with a camper. Period. If nursing/healthcare staff are concerned about the privacy of a camper when they are being medically examined, be sure you have established procedures that still avoid a situation where a staff person could abuse (or be accused of abusing) a child. (See Standards sidebar on Page 6.)

8. Staff training and supervision policies must support the above. Is your staff to camper ratio high enough to ensure that one staff person cannot be alone with a camper, especially in unique times such as the middle of the night when a camper needs to use the restroom? Develop policies and procedure's that support staff in avoiding one-on-one situations and practice strategies for avoiding these types of situations.

9. Teach your staff to be ever vigilant and question what

they see. It takes just one person to step up and question when they see something not right about the way an adult is interacting with a child. You may be the one who is able to free a child from serial abuse. Always have the best interest of the child in mind!

10. Establish clear policies about appropriate physical interaction between staff and campers. Be very clear where you draw the line. Does your camp allow hugging, back-patting, lap-sitting, etc.? If so be sure that your staff understands what is appropriate and what is not. Use role-playing in staff training to crystalize your policies.

11. One in four girls, and one in six boys are the victim of abuse before they reach age 18 – thus, many children may be arriving at your camp already the victim of abuse. The U.S. Department of Health and Human Services has excellent resources to help you recognize the signs of

abuse. Become knowledgeable. Online resources can be found at www.acacamps.org/child-health-safety/child-abuse.

12. Keep the phone number of your local child abuse reporting authority in a place you'll find easily accessible. Often, the call to the Hotline is simply to ask for help in finding the correct phone number. The Hotline team is always ready to help and provide the correct number, but be prepared and have the number ready. If you don't know who to call (generally you call the locality where the abuse is alleged to have occurred), don't hesitate to call your own local authority and ask for guidance.

13. Documentation is important. As with any important issue at camp, documenting everything is key to ensuring that the authorities have what they need to proceed with their investigation. Remember, your job is not to investigate, but to record the details of what was said by the child, who they said it to, etc.

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Photo courtesy of Cheley Colorado Camps, Estes Park, Colorado



Photo courtesy of Camp Howe, Goshen, Massachusetts

STAFF TRAINING QUESTIONS – Allegations of Abuse

- Two boys aged 6 and 8 get into a scuffle over a football. Staff break it up and remind the boys that those behaviors are not acceptable at camp. The boys stop and complete the day without incident. One boy goes home and tells his mom that he was “pinched in his privates.” The mom calls you, irate and demanding that the alleged abuser not be allowed to come back to camp. What do you do?
- A 13 year old male camper is alleged to have stuck his head under the shower stall of another 13 year old male camper and watched him shower. Camper B was extremely upset and crying and reported it to his counselor. What do you do?
- A female teenaged camper tells her counselor that her dad “hits her sister with an open hand.” What do you do?
- An 11 year old female camper alleges that a 9 year old male camper “touched her butt” inappropriately. She tells her mom. The mom demands that charges be filed. What do you do?
- The morning after an off-site trip to another camp for an evening event you find out that a female camper alleges that while at the other camp “she was just standing alone” and a male camper from the other camp came over and “punched her in the face”. The nurse at the other camp allegedly examined the girl and determined that she was “OK.” You speak with the girl, noticing no bruises on her face. The girl says that she is fine and she did not see who did it. What do you do?
- Your camp uses a buddy-system and campers must find their buddy in order to go somewhere (such as the restroom in the middle of the night). What are you doing to ensure that those campers cannot abuse one another?
- A father says that when he picked up his 7 year old son from camp, the boy alleged that while roughhousing in the cabin, another boy inappropriately touched his privates. In addition the boy said that he told his counselor but no one did anything. Your staff tell you that the boy never said anything to them. The father demands something be done and informs you that he “works for the FBI” and can make “life difficult for the camp.” What do you do?
- If your camp serves campers with special needs that require personal care (e.g., toileting, bathing) how are you training staff and monitoring interaction to eliminate the risk of abuse?
- You’ve just found out that a staff member was goofing around with his campers and one of the boys “mooned” the counselor. The counselor took a short video of the mooning and general goofing around. What do you do?
- See Case Study 1 on Page 15 for more scenarios to consider.



MISCELLANEOUS

10% of the calls

The remainder of the calls concerned varied issues. These ranged from responding to natural disasters such as fire, flood, and tornadoes; to rental group contracts, and requests for leadership resources. See Case Study 5 on Page 21 for a review of an issue related to a storm warning at departure time. In addition, see Case Study 6 on Page 22 for the review of a challenging issue where a rental group was requiring armed guards on the property. All of ACA’s most frequently used resources can be found online at www.acacamps.org/camp-crisis-hotline.

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INDIVIDUALS WHO IDENTIFY AS GENDER NON-CONFORMING

This year, and for the past three years, the Hotline Team has seen a sharp increase in the number of calls regarding the issues of inclusion and accommodation of people who identify as trans, transgender, gender non-conforming, gender-variant, or those in the process of reassigning their gender. These calls were regarding both staff and campers. In fact, six percent of all of our calls touched on this issue in some regard. Some were about parent complaints regarding employment (See Case Study 4 on Page 19), some were about mental health concerns, and others were about how to protect the privacy of individuals. In all cases, the callers wanted to “do the right thing” and were worried that they might make a legal or emotional mistake and inadvertently offend staff, campers, and/or parents. The American Camp Association has worked with experts to collect and disseminate the best available resources. [Find them online:](#)

“ ...six percent of all of our calls touched on this issue in some regard. ”

- Anti-Discrimination Laws — Cities and Counties with Non-Discrimination Ordinances that Include Gender Identity. Human Rights Campaign www.hrc.org/resources/entry/cities-and-counties-with-non-discrimination-ordinances-that-include-gender
- Anti-Discrimination Laws — Map by State, Transgender Law Center transgenderlawcenter.org/equalitymap
- Talking Transgender at Camp Recorded Webinar www.acacamps.org/einstitute/talking-transgender-at-camp
- Transgender Staff and Anti-Discrimination — The CampLine Article www.acacamps.org/campline/spring-2015/transgender-staff-anti-discrimination
- Transgendered Youth and the Role Camps Might Play www.acacamps.org/content/2020-toolbox-transgender-youth-%E2%80%94-role-camps-might-play
- Transgender Staff at Camp - Recorded Webinar www.acacamps.org/webinars/transgender-staff-camp

Photo courtesy of Camp Howe, Goshen, Massachusetts



CASE STUDIES

Each year, the Camp Crisis Hotline Team identifies a select number of case studies for a more in-depth look, and to serve as examples for other camps to use in staff training and the development of their own risk management plans. It is our hope that by understanding the real crisis situations of other camps, your camp can learn and anticipate for the future.



CASE STUDY ONE:

Allegations of Abuse and Responses from the Authorities

When the ACA Hotline Team receives calls regarding allegations of abuse of any type, our response always includes the phrase – “Camp personnel are mandated reporters.” We received three calls this summer that we’d like to highlight. In these calls, the caller was well aware of the law and did make the call to the appropriate authorities. Each call had a different, and at times surprising, response from Child Protective Services.

Situation 1:

There was an allegation of camper to camper inappropriate touching and bullying perpetrated by Camper A. After Camper B was found in the bathroom crying and indicating she felt “violated”, the director (who happened to be a social worker), called Child Protective Services (CPS). Camper A was isolated from other campers, and in talking to her, she indicated that she did not feel she had done anything wrong.

In consulting with CPS, the camp was informed that CPS would not investigate this type of matter – and CPS directed the camp not to tell either set of parents/guardians of the fact CPS had been called. They cited a “confidentiality issue.” As this was against all the director had learned, she was very concerned and also shared that this county-level CPS had not been responsive in the past. The Hotline Team also found this response outside the norm as parents of the alleged victim and alleged perpetrator generally have a right to know that the camp followed the law and called CPS. In discussing potential next steps with the caller, together we considered the following: **1)** contact legal counsel to share the experience with CPS and obtain advice, **2)** with legal approval, contact both sets of parents, **3)** establish a behavioral contract with Camper A, **4)** tell Camper B the plan. And finally, to consider contacting their State’s CPS to express concern

of county CPS, their inaction, and their insistence that parents should not know that CPS was contacted.

Situation 2:

While a counselor was talking with a 9 year old camper who had been misbehaving, the camper alleged that his dad “beat him with a belt.” The director called the county in which the boy resided to report the alleged abuse (this camper is from an adjoining state). Soon after the report, the director received a call from the county CPS in which the camp is located. The child’s home county authorities had requested the camp’s local authorities to conduct an interview of the child – at camp. This was a “first” for the director who wanted to talk through the scenario. We discussed: **1)** Selecting the best location for the interview (perhaps the camp office), **2)** If allowed by CPS, having a camp staff member accompany the boy so he might feel safer with strangers, **3)** Developing a plan to tell the camper what was about to happen and share with him that the top priority for the camp is his safety and security, **4)** Contacting the camp’s board of directors so they know what is happening, **5)** Documenting everything completely.

The director’s main question however was “Should I tell the parents?” While ACA cannot provide legal advice in this matter, we did discuss that he could call the county CPS back and ask them about their process for notifying the parents – for example, who contacts the mother and or the father, when does it occur, etc.

Situation 3:

During evening discussion time, a female camper alleged that her dad hit her sister with an open hand. The counselor who heard this allegation shared it with the director and a volunteer board member, who happens to be a social worker. The counselor

and the board member spoke with the girl again about this allegation and the girl was very clear it was with an open hand. They phoned CPS to report the allegation. CPS indicated this was not an issue they would investigate. Subsequently, the board member wanted to contact the mother and share what the camp learned. The director knew it would not be appropriate for the board member to contact the parents; but wondered if she should contact them and if so – what to tell them. The Hotline Team talked through a number of issues with the caller. **1)** The type of relationship the camp has with the family (The



Photo courtesy of Cheley Colorado Camps, Estes Park, Colorado

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director indicated they had a positive relationship with this mom). **2)** The usual person who contacts camp families, either electronically or via phone (they indicated that camp staff usually communicate with families). **3)** The camp director should get input from the organization's Executive Director.

4) The potential of the director having an after camp discussion with the mom and sharing about this allegation in a matter of fact manner. **5)** Taking the opportunity to review and potentially revise camp policies on who communicates with camper and camp families outside of camp.

All three of these situations involved the director calling Child Protective Services and receiving a response they weren't anticipating. Would you be prepared to address these situations? Now is the time to do your homework and review your camp's policies, procedures and staff training.



Photo courtesy of Camp Howe, Goshen, Massachusetts

“ All three of these situations involved the director calling Child Protective Services and receiving a response they weren't anticipating.”

LESSONS LEARNED AND QUESTIONS – Case Study 1

- Contact the Child Protective Services for your locale and ask:
 - When a call is made to CPS, at what point — if any — are parents informed? Who informs them?
 - If the report involves two children, when and how are the other parents informed?
 - If CPS says that it will not investigate (such as in situations 1 and 3), should the camp tell the parents that they made the report? If not, the children may well tell their parents about the alleged incident — and then what?
 - If an interview is conducted on camp property, can the camp have a staff member accompany the camper? Who contacts the parents in this situation and when?
- Discuss with staff what you will do if you make a report, CPS informs you that they will not investigate, but you feel the safety of the child is at stake and something needs to be done. Who could you talk with?
- Review your policies regarding reporting of alleged abuse and share with key camp leadership and staff as necessary. >>

RESOURCES – Case Study 1

- ACA has compiled a significant number of resources specific to allegations of abuse and mandated reporting, all of which can be found at: www.acacamps.org/child-health-safety/child-abuse

CASE STUDY TWO:

Underage Drinking and Alcohol on Property

During a recent break between camp sessions, several staff of various ages (adults and minors) were drinking on property. The location of the party was an old farmhouse that is somewhat removed from the main part of camp, but is on property, and during the summer, is the private residence of the food service manager and her daughter (also on camp staff). As it is a private residence, those living there are allowed to have alcohol. According to the director, there were various levels of culpability by staff. The health supervisor purchased the alcohol and shared with minors. Some of the adult staff had been led to believe the party was “okayed” by the staff member who lived there, and

those staff did not provide alcohol to minors. Finally, international staff (under the age of 21) didn’t realize the farmhouse was on property, had minimal to drink, and left shortly after the party started. It is against camp policy for staff to drink alcohol in the “main camp property” or to return to camp under the influence. The director talked with all involved and heard consistent stories from everyone. After sorting things out, the Camp Administrator determined the “penalties” for those involved, with the most serious being the releasing of the health care supervisor. Other staff received a written warning or verbal warning. All would have to re-apply to work at camp for 2016.



LESSONS LEARNED AND QUESTIONS – Case Study 2

- Camps need to have clearly spelled out policies regarding alcohol use. Is it allowed on property or not? If so, where and when? What if staff return to property under the influence? What are consequences? Lack of clarity was an issue in this situation.
- Enforce your policies! Having a policy that isn’t followed can be worse than having no policy at all.
- Not only should the discussion of alcohol use be covered during the first days of staff training, but this is a topic that needs to be reinforced mid-season.
- What options for alcohol-free entertainment are available in your area for staff (all ages)? Do you have any options onsite?
- Consider how to address a situation such as when a staff member calls camp and shares they’ve had too much to drink, don’t want to drive, and don’t want to return to camp under the influence.
- Research shows that alcohol use/abuse is prevalent amongst college students. It is important for camps consider what can be done at camp to minimize this issue during the summer.

“ ...the Camp Administrator determined the “penalties” for those involved, with the most serious being the releasing of the health care supervisor. ”

RESOURCES – Case Study 2

- National Institute on Alcohol Abuse Fact Sheet pubs.niaaa.nih.gov/publications/CollegeFactSheet/CollegeFactSheet.pdf
- College Drinking: Changing the Culture www.collegedrinkingprevention.gov/

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CASE STUDY THREE:

International Day Camper, a Syringe, and International Health Insurance

A camp director called to ask if there was anything special the camp needed to know about dealing with a child's international medical insurance. An international day camper and his mother were staying with relatives and enrolled for a week of camp. The camper is bilingual and speaks English well. The camp took the campers to the local urban public park.

While there the camper picked up a syringe that he found on the ground. The staff saw the incident and immediately dealt with the situation. There was no sign of broken skin or a needle stick of any kind — they only saw the camper touch the barrel and plunger parts of the syringe. The camp documented the incident, informed the mom, and she came and picked up her child.

The child told his mother that he touched the needle of the syringe, so she took him to the local Urgent Care/ER to be assessed. The camp carries camper accident insurance. The director was worried that the mother's international medical insurance would be an issue and wanted to know how to navigate the situation.



LESSONS LEARNED AND QUESTIONS – Case Study 3

- The Urgent Care facility can sort out the insurance issues as they are the primary medical providers. Provide the mother with the camp director's contact information in case her insurance does not cover everything.
- Has the director consulted the camp insurance carrier regarding this incident?
- What steps are in place at the local park to insure camper safety for each visit? What types of "dangers" need to be screened for: drug paraphernalia or dangerous debris; animals such as snakes, spiders, alligators; invasive dangerous plants such as poison ivy, oak or sumac, nightshade, oleander; the public and potential child abuse opportunities?
- Does the camp have a standard operating procedure regarding camper exposure to potentially infectious materials?
- Are there procedures in place to orient campers to "rules" while at the park or whenever campers are in public?
- Is the camp taking sufficient measure to train all staff to follow camp policies and procedures for going off property?

RESOURCES – Case Study 3

- ACA Accreditation Process Guide, 2012 Edition. Health and Wellness and Operational Management standards
- Risk and Crisis Management Planning: A Workbook for Organization and Program Administrators (Third Edition) www.acabookstore.org/p-5940-risk-and-crisis-management-planning-a-workbook-for-organization-and-program-administrators-third-edition.aspx

CASE STUDY FOUR

Parent Complaint about "Behavior" of a Staff Member

A camp director called to talk through a parent complaint about one of their staff. The staff person was an individual who identified as transgender male-to-female who was assigned to a group of 10 year old girls. The parent complaint was why the camp allowed a "male" counselor to work with the girls— and what the camp was going to do about it? They also wanted to know if the camp was aware that this particular counselor was, in their opinion, "too affectionate" with the girls because hugs were freely and often given and requested. In the parent's opinion, this physical affection was given too often. The counselor in question did not live in the cabin with the girls, nor did she shower or change with the girls – and she was never present when the girls were showering. This staffer was very open about her transition and still physically appeared rather "male" (i.e. sometimes her face would get stubbly). The director never imagined that her transition wouldn't

be something that she would keep private. The camp randomly called a third parent. This family was aware of the counselor in question and had no issues with their child's experience at camp.

During the course of the summer the director did address the overt affection and discussed boundaries with hugs with the campers. During the end of summer evaluations (prior to any parent complaints) — the camp decided that she wasn't a good fit (the hugging issue, which was never satisfactorily resolved, and that she was "probably not that competent") and wouldn't be asked to return next summer. This employment decision was not shared with the parent complainant. Subsequently, the camp's board of directors wants the director to contact all the parents of campers in this group to make sure they are not upset with the camp and/or to put something in writing to the parents about the situation. The director is uneasy with this request.

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“ The director was worried that the mother's international medical insurance would be an issue...”



Photo courtesy of Camp Howe, Goshen, Massachusetts



“ There are many excellent resources regarding the inclusion of individuals who identify as gender non-conforming...”

LESSONS LEARNED AND QUESTIONS – Case Study 4

- Has the director sought the opinion of the camp’s legal counsel – to assure that camp is not exposing itself to any risk, especially if camp moves forward with a written statement?
- Should the camp notify the parents and assess their satisfaction?
- If so, just this cabin or all campers that may have interacted with this counselor?
- If so, by phone calls or via prepared statement and satisfaction survey?
- If not, what if the unhappy parents get more vocal with other camp parents?
- Does the camp allow parents to dictate business decisions on a regular basis? Why would this situation be different from any other employment decisions?
- There are many excellent resources regarding the inclusion of individuals who identify as gender non-conforming in the camp environment. The camp should consider additional training, including appropriate conversations to have with staff who reveal something personal. For example, in this case, the camp assumed that the counselor would keep her transition private — the counselor did not. A shared understanding would have been helpful in this case. (See sidebar on Page 13.)
- All camps should set and enforce their policies about appropriate physical interaction between staff and kids. If this counselor was stepping over the line, it should have been handled swiftly — and if not adjusted, immediate consequences applied.

RESOURCES – Case Study 4

- Refer to the sidebar on Page 13.



CASE STUDY FIVE:

Severe Storm Warning Issued While Preparing Day Campers for Busing Home

While preparing day campers for bus transportation home, the director received a severe storm warning with potential for tornadoes for

the next 30 minutes. The director called immediately to get advice on sheltering the children in place versus loading them on the buses

and transporting them home. While the weather was stormy, the radar didn't show particularly threatening storms at their location.

LESSONS LEARNED AND QUESTIONS – Case Study 5

- The local authorities (police, local weather forecasts) may have advanced radar tracking that differs from what the camp can access, so it is a good idea to check prior to a weather event to see how they may help.
- Check with your transportation company to determine their policies on how they handle severe weather emergencies. What are drivers instructed to do? How do they communicate with you about weather-related decisions? Camp administrators need to know the options available if they plan to shelter staff and campers in place during a severe weather event. Staff who ride the transport buses also need to be familiar with procedures to use if severe weather arises while in route.
- What policies does the camp have in place regarding weather? Who ultimately makes the decision whether or not to transport? How do parents get notified if severe weather interferes with plans and schedules?
- Consider registering for updates and warnings through weather.gov/xxx (local) or a text messaging service, having a NOAA weather radio, or downloading smart phone weather apps.
- Update your severe weather plan with current resources, shelter locations, egress/meeting places, and communication plans.

“...the director received a severe storm warning with potential for tornadoes...”

RESOURCES – Case Study 5

- www.Weather.gov
- Find your local weather details and bookmark (www.weather.gov/xxx) for up to the minute information as well as who to call
- Packing Your Weather Backpack: 5 Things Every Camp Manager Should Do www.acacamps.org/webinar/aca-coffee-break-webinars-spring-series-2015

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Photo courtesy of Camp Seaside, New York, New York

CASE STUDY SIX:

Rental Group Requests For Additional Security Measures

A camp that rents to an organization that serves children from military families and uses past/active military personnel as volunteer staff was contacted by the organization two weeks before their session was scheduled to discuss additional security measures needed. The organization had been notified of new security threats against military families. The rental group wanted to bring armed staff, and to post 24 hour armed guards at the

camp entrance. The rental group had already contacted local law enforcement who they intended to utilize as part of the armed presence. Since many of the volunteers were associated with the military, they would also potentially be bringing weapons (concealed and open-carry) with them on camp property. The camp director had several concerns including: their own philosophical conflict (they do not allow guns on property),

ACA- accreditation standards and if this request would violate any standards; and perhaps most importantly, the impact on the perception by staff, campers, parents, and the local community of their camp as a safe place. The camp was committed to working with this first time rental group, and had no references in their current rental group contract that either addressed or specifically conflicted with this new request by the organization.

“ The rental group wanted to bring armed staff, and to post 24 hour armed guards at the camp entrance.”

LESSONS LEARNED AND QUESTIONS– Case Study 6

- First determine if your philosophical stance is critical to maintain with a rental group that needs conflicting accommodations. If it is, then understand the implications for breaking the rental group contract and the resulting financial and personal impacts. Consider adding to your rental group contracts anything that would be a “deal-breaker.”
- If you accept these requests (which the camp in question did), then consider:
- What do staff/visitors/delivery people need to know when they exit/enter the property? The camp may need to consider developing some key messages and guidelines to minimize the impact of the armed presence on property.
- How will the weapons be dealt with to meet ACA standards? Where will guns and ammunition be stored and when? How will they be carried during the day to meet the ACA Standards? The camp’s risk management plan needs to address these kinds of considerations. A camp should consider consultation with their legal counsel and insurance provider as the policies are established. >>





- What will be the impact of this armed presence on the campers and staff? Since the children are all from military families, the presence of guns may not bother them and may help them feel safe. However, the camp will need to have talking points ready to share with staff, campers, and key stakeholders.
- What will the 24 hour armed guards be looking for? Are they searching every vehicle that enters camp? How much of the camp perimeter will they guard? The camp needs to understand how searches will happen and implications if something illegal or harmful is found.
- The camp needs to have a plan in place in case an actual threat arises. The crisis management plan should be reviewed for how the camp staff responds to a crisis such as an active shooter. This review need not be alarmist to staff but just part of good crisis planning.

RESOURCES – Case Study 6

- Camp Security: www.acacamps.org/hottopics/camp-security
- Emerging Issues on Public Violence www.acacamps.org/knowledge/public-violence
- Contracting with User Groups: www.acacamps.org/content/contracting-user-groupsrental-groups-revisited

Contributed by Deb Bialeschki, Kim Brosnan, Rhonda Mickelson, and Susan E. Yoder

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ACA EDUCATIONAL HISTORY
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LEARNING ACTIVITIES RESULT IN
CONTINUING EDUCATION
CREDITS (CECS)
RECORDED ON YOUR ACA
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OFF DUTY AND THE CAMP IS MY PLAYGROUND. (WHAT COULD POSSIBLY GO WRONG?)

By Catherine Hansen-Stamp and Charles R. Gregg ©2015*

I. Introduction



The American Camp Association (ACA) has asked us to address issues associated with camp staff off duty use of camp premises, facilities and equipment. Several ACA Camp Crisis Hotline calls prompted interest in addressing this topic—including the following:

- During camp season, staff are allowed to use camp facilities and equipment in their time off. A group of staff decided to use the jet skis on the lake. The camp only allows individuals who are trained to use the jet skis, to use the skis. A guest asked to use a jet ski. Staff said no, because the guest was not trained. The guest took a jet ski out anyway and was not stopped by the staff present. He caused an accident resulting in serious life-threatening bodily injury to a staff member, and significant damage to the equipment.
- Staff are allowed to borrow camp vehicles during their off time. A staff member borrowed a camp vehicle and subsequently caused an accident that did not harm anyone, but totaled the camp vehicle.
- In their off time, a group of staff decided to canoe across the lake. The weather turned severe and while no one was seriously injured, many camp canoes and equipment were significantly damaged.
- A camp does not have a policy regarding staff use of camp equipment in their off time. During time off, two staff members decided to borrow a camp vehicle and were subsequently in an accident that caused serious (but not life-threatening) injury to both staff members, a third party who was in another vehicle, the camp vehicle, and private property where the accident occurred.

Camps, with varying degrees of oversight, allow off duty camp staff access to camp premises, facilities, and even equipment and animals. This is logical given the unique

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circumstances of camp employment. Camp staff (particularly at residential camps) typically don't 'punch a clock' and go home, but instead, live on camp premises, at least during the camp season. As a result, when staff members are off duty, they are certainly moving about the premises. Camps may allow and even encourage staff to 'get outdoors' during their off time to take advantage of what the camp has to offer (in fact, staff who enjoy recreating outdoors may see these expected opportunities as a coveted benefit of taking the job). If you allow staff more than the most limited access to the camp premises during off duty time, consider the legal and risk management issues of doing so. And, the risks increase if you allow staff to

invite guests to join them. Do your privileges extend to both adult and minor-aged staff? Providing access that has been carefully considered (including an analysis of the attendant risks) can be a wonderful privilege for your staff. Failure to do so can create big problems.

Consider a two-pronged approach to off duty staff access to the camp and its amenities — identifying and managing the risks and associated risk of loss: **1)** to staff, their guests or other third party/s and **2)** to the camp. The following is intended to give you a legal and practical perspective on these issues. As always, we recommend that you work with legal counsel, familiar with the laws in your jurisdiction, to guide you in your decisions relating to these important matters.

II. Camp Staff Use of Camp Premises, Facilities or Equipment During Off Duty Time

A. Legal Exposure

Staff members or others could bring a variety of claims against the camp, depending upon the jurisdiction and the specific facts of the case. Here is a sampling: >>



1. Injury to camp staff:

In most states, worker's compensation 'no fault' insurance covers staff injuries arising out of and in the course of employment, and staff (generally) can't sue the employer for work related injuries.² Instead, the injured staff member must rely on applicable Workers' Compensation benefits. However, the picture changes if the staff member is injured when he or she is off duty and not acting within the course of his or her employment. Predictably, the parties may dispute whether the staff member's injury occurred inside or outside the course of employment.

If a camp staff member is injured while recreating or simply hanging out on camp premises while off duty, staff could have a legal claim against the camp. This claim would typically be one falling under the camp's premises liability.³ That is, a landowner's duty to exercise care towards those present on its premises. In many states, this duty of care is defined by the category of the camp entrant (labeled 'invitee', 'licensee' or trespasser); in some states the court has eliminated a distinction in the duty owed to licensees and invitees (and in some circumstances, even trespassers) and the duty is simply one to exercise reasonable care towards the camp entrant, under the circumstances. (Discussion of a camp's endeavor to meet this duty of care is not within the scope of this article, but warrants discussion with your insurance representative and legal counsel.)

Premises liability notwithstanding, most states have enacted laws (generally termed 'recreational use' laws) that reduce or eliminate a landowner's duty of care to persons on the property for recreational purposes. These laws (varying widely in their language) are intended to encourage landowners to offer others access to their property for recreational purposes. Basically, if the landowner offers such access (oftentimes defined as (something like) sports or other recreational activities -- biking, skiing, horseback riding,



bird watching, hiking, swimming, rock climbing) at no charge, the landowner can obtain the protection of the law. That 'protection' consists of a reduced duty of care to entrants. Unlike the traditional duty of care (described above), the landowner's duty is generally to refrain from more egregious misconduct (in the case of Colorado's act, e.g., '*willful or malicious failure to guard or warn against a known dangerous condition...*' [C.R.S. 33-41-101](#)). Your jurisdiction's version of this law is worth your legal counsel's careful study, considering that some laws may be significantly broader than others in providing landowners protection. In any case, however, potential application of this law, in the camp's favor, shouldn't take the place of developing an appropriate plan for staff off duty use of camp property.

As we discuss in Part B below, the camp should consider obtaining

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Photo courtesy of Camp Foley, Pine River, Minnesota



from staff, in advance, an agreement containing, among other important provisions, an acknowledgment and assumption of risks and an agreement of release and indemnity (“risks and release agreement”), that addresses staff member’s access to and use of camp premises, facilities and equipment – including during off duty time. The document should identify, in appropriate places (and consistent with applicable state law), that it is not intended to infringe upon existing workers’ compensation benefits to which the staff member may be entitled for injuries arising out of and in the course of the staff member’s employment. Such an agreement can provide some protection from claims, should an incident arise out of a staff member’s off duty use. A state’s recreational use act, if applicable, may, in the event of a lawsuit, provide an additional defense to the camp, in appropriate circumstances. Importantly though, neither of these defenses would be successful, in most jurisdictions, if the camp was charged with more egregious misconduct (depending upon the jurisdiction’s

common or statutory law) —something akin to gross negligence, or willful, wanton or reckless misconduct.

Note regarding minor staff members (those under the age of majority —18 yrs. of age in most states).

Consult with your legal counsel regarding the camp’s legal exposure related to off duty minor-aged camp staff access to camp premises. A camp is likely considered in a custodial relationship with these minor staff members (sometimes termed *‘in loco parentis’* (in the place of the parent)) similar to its relationship with minor campers. This relationship triggers duties (or degrees) of care that vary between jurisdictions – duties not present with adult staff. Although the legal doctrines discussed above will come into play, a camp may have oversight and/or supervisory responsibilities to (even) off duty minor-aged camp staff members, stemming from this custodial relationship.⁴ Carefully consider these issues with your legal counsel in crafting a plan for staff off duty use (see discussion in Part B, below).



2. Injury to Staff member's guest:

What if a staff member's guest (not employed by the camp, but invited or permitted by the camp to be present) suffers injuries while recreating or accompanying the off duty staff member on camp premises?

Depending upon the nature of the incident, the injured guest may bring a premises' liability claim against the camp. Or, if the guest injuries resulted from the off duty staff member's use of camp equipment with the camp's (express or implied) consent, perhaps a claim of negligent entrustment (premised on the fact that the owner entrusting the equipment to the person

knew or should have known that the person was unfit or incompetent to operate the equipment). If the camp had the guest sign a risks and release agreement in advance, the camp might be in a position to obtain pre-trial dismissal of claim/s brought against it by the guest. In addition, as mentioned above, a jurisdiction's recreational use act might limit the camp's duty of care, assisting the camp in its defense. Again, these defenses would not be successful, in most jurisdictions, if the camp was charged with more egregious misconduct.

3. Injury to third party caused by staff member or staff member's guest's conduct:

Consider the Hotline example: if the camp permits (expressly or impliedly) the off duty camp staff member to take a camp vehicle and the staff member causes a vehicle accident and resulting injuries to another staff member or a third party, the injured party may have a claim against the camp for negligent entrustment. Although the camp might seek indemnity (reimbursement) from the staff member based on an indemnity provision contained in a risks and release agreement he or she had signed in advance, such an attempt may be difficult if the staff member has no funds or insurance available to fulfill his or her indemnity obligation. Note that whether or not one of these individuals had a valid claim against the camp, the incident would likely trigger the camp's vehicle insurance policy, with multiple ramifications for the camp.

What if an off duty staff member's guest injures a third party – including a staff member? In the Hotline example, when asked whether the guest could use a jet ski, a staff member said no, because the guest was not trained to use the ski. The guest ignored the directive (based on a camp rule), and used one anyway (staff present did not stop him), severely injuring another

staff member. We don't know the details, but the camp may have increased its potential legal exposure to the injured party because it failed to enforce rules for use that were followed by one staff member and ignored by another.

If an off duty staff member's guest injures a camper (for example, alleged sexual abuse), the camp may have liability exposure based, in part, on an on duty staff member's failure to properly supervise the camper. Note as well (as we discuss below), a camp likely does not criminal background check or screen a staff member's guest. As a result, without procedures in place to control the locations of camp staff members' guests when campers are present, the camp may be exposed to liability (under premises laws, or general negligence) for the actions of a guest, if the guest harms a camper. The camp might seek indemnity from the guest for claims against the camp based upon the guest's alleged misconduct but, as discussed above, such an attempt may be fruitless. Insurance ramifications exist as well (e.g., does a camp have sexual abuse and molestation (SAM) insurance, and will that insurance protect the camp in this type of scenario?).

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4. Damage to Camp or Third Party Equipment or Property

Clearly, the camp will suffer loss if an off duty staff member or his or her guest damages camp equipment or property (including animals). The camp may be able to obtain reimbursement from its insurance policy for the loss, and/or seek indemnity from the staff member or guest, again, with the same challenges.

If, as in the Hotline example, the off duty staff member or guest damages another party's property or equipment offsite, claims against the camp for negligence or negligent entrustment may follow.

In addition to the camp's legal exposure and financial loss, the above and other scenarios can certainly damage the camp's reputation in the local community and beyond, distract it from its camp programming and hamper its marketing efforts. Bottom line, the risks of being uneducated and uninformed weigh in favor of the camp making thoughtful decisions about whether and to what extent it allows staff members, or their guests, to have access to camp premises, facilities and equipment.

B. Informing the Staff, Protecting the Camp

A camp cannot afford to be casual about staff members' and their guests' use of camp premises, facilities, or equipment during their off duty time. If the camp allows this use, it should take steps to put a structure in place that considers risk management issues unique to the camp and its location, allows the use to occur in a manner that holds the staff member to certain rules and policies, and appropriately protects the camp from legal exposure.



Photo courtesy of Camp Scatico New York, New York

1. The Employment Agreement or Employee Manual.⁵

In an employment agreement, an employee manual or elsewhere, the camp should make clear to the staff member what is considered on and off duty time. That is, when (and when not) is the staff member expected to be conducting his or her job responsibilities for the camp? In this document the camp will certainly clarify the scope and nature of the staff member's job responsibilities when on duty. Importantly, the camp can identify opportunities — and limitations — on the staff member's activities when he or she is off duty and on camp premises. This could include, for example, whether or not the staff member is able to access the camp property for recreational purposes and whether he or she can use camp equipment or have access to certain facilities (for example, an indoor climbing wall or an outdoor challenge course). If the camp allows staff off duty access, the document should identify (or refer to pertinent staff manual provisions that describe) restrictions on, or requirements associated with the use. Examples include:

- Restrictions on use of certain equipment; requiring inspection of equipment before and after use, and logging in and out to document use and condition of equipment;
- Prohibiting access to portions of the premises (for example, a challenge course or a lake, or in areas where camper activities are taking place);
- Limiting the nature of activities (recreational or otherwise) an off duty staff member can engage in while on camp premises;
- Limiting access to activities unless the staff member has the training required (e.g., an indoor climbing wall);
- Stating whether or not the staff member can invite a guest to the premises during off duty time, and any restrictions on the guest's activities;
- Any limitations on minor staff members' off duty use of camp premises.

A camp should be clear that a staff member's employment may be terminated for violation of the camp's rules and policies underlying these restrictions.⁶



2. Rules and Policies for Off Duty Staff Members or their Guests

Rules and Policies (simple and clear) should mirror the camp's limitations or restrictions set out in the employment agreement or employee manual – providing the details needed for staff to understand the scope of permitted off duty use of camp premises, facilities and equipment. We use these terms loosely, but developing your written directives/guidance should be carefully considered. Develop a plan for use that is realistic and do-able, and that will hold staff accountable to the plan. An essential element is regular 'all staff' training on the plan (see below). The camp may already have rules and policies in place for its outside user groups – the camp may decide to apply all or part of these protocols to off duty staff members and/or their guests, while they are recreating or moving about the camp premises.

3. Staff and/or Guest Acknowledgment and Assumption of Risks and Release and Indemnity Agreement to address Off-Duty Use of Camp Premises

As suggested above, the camp should strongly consider having its staff and their guests sign a document containing, among other provisions, an acknowledgment and assumption of risks and release and indemnity agreement. These documents should not be considered an overall panacea – “with this document, we don't need a plan because we won't be found liable!” To the contrary, these documents are simply one piece of the camp's risk management picture and overall plan. Yes, a well written agreement like this, reviewed by informed legal counsel and consistent with applicable law, can provide the camp protection

4. Camp Liability Insurance

In developing a plan for staff off duty use, work with your insurance broker or representative. Your insurance representative (in conjunction with the camp's underwriter) can assist you in understanding the scope of the camp's insurance coverage and the camp's potential exposures emanating from staff (and staff guest) off duty use of camp

A few specific concerns regarding staff guests include:

- A guest is likely not screened as a staff member would be (e.g., criminal (including sexual misconduct) background check). As a result, the camp would need to follow its established rules for access to premises by third parties (e.g., check in with the front office, wear a badge, etc.);
- The guest may not be capable of or trained in the activity selected by your off duty staff member (e.g., the guest doesn't know how to swim, drive a jet ski or ride a horse).

Other concerns:

- Off duty camp staff use of camp vehicles, including autos, trucks, ATVs, etc. This use or non-use should be explicit, and reviewed and discussed with your insurance representative and legal counsel.

from some liability, and serve as an important informational tool for the staff member or guest regarding his or her understanding, acceptance, and assumption of risks and responsibilities. However, such a document does not take the place of careful attention to a thoughtful plan geared to address staff (and their guests) off duty use. As discussed above, use of these agreements with staff should clearly identify that the document is not intended to impinge upon the staff member's entitlement to worker's compensation benefits for injuries arising out of and in the course of the staff member's employment for the camp.

premises, facilities, and equipment. Importantly, the camp's coverage may include exclusions or required conditions precedent to certain coverage that can be adjusted (e.g., adding supplemental coverage.) or at least understood, so that the camp can develop its staff off duty use rules and policies accordingly.

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C. All Staff Training: Off Duty Use and Adherence to Rules and Policies

If you set up a structure, your staff need to understand it and follow it! All staff training (for those in the office and in the field) should identify the important safety and risk management issues associated with off duty use, and emphasize that staff must be their 'brother's/sister's keeper' and help fellow staff members make sensible decisions and follow the plan. If staff are found ignoring the plan, breaking the rules, or sneaking out prohibited equipment, they should understand the ramifications of their conduct — up front —.



Photo courtesy of Camp Howe, Goshen, Massachusetts

III. Conclusion

Understand the risks associated with camp staff off duty use of your camp. Develop a plan that holds staff accountable to clear and simple rules and policies, and appropriately protects the camp from legal exposure. Staff off duty use can be a great privilege and a valuable benefit, if allowed by the camp in a thoughtful and informed manner

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Notes

- ¹ We are focused on paid camp staff — whether full time or seasonal; volunteer staff enter into the equation as well, although use of volunteers raises additional risk management and legal issues not covered in this article.
- ² Workers compensation insurance typically bars a worker injured in the scope of his or her employment from suing the employer for negligence (but likely not more egregious misconduct) — hence the term 'no fault.' However, there are exceptions and variations to this general principal and a camp should work with its legal counsel and insurance representative to understand the applicable workers compensation laws in its jurisdiction.
- ³ This is one example; a plaintiff may bring legal claims against a camp based upon other theories of liability.
- ⁴ See our previous *Campline* articles for a discussion of a camp's duty of care to minors: "Child Sexual Abuse: Liability Issues Revisited" (Fall, 2012), "A Camp's Duty of Care — In Good Times and Bad" (Winter 2008) and "Reasonable Supervision and the "Safe" Environment - What are the Issues?" (Fall 2005).
- ⁵ Considering differing state laws on the "employment-at-will" doctrine (the concept that an employer can terminate an individual's employment at any time, for any reason, with or without notice) and related employment issues, camps should consult with their legal counsel in crafting these documents so as to appropriately preserve application of the doctrine, consistent with state law. See our previous *Campline* article discussing the potential impact of the employment-at-will doctrine in the context of an employment contract or manual: "Avoiding Staff Surprises" (Fall 2007).
- ⁶ See footnote 5.

*This article contains general information only and is not intended to provide specific legal advice. Camps and related organizations should consult with a licensed attorney regarding application of relevant state and federal law as well as considerations regarding their specific business or operation.

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