

THE CAMPLINE

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

FALL 2014 // VOLUME XXV // NUMBER 2

From a camp that serves adults with special needs...

"A 43-year old camper was just discovered dead in his cabin, first responders are on site, but we need help with a communications plan – what do we tell the other campers and their families?"

"I've just received two letters from attorneys representing divorced parents who have joint-custody of their child. One letter is from the father of a registered camper threatening a lawsuit if we allow his child to attend camp, the other from the mother threatening a lawsuit if we don't allow the child to attend camp because she already registered him."

It is the off-season ...

"The parents of a female camper have just called and told me that they have just found sexually explicit communications between their daughter and a male counselor she met at camp."

"A camper has just told his counselor that he is afraid to go home because he is afraid of his mother. He said that child welfare has been called before, but that his mother always makes him lie."

"Two staff members had sex last night away from camp on their time off. The female has just told me about it and claims she was sexually assaulted. The male claims it was consensual."

"A camper has just revealed to his counselor that he served two years in juvenile hall for being a pedophile."

"We've just learned that a former camper has been arrested and accused of murder. There is no trial date yet, but the parents want to register him for camp."

ACA CAMP CRISIS HOTLINE ANNUAL REVIEW 2014

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




These are just some of the actual calls received this year by the American Camp Association (ACA) Camp Crisis Hotline. Since 1985, ACA has been providing crisis support to camps through a confidential Camp Crisis Hotline. Available 24 hours a day, every day of the year, camps contact the Hotline to receive support, to discuss options, and sometimes just to have someone to talk with as a third-party. While Hotline team members cannot provide legal or medical advice, we can connect camps with the resources they need and help them think through all of their options. Annually, based on the analysis of the calls received, ACA prepares an overview of the trends, lessons learned and case studies from the previous year to assist other camps in being better prepared should a similar crisis occur at their camp. The most frequently referenced resources used by the Hotline team can be found online at www.acacamps.org/camp-crisis-hotline.

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CATEGORIES OF CALL THIS YEAR

Important Information Regarding Revisions to the ACA Standards

 A key role of the American Camp Association's National Standards Commission (NSC) is to regularly review and update (as needed) the ACA standards.

Standards Revisions

After an 18-month process, significant revisions have been made to the standards related to staff screening (HR.3 Hiring Policies*, HR.4 Annual Staff Screening*, and HR.5 New Staff Screening*); and to PD.25 Archery Safety* and PD.26 Rifle, Pellet Gun, and Air Gun Safety*. Clarification was also included for several standards in the health and wellness (HW.5*, HW.14, HW.19, HW.24) and the operational management (OM.8 and OM.13) sections. All applicable mandatory standards require immediate compliance.

Revisions were also made to the Contextual Education for a few standards. To view a full set of these revisions, go to <http://www.acacamps.org/accreditation/access-2014-revisions-aca-standards>. From this site you may download and print the pages with revisions to insert in your current Accreditation Process Guide 2012 Edition or request a packet of the changes be mailed to you. You will also find directions on how to access a fully updated set of standards (which can be customized for your camp or program).

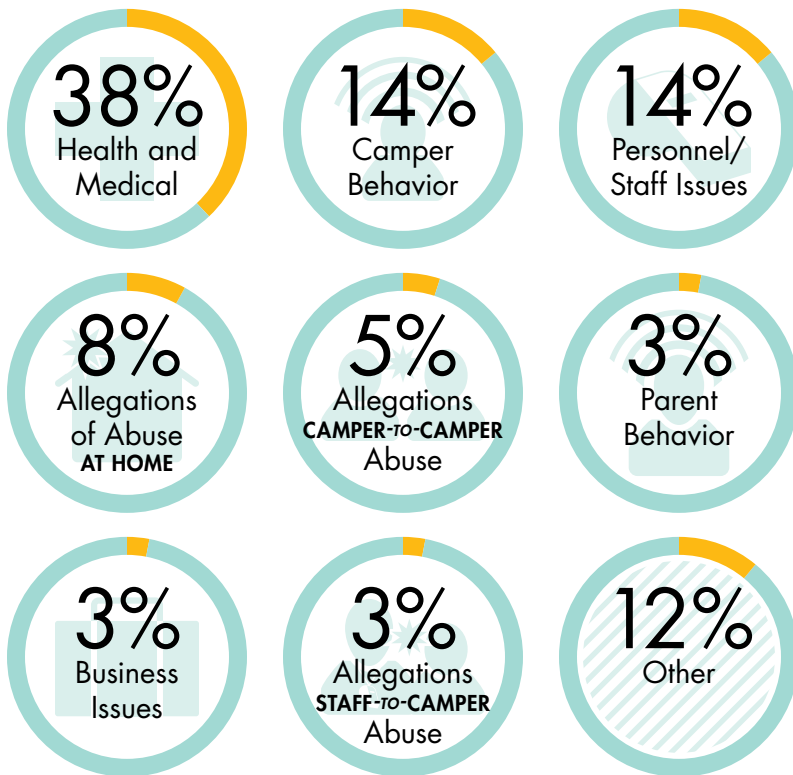
For additional information, go to: <http://www.acacamps.org/accreditation/september2014-revisions-aca-standards>

*Denotes MANDATORY standard.

Icon Key

The icons below correspond to article topic areas. Use them to find the articles that best match your interests!

-  EDUCATION
-  POSITION STATEMENT
-  ISSUES
-  PUBLIC POLICY AGENDA DEVELOPMENT
-  LEGISLATIVE
-  REGULATORY ADVOCACY
-  MOBILIZATION
-  RELATIONSHIPS



TOP TRENDS

Continuing increase in camps having difficulty finding healthcare staff that understands the implications of providing healthcare in a camp setting, including familiarity with childhood illnesses and common infestations.

Growing need for help in developing communication strategies in the event of unexpected situations (ranging from minor infestations, such as lice – to real tragedy).

A rise in the number of trans, transgender, and gender-variant individuals who are interested in working at camp or becoming a camper – and camps searching for help in understanding pertinent issues such as privacy.

Increase in questions and issues regarding the reproductive health of female campers, and the implications of each state's age of consent laws.

A surge in calls from the parents of young-adult staff – and the parent attempting to insert themselves into the middle of the employment issues of their children.

Growing challenges for camps in balancing social media to promote their community while developing enforceable policies that protect the camp and its campers and staff.





For the sixth year in a row, the top category of calls was related to health and medical issues. While the ACA Hotline team members are not medical or legal experts – and thus cannot provide medical or legal advice – we do have the resources and experience to direct callers quickly to the information they need, or to other experts who can assist in the crisis.

Calls in this category range from an immediate emergency (such as the suspected accidental death of a camper) to the outbreak of common childhood illnesses (for example, chicken pox), to common infestations, such as bed bugs and lice. The common factor we have found in the majority of these calls is

that many camps do not have healthcare staff that is familiar with common health issues in a camp setting. Sometimes the questions we receive are regarding the laws related to healthcare at camp (e.g., who can distribute medications, is my license accepted in this state, etc.). In other cases, camp administrators simply want to talk about the steps they have already taken, and want to benefit from talking with a third-party that can help them think about other questions or steps they might not have considered.

All of the most frequently referenced resources on this topic can be found online at www.acacamps.org/camp-crisis-hotline.

Lessons Learned – Health and Medical Issues

1. Camps need healthcare and medical staff that are familiar with the most common childhood illnesses, infestations, and injuries. Many camps say that their most challenging personnel issue is to find healthcare staff that has experience in the camp setting. They might identify a candidate who is an R.N., but that person may have no experience working with children or a camp setting. If a camp's only option is to hire staff that does not have camp healthcare experience, then it is critical that they be provided with appropriate training prior to the camp season. 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/camp-crisis-hotline and participate in health-related online courses and webinars through ACA's Professional Development Center (www.acacamps.org/professional-development-center). We have detailed resources and training modules on some of the most common health issues encountered at camp and in other youth settings.

2. It is important that ALL of your staff understand who can manage, administer, and distribute medication. As more campers and staff arrive at camp with prescription medication, and more camps want to provide "out of camp" adventure experiences (such as overnights away from camp), the issues related to the distribution of medication become more complex. The answers to the questions regarding who can manage, administer, and distribute medication vary by state. An excellent resource to help you understand the issues and find the answers

you need is Medication Management: 13 Common Questions from Camps — And Their Answers (www.acacamps.org/campline/spring-2014/medication-management%20). Also, see Case Study Three on page 10 for more on this topic.

3. Identifying the signs of common illnesses and infestations is everyone's job. Counseling staff is often the closest to campers and can pick up on the early warning signs of illness or the infestation of pests, such as lice and bedbugs. While no replacement for your healthcare staff, front-line staff plays an important role in preventing the spread of illnesses and infestations. Consider having your entire staff take the ACA online course, A Counselor's Role in Healthcare: www.acacamps.org/einstitute/counselors-role-healthcare.

4. There are special legal considerations regarding the reproductive health of minor-aged campers. Consider the following scenarios:

- A camper informs the camp nurse that she thinks she might be pregnant and asks the camp nurse to buy her a pregnancy test kit or administer a pregnancy test. Should the camp nurse buy and/or administer the test to a minor? Should the camp inform the parents?
- A camper obtains a pregnancy test in the mail while at camp. She uses it, and informs a camp counselor that it came back positive. Should the camp inform the parents? Should the child remain at camp?
- A camper reveals to the camp nurse that she is pregnant and hasn't told her parents. Should the nurse report the condition to the parents?
- A camper announces to the camp nurse that she had an abortion two

days before arriving at camp. She has some medical requirements that the camp cannot meet and the camp wants to send her home (or to a hospital) for proper care. Should the camp tell the parents of the abortion?

These questions can only be answered if you understand the laws in your state regarding minor consent. An excellent resource is She Thinks She's Pregnant – What Do We Do (www.acacamps.org/campline/fall-2013/she-thinks-pregnant). This article also includes a link to the most current information about the minor consent laws in each state.

5. The prevention of and spread of disease starts before anyone even enters your camp. Camps should advise parents to not send sick children to camp. ACA has detailed eight critical points that parents need to know. Download and share the parent flyer, A Healthy Camp Starts at Home available at: www.campparents.org/healthycampupdate. Camps should also perform detailed health screenings on all incoming campers and should initiate stringent hand-washing and camp sanitation procedures.

6. Lice happen. Decide how you will deal with it before you find that first nit. Calls about lice infestation were the single most popular healthcare call we received. Most often, the questions camps have are regarding whether a person who has been infested with lice should be removed from the camp community until the lice are gone. There is no right or wrong answer to this – experts disagree on the answer. Both the Centers for Disease Control and Prevention (CDC) and the American Academy of Pediatrics (AAP) recommend treatment and prevention of further

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infestation, then allowing those afflicted to remain in group settings. Other organizations, such as the National Pediculosis Association (NPA), recommend temporarily removing those afflicted from the group setting until all signs of nits and lice are gone. Determine your camp's policy before your camp season so you will be prepared should lice and/or nits be detected. An excellent resource can be found at www.acacamps.org/knowledge/health/diseases/lice.

7. **If a tragic accident should occur at your camp, cooperate with the authorities and utilize an excellent crisis communications plan.** This situation is the

worst kind of crisis any camp – any parent – and anyone in the camp community can imagine... the accidental death of a camper or a staff person while at camp. It is critical that your risk management plan not only include risk management strategies, but communication strategies as well should the worst happen. Often a call to the Hotline is more about communication after a tragedy because the authorities are already handling the aftermath of the accident. Communicating effectively during a crisis is critical. To help all camps be prepared in the event of a crisis, ACA has developed a Crisis Communications Toolkit

to help guide you in your communications with the media, family members, and the community www.acacamps.org/members/toolkit/crisiscomm.

8. **Create a health/medical support system.** Before your camp season begins, identify health and medical resources you can call at a moment's notice to assist you in whatever challenges come your way. This plan includes not just your on-site healthcare staff, but the list of contacts you would phone in the event of an emergency. (e.g., grief counselors, mental health professionals, dermatologists, dentists, female health specialists, etc.)

Additional Questions to Discuss with Your Healthcare/Medical Staff:

- How would you accommodate a camper or staff person who has tested HIV-positive? (See Case Study Five on page 12 for more discussion.)
- What would you do if you suspect an outbreak of bed bugs?
- What should you do if you suspect that a camper is self-mutilating?
- What do you do if the medical directives regarding a specific international camper are from a physician who is not licensed to practice in the United States?



Calls to the Hotline regarding camper behavior (not including allegations of abuse – which are covered elsewhere in this article) rose from 10% to 14% of the total calls. While in past years, most of the calls in this category were related to inappropriate behavior in general, this year we experienced a very wide variety of calls including: allegations that a camper is a convicted sex offender and served time in “juvenile hall”; finding out that an international camper who has arrived is actually too old for your program; and campers allegedly threatening suicide.

All of the most frequently referenced resources on this topic can be found online at www.acacamps.org/camp-crisis-hotline.

Lessons Learned – Camper Behavior Issues

1. **Camper's (and staff) belongings can be searched if you suspect illegal or unsafe activity.** It is a frequent question to the Hotline – “Can we search a camper's belongings?” Generally, the answer is “yes” – with a few exceptions. ACA has asked legal counsel to update our resource on the issue and the most current information can be found on page 13 in the new article Understanding a Camp's Right to Search by Charles R. Gregg and Catherine Hansen-Stamp.

2. **Within the limits of law, you can determine the camper enrollment qualifications for your camp.** While you must, of course, adhere to all local, state, and federal laws (such as the Americans with Disabilities Act), you can set your own rules regarding the qualifications and requirements to become a camper at your camp. For example, you might set age limits, you might decide to exclude convicted violent juvenile offenders, you might require a certain level of ability (while abiding by ADA laws), etc. As with all legal matters, be sure to enlist the services of legal counsel.

3. **Stop bullying behaviors before they can start. Establish a positive camp environment.** Feeling safe is critical to a child's learning and mental health. Promote positive behaviors such as respect, responsibility and kindness. Prevent negative behaviors such as bullying and harassment. Provide easily understood rules of conduct and fair disciplinary practices. Or better yet, have the kids involved in creating these “code of living” rules. Teach campers to work together to stand up to bullying behaviors, encourage them to reach out to lonely or excluded peers, celebrate acts of kindness, and reinforce the availability of adult support. Train staff to recognize bullying behavior, and do not allow staff to manifest bullying behaviors with one another either. Campers imitate staff behaviors, so be good role models! (For more on the issue of bullying, read the section of this article on allegations of camper-to-camper abuse beginning on page 7.)

4. **Intentional and well-enforced supervision policies are key in decreasing camper behavior issues.**

Ensure that your procedures and staff training are designed not only to protect the safety of campers but also to identify situations where campers could be tempted to behave inappropriately.

5. **Communicate your camper behavior policies and their consequences with families prior to the camp season.** For example, if your camp has a policy that campers cannot have cell phones while at camp, be sure campers and parents understand what specific consequence you will administer if a cell phone is found.

6. **Consistency in enforcing the consequences of actions is critical!** If your policy calls for campers to be sent home if “XX” behavior occurs, do it! Consistently. If you don't intend to do it, then rethink your policies. As painful as it might be for all involved, doing what you say you will do is essential.

7. **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. A mental health network can provide useful information and alert you to symptoms of problems such as depression or

suicide. A great place to start for information is www.acacamps.org/knowledge/health/mental-health.

Additional Questions to Discuss with Your Staff About Camper Behavior:

- What would you do if the “camper rumor mill” appears to be running rampant and alleging that a particular camper is pregnant?
- What would you do if a camper showed inappropriate affection toward you?
- What would you do if you suspect a camper has a cell phone (banned at your camp) and is using it to take inappropriate pictures? (See Case Study One on page 9 for more on this issue.)
- What would you do if you discovered an international camper, who has arrived with a group, to be overage for your program?



Even though this year we saw a significant drop in personnel related calls (from 22% in the previous year), we experienced a new breadth in the types of calls received. Many related to disgruntled staff behaving inappropriately, and an additional group of calls were related to the criminal past of staff applicants.

All of the most frequently referenced resources on this topic can be found online at www.acacamps.org/camp-crisis-hotline.

Lessons Learned – Personnel/Staff Issues

1. You must understand the criminal past of any staff or volunteer applicant, and you then must make decisions about selecting a candidate based on your camp’s policies. Performing a criminal background check is not only a mandatory standard for all ACA-accredited camps – it’s the responsible thing to do. Parents have the right to know who has access to their children. Since criminal background checking in America has a variety of methods and a huge range of what data is actually included in a particular check – it is imperative that you understand the facts about the checks you do run. Subsequently, it is equally important for you to set thresholds of what types of criminal backgrounds would be acceptable for someone to have in their past in order to work at your camp. It’s a complex issue – but there is no more important issue for a camp. ACA has two excellent resources to help you. One to understand the checks (www.acacamps.org/sites/default/files/images/publicpolicy/documents/CBC_Education_7_2011.pdf), and the other to help you set your thresholds (www.acacamps.org/publicpolicy/cbcthresholds).

2. Social media can provide positive support for your camp, but can also be fraught with challenges. You can set policies for your staff regarding their interaction with campers on social media and what you will allow them to post regarding camp – but the issues and potential legal risks are broad. ACA engaged legal counsel to provide advice to camps in the article Camp Staff Use of Electronic Devices and Social

Media: Some Issues and Solutions. Access this advice online at www.acacamps.org/campline/spring2014/staff-electronic-devices-social-media.

3. Understand the employment protection afforded in the Americans with Disabilities Act (ADA). ADA laws provide protection from discrimination in hiring and access for people with a broad-spectrum of physical challenges. Craft your job descriptions with the assistance of your attorney and get legal advice before beginning your hiring process. If you have question regarding the HIV status of applicants, see Case Study Five on page 12.

4. If an employee or potential employee shares with you that they are trans, transgender, gender-variant, gender non-conforming, or in the process of reassigning their gender, understand all the issues related to their employment and privacy. ACA continues to see a dramatic rise in the number of these types of calls. Camps want to know everything from “how do we accommodate transgender individuals” to “are they protected by law and thus are we required to accommodate them?” We’ve also had this same type of call about campers and potential campers. There are no definitive answers, but laws do vary by state so be sure to consult with your attorney. Excellent resources are listed at the end of this section. We highly recommend the online-recorded webinar, Talking Transgender at Camp, available at www.acacamps.org/einstitute/talking-transgender-at-camp.

5. Regardless of state laws about marijuana use, it is still illegal according to Federal law. Medical marijuana is considered a “Schedule I” controlled substance under federal law. As an employer, generally you can refuse to hire, terminate an employee, or refuse to allow a camper to attend who is currently using marijuana, whether for medical reasons or otherwise. A camp specific resource can be found online at www.acacamps.org/knowledge/health/medical-marijuana.

6. Have a back-up plan for staff coverage in an emergency or



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unexpected loss of staff. Supervision ratios are critical to ensuring the safety of your campers. In the event that you need to terminate staff because of an egregious situation, you do not want to be stuck between considering not firing someone because of your inability to cover supervision ratios for your campers or firing and risking the safety of campers. Or consider what you would do if you suddenly lost a key staff member/members — especially someone in a critical role such as your nurse or cook. Before the season begins, identify short-term options that you can turn to

for coverage in an emergency. Consider how properly trained volunteers might help you if you suddenly find yourself short-staffed.

7. 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 to all kinds of risks — including lawsuits — especially if

you do not enforce consistently (treating one staff member different than another when they have both ignored one of your policies). And, as noted above, consider staff coverage if you need to fire someone.

8. Enlist the services of an employment attorney. Identify this person before you begin your hiring cycle. An attorney with experience in labor laws, contracts, and employment issues that you can contact for help at any time is an invaluable resource for any camp.

Additional Questions to Discuss with Staff Regarding Personnel Issues:

- Are you adhering to all of the labor laws required of you? Do you know what they are and the differences depending on the ages of staff and the length of their employment with you?
- If you are utilizing international staff and a placement agency, do you know what kind of criminal background check is being conducted on them?
- How will you ensure that staff is not developing inappropriate social media relationships with your campers?
- What are your staff sexual harassment policies? What are your policies regarding relationships between staff?
- What do you do if the parent of a young-adult staff member calls you to complain that their child is not being treated fairly?



It has been our 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. When this occurs, camp directors have many questions about what to do, whom to call, etc.

All of the most frequently referenced resources on this topic can be found online at www.acacamps.org/camp-crisis-hotline.

Lessons Learned – Allegations of Abuse at Home

1. Contact the authorities immediately if a child reveals an allegation of abuse. Camp directors, as people who serve “in loco parentis”, are mandated to report allegations of child abuse or neglect. It is critical that you contact the authorities immediately so those professionals who are trained on these issues can begin their processes immediately. While it is tempting to start your own “investigation” prior to contacting the authorities — especially if you think it is possible that the child is “making it up” — resist that temptation. The camp should rely on the legal authorities to step in and take over the matter. 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. If we have learned anything from the recent tragic cases of ongoing child abuse by those adults in trusted positions, it is that we cannot stand by when there is any allegation that a child is being harmed.

2. One in four girls and one in six boys are the victim of abuse before they reach age 18. Thus, many children (and staff) 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.

3. Keep the phone number of your local child abuse reporting

authority 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 whom to call (generally you call the locality where the abuse is alleged to have occurred), don't hesitate in calling your own local authority and asking for direction.

4. Documentation is critical. 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.

Additional Questions to Discuss with Your Staff About Allegations of Abuse:

- A camper just shared stories with a counselor about how he is fearful of his mother. The camper has described “bad dreams” about his mother harming him and said that “she choked me once.” What should the counselor do?
- A day camper is complaining about her head hurting. When asked more about it prior to taking the camper to the nurse, the camper said that her head hurt because her brother came into her bed last night and they were “playing games” that are “only the kind you play in bed.” What should the counselor do?





As with allegations of abuse at home, allegations of camper-to-camper abuse must be reported to the proper authorities, who will then investigate the matter. Sometimes callers to the Hotline want advice on whether a specific situation “is abuse or not?” The ACA Hotline team cannot make that determination. Making the call to the authorities is the only way to ensure that you are handling any allegation properly.

All of the most frequently referenced resources on this topic can be found online at www.acacamps.org/camp-crisis-hotline.

Lessons Learned – Allegations of Camper-to-Camper Abuse

1. 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 prevent inappropriate behavior in the middle of the night.

2. Don’t hesitate – you MUST contact authorities if there is an allegation of campers abusing one

another. Make the call to authorities if you suspect that a child is the victim of abuse. The age of campers should not be a reason NOT to call. It is the right thing to do and it is the law.

3. One person’s description of bullying is another person’s description of abuse. Camps and other youth-serving organizations find this to be a challenging issue – that is – what is “bullying” and what is “abuse”? Experts disagree. For an excellent overview of the issues, read this resource: www.acacamps.org/child-health-safety/bullying

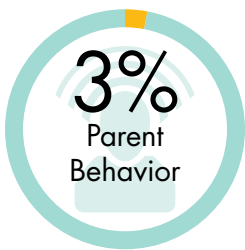
4. For your camp, make bullying prevention a priority from the first day of camp and let all campers and staff know that bullying behaviors are unacceptable. All campers need both physical and emotional safety in



order to thrive. Set bunk rules with explicit examples of acceptable and unacceptable behaviors. Post these rules in the cabins and talk about the issues.

Additional Questions to Discuss with Your Staff About Allegations of Camper-to-Camper Abuse:

- What would you do if the family of a camper from last summer contacts you with the allegation that another camper abused their child while at camp?
- A male special needs camper alleges that on a camp bus ride, a female special needs camper asked him to touch her in inappropriate ways. The male camper says that he did so, but now feels very uncomfortable about it. What do you do?
- Rumors are running rampant that two minor-aged campers engaged in sexual intercourse last night. 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?



While only three percent of calls to the Hotline were regarding parent behavior, they continue to be some of the most difficult issues for camps. As camp professionals, we know we partner with parents, but sometimes it appears that parents are not amenable to the partnership. In one example, divorced parents with shared custody of their child attempted to place the camp in the middle of a bitter dispute. One parent demanded that their child be allowed to attend camp or else they would sue the camp, the other parent also threatened to sue – this time if the camp accepted the camper. See Case Study Seven on page 12 for more discussion of this issue.

The Hotline team continues to field calls from camps where parents are refusing to pick up their child early from camp due to either a medical issue or being expelled from camp due to a behavior issue. See Case Study Six on page 12 for more discussion of this issue.

All of the most frequently referenced resources on this topic can be found online at www.acacamps.org/camp-crisis-hotline.

Lessons Learned – Parent Behavior

1. Don’t ignore parents once they drop off their children at camp. While camps can become frustrated with

a parent they believe is being a “helicopter parent” or overly demanding, it’s best not to disregard parent

complaints. Consider having staff designated and trained as parent liaisons. Having someone who is

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excellent at calming nerves and instilling confidence is worth their weight in gold.

2. Prior to your season, ensure that all of your camp families have a copy of your camp policies – and understand them. These policies should include things such as your business practices (e.g., refund policies), camper behavior policies (and consequences), and policies about emergency communications (e.g., contacting families in the event of a weather emergency, etc.).

3. Require at least one emergency contact that is not the parent of the camper. As mentioned above, we have seen continuing growth in the number of calls from camps regarding parents who refuse to pick up their child early from camp when the camp has determined that they must expel the

child. The reasons for expulsion range from threatening behavior to serious medical conditions. As shocking as it seems to the camp, there are parents who simply want the camp to handle everything until the scheduled end of camp. If the camp is unable to get a parent or other emergency contact to take custody of the child in cases of threatening behavior, sometimes the camp's only recourse is to call the authorities to take custody. These extreme situations are rare but real. Be sure that your camp families understand your expectations and the parameters that might force you to determine that a child must be sent home — including any medical situations. (For example, if you have a “no nits” policy about lice that deems that if a child has lice, they will be sent home — be

sure your families are aware of your policy.)

4. Not every camp is right for every child — but there is a camp for every child. Be clear with families — prior to registration — about the culture and practices of your camp. Allow parents to make informed choices about whether their child is suited to your camp or a different camp. Consider ACA's Find-A-Camp (<http://find.acacamps.org/>) as a tool for directing parents to a camp that might be better suited to their child's needs.

5. Communication is the key to success. An informed parent is a partner. An uninformed parent can become an adversary — with their children caught in the middle.

Additional Questions to Discuss with Staff – Parent Behavior:

- If a parent refuses to pick up their child early from camp - the child having been expelled for repeated rule violations - what do you do?
- What if a parent tells you on drop-off day that they cannot abide by the end-of-session pickup time frame? See Case Study

Six on page 12 for more on this issue.

- What do 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)?



In 2013, this category of calls emerged for the first time as a stand-alone category.

While calls about business issues decreased significantly in 2014, three percent of the calls were still about issues regarding the business of running camp. One camp had an unannounced contact from the Department of Labor, which was investigating a claim that the camp was violating child labor laws. (See Case Study Four on page 11 for more on this issue.) Other

camps had questions about taxes, wages, insurance, and workers compensation.

All of the most frequently referenced resources on this topic can be found online at www.acacamps.org/camp-crisis-hotline.

Lessons Learned – Business Issues:

1. As with any business, you must understand the laws relevant to your operation. Seasonal workers, year-round employees, taxes, wages, child labor laws ... these are all complex business issues. Retain the services of trained legal experts to help you understand the requirements and assure compliance with all local, state, and federal laws and regulations.

2. 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.

Additional Questions to Discuss with Staff – Business Issues

- Do you fully understand the coverages afforded your camp by your various insurance policies?
- Do you have legal advice ready-in-waiting should a legal issue emerge during the season?
- Who is ensuring that the camp is compliant with all relevant laws and regulations?

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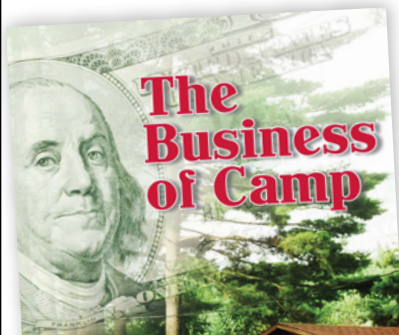
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As with the other allegations of abuse noted in this article, it is imperative that you phone the authorities as soon as an allegation of abuse arises.

Whether you believe the allegation to be true is immaterial – you need to make the call as soon as possible so that trained professionals can swiftly investigate the allegation.

All of the most frequently referenced resources on this topic can be found online at www.acacamps.org/camp-crisis-hotline.

Lessons Learned – Allegations of Staff-to-Camper Abuse

1. If an allegation is made that any child has been a victim of abuse, you must contact the authorities. Don't hesitate. Your swift action not only shows your commitment to protecting the children in your care, but immediately starts a process whereby unfounded allegations can be identified and legitimate allegations can be investigated by the trained authorities.

2. One staff person should never be alone (out of the sight of others) with a camper. Period. If nursing/healthcare staff is 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 a child.

3. 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!

4. 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.

5. 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 vulnerable times such as the middle of the night when a camper needs to use the restroom? Develop policies and procedures that support staff in avoiding one-on-one situations and practice strategies for avoiding these types of scenarios.

Additional Questions to Discuss with Your Staff About Allegations of Staff-to-Camper Abuse:

- If your camp serves campers with special needs that require personal care (e.g., bathing, using the toilet) how are you training staff and monitoring interaction to eliminate the risk of abuse?
- If a camper is showing you inappropriate affection, how do you handle it?
- If you return to your cabin and witness another staff member alone with a camper, what do you do?
- If a camper wants to develop a social media relationship with you, what do you do?



The remainder of the calls included a myriad of issues. These ranged from things such as a suspicion that an employee was embezzling from the camp, to questions about waiving immunization requirements, to dealing with weather emergencies. All of ACA's most frequently used resources can be found online at www.acacamps.org/camp-crisis-hotline.



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.

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CASE STUDY ONE:

Resources for all case studies can be found at www.acacamps.org/camp-crisis-hotline.

Camper Video Discovered with Dangerous Content

Camp staff confiscated a number of cell phones from a group of teenage girls to be returned at the end of the camp session. Before putting the phones away for safe-keeping, the staff inventoried and labeled them. Labeling the phones required the staff to power up the phone to identify the owner. One phone showed a picture of their camper lying down in the camp health center with a caption about having “just snorted some oxy.” The staff quickly investigated this matter and it turned out that even though the camper had been to the health center, she had no access to any medications and even if she had there was no oxy or anything similar at camp. Staff was reassured that she

just posed for the photo and embellished the caption. But it made them wonder if she had any other photos – especially ones taken at camp that they should know about – so they visited the media gallery on her phone. Right away they found a disturbing video.

In the video, their camper and another girl (not a camper) were in a bedroom (not at camp) clearly snorting a white powdery substance and there was a plastic baggie in the frame with more white powder. The camp called the Hotline to discuss what to do – especially since it didn’t happen at camp or while the camper was in their care.

Questions and Considerations – Case Study One

- Should the camp notify the parents and share what they found?

- If so, over the phone or have them come to camp and do so face-to-face?
- If so, should the camper be part of the conversation with the parents?
- If not, what if something later happened to this child because of drug use, the camp had said nothing, and parents then discovered what the camp had known and neglected to share?
- Should the camp notify the police?
- Should the camp consider searching the camper’s belongings? What if she brought drugs to camp and that photo and caption on her wallpaper were true?
- If so, what considerations or procedures should be followed?

CASE STUDY TWO:

Camper or Staff?

The director called and indicated they were having “second thoughts” on an offer they made to a 14-year-old former camper. The camper (and his mom) felt he had “outgrown” the day camp program even though he was still eligible to attend camp as a camper. In an effort to continue to serve this young man, the camp agreed to have the camper attend and serve in the role of photographer’s assistant.

As the season got closer, the camp realized they had set up a situation they wanted to avoid: Having a camper with a tendency to hang out with older campers and/or staff in

a role where he will be primarily associating with staff. The director also shared that this camper and a 20-year-old female staff member have been in communication with each other outside of the camp season. The director was recently made aware that this communication was going on last summer as well. A photo of the two individuals (camper and staff) was posted on Facebook this spring. While the camp has a policy stating no communication between campers and staff during the camp season, their policy does not extend to outside the camp season. Apparently the camper’s mother was aware of this communication and felt that as it was outside the camp season, there should be no issue.

Realizing all of this, the directors felt it is in the best interest of the camp to withdraw the offer made to the 14-year-old and provide him the opportunity to attend as a camper or not at all. The camp has a full refund policy. They are concerned about repercussions from the mother.

Questions and Considerations – Case Study Two

- As directors try to accommodate camper and parent wishes, it is important to think through all the potential issues and ramifications. Consider the big picture as well as the specifics. In this situation, what originally seemed like a good idea and way to serve the camper, turned into something more difficult to manage.
- Should camper-aged individuals ever be able to serve in non-camper roles? If so, in what roles? How is that decided and what criteria should be met?
- What are the legal and labor implications? Make sure you are aware of what is considered an employee vs. a camper “helping out”. Talk with a human resources specialist and/or legal counsel.
- What are/should be the consequences of a staff member violating a camp policy? (In this situation, the camp director learned about the violation months later – should there be consequences?) Use of social media has grown exponentially over the last couple of years. Camp policies should be evaluated and updated on an annual basis.



CASE STUDY THREE:

Trips and Medication

The director shared that a parent had just let them know that her son had not taken his medication consistently during the

camp’s two-week tripping program. Despite the staff training in this area (counselors are trained to keep all medication in



their possession, administer according to directions, and to log when it is administered), the staff member gave each camper his or her own medication to carry and administer. In a discussion with the staff member, he confirmed he had done this and indicated he would appreciate being paired with a more experienced staff member should he go on any other trips. The directors have other staff members who will be taking out the next trip and are trying to determine if this counselor's actions rise to the level that the staff member should be terminated. They feel they have invested a great deal in him and are hoping to "make the best of a bad decision."

Questions and Considerations – Case Study Three

- While the camp includes training on medication administration for trips, do they have any 'test' to verify that the camp staff fully understands the critical significance of this task?
- What are the state regulations regarding who can administer medication? It varies from state to state and, at times, requires completion of a medication administration course. Has the law been violated in addition to the camp policy?
- What resources are provided to camp staff to assist them in this specific role of administering medication?

- Do you provide the opportunity for camp staff to share their concerns with you? In this situation, the counselor indicated that he felt he needed additional training – after the fact. Consider setting up a system and opportunities for staff to "check-in" and let you know how things are going BEFORE issues arise.
- What message regarding the administration of medication is shared with parents? Is this exact message and expectations shared with your staff? Camp staff needs to know what the camp director is communicating to parents about camp policies and procedures. This holds true for all issues, not just medications.

CASE STUDY FOUR

Inquiry by the Department of Child Labor Regarding a Camp with Young-Adult Kitchen Staff

The director shared that a staff person from the state's Child Labor Department called because someone had given them a tip that the camp employed underage kitchen help. The director said she was surprised, because they are very careful with their young kitchen help and check to see that: (1) they all have their work permits from their schools, (2) they are all at least 17 years old, and (3) they have very clear set hours that they are expected to be in the kitchen (they are also assigned a cabin group the rest of the time so they become a part of the staff team). The director thinks all of this inquiry stems from her firing an 18-year-old male kitchen staff member for not doing his job. The parents of this staff member (who had already graduated from high school) were irate when he was fired, so they called a TV station that subsequently did a story about the staff working at this camp. However, the story was so biased that nothing came of it. She believes the parents may have been the ones who gave the "tip" to the Department of Labor. At this point there is no official investigation but the director wanted to make sure she was clear and had met all requirements for employing young staff.

Questions and Considerations – Case Study Four

- The camp had worked hard to have clear policies and procedures for their staff under 18 years of age that included getting work permits from their schools. The camp

was familiar with their state's child labor laws, which was reflected in their policies. Applicable state laws even had an "exception for scout and religious camps" with the exceptions often more lenient, so it's important to know the specifics. If a camp regularly employs young staff, having a labor attorney (or someone familiar with the state's labor laws) review your materials is critical.

- The camp had laid out quite specific work performance duties with clear expectations in the contracts with these young staff, including specific hours in the kitchen and times when they would help in other program areas. While they kept basic records, they were going to tighten up their record keeping to better capture all required information. These specific expectations were instrumental in documenting performance behaviors that supported their decision to fire the employee.
- The camp found it challenging to work with parents who were so involved in their adult (18 and older) child's life. The camp experienced few problems with the young employee, who seemed to accept responsibility for his poor performance. However, the parents were more demanding of "proof". Camps need to anticipate areas where they may encounter this societal shift of overly-involved parents in their adult children's lives.

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CASE STUDY FIVE

What Do I Do with Someone Who Is HIV Positive? (Two Perspectives)

Perspective 1: Returning Staff Person Recently Diagnosed HIV-Positive

A camp director called to ask if we had any resources to help her decide whether or not to rehire an employee that had recently been diagnosed HIV-positive. The director learned of this diagnosis from a third party – not from the potential returning staff person. Without confirmation, the director shared this development with some of her key board members. One, in particular, was very concerned about the safety of everyone at camp and pushed not to rehire. Prior to learning about this recent diagnosis the director was

considering the past employee for rehire this summer – but in a different position than last year. The director called to discuss his options and to be directed to resources on HIV and managing it in a camp setting.

Perspective 2: Camper Registered to Come to Camp

A camp director discovered that a child attending camp in two weeks is HIV-positive. He was concerned about all the implications of letting this camper attend, including what he would need to do to ensure the health and safety, not only of the camper in question, but also the staff and other campers attending his program. Just as the director above, this director was seeking help in making a decision

and also seeking resources on HIV and managing it at a camp program.

Questions and Considerations – Case Study Five

- Persons who are HIV-positive are protected from discrimination under the Americans with Disabilities Act.
- If reasonable accommodations need to be made for this person, how will the camp protect this person's confidentiality rights?
- Regardless of this situation, is the camp taking sufficient measures to train all staff to use universal precautions? Is the camp's health-care team prepared to accommodate the needs of the camper or the staff person?

CASE SIX

Parent Does Not Want to Abide by Pickup Time Frame

A camp director was dealing with a parent who did not want to pick his camper up at the camp-designated time. The camp materials sent to the parent/guardian prior to camp clearly stated the end-of-session pickup time frame. However, during drop-off, the parent made it clear that he would not be able to abide by the specified pickup time. The camp director expressed to the father that this was unacceptable and yet the father refused to

budge. The discussion with the parent was tense and the father almost pulled his child from the session. The director and the father eventually found a way to accept the child into the session but after a day into the weeklong camp, it became clear there was no obvious resolution to the situation. The camp director called the Hotline to discuss care options for the camper after the session ended and also how to deal with this parent.

- What are the obligations of care after the specified duration of the camp session? Are they different if the camper was mistakenly or intentionally not picked up? Are these obligations the same for a day camp?
- If the camp cannot meet the after-session care needs, what are the alternatives?
- How do you work with a disgruntled parent who is not willing to work with you as a partner to resolve disagreement?

Questions and Considerations – Case Study Six

CASE STUDY SEVEN

Divorced Parents Disagreeing About Camper Enrollment

The mother of a camper enrolled him in camp and paid the registration fee. Prior to the opening of camp, the director received a letter from the attorney for the father of the child demanding that the child not be accepted at camp because the father had not given his consent. The attorney wrote that the father said that the child could not attend camp if his grades did not improve. The grades did not improve so now the father says that the child cannot attend. The father's attorney threatened a lawsuit if the child is allowed to attend and enclosed a copy of the divorce decree granting joint custody. The same day, the camp also received a letter from the attorney of the mother of the child. This letter demanded that the child be allowed to attend camp as he was duly

registered and the fees were paid. This letter threatened a lawsuit against the camp if the child was not allowed to attend. The camp director called the Hotline to discuss options, as the camper is due to arrive in one week.

Questions and Considerations – Case Study Seven

- These parents have placed the camp in a position it cannot possibly resolve. Only the legal system can determine which parent is "right". State law determines custody issues. Unfortunately, that means a potentially lengthy process in family court – which most likely will not be resolved until after the child is due to arrive at camp.
- Does your camp have an attorney on-call who can assist you in delivering the

message to both parents that you don't have the ability to adjudicate their dispute?

- What will you do if the mother arrives at camp with the camper as scheduled?
- What can you learn from this scenario that could apply to other similar scenarios regarding divorced parents and your campers?
- Should you reconsider the questions and permissions you require on your enrollment forms, such as "are you the custodial adult" or "does another person have joint custody of this child", etc.? If you did ask these questions, what would you do with the answers? As with all legal matters, the advice of an attorney is important. □


Contributed by the ACA Camp Crisis Hotline Team: Deb Bialeschki, Kim Brosnan, Tom Holland, Rhonda Mickelson, and Susan E. Yoder.



“UNDERSTANDING A CAMP’S RIGHT TO SEARCH”

by Charles R. Gregg and Catherine Hansen-Stamp ©2014*

Our topic is the search of a camper’s or camp employee’s belongings.

 This is not a U.S. Constitution, Fourth Amendment search and seizure issue, or a 14th Amendment right to privacy issue as no governmental authority is addressed. We are dealing, rather, with a matter of private agreements and expectations among the camp, its families and employees.

These issues have been sharpened by recent events involving young men and women using concealed weapons to harm others (and themselves) in schools and other venues. The matter of camps and searches was addressed in *Campline* in 1998 by Michael Blickman, Esq., “Privacy vs. Protection: Can You Search Camper and Staff Belongings?”¹ We intend to expand on that very helpful article, particularly with respect to campers.

The Duty:

All owners and operators of facilities, including retail stores and places of amusement and recreation, owe a duty to protect visitors from unreasonable risks of harm. As we have noted frequently, this duty, enlarged in fact, extends to camps. The relationships among campers, their families and camp staff are uniquely intimate and constant. It is one of mutual trust and confidence, played out in an environment of adventure, reasonably managed. This environment influences the relationship between the camp and its employees as well, though the expectations and obligations are not the same.

I. Searching Camper Belongings:

The Duty to Campers:

Some courts have described the duty owed to minor campers as “in loco parentis” – in place of the parents. A camp is expected to show the care that a parent would exercise in making decisions about the child’s emotional and physical well-being. The custodial nature of the camp’s duty of care, however it may be described in a particular state, certainly includes protecting the child from his her own behavior and from the potentially dangerous behavior of other campers and employees. And so we come to the matter of searches of campers’ belongings.

Searching for What?

Items considered inappropriate, as a threat to a child’s or other’s health and safety, a violation of the camp’s rules or otherwise, include: weapons (of course), including implements which might be used for

purposeful (self) cutting, drugs, alcohol, food, objectionable messages and images carried on cell phones or other electronic devices, and the devices themselves, if possession of those devices violates the camp’s policies.

The Scope of the Search:

To protect a child from herself or himself, and others, the camp’s search might include a child’s locker or trunk, cell phone, camera and other data gathering and messaging devices, and personal effects including toiletries. The camp should avoid personal searches of a camper.

The Process:

In all things pertaining to searches, the camp should place a priority on the health and well-being of the camper or campers. The camp should use fairness and reason in deciding upon items which are the proper

target of a search, the criteria for initiating a search (“a good reason to believe...”, “some suspicion of...”, or only under very special circumstances an “arbitrary and random search without suspicion”, for example), the scope of the search, strategies for dealing with a child who resists a search or is found to have a prohibited item, and notification of parents. But the camp’s responsibility for the health and welfare of campers, arising from its custodial role in caring for campers, trumps any real or perceived notion of privacy or confidentiality.²

That being said, to reduce the chances of a later surprise and confrontation, camps might conduct, with the camper, a private inventory of each camper’s belongings on the opening day of camp. Such a routine might alert staff to the important items NOT packed, and reveal prohibited items.

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Some camps believe that there is no need to notify parents of the camp's intent to search the camper's items – whether the camp plans to undertake that search routinely upon arrival, or when it suspects the child may possess an item that violates camp rules or policies. The "right" decision will depend very much on the camp's culture, history of dealings with its families, and the reasonable expectations of the families. If there is any uncertainty in this regard the camp might form a focus group of parents to consider the matter. In any event, we will leave that decision up to the camp, which is likely thoughtfully informed about its camper families. However, to reduce surprise, and promote a healthy information exchange, the camp should consider informing parents and campers of the camp's policy with respect to searches, including the matters identified above. The camp can provide this information to camper families in its enrollment materials, such as in an enrollment or camper/parent agreement. The camp should warn the camper and parent to not expect privacy regarding prohibited items. Camps should ask parents and to the extent practical, campers, to acknowledge an understanding of the camp's search policy and consent to that policy, giving the camp the ability to conduct a routine belongings' search (see above) or any other search if the camp, in its discretion,

feels the health or safety of campers is threatened, the child has violated camp rules or for any other reason.

If the camp believes a child may possess a prohibited or unauthorized item, a senior member of the management team should ask the child, privately but in the presence of another adult, if he or she has the item. If the child says "yes" and hands the item over, certain disciplinary steps may follow.

If the child says no, the camp representative should ask the child, respectfully, to allow the search, being reminded of the earlier consent and agreement by, at least, the parents.

Any search should be conducted privately, in the presence of another adult, and a record kept of the result. The camp should retain recovered items in a secure place, and a record made of the scope of the search and the outcome. Some items may be returned to the family at the end of the camp session. Others may be confiscated. The camp may be required to notify (and/or turn over to) local law enforcement officers items of an illegal nature. Again, the nature of the recovered object will dictate the disciplinary action taken and the involvement of outside parties, including notification of the parents.

If the child does not object to the search, and the camp discovers the item (or another prohibited item), it should take suitable disciplinary steps.

If the child objects to the search, he or she

has committed a serious breach of camp rules and violated a commitment made by the child and parents in the enrollment process, and the matter should be dealt with accordingly. Only in a rare circumstance would the search be conducted without the child's consent, and, we would suggest, never without the child's knowledge. Under no circumstances should the child be embarrassed before other campers, or subject to abusive or threatening language or conduct. There should be no touching or personal contact.

The key to setting up the possibility of a search is clarity in announcing the purpose and intent of the policy – why the policy is necessary, the utter discretion given to staff, strategies for avoiding unnecessary embarrassment and intrusion, and the consequences of a failure to cooperate.

The camp should avoid surprises in explaining its justification to conduct a particular search, the scope of the search, discovery of a prohibited item, or a failure to cooperate. As described above, these issues are easily explained to a parent before the camp session. A surprised parent or camper is a disappointed, or, worse, an angry or hurt parent or camper, and that lost trust may be difficult to recover.

A camper (or parent) has no legal right to object to a search based solely on his or her status as a camper, except as might be found in an enrollment contract, or perhaps other promises, expectations or custom.

II. Search of Employee Belongings:

Duty to Employees and others:

Employers, including camps, have a duty to provide their employees with a safe place to work (like the duty to campers – the duty to exercise reasonable care to protect employees from unreasonable risks of harm). An employer's duty also includes the obligation to follow certain laws pertaining to the workplace, such as federal (or state) laws governing occupational safety and health, anti-discrimination and sexual harassment and laws governing other workplace conditions.

Many states' workers' compensation laws provide employers with immunity from liability for their negligence (failure to exercise reasonable care) related to injuries occurring to employees, within the scope of their employment. However, these laws do not provide an employer with complete protection. For example,

the employer typically remains liable for injuries occurring to employees as a result of the employer's intentional acts. In addition, under the theory of 'respondeat superior,' an employer can be liable to a camper or other third party injured by an employee acting within the scope of his employment. Also, under theories of negligent hiring or retention, the employer can be found liable for the intentional acts of its employees (typically considered outside the scope of employment) that injure co-employees, campers or third parties.

The camp has a duty under premises law as well, to exercise care to maintain the premises in such a way to protect employees, campers or other visitors from conditions or illegal activities of which it knew or should have known.

As a result, the employer needs to consider policies and safety measures in

the workplace to fulfill its duties – including, an appropriate policy on workplace searches of an employee's belongings. In this way, an employer can monitor its workers and potentially dangerous or illegal activities taking place in the workplace that might harm other workers, visitors or third parties.

Searching for What?:

Clearly the same items of concern that may be possessed by campers, are those of concern regarding employees. Unlike campers, however, there may not be a reason to confiscate employees' personal electronics and cell phones. At the same time, the employer will likely have a set policy regarding personal cell phone use, Internet use, and certainly the viewing or sending of graphic and/or offensive images during work hours on work (or personal) computers and electronics.³ >>

The Scope of the Search:

The scope of the search should be geared to an understanding of the employee's right to privacy balanced by the employer's obligation, among other duties, to provide a safe work place. The employer should clearly outline to the employee its search policy – including its intent to search certain areas, at certain times. This policy should be agreed to and signed by the employee in writing, typically in (or as a part of) the employee handbook. This acknowledgment, by the employee is a critical step, and camps should work with informed legal counsel to assist them in crafting the statement of a camp's search policy, the acknowledgment by employees of its policy, and the consequences for an employee's refusal to cooperate with the policy.

The Process:

Searches should only be conducted if the camp has a reasonable basis to believe that the employee's belongings should be searched – for example, receiving word from a credible source that the employee is in possession of an illegal or prohibited item, observing an employee who appears to be in possession of such an item or openly observing such an item in an employee's workspace or possessions.

Searches should be fair and reasonable and conducted in a uniform and non-discriminatory manner. Camps should not conduct random searches, as those are generally not favored under the law. In addition, the camp should not undertake a search of the employee's person (an employee has a justifiably very high expectation of privacy with respect to his or her body), or, during a search, touch the employee without his or her consent. Instead, the camp should consult with its legal counsel and ultimately, law enforcement officials, who would likely undertake that type of search within the scope of their official duties, as they determine necessary. *NOTE: State laws may dictate limits of searchable areas or identify other limits on a camp's ability to monitor its workplace (including the scope and nature of any video surveillance). In crafting its search policy, the camp should consult with its legal counsel regarding, among other things, any applicable legal limits.

The process of the search should strictly



follow the employer's policy, which policy should be signed by the employee before employment begins (and perhaps annually, or regularly as part of the employee's re-affirmation of his or her commitment to adhering to this and other camp policies). Important elements of the policy (and as appropriate, of the search) include:

- The purpose of the search policy is to monitor employees' compliance with applicable laws and camp work and safety rules;
- All employees are subject to the policy;
- If the camp requests a search, it is not an accusation of employee wrongdoing, but merely part of an investigation;
- A search may include the employee's personal items (purse, briefcase, etc), their work areas, lockers, vehicles if driven or parked on camp property or used on camp business, and any other personal items;
- The identified 'searchable' areas are subject to search at any time;
- If the camp allows an employee to have a locker or other storage area at the camp, the camp can furnish the lock and keep a copy of the key or combination, or, alternatively, allow the employee to furnish a personal lock, but require the employee to give the camp a copy of the key or combination;
- Contact the camp director or other designated management staff member and have that person present with the 'searching' staff member, when the search is conducted;
- Advise the employee that the camp has a reasonable suspicion that the prohibited item is present in the area to be searched, and request the employee's permission to conduct the search;
- Announce that the employee will not be forced to submit to the search, but that the employee's refusal to submit to a search may lead to consequences. (Note: Any consequences, including termination, should be considered in consultation with informed counsel who has developed and reviewed this and other elements of the employee handbook, consistent with applicable law and cognizant of the status of the employment at will doctrine in your jurisdiction);
- As an alternative to the proposed search, present the employee with the option of voluntarily producing the item that is the subject of the proposed search;
- If a search is conducted, do it professionally, and do not harass or accuse the individual, whether or not an item is produced by the employee or revealed in the search.

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Relevant Issues For Both Camper or Employee Searches:

Potential Legal Exposure – Claims Made by Campers/Parents or Employees:

Potential claims by parents might include breach of contract (if the scope or nature of the search was different than what the parent agreed to in the camp contract). Claims by either campers/parents or employees might include invasion of privacy, infliction of emotional distress, trespass, defamation, false imprisonment and assault and battery.

As discussed above in the case of minor campers, privacy rights take a backseat to the camp's custodial duty of care to act for the well being of the child – so privacy claims are unlikely to be successful in this context, particularly if the camp's policy on searches is clearly defined, and communicated and signed off on by the parent (and ideally, the camper as well).

Regarding employees, an understanding of and respect for an employee's right to privacy is the touchstone of developing a thoughtful search policy, vetted with the camp's informed legal counsel. A defined and well-crafted policy – typically included in the

employee handbook and signed off on by the employee – is an excellent way for the employer to defend itself against claims of improper searches of employees' belongings, if it has acted in accordance with its stated policy.

Ultimately, following a clear, carefully disclosed and consented to, fair and reasonable policy, as described above, whether in the case of a search of a camper's or employee's belongings, will hopefully minimize the filing of any claims and the ultimate success of any claims.

Seized Items of an Illegal or Prohibited Nature – Chain of Custody

If the camp confiscates an illegal or prohibited item, it must take care that the item is carefully preserved and protected in the event it must be turned over to or examined by law enforcement, or used as evidence in a legal proceeding.

This includes avoiding the searcher's or others' fingerprints on the item in the process of the seizure. The item should be kept in a sealed and secure location, with appropriate identification, including date and time of search, the name of the individual from whose belongings

the item was seized, and signatures of the individual performing the search and any witnesses. If the item is turned over to authorities, or examined by an outside party, a strict record should be kept of the transfer of the item (and any return back to the camp). A strict 'chain of custody' should be kept until the item is no longer relevant for any civil or criminal matter. In any given matter, the camp should consult with its legal counsel to assure it is following the proper chain of custody procedures in its jurisdiction.

Confidential Written Record

Prepare a confidential written record of any search conducted, including the name of the individual or individuals whose belongings were searched, the date, time and place of the search, the reason the search was conducted, items discovered, written statements from any witnesses, camp action taken in regard to the person or persons and any item or items seized, and the reaction of the person to the search. The record should be reported to appropriate camp management and kept in the camp's possession. □

Conclusion:

To search or not to search, and the nature and scope of communications to the family and employees in this regard, is very much a matter of the camps relationship with its

families and staff. As discussed above, a clear and fair policy, adhered to by the camp and disclosed and accepted in advance, is likely a sound and prudent

course to follow for most camps. Consider informal discussions with a few families and employees as you develop a policy, and of course consult with your legal counsel.

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Notes

- ¹ www.acacamps.org/campline/980-privacyvsprotection. Thanks to the author for his initial work, very helpful to our expanded and updated article here.
- ² But see our article: "She Thinks She's Pregnant – What Do We Do?" www.acacamps.org/campline/fall-2013/she-thinks-pregnant, reflecting the court's acknowledgment of a minor child's constitutional right to privacy regarding pregnancy, abortion and birth control in the context of governmental services (state or federal).
- ³ See our article: "Camp Staff Use of Electronic Devices and Social Media: Some Issues and Solutions" www.acacamps.org/campline/spring-2014/staff-electronic-devices-social-media, discussing the critical importance of a camp's development of these policies.

*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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