

# THE CAMPLINE

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

SPRING 2018 / VOLUME XXIX / NUMBER 1



Photo courtesy of Asphalt Green Summer Day Camp, New York, NY

## RETENTION OF CAMPER AND STAFF RECORDS

Charles R. Gregg and Catherine Hansen-Stamp ©2018

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### I. Introduction



Residential and travel camps collect and produce a tremendous amount of information and records regarding campers, staff, facilities, and operations. This article will focus on considerations regarding the retention (and destruction) of camper and staff records. A camp should retain other records, of course, and in fact, retention may be required by law. These other records pertain to financial transactions, including tax matters, equipment inspection, maintenance and replacement, permitting, compliance with state or federal health and safety regulations, compliance with ACA standards (for accredited camps) and other matters.

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Questions we will address here include: Should camper and staff records be retained? If so, what should be kept and why? How should a camp retain such records and for how long? When may those records be destroyed?

Developing a camper and staff document/record retention and destruction (DRD) policy is an important business practice, facilitating the camp's ability to meet legal and other requirements. Importantly, it is central to the camp's commitment to running a quality organization, as we will see below.

## II. What Records and Where Do They Live?

### A. Form of the Records

The records we will be discussing include both paper records and electronically stored information (ESI). These might include voice recordings, photographic or other images, or videos. Whatever the form, the information is considered to be of such importance to a successful camp that it must be retained as a future resource and reference. A smart camp will identify such information and develop policies regarding its use, retention, and, when prudent, its destruction.

### B. Where Do Records Live?

Records are typically stored in paper or electronic form in camp warehouse storage or on camp computer servers, laptops, or other electronic locations. Understand, however, that camp records may also exist on a staff member's personal laptop or other electronic device. Staff should be instructed to follow the camp's DRD policy regarding any camp records (including ESI, voicemail, and email) located on their personal electronic devices and in their paper records, and to periodically download or deliver these records into the camp's custody. If a staff member leaves his or her employment, voluntarily or otherwise, the policy should direct the employee to download this information before departure, or relinquish his/her devices to the camp, so that camp staff

can review and obtain any relevant camp records or information before the employee's departure.

### C. What Camper and Staff Records?

#### 1. Staff Records

Staff records would include (among others) records of staff applications, job interviews, and background checks (including checks of sexual offender registries); employment or other agreements; medical history; work-related injuries; record of work modifications to accommodate disabilities; employment reviews and documentation regarding employee performance, including competencies or warnings; employee complaints or disputes filed by others (regarding the employee); recorded attendance at mandatory employee trainings; signed receipt of employee manual and camp policies, etc. To be fair (and keep records complete), records should include both favorable and unfavorable reports and observations.

#### 2. Camper Records

Camper records would include (among others) records of camper applications, information distributed to campers and their families before, during, and after camp — including camper orientation and other briefings regarding, for example, camper behavior and safety and risk management; relevant paper, email, and telephone communications with campers or parents of minor campers (including those, for example, addressing a parent or camper complaint, or reflecting the camp's efforts to modify the program to allow access for campers with disabilities); camper medical history and communication with camper's medical professionals; records reflecting camper misconduct, sickness, or injury at camp, or dismissal from camp and related communications with parents or otherwise; contracts, including any camper or parent agreement containing 1) camp terms and conditions (such as registration, selection, payment, refund,

return, and other provisions), 2) an acknowledgment and assumption of risks and release of claims (and other provisions), or 3) camper/parent rules and any code of conduct and/or behavior contract.

#### 3. Other Records Relating to Staff Members or Campers

Other information (covering particular events or periods of time) include a camp's YouTube videos, content on its website (including its archived bulletins) and social media sites, marketing brochures, essential eligibility criteria (for campers), essential functions of a job (for staff), the camp's staff manual, and the camper/parent handbook, if any. This other information reflects information conveyed or available to campers or staff, or distributed by the camp to campers or staff, including information or representations about the camp or camp staff to job applicants or camper families. This might also include the camp's registration configuration for obtaining e-signatures (for records intended as binding contracts).

Other information also includes camp records that relate to camp and/or camp program incidents involving campers and/or staff members, including the camp's incident report forms, internal incident (including near misses) investigations and witness statements, trip logs, reports to state agencies (e.g., child care licensing, Occupational Health and

### Icon Key

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MOBILIZATION



RELATIONSHIPS

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Safety Administration (OSHA), or to law enforcement (e.g., a report of alleged or suspected child abuse), emergency/incident/crisis response records, evacuation reports, incident investigation, witness reports, etc.

### III. Why Keep Records?

As mentioned in our introduction, we believe a camp should develop a system for retaining (and discarding) camper, staff, and other relevant records, most importantly, to support the camp's ongoing commitment to running a quality camp. This includes staying in alignment with the camp's mission, developing good business practices, and enhancing training opportunities.

In addition, creating an organized DRD plan forces the camp (in conjunction with its legal counsel) to develop a plan consistent with state and federal laws and regulations or other directives, and associated documentation and reporting requirements. This includes documentation and record-keeping requirements regarding, for example, OSHA, federal or state land permitting agencies, state childcare licensing, ACA standards for accredited camps<sup>1</sup>, and state or federal civil rules governing litigation.

### IV. How and How Long to Keep Records

In what form should a camp keep its records, and for how long? The answer to this question depends on a number of factors, but here are some key guidelines:

Records can be retained as ESI or paper records. In fact, federal and state laws generally allow records (required by law to be retained) to be converted from paper to electronic form if certain rules are followed in the conversion (and it isn't a bad idea to keep the original paper record if space allows).<sup>2</sup>

How long a particular record should be kept will depend on the following, among other factors:

- State or federal laws or regulations that may direct the time frame.
- Specifically, in regard to litigation:
  - In the event of litigation (e.g., a lawsuit filed against the camp), a camp's records are subject to a process called "discovery," whereby each party to the suit is entitled to request from the other party any records that are relevant to the suit. These rules are quite liberal, and allow penalties or sanctions for a party's failure to produce lawfully requested records.

- Statutes of limitations related to legal claims (civil or criminal) that may be brought by campers, parents of campers, staff, or others against the camp. These limitations periods govern how long an individual plaintiff has to file a lawsuit against the camp. These statutes vary, depending upon the jurisdiction and the claim. In addition, these statutes commonly toll (delay) the running of the limitations period for minors (in most states, those under 18 years of age) until they reach adult age. As a result, this "tolling" greatly extends the period of time a camp should keep records regarding its minor campers.
- Statutes of limitations that include a "discovery" rule – that is (for example), the limitations period for filing a claim does not begin until the individual "discovers" or in the exercise of reasonable diligence "should have discovered" that his or her injury was related to camp activities.
- Federal and state laws or codes that apply civil or criminal sanctions or remedies for one who knowingly alters or destroys any record or document with the intent to impede, obstruct, or influence litigation or an official investigation ("spoliation").

### Camper/Staff Medical Records and Incident Reports

Medical and other personal histories are important in assessing an applicant's suitability for the camp experience, as a staff member or camper; and these histories can be an important resource if the person becomes ill, suffers injury, or shows some significant change in her or his conduct or performance.

So too, incidents involving a camper or staff member should be recorded to facilitate an analysis of the event and provide lessons learned for the future. In addition, a reliable record is crucial for the management and, hopefully, resolution of legal disputes. A courtroom admonition worth remembering is this: "if it isn't written down, it didn't happen." The message highlights the importance of a credible record of

an event, identification of witnesses and their statements, and contemporaneous observations of camp management. Certainly important here for the camp is training staff on how to complete records — for example, focusing on recording objective information, rather than subjective opinion or speculation regarding fault. Staff should also understand that they should not comment or speculate on social media (or in any form) about an incident, and should follow the camp's guidelines for other communications inside or outside the organization (a topic beyond the scope of this article).

Some might suggest that if certain records reveal a camp's possibly improper conduct or even negligence, keeping those records or recording that information is a dangerous practice, for it provides a road map to an adversary in a lawsuit. Consult with

your legal counsel on this matter, but we offer this: the primary purpose of record retention is the well-being of campers and staff. If the information in the records is acted upon in a timely and proper manner, it should not be a threat to the camp. Taking care of the campers and staff is more important than simply not keeping a record or hiding relevant information from Plaintiff's counsel. Importantly, destroying or failing to produce relevant records can subject a camp (and its legal counsel) to court sanctions, including legal fines and penalties. And, failing to keep records robs the camp of an important learning opportunity. The development, retention, surrender, and use of records in litigation will be discussed further below. For now, let us emphasize that, in understanding events, and informing (or persuading) a judge or jury, a clear, written record is a vital resource.



- Federal and state laws or codes that require organizations to institute a “litigation hold” on records (typically both ESI and paper records), in the event a party knows (or has reason to know) that litigation is “pending, imminent, or reasonably foreseeable.” Typically, the camp’s legal counsel has an obligation to alert the camp to the need for a litigation hold, and once a “hold” is in place, the camp must suspend its normal “destruction” policy to ensure the preservation of relevant evidence.
- Policy or other reasons why the camp may determine to hold records permanently.

In any event, a camp should set time frames for retention of records that are generous and consistent with the laws of the state in which the camp is most likely to be sued. A residential camp will frequently ask campers/parents to agree to the law and “venue” (place of suit) in the state where the camp is based and are therefore directed by that law. However, consult your legal counsel in this matter as you consider applicable law and the camp’s proposed records retention periods.

## V. Development of a DRD Policy

Consider these elements for *all* records retained — not only those pertaining to campers and staff members:

- Policy and purpose for the creation of the DRD
- Definition of terms
- Types of data preserved — ESI or otherwise — categorized to fit a camp’s unique operation

- Location of data (e.g. on-site computer, on-site or off-site (specific location) storage, staff member personal)
- Person/s in charge of particular data;
- Time periods for retaining various types of data;
- Organization systems in place for the storage (including backup processes), archiving and destruction of data (paper and ESI);
- Statement of litigation hold requirement and process;
- General systems security (physical buildings, computer, or otherwise);
- General data collection and production guidelines, in the event of litigation;
- Training staff on the plan;
- Commitment to periodic review of the plan to monitor compliance with and/or revise the plan.

## VI. Conclusion

Developing a camp DRD policy may appear a daunting undertaking. However, in going through the process, a camp will educate itself about where its records truly reside, what records are worth keeping and for how long, and the important reasons for retaining records and having an informed plan for the systematic destruction of records. These important issues go to the heart of the camp’s commitment to running a quality organization. Prioritize developing a DRD plan — as a tool and resource for camp management and other staff members — including, importantly, in the event the camp is required to disclose records in litigation or otherwise.

*\*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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Photo courtesy of Camp Pemigewasset, Wentworth, NH

<sup>1</sup> ACA Accreditation Standards (6th Ed.), contain, for example, the following, which require documentation: HW 5.1 (camper health history), HW 7.1 (health screening record), HW 20 (camper contact information), HW 21 (health records of injury, incident incl. admin of medication, treatment, etc. — camper or staff), HW 22 (records retention for health records — per statutory limitations periods), TR 3 (camp private vehicle use permission).

<sup>2</sup> See, for example, in Colorado, C.R.S. 24-71.3-112.



Photo courtesy of Camp Killoqua, Everett, WA



## PROTECTING YOUR CAMP WITH PHOTO RELEASE FORMS

Deidre Pettinga and Sam Hirt

Most youth-serving organizations market their organization with photographs showing the nature of the programming or individuals served. For camps in particular, still-life and video imagery are often the only way of conveying all the wonderful things that occur onsite to both your current and prospective families, who are not present when the magic is being made.

A photographic release form secures permission to publish images of people, including children, as well as other property, either with or without identification. "In addition to providing legal protection, model release forms serve as an informative tool for disclosing how a subject's image and likeness may be used in the future."<sup>1</sup>

To protect your camp, there are several points to keep in mind about using photography and video in your website and social media marketing.

### Comprehensive Releases

A signed photo release is required for people, especially minors (signed by a parent or legal guardian), and very often buildings or property. A comprehensive photo release should cover photography, as well as video or audio recordings. A photo release is required for any use related to the promotion of your business. The best way to protect yourself from a charge of invasion of privacy is to keep a release on file. The exceptions to this include photos for personal use only, images of newsworthy events, or for educational use.

### Sample Photo Release Language for Camps

"I grant permission to NAME OF CAMP, its agents, and its employees the irrevocable and unrestricted right to produce photographs and video taken of my child, myself, and members of my family while at NAME OF CAMP for any lawful purpose including publication, promotion, illustration, advertising, trade, or historical archive in any manner or in any medium. I hereby release NAME OF CAMP and its legal representatives from liability for any violation or claims relating to said images or video. Furthermore, I grant permission to use the statements of my child, myself, or my family members given during an interview or evaluation with or without my name for the purpose of advertising and publicity without restriction to time limit or geographic area. I waive my right, my child's rights, and my family's rights to any and all compensation stemming from the use of these materials."

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## Working with External Creative Sources:

For web or other marketing purposes, many organizations will often purchase rights to use photographs from photography licensing sites such as [istockphoto.com](http://istockphoto.com)<sup>2</sup> or [Shutterstock.com](http://Shutterstock.com)<sup>3</sup>. One option for obtaining usages without having to purchase or pay a licensing fee can be found at [creativecommons.org](http://creativecommons.org)<sup>4</sup>, which provides access to openly licensed creative works, on the condition that the creative work is properly attributed. In addition to obtaining creative works from either licensing or license-free sources for your marketing purposes, there is also the option to share your

photography with these organizations. If it is your intention to either openly share or privately license your photography, you must make sure this information is plainly disclosed in your photography release.

## Sharing Your Photography with ACA:

As a reminder, ACA welcomes photographic submissions for use on the ACA website, as well as in publications and other printed materials, or in social media. Before submitting your photography to ACA or for the Golden Lens Award, your camp needs to indicate that you have obtained permission for sharing that photo.

### References:

<sup>1</sup> Venzin, M. (2017), Make a Model Release Form Available. Nonprofit Communications Report, 15: 7. doi:10.1002/npcr.30768

<sup>2</sup> [www.istockphoto.com](http://www.istockphoto.com)

<sup>3</sup> [www.shutterstock.com/home](http://www.shutterstock.com/home)

<sup>4</sup> [creativecommons.org](http://creativecommons.org)

### Links and Resources

[www.nrpa.org/parks-recreation-magazine/2018/january/creating-social-media-policies-for-your-parks-and-rec-department/](http://www.nrpa.org/parks-recreation-magazine/2018/january/creating-social-media-policies-for-your-parks-and-rec-department/)

[www.socialbrite.org/sharing-center/law/model-release-form-for-video-producers-and-photographers/](http://www.socialbrite.org/sharing-center/law/model-release-form-for-video-producers-and-photographers/)

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## Droning On — Important Resources for the Use of Drones at Camp

Drones are a great tool for camps, both for use in programming and in collecting valuable footage of your property for use in a camp marketing video. Relatedly, some camps find themselves in the position of having to accommodate the wishes of parents to use drones to capture closing event festivities. Regardless of the use, there are a number of considerations to keep in mind when using drones. The National Recreation and Park Association (NRPA) devoted a three-part blog to the topic.

In addition, the University of Missouri School of Law Library maintains an easy-to-use library guide of information related to legislation, secondary sources, as well as sample scenarios, such as whether or not drones are allowed to be flown over privately owned land, or what sort of torts are actionable as a result of drone use. These resources will help inform your responsible use of drones at camp. In addition, federal, state, and local regulations should be referenced before proceeding with the use of drones for any purpose.



### Resources:

#### National Recreation and Park Association (NRPA) Blog Series on Drones

[www.nrpa.org/blog/drones-in-parks-part-1-policy-drone-zones-and-resources-for-land-managers-episode-006/](http://www.nrpa.org/blog/drones-in-parks-part-1-policy-drone-zones-and-resources-for-land-managers-episode-006/)

[www.nrpa.org/blog/to-fly-or-not-to-fly-how-park-managers-manage-drones](http://www.nrpa.org/blog/to-fly-or-not-to-fly-how-park-managers-manage-drones)

[www.nrpa.org/blog/drones-in-parks-part-3-opportunities-innovative-uses-and-the-future-episode-008](http://www.nrpa.org/blog/drones-in-parks-part-3-opportunities-innovative-uses-and-the-future-episode-008)

#### University of Missouri School of Law Library Guide on Drone Law

[libraryguides.missouri.edu/DroneLaw](http://libraryguides.missouri.edu/DroneLaw)





Photo courtesy of URI Henry S. Jacobs Camp, Utica, MS

## FINAL OSHA RULE ISSUED TO IMPROVE TRACKING OF WORKPLACE INJURIES AND ILLNESSES

Ralph Forsht

Camps will need to adhere to a new Occupational Safety and Health Administration (OSHA) rule that will impact when and how they file their annual reports with OSHA. Please see below to learn why OSHA is taking this action, what the new rule requires, and how camps need to submit their OSHA reports. Also, please make sure you note the new OSHA filing dates for 2018 and for future years.

### **Why Is OSHA Issuing This Rule?**

This simple change in the OSHA's rule-making requirements is an attempt to

improve safety for workers across the country. According to OSHA, more attention to safety will save the lives and limbs of many workers and ultimately will help the employer's bottom line. Finally, this regulation will improve the accuracy of this data by ensuring that camp workers will not fear retaliation for reporting injuries or illnesses.

### **What Does the Rule Require?**

The new rule requires certain employers in high-risk industries, including residential camps, to electronically submit injury and illness

data. OSHA has stated that analysis of this data will enable OSHA to use its enforcement and compliance assistance resources more efficiently. OSHA believes that public disclosure will encourage camp employers to improve workplace safety and provide valuable information to workers, job seekers, customers, researchers, and the general public. The amount of data submitted will vary depending on the size of company.

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# 250

Camps with 250 or more employees are only required to provide their 2017 Form 300A summary data.

# 20-249

Establishments with 20-249 employees in high-risk industries, including residential camps, must submit information from their 2017 Form 300A by July 1, 2018. Beginning in 2019 and every year thereafter, the information must be submitted by March 2.



Photo courtesy of Skyline Camp & Retreat Center, Almont, MI

## How Will Electronic Submission Work?

OSHA has provided a secure website that offers three options for data submission. First, users are able to manually enter data into a web form. Second, users are able to upload a CSV file to process single or multiple establishments at the same time. Third, users of automated record-keeping systems will have the ability to transmit data electronically via an API (application programming interface). The Injury Tracking Application (ITA) is accessible from the ITA launch page, ([www.osha.gov/injuryreporting/index.html](http://www.osha.gov/injuryreporting/index.html)), where you are able to provide your 2017 OSHA Form 300A information. The date by which camp employers are required to submit to OSHA the information from their completed 2017 Form 300A is July 1, 2018.

OSHA is not accepting Form 300 and 301 information at this time. OSHA announced that it will issue a notice of proposed rulemaking (NPRM) to reconsider, revise, or remove provisions of the "Improve Tracking of Workplace Injuries and Illnesses" final rule, including the collection of the Forms 300/301 data. The Agency is currently drafting that NPRM and will seek comment on those provisions.

## Anti-retaliation Protections

The rule also prohibits employers from discouraging workers from reporting an injury or illness. The final rule requires employers to inform employees of their right to report work-related injuries and illnesses free from retaliation, which can be satisfied by posting the already-required OSHA workplace poster. It also clarifies the existing implicit requirement that an employer's procedure for reporting work-related injuries and illnesses must be reasonable and not deter or discourage employees from reporting; and incorporates the existing statutory prohibition on retaliating against employees for reporting work-related injuries or illnesses.

Source: Occupational Safety and Health Administration, US Department of Labor

Ralph Forsht is the new government relations consultant for the American Camp Association (ACA). Forsht oversees ACA's work on federal public policy. For nearly 20 years, Forsht has been a dedicated advocate for children and families. Previously, Forsht served as senior vice president at First Focus Campaign for Children, a bipartisan children's advocacy organization. At First Focus Campaign for Children, Forsht worked on federal family tax provisions, children's healthcare and child poverty. Forsht was also a senior vice president at America's Promise, a national nonprofit dedicated to helping children and communities. At America's Promise, Forsht led the team of advocates championing public policy priorities at the federal, state and local levels. Forsht began his career on the staff the US Senate Budget Committee.

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Photo courtesy of Wisconsin Youth Company, Inc., Madison, WI



## CONTRACTS: WHO NEEDS THEM? WHO READS THEM?

Gaetana De Angelo

Each year, the ACA Insurance Committee holds a Roundtable with many of the camp industry insurers and brokers in conjunction with the American Camp Association National Conference. The 2018 Roundtable was great success on many levels. The enthusiasm and support from our camp insurers as risk champions of the camping industry was evident with their willingness to share and help shape a safer camp experience for everyone.

Using the claims trends from 2017 as a basis for discussion, this article will examine how paying close attention to contracts and

agreements will help manage and mitigate our risks when faced with a loss or potential loss. Above all, it is important to talk with your broker or insurer and be sure you understand the coverage that you have, and that you have the coverage that you need based on your own appetite for risk and ability to finance a loss. Consider them a partner in your risk management plan.

A contract is a written or spoken agreement used to enter into a formal and legally binding agreement. On an almost daily basis, each of us must deal with all types of contracts and agreements; some are verbal,

but increasingly most are written. Did you know that your insurance policies, employment agreements, and camper applications and materials are contracts? They are used to outline the expectations of the parties involved.

Not surprisingly, there were some huge impacts from the weather last year. Major flooding, wild fires, and wind storms took a devastating toll on countless communities, many of which included local camp facilities. If you were impacted, would your insurance policy response as you think it will.

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## Here are some things to consider:

- **Flood insurance.** Flood insurance is available to everyone regardless of flood zone. Evidence from the past year has shown us that areas that are traditionally not considered in flood zones took a beating this year from flooding water, and many of these people did not have flood insurance. Flood insurance is triggered whenever flooding water is present — this could be from hurricanes, a heavy downpour, or after ground-soaking rain for days that causes mudslides, or possibly water main breaks.

- **Fire, windstorms, and lightning.** Insurance and preventative measures can help to reduce losses associated with these perils. Defensible space is generally considered an area that is safer from fire due to modifications; for example, a dining hall or cabin with sprinklers installed or trimming trees and other fuel located outside of buildings. Consider if you should install lightning detectors in some locations to potentially prevent damage to electrical infrastructure of camp.

- **Business interruption insurance.** Keeping the same issues in mind that we just discussed, do you have the appropriate insurance coverage to cover the interruption of your business? Many policies include a minimal amount; however, it is critical to understand how and when it responds. There are two types of coverage: on-premises (when something happens on your property) and off-premises (when something happens near your property that impacts your property). What triggers each coverage may vary from policy to policy and it is important to have this conversation prior to being evacuated due to a forest fire off-site, which blocks access to your camp.

- **Expect some rate increases** and, in some cases, a loss of or diminished coverage if you were in a severely impacted area with repeated hits. Don't wait for your renewal to ask questions about what your insurance contracts cover — start early.

In 2017, there were several claims related to abuse, molestation, and bullying. Each of these are highly emotional situations that impact more than just the victim. How can you be sure that you are prepared for a claim?

## Here are some things to consider:

- **Many abuse claims are reported years after they occur,** often when the child has reached adulthood. Did you know that often the insurance policy that responds is the one that was in place when the alleged abuse or molestation took place? Do you know where these policies are stored?

- **With the very public focus on sexual abuse** related to the #MeToo movement, we can expect to see more claims from incidents which occurred years ago as well as more recent claims overall.

- **Bullying claims,** both in person and via social media, are of concern. Incident reporting and addressing the claim immediately is vitally important to help manage potential loss. We have policies and procedures and many of us have zero bullying policies — are we enforcing them?

Having good policies and procedures and talking with staff and campers about appropriate boundaries should help to eliminate some of the issues. Encourage staff and campers to report anything that doesn't seem right or appropriate. Investigate and act on the findings.

Activities we offer at camp are often the driving force for camper enrollment. Have you discussed any potentially new program offerings with your insurer to determine coverage? Don't wait until you

provider comes to you indicating they saw you had a (insert your newest, greatest activity here) when they were reviewing your website.

## The claims and discussions related to activities focused on a variety of areas:

- **A dry drowning,** which was initiated with horse play in the pool. The group of campers were asked to exit the pool, which they did. Within 20 minutes, one succumbed to drowning while on the pool deck.

- **There were several ropes course claims** again this year. Supervision, training, and vigilance is critical.

- **Do you have playgrounds at camp** and are you aware of any laws governing public playgrounds that you may be required to follow? Check your state, as many camp playgrounds are considered "public facilities" even if on private property.



Photo courtesy of Camp John Marc, Bosque County, TX



- **Do you transport and set up any activities** that might be considered amusements (such as inflatables or portable climbing walls)? If you travel across state line with these amusements, it is important to know and comply with the regulations in each state you will be visiting and using them.

- **The use of drones continues to increase**, yet there are many perils that can accompany their use. This includes property damage, trespass issues, and personal injury to name a few. While you might use them for programming or to video your property, others use them for different reasons. How about parent use of drones to video opening or closing day? What might start off as a single incident can quickly grow. Who is responsible if something happens?

### **As the use of technology and social media grows, so do the concerns and the claims:**

- **Social engineering continues to expand**, so training all staff of your policies and procedure related to the opening of emails, links in emails, etc. continues to be important. In one situation, an employee responded to an email supposedly from the CEO related to the request to transfer a large sum of money. The staff member complied, and it was then realized it was a “fake” email. A simple method to help eliminate this from occurring is to require a verbal confirmation before transferring any money to ensure it is legitimate.

- **Insurance providers continue to see ransomware attacks** with the amount being demanded between \$10,000 – \$50,000 to release your data. If you have cyber coverage, don’t forget to make a claim. Providers are also experiencing IT departments (often of one) trying to resolve the attack vs. asking for assistance. Often, while a repair might be 95 percent, much of the evidence trail is destroyed, which can possibly void the insurance contract.

- **If you provide camp staff with a debit card**, request they use it in credit card “mode” if possible. This method often provides greater security. It is also suggested to implement a method by which the card provider can immediately contact the user to verify potential fraud.

### **Other claims that were mentioned:**

- **Auto claims related to backing up into things** — trees, buildings and other vehicles continue to be an issue. There was also a rise in claims from rental companies when a camp did not report and/or were not aware of to damage to the rental vehicle. If you drop off your vehicle after hours, consider taking photos of the vehicle to verify the condition in which it was returned.

- **With respects to insurance coverage**, one of the greatest concern is for liability coverage. What does your enrollment contract say about personal property of campers and what is the expectation of your parent’s? Example: Fire burns the cabin and the camper’s equipment is lost. What to do? Most basic camp policies require loss to go through homeowner’ policy unless a camp purchases this coverage as additional coverage. The same hold true for staff property.

- **As more camps are “doing the work themselves”** and have staff operate various types of larger equipment (backhoes, cherry pickers, skid steer), it is important to educate yourself on what and how OSHA regulations apply. What fall protection might be needed? Providers are seeing an increase in claims due to accidents.

- **While not mentioned specific to any claim**, all providers stress the importance of working with your local authorities related to active threats.

### **A few final words related to contracts:**

- **Having a contract for work to be performed is important** — even if you are doing a “trade for services.” Clearly spell out the expectations of each party involved. Who pays if accidental damage is done?

- **Insurance providers have continually shared** for contracts to specifically state what insurance is required; what are the required limits, who should be named additionally insured? All providers agreed that a camp should require insurance from a third party/vendor.

- **The importance of having a contract** with rental groups (all types and those serving all ages — including adult camps) is something that has been stressed each year. Clearly articulating who provides what and who is responsible for what is critical.

- **Ask your insurance provider to review your contract.** Most are willing to review and comment. They might see the gaps of which you aren’t aware.

It is important to consider your insurance provider as a partner and not your adversary. Talk with them before the summer and review your policies to make sure they are the best you can do with what you can spend. They can be a great resource.

*Gaetana De Angelo is the director, risk & business operations for the Girl Scouts of Atlanta and has served as the chair of the ACA Insurance Committee for several years.*



Photo courtesy of Rolling River Day Camp, New York, NY



# INTEGRATING DUTY OF CARE INTO YOUR ORGANIZATIONAL CAMP CULTURE

Katie Johnson  
and John Feasel

**A child is injured by a falling rock during a climbing lesson.**

**A volunteer is paralyzed when a horse they are leading kicks out.**

**During unstructured time, a camper falls off the top bunk while horsing around in the cabin.**

**During a game of color war, a staff member collides with a camper, who fractures a leg.**

These incidents are based on real-life events at real-world camps. And each of them raises an important question: Did the camps at which these tragedies happened fail in their duty of care?

It can be a natural response for victims and their families to look for someone to blame when something goes wrong. After all, camps are

taking on primary responsibility for a camper's well-being for the duration of their time away from home. Yet while it's right and proper to ask why an accident occurred, it's also important to remember that an accident or incident is not, in and of itself, a sign of negligence. Adventure, exploration, and growth are an inherent part of the camp experience, and without risk you

can't grow. It would be impossible, and perhaps even counterproductive, to eliminate all risk from programming.

That's why it's important for every camp — and all camp staff and volunteers — to understand exactly what their responsibilities are when it comes to the health, safety, and well-being of the people in their care.

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## Reasonable Duty of Care: The Legal Definition

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While “duty of care” is often talked about in legal terms, few of us would ever frame our responsibilities to campers in legal terms alone. We look after those in our care because it’s what we believe in, not because it’s what the law tells us to do. Nevertheless, exploring those legal standards can help us to better understand what it means to act in the best interests of our campers.

Take the “Reasonable Person Standard,” for example, which is the legal standard of care most commonly applied to the camp context. A term used in civil — not criminal — law, it broadly means that a person’s or organization’s actions will be judged against what a reasonably prudent person or organization in a similar position would have done. As John Feasel, senior advocacy manager at The Redwoods Group, explains, the most important thing to understand about this standard is that it is entirely objective:

*“When a court is considering a negligence case against a camp director, the beliefs, knowledge, experience, philosophy, or mental state of the defendant are entirely irrelevant. They can believe what they personally like about the relative place of safety in the camp experience or how supervision should be practiced, but their actions will be judged against how well they adhered to standards that are commonly or broadly used in the industry.”*

In other words, as far as the legal system is concerned, there are specific, objective, and verifiable standards by which a camp’s duty of care can be measured. The good news is, this means there’s little room for ambiguity: We know exactly what we have to do to fulfill our duties.

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## “In Loco Parentis” Does Not Mean “Parentis”

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When discussing safety in the camp environment, a term that is commonly used is “*in loco parentis*.” A Latin term meaning “in place of the parent,” it is commonly used in a legal environment

to recognize that a teacher, camp counselor, or other professional caregiver will have to make decisions in place of a parent, and may require some flexibility to do so.

Aside from the strict legal definition, however, the phrase itself holds clues as to how and why camps and camp professionals need to adhere to specific standards. In a world where parenting blogs are consumed with debates about the relative merits and pitfalls of helicopter parenting versus free-range parenting, many of us will be familiar with discussions about the tensions between freedom and discipline, or autonomy and supervision. In examining the term “*in loco parentis*,” however, one can argue that such debates are largely irrelevant when it comes to establishing a camp professional’s duty of care. Again, Feasel explains:

*“The ‘in loco’ part of ‘in loco parentis’ is important. Camp directors and counselors might be acting in place of the parent temporarily, but they are not the actual parent. And while individual families will have very different views on risk taking and safety, we — as institutions — do not have that luxury. We have to have consistent, objective standards so that every family can know what to expect when they drop their kids in our care.”*

Given the diversity of camps and camp programming — not to mention the diversity in campers themselves, and the geographical locations and environments in which camps operate — establishing objective standards for reasonable care is no small task. Fortunately, as the largest camp industry association in the country, the American Camp Association (ACA) has been able to use the knowledge and experience of its membership base to develop standards of care that cover almost every conceivable angle of safety, well-being, and stewardship of children in a camp environment.

These standards — developed by the ACA National Standards Commission — have evolved over the years based on the changing needs and capacity of the camping industry. The standards were most recently updated in 2016. Below is just a small sample of what they cover:

**Camper Health History:** Health history information must be gathered from parents/guardians that includes current health conditions, past medical treatment, immunizations, and allergies.

**Emergency Transportation:** Must be available at all times; may be provided by the camp, user groups, or prearranged with community services.

**Transportation Supervisor:** Vehicles transporting 15 or more campers must have a staff person, in addition to the driver, trained in safety responsibilities and group management.

**Dish Drying and Storage:** Dishes must be air dried and covered.

In other words, these standards have been formulated to provide camps with specific, actionable guidance. According to Katie Johnson, Redwoods consultant, the granular detail of the ACA standards means that camps no longer have to reinvent the wheel in terms of determining what is and what is not safe:

*“Imagine if every camp had to research food safety requirements for a camp environment. Or formulate their own supervision protocols and research best practice abuse prevention methods. ACA standards take most of that legwork off the table, providing the specific action steps that each camp needs to take in almost every aspect of their programming or operations. That leaves camps to focus on what they do best: Creating unique, exciting, and enriching experiences for their campers.”*



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## Much More Than a Checkbox

It's important to understand, however, that while the standards themselves may be detailed, and while they provide a blueprint for specific action steps, they are by no means a checkbox exercise either. Rather, when applied consistently and comprehensively, they become a powerful tool for integrating the values of safety and care into the organizational culture of a camp.

Johnson explains why:

*"I've visited camps that use the ACA standards, but are not applying them consistently. And then I've visited others who have really adopted them as a guiding principle in everything they do. It's easy for me to tell the difference. When a camp really takes on the standards on a deep level, it makes a tangible difference to the overall culture of the camp."*

The secret to ensuring consistent adoption of standards, says Johnson, is to make sure that all staff are not just following a particular protocol or practice, but actually understand the reason behind it:

*"It's easy to tell staff and counselors that they should only give side hugs. Or that they shouldn't be friends with campers on Facebook. But telling them what they should and shouldn't do only gets you so far. When they understand that inappropriate touch can be a red flag for abuse, or that a culture of informality can give opportunities to predators, that's when they start viewing the standards as the tool that they are, rather than as a rule book to follow. And that's when they start holding each other accountable, too."*

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## A Culture of Accountability

It's this shift from simple compliance to a more comprehensive culture of accountability that Johnson looks for and encourages when conducting on-site consulting visits. But building such a culture takes both a commitment from leadership and an organization-wide effort of implementation. The

results, however, are very worthwhile. One camp which Johnson highlights as really integrating the ACA standards into its overall organizational culture is the YMCA Camp of Maine. Camp Director Jeff Gleason explains how they, as an organization, have moved beyond compliance and toward a proactive, integrated culture of safety:

*"YMCA Camp of Maine is getting ready for its 103rd summer. We are able to focus on the heritage and traditions of camp because we know that the backbone of operations is strong. Partnering with ACA allows us to stay current with industry standards while introducing innovative and fun programming. Staff members know what their expectations of safety are, so creating and strengthening programs around our traditional atmosphere is easy."*

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## The Importance of Leadership

According to Johnson, successful implementation of a culture of accountability at camp almost always starts from the top down. When a camp's board and a camp's director are invested in implementation of the ACA Standards of Care, then integrating them into operations and programming becomes second nature to everyone at camp, even when there are expenses or sacrifices involved:

*"There's a big difference between distributing the ACA standards to your team and asking them to implement them, versus taking the time to communicate their importance, delegating tasks, dedicating resources, and then following up to make sure they were actually implemented as intended. Ultimately, the responsibility for doing so lies with leadership."*

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## Duty of Care Is Everyone's Responsibility

Of course, leadership alone cannot create a culture of accountability — rather, their role is to send a clear message about values and expectations, and then empower their staff members to implement them. And one of the most important ways that

this culture is created is by hiring the right staff members in the first place.

That means ensuring a robust, secure, and consistent hiring process — including screening and criminal background checks, interviews, and references, as well as a solid program of training and onboarding. Indeed, the ACA Standards of Care themselves provide clear and detailed guidelines on hiring and onboarding. According to Johnson, not only does this weed out any inappropriate candidates, but it also sends a message to your new hires that safety and standards are an important part of their professional duties:

*"If I'm a new counselor at camp, it sends a powerful message if I'm introduced to the camp's protocols and practices before I even start my first day. When I worked in the camp industry, I would make sure that our own camp standards met the ACA standards, and I'd also incorporate specific footnotes or commentaries about which specific standard each element of the protocol helped us to meet. This would engage the staff and counselors to start thinking about how our performance was evaluated, and what values and standards we held ourselves accountable to."*

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## Implementation and Supervision Matter

Of course, just because a camp has standards and protocols does not mean that they'll always be followed. That's why it's important to make sure that there's a consistent, proactive culture of active coaching, discipline and staff feedback at camp. That means not just responding when things go badly wrong, but rather engaging in a constant process of encouragement, improvement and — where necessary — correction of staff and counselor behavior. Feasel explains why this matters, both from a legal and a practical perspective:

*"If your standards stipulate how dishes should be dried, or how bunk beds ought to be arranged,*

*and yet you're not implementing those standards consistently, then that sends a message to your staff and counselors about how much the standards are valued. It's true that some of these things may seem small, perhaps even trivial, but by identifying and correcting gaps between protocols and practice, you create a culture where there's much less room for error. It's also worth noting that the law pays particular attention to a camp's own standards — so if you've adopted a standard, but aren't following it, that's a red flag in terms negligence as far as a court is concerned."*

More often than not, correcting any lapse in implementation is a case of raising concerns and making a plan to fix them. Usually, this can be done in a positive and friendly manner. Indeed, praising your staff for correct and proactive implementation is just as important as identifying lapses or deficiencies.

That said, there will be times that stronger measures are called for. And that means planning in advance for a consistent, forceful and progressive program of discipline — raising concerns about any particular behaviors or practices, documenting those concerns and clearly communicating the consequences of not following them — up to and including termination where appropriate.

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### **Promoting a Positive Workplace Culture**

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Another factor that is too often overlooked when implementing a culture of accountability is that the ACA standards are a starting point, not an end in themselves. Implementing these standards will be easier and more effective if it goes hand-in-hand with efforts to promote a positive, vibrant, and rewarding workplace culture where all staff and counselors feel valued, respected and taken care of. Whether that means creating channels for honest and open feedback, or making sure that everyone has opportunities for

adequate rest, recuperation, and recreation, the steps you take to invest in your team most likely pay dividends not just in terms of retention, but in terms of how effectively and consistently they implement the policies of your camp.

At the beginning of this article, we referenced several incidents in which campers or volunteers were injured, and asked whether the camp in question had failed in its duty of care. The truth of the matter is that we'd need considerably more information to make that determination. Was the volunteer who was injured by a kicking horse properly trained in and qualified for equestrian activities? Was the camper who fell from his bunk being properly supervised at the time? Was the collision between the staff member and a camper unavoidable, or was that staff member too caught up in playing the game? Where was the child positioned when they were injured by a falling rock, and were they wearing a helmet?

At its most basic level, the question we are asking ourselves in all of the above situations is not "what happened?" but rather "how did it happen and how did the camp respond?" And, more importantly, we are also looking to determine whether all reasonable steps taken to minimize the risks of such incidents happening in the first place. By creating a deep, values-based and organization-wide focus on caring, safety, and accountability, you can create an environment where everyone — from leadership to camp counselors — is invested in and supportive of the mission of your camp. That not only reduces the likelihood of such tragedies occurring on your watch, but enhances the experience, well-being, and satisfaction of the campers in your care. That can only be a good thing.

### **Legal Terms**

#### **Negligence**

At its simplest level, negligence is a failure to meet the standards of care. Within the camp environment, it is usually a case of civil rather than criminal negligence. (Exception would be an intentional cover up, etc.)

#### **Standard of Care**

Standard of care is a legal construct under which a court will look at a camp's own standards — and the standards of the industry as a whole — and determine the level of care required.

#### **In Loco Parentis**

Literally meaning "in place of the parent," this term is used to mean that the caregiver is acting as a child's guardian during the child's time at camp.

#### **Example: Texting While Driving**

Camp Counselor Emily, a senior counselor at Camp ABC, is driving a vehicle full of campers to an off-site activity. While driving the van, Emily is texting on her cell phone and not paying attention to the road. Emily loses control of the vehicle and drives into a tree, causing injury to several campers. Because Emily was fulfilling her duties (transporting campers to activities) as an employee of Camp ABC when she negligently crashed the vehicle, Camp ABC can be held liable for Emily's negligence on the grounds that Emily was acting within the course and scope of her employment at the time. In this instance, Camp ABC would be considered vicariously liable.

However, if Camp ABC knew that Emily had a poor driving record and a history of accidents resulting from the use of a cell phone while driving and hired her anyway, or if they failed to check her driving records or train her adequately despite this being part of their hiring protocol, then Camp ABC would become directly liable to the campers on the grounds of negligent hiring.

*Katie Johnson has spent 20+ years as a youth development professional working with both resident and day camp programs, including eight years with the American Camp Association. Most recently, Katie joined The Redwoods Group as a consultant, where she is sharing her professional experiences to help camps and youth serving organizations provide safe environments and programs for children and families.*

*John Feasel is a licensed attorney and the senior advocacy manager for The Redwoods Group. As a kid, he always looked forward to summer adventures at camp. John loves going to work each day to help camps and other community organizations scale their impact and create safer communities for all.*



Photo courtesy of Camp Stella Maris, Livonia, NY



## EQUIPMENT MANAGEMENT: MAXIMIZING THE FUN AND GAMES

Ann McCollum

***“It’s all fun and games until someone gets hurt.”***

Have you ever asked your staff to stop and really consider that adage? What does it actually mean? One interpretation is that you should minimize injuries in order to maximize fun and games. At camp: fun and games = good; injuries = not good. Often, equipment can make or break the success and enjoyment of an activity and equipment management is a critical component of managing risk at camp and specifically of minimizing injuries. In addition, ACA accreditation standards require overall equipment management and regular maintenance management and safety checks. Accreditation standards covered here are specifically PD 8.1–8.5 (Program Equipment and Maintenance); PD 24.1 (Annual Inspection of Adventure/Challenge Course Elements); and PT 11.1 (Equipment Maintenance Trip/Travel). Accreditation standards covered more generally include SF 10.1 (Playgrounds); TR 10.1 (Emergency Equipment); OM 4.1

(Personal Property Policy); and OM 14.1 (Rental Group Agreement).

### What Are We Talking About Here?

This article addresses *all* program equipment specialized and other — from playground balls, archery bows, and water filters to canoe paddles, backpacking stoves, and mountain bikes. All camp equipment needs appropriate management and oversight. Proper management can extend the life of equipment, will positively affect the camp’s budget, can lead to a safer experience, and teaches campers and staff important skills and knowledge. Win!

### Proper Equipment

First, it is critical that campers are using the appropriate equipment for the activity. This means the equipment must be specific for the activity and the correct size and fit. It is not okay to take shortcuts by assuming that gear used in one program area can be used in another program area. Many activities

offered at camp have their own industry standards which dictate design specifications — often based on safety — for the equipment to be used in that activity. For example, a rope used for a tug-of-war should not be used on the climbing wall. Much equipment used for specialized activities or aquatics are subject to industry standards for use and maintenance. The American Society for Testing and Materials (ASTM) also provides standards for much of the equipment used in specialized activities. This includes equipment used for climbing and adventure/challenge course.

Other key equipment to consider are helmets and personal flotation devices (PFDs). Helmets are designed for specific activities and have industry-specific design characteristics for their use appropriate for the type and nature of a potential impact. It is important to use the proper helmet for each activity. Some newer helmets are acceptable for “multi-sport” use.

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A similar concept of specificity applies to PFDs; there are varying types for the different watercraft activities. For protection in the water, consider your "A-GAME": PFDs need to be Coast Guard approved. They must be worn in accordance with their weight rating and the jacket needs to be appropriately adjusted to fit snugly when worn.

The important take-away is to know and follow the specific equipment requirements for each activity, purchase the activity's proper gear, and have the right gear — and enough of it that each participant is equipped with gear that is the proper fit. Equipment shortcuts can lead to injury.

### Equipment Maintenance

Proper maintenance includes inspection of equipment for safety and defects, cleaning, repair, and storage.

**Inspection:** The ultimate purpose of equipment maintenance is the safety of the user. With regular and thorough inspection of equipment, you can identify equipment flaws such as broken buckles, frayed materials, damage from rodents, and general wear and tear from regular use. All equipment is susceptible to the rigors of children, exposure to sun and weather, and regular use. Even though some equipment appears to last

forever, it should not be used forever. That piece of equipment that is still around from the '70s should by now be retired and hanging on the wall as a memorial to the good ole days and the source of whimsical stories. Camps should have policies in place that dictate regular inspection of all your equipment to include guidelines for identification of equipment that needs to be cleaned, repaired, or retired and replaced. It may include a thorough inspection prior to the summer season and periodic checks throughout the summer. Document what is checked when and the condition of said equipment. This includes the red rubber playground ball, the tetherball (and rope), equipment used in the craft shed to the saddles and bridles in the bar to the climbing rope and helmets.

**Cleaning:** Proper cleaning of equipment should be part every camp's equipment maintenance routine. When I was a kid at summer camp in the Colorado Rockies, I loved to backpack for three, four, and five days. Back then, we carried those wonderful old orange external frame packs. Cleaning out all the packs and all the other group gear was scheduled into program time at the end of the trip. We emptied the packs (making some impressive discoveries in the process!), rinsed them thoroughly inside and out with

a hose, and hung them to dry. We washed the grit out of buckles and pins, cleaned up things like spilled jelly, toothpaste, and tree sap, and saved the pack fabric from accelerated deterioration. This pack bath also meant a lesser chance that critters would chew holes into the pack, and the next user started anew. We used those packs, and other equipment which we treated with the same attention, for several summers and many backcountry miles, because we took such good care of them. Such a thorough cleaning also extended the camp's bottom line. Check the manufacturers guidelines for the proper cleaning method of your equipment.

**Repair:** Cleaning and inspecting the gear after each backpack also taught us to look for flaws or defects in the equipment, so that it could be repaired (or replaced if needed) for the next trip. Because I was taught so well in my camper days, I continue to inspect and clean all of my equipment after a trip, and I have the skill and knowledge to make minor repairs. Camps should train staff (and campers where appropriate) to know how to spot needed repairs in equipment, to distinctly mark or tag the equipment for the repair, and to separate defective equipment from the general stock until the repair is made. While it can be



Photo courtesy of Camp Howe, Goshen, MA

cost-saving to make repairs, make sure your repair does not damage the integrity of the item being used. Is the new strap as strong as the original? If no, consider replacing the item.

My backpacking tent, pack, sleeping bag, and cooking equipment has had a long life because of proper maintenance, repair, and storage over the years. In addition, a lot of outdoor gear comes with a limited, and in some cases, a *lifetime* warranty. I recently pulled my tent out for an overnight backpack and discovered the sealant on the inside of the rainfly was peeling off. I sent it back to the manufacturer and received a brand-new tent, because my old one was discontinued. Save receipts and copies of warranties. And yes, my old frame backpack hangs in my shed as a reminder of the days of yore.

**Storage:** Unfortunately, even in storage, equipment manages to accrue damage. During long-term storage (winter and shoulder season) and short-term storage (between activities and camp terms in the summer), equipment that is not properly stored (and sometimes even when it is) is susceptible to damage from burrowing and nesting animals, water, insects, mold, vandalism, and other hazards of storage. Not only is it important to store equipment appropriate to its type, it is just as important to inspect, clean, and make needed repairs after it is retrieved from storage. Fortify your cabinets, bins, sheds, and bags as best you can from all types of intrusions, including human, animal, and weather. Teach staff to clean, dry, repair, and inventory all equipment before putting it away. Such pre-storage maintenance is practically a guarantee of savings in time, money, and manpower at the start of the next session or camp season.

**Retirement:** Finally, even with the best, most diligent, and thorough care, some equipment simply needs to be pulled from the line-up and retired. Some gear, like climbing harnesses, have industry standards for retirement after a specified period of time

(follow the manufacturer's warranty) regardless of how many times the piece of equipment has been used. Some industries provide guidelines for testing the longevity of gear, like fabric inspection guidelines. Regardless of the activity, if a helmet has sustained an impact, remove the damaged helmet from use. Often contacting the place of purchase or the manufacturer to share the story will result in a replacement helmet.

Most equipment, certainly equipment that has a safety function, should be modern and should incorporate current and up-to-date technology. When I was guiding canoe trips on the San Juan in southeast Utah, the ranger at the put-in (laughingly) commented that maybe it was time to deposit our old Grumman metal canoes at the recycle bin at the take-out. On day two of four on the river, one of the canoes literally wrapped itself around a rock – fully bent in half, gear hanging on for dear life, kids bobbing to shore. We managed to bend the darn thing back, duct tape the bends inside and out, and reload the dry bags, so that we could get to the take-out, and yes, make a deposit into the recycle bin. In retrospect, what ended up being a funny story could have had a different outcome in both human safety and program cost, and it is very likely those canoes should have been retired and replaced much sooner for more current technology. Innovations and improvements in technology are not only reflective of improved performance or an aesthetic; many gear innovations also incorporate elements that improve safety.

**A note about selling or donating your old gear: Before donating any of your used equipment, it is worth conferring with an attorney who knows your program and the laws applicable in your state to learn whether any liability may attach to your camp if a person is injured as a result of using gear they acquired from you. Be particularly wary of donating gear with a safety function such as helmets, personal flotation devices, climbing ropes, climbing harnesses, etc. In a program in which I worked, we**

**cut old climbing rope into much shorter lengths, and marked and separated it prior to using it for initiative games and other purposes. Consider dismantling, destroying, and at the least clearly marking such gear before putting it in the trash or re-purposing it.**

## Equipment Records

After reading about proper maintenance of equipment, the importance of maintaining accurate and up-to-date records should shine through. Camps should keep thorough logs of gear including, at the least, purchase date, use (e.g., days the gear was used in the field), needed/completed repairs and maintenance (what was done and when), planned and actual retirement date, and whether the gear has a warranty. As mentioned above, there is a lot of gear and equipment that comes with some kind of warranty, and some brands offer lifetime warranties. Your records should indicate whether the equipment has a warranty, whether you must register the equipment or take some other action for the warranty to be valid, and the nature and length of the warranty. Taking advantage of brand warranties can also save you a great deal of money. Finally, most camps will purchase many identical pieces of gear, so it is also important to tag or label your equipment with system that works for your organization and that distinguishes each piece of gear so that it can be clearly identified for your records.

## Someone Else's Equipment

Intentional management of equipment your camp owns/maintains is critical. But what about the equipment of others, like the beloved personal equipment that staff and campers bring to camp and the equipment of vendors or contractors you hire to lead your campers in an activity?

**Camp- and Staff-owned Equipment:** Both staff and campers may bring personal equipment to camp and potentially purchase equipment at camp once they arrive. For all equipment that is not owned and provided by the camp, consider a

policy that addresses issues related to personal equipment, including whether use of personal equipment on camp program is allowed by the camp and/or if campers and staff may bring such equipment to camp. The nature of the equipment, i.e., a mountain bike versus a day pack or flashlight, which might be required equipment, should help inform this policy. The policy should address equipment storage, security, and potential loss and/or damage and replacement. This is another area where you should consider consulting with an attorney familiar with your program and the applicable laws in your state to help draft your camp's policy and, when appropriate, draft a release for addressing the camp's potential legal exposure for loss, damage, or injury resulting

from camper or staff use of personal equipment while at camp.

**For vendor or contractor equipment:** Generally, you are not responsible for the management or maintenance of the equipment used by vendors and contractors. That said, when vetting contractors who you plan hire to guide an activity, it is wise to include questions about equipment management. For example: Do you have an equipment management policy and/or protocol? (If so, ask to see it.) What guidelines do you follow for gear safety checks? Keep track of your questions and the contractor's answers, and prior to asking, consider the answers you would like to hear from the contractor: What would disqualify a vendor based on their equipment management?

## Conclusion

Thorough management of camp equipment can have a positive effect on camper enjoyment of and comfort in camp activities, on the safety of camp activities, and on the camp's bottom line. Know and train your staff to follow ACA accreditation standards, industry standards and guidelines, and your own camp policies.

*Ann McCollum is an attorney at Adams+Crow Law Firm in Albuquerque, New Mexico, where her law practice has a focus in tort and recreation law. Prior to practicing law, Ann was a risk management consultant for schools' outdoor programs and summer camps, a school and outdoor educator, and spent many days and nights guiding kids in the backcountry.*

*This article contains general information only and is not intended to provide specific legal advice.*

## AT PRESS TIME: European Union Regulations May Impact Camps

The European General Data Protection Regulation (GDPR) takes effect May 25, 2018, and stands to impact the way camps maintain personal information in their databases. This is particularly important for camps with international campers and staff living in European Union (EU) countries. The lengthy GDPR text includes 99 articles and 173 recitals, and details the penalties for noncompliance.

ACA will continue to monitor this issue and provide updates on our website [ACAcamps.org/gdpr](http://ACAcamps.org/gdpr).



## THE CAMPLINE

Published three times a year by the American Camp Association.

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