

# The CampLine®

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

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## The CampLine®

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## Contracting Your Camp for Third Party Use: Legal and Practical Issues in Use Agreements

Charles R. (Reb) Gregg and Catherine Hansen-Stamp

**M**any camps allow the use of their facilities by outside parties (“user group”<sup>1</sup>) — that is, groups and individuals other than customary and traditional campers. These user groups and their events vary greatly — an afternoon wedding and reception, a corporate conference, a family reunion, or an extended stay by another outside group. Arrangements may call for not only the use of camp facilities but the services of camp employees, and participation in certain regular camp activities.

These arrangements allow the camp to maximize use of its facility, and increase its revenues, particularly during the off season when its regular camp programs are not in session. However, significant challenges come with the benefits of this type of facilities use. This category of camp visitors requires special consideration because their activities, and the camp environment, will expose them — and the camp administration — to risks that are markedly different from those present in the traditional camp experience.

As a result, it is important that the parties understand and document, in a written agreement, precisely (for example) what is to take place, where, when,

*continued on page 2*

## Managing Your Aquatic Program

Will Evans

**M**anaging aquatics can be one of the most challenging jobs at camp. Creating and maintaining a fun environment is only part of the challenge. The real challenge is how to provide that fun safely. While campers and most staff consider water a friendly and exciting place, we should never forget that water can be a “hostile environment.”

In June 2002, the World Congress on Drowning adopted a more appropriate, uniform definition of drowning: “Drowning is the process of experiencing respiratory impairment from submersion/immersion in liquid.” Under this definition, drowning is a process that can be interrupted, by rescue for example. This new definition excised the use of the term near-drowning.

The National Safe Kids Campaign estimates 5,000 children ages fourteen and under are hospitalized annually as a result of drowning incidents; 15 percent die in the hospital, and as many as 20 percent suffer severe,

*continued on page 6*

under whose supervision, and ultimately, who is responsible, should there be disappointment, injury, or other loss. This article addresses the issues of these arrangements and the elements to consider in a written agreement between a camp and user group. Thoughtful consideration in developing these agreements will hopefully eliminate or greatly reduce surprises, disappointments . . . and liabilities.

It can be easy to find a user group eager to use your camp facilities for a weekend retreat, or a multi-day or even multi-week stay — particularly if you have a well-kept facility in a scenic area. The more challenging issue is how to define the relationship, to determine, for example, who is responsible for what and other key issues. Use of a written agreement between the parties is valuable for two basic reasons:

- a. It documents the parties' understanding of their respective responsibilities and important details of the arrangement before the event begins. This "information exchange" is good business — increasing the understanding between the parties, and hopefully minimizing the risk that incidents may occur during the event.
- b. It allows the parties to address their respective liability to each other, in the event of an incident during the program or otherwise. Liabilities can arise in the event one party fails to perform some aspect of the agreement, or, in the event of damage to the camp's property, or injury or death to a participant, staff member, or volunteer during the program.

The ACA-Accreditation Standards<sup>2</sup> ("ACA Standards") provide a general description of the camp/user group arrangement and note certain key provisions that either must be addressed (for accredited camps or those seeking accreditation) or should be considered. The ACA standards advise, importantly, that a camp entering into a user group

arrangement should work with informed legal counsel to craft a written agreement that takes into consideration relevant and applicable state law.<sup>3</sup>

## **Written Agreement — Relevant Components**

One basic premise: the document should include the elements of an enforceable contract. Generally: 1) a mutual agreement, a "meeting of the minds"; 2) consideration; 3) legal competency (that the parties are legally "competent" to contract — e.g., age or mental capacity); and 4) that the purpose of the agreement is not prohibited by law. Courts will also consider whether there is equality of bargaining power (including freedom from coercion).

### **Key Components**

Consider the following key components in your written agreement:

#### **Title**

The document should be titled accurately. The ACA-accreditation standards refer to "lease," "rental," or "use agreement or contract." Another title used in these types of arrangements is "facilities use" agreement. Confer with your legal counsel to determine the most appropriate title for your document. The bottom line is that regardless of the title, the contents of the document should accurately describe the agreement between the parties on the specific arrangement.

#### **Consideration**

Consideration is something of value which is exchanged for a promise made. A contract without adequate consideration may be found unenforceable. Although value moving between the parties is usually apparent, it is customary to state that value. In use agreements (and other contracts), consideration is often expressed as the "promises and covenants contained in the (this) agreement, and other valuable consideration." Part of the consideration is clearly the fee paid by the user group.

### **Defining Terms**

It may be necessary or convenient to define, or at least clarify, terms used frequently in the document. This doesn't necessarily mean a separate "definition of terms" section. Clarification can be achieved in the text of the agreement. A good example might be a definition or identification of the parties, and "property" or "facilities" to be used by the user group (and importantly, any restrictions or limits on use, which should be identified somewhere in the agreement). Definition of the term "program" or "event" might be necessary.

### **Brief Description of the Event**

A brief description of the event; i.e., what the scheduled use is — location, dates, etc. (This may also be reflected in an attachment.)

### **Beginning and Ending Point of Event**

When does the program begin and end? The arrival and departure dates are important, of course. However, the parties should also be clear regarding the actual beginning and ending point of the event. This serves to identify when each parties' respective responsibilities (in regard to the event) begin and end. For example, is the camp responsible for picking up the group at an airport or bus terminal? Does the event begin at the point of pick-up? Or, does it begin when the user group arrives at the camp facilities? Sometimes, incidents occur in the travel phase — getting to and from the event location. Accurate identification of these details can be key.

### **Responsibilities and Services Provided by Each Party**

The camp is offering its facilities for use by the group and is often providing the user group access to a variety of activities. In many cases, camp staff provide supervision or instruction for certain activities, serve meals, or provide other support for the user group. The user group, too, can be expected to take on a variety of responsibilities. In fact, overall supervision of the event

and the conduct of the user group should generally be the responsibility of the user group “leaders,” unless responsibility is specifically assigned to the camp and its staff.

This section of the written agreement can be broken down into “responsibilities and services provided” by each party. Important aspects to address include:

1. What activities are being offered to the user group — that is, what will they be allowed to do at the facility? May they access, for example, the climbing wall, challenge course, water front, or swimming pool? Will camp staff be supervising or instructing in regard to any or all of these activities? It is critical to detail what activities are (and are not) offered to the user group, and whether or not camp staff will be supervising or instructing any or all activities.
2. What facilities and services are provided by the camp? Examples include use of cabins, bedding, meals, and meeting rooms.
3. Either here, or in some part of the agreement, the camp should specify those parts of the camp facilities or premises which are available to the user group, and should take care to specify those which are off limits. The camp may require, for example, that no unaccompanied minors be allowed at the waterfront, or that each occupant of a water craft wear a personal floatation device. Some of these restrictions may be appropriately put in a “rules and regulations” section (see Camp Rules and Regulations). Finally, some of these issues may be addressed in the camp’s orientation for user groups conducted on the premises (for example, discussion of the physical boundaries of the property, or placement of “restricted area” or “no trespassing” signs) and/or in a release or waiver form signed by participants before the beginning of the event (see Participant Agreements on page 4).<sup>4</sup>

4. Responsibility for participant supervision — during both organized or unorganized activities, free time, and nighttime. Again, the camp may agree to supervision of certain activities, particularly if the camp is offering its staff to, for example, supervise waterfront or equine activities, challenge course use, or lead a backpacking trip. However, as mentioned above, unless supervision is specifically agreed to by the camp and its staff, supervision should be identified as the user group’s responsibility. It is critical that this aspect of the program be clearly described in the agreement.
5. Responsibility for medical issues — the relevance of these issues will depend upon the nature of the activity or event.<sup>5</sup> Issues may include collection of pertinent medical or health information and screening (including consideration of and staff for special services or accommodations [e.g., for those with disabilities]), written consent to treat participants, provision of medical supplies, first aid, emergency response, transportation, and evacuation. Again, the allocation or assignment of responsibilities should be clearly described.
6. Transportation — who is responsible for transportation in and around camp property, into town, or otherwise?
7. User group minimum or maximum group size, group “count” before arrival, or other special needs or details.
8. ACA standards require that the user group attend a mandatory orientation at camp, to understand the camp’s safety policies and regulations.<sup>6</sup> Such a provision could be listed here, under user-group responsibilities. The scope of any orientation will depend, of course, on the nature and duration of the event. A descriptive handout may be sufficient, in lieu of a formal orientation session.

9. Catch all — it is difficult to list all the potential responsibilities that may enter into this type of arrangement. Because the user group generally takes on a large measure of responsibility when it uses the camp facilities, this section of the document might include a “catch all” for the user group — that any aspect of the event or use of camp property not specifically identified in the agreement as the camp’s responsibility, is the responsibility of the user group.

### **Damage to or Loss of Property**

Address any policy regarding user-group damage to camp property (which might be defined to include premises, facilities, and equipment), cleaning of facilities before departure, and responsibility for loss or damage to user-group participants’ property (e.g., personal belongings).

### **Payment Terms, Including Required Deposit, Cancellation, and Refund**

How will the camp be compensated for the use, and what are the payment terms? Is there a minimum “facilities” fee? Is the group committed to a minimum number of participants? These and related matters should be clearly set out in the agreement.

### **Independent Contractor Relationship**

It is important to define in the agreement that the parties are independent of one another, and not acting as each other’s agents or employees. Identifying this relationship between the parties is significant, as the parties want to conduct themselves independently, in order to respect each other’s separate responsibilities and liabilities. The parties’ words and conduct should be consistent with the written agreement, or liability may be expanded or changed. Work with your legal counsel to understand these important concepts and to integrate appropriate language, consistent with applicable state law.

### **Camp Rules and Regulations**

A description of pertinent camp rules and regulations should be included

in this section (e.g., restrictions on use of the property, rules about use or possession of drugs, smoking or drinking, swimming, transportation, etc.).

### **Participant Agreements**

Depending upon the duration of the stay, and exposure to hazards, staff competencies and activities, the camp may insist on individual releases or waiver<sup>7</sup> forms from members of the user group.<sup>8</sup> It would be unusual for a camp to expect afternoon or evening wedding guests to sign a release. The hazards are minimal, the duration of the stay is brief, and the participation of the camp and its staff is limited. On the other

may require that the camp be named an “additional insured” on that policy. Special care must be taken in these additional insured arrangements, because that status may have unintended consequences. The camp must seek the advice of legal counsel, and a trusted insurance professional regarding the protection afforded by the policy and its endorsement. Generally speaking, the camp will want to be a “primary insured” under the policy, without right of subrogation against it. The camp should insist on seeing a copy of the endorsement, properly identifying the coverage which is provided to it. Requiring insurance is an important way to “back up” the user

supervision of all activities, an injury arising from those activities should be the responsibility of the user group. The agreement should provide that the user group indemnifies (protects and defends, including the payment of any liabilities, costs and attorneys’ fees, etc.) the camp (and its owners, staff, etc.) from any claim against the camp because of such injury. The camp, correspondingly, may accept legal responsibility for claims arising from aspects of the event assigned to it — for example, during times when the camp has agreed to supervise a backpacking trip, or supervise use of the camp climbing wall. Or, the parties might consider it fair to hold the camp responsible for hidden hazards or defects in the facility or premises — a broken porch railing, for example. The camp may agree either to limit the user group’s indemnity responsibility or actually agree to indemnify the user group for claims arising out of the camp’s area of responsibilities. This concept of “indemnity” is common throughout the United States and is a means by which parties may allocate legal responsibility between themselves. Work with your legal counsel to assist you in crafting these provisions, consistent with applicable state law. You may negotiate these provisions differently for different types of user groups (for example, the indemnity agreement for a facilities rental, where there is little or no camp involvement, will probably be different from the indemnity agreement in an arrangement where the camp provides the user group access to a variety of activities and facilities and provides some direct supervision).

### **Other Provisions**

Other important provisions might include:

1. How or under what circumstances the agreement might be terminated, voluntarily or otherwise;
2. A “severability clause,” describing that a provision found unenforceable shall not invalidate the agreement;

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hand, if a user group expects to be on the premises for an extended period, to rely on camp staff significantly, to use the waterfront facility, the archery range, the challenge course or water slide, for example, a release or waiver signed by the participants (or by their parents or guardians if they are minors) would be quite in order. It may be appropriate to ask the user group (in the written agreement with its representative) to be in charge of obtaining participant (and parent/s of minors) signatures on these forms, and returning those to the camp, sometime before the start of the event.

### **Insurance Requirements**

Customarily the camp will require the user group to have or obtain liability insurance for the event and, in addition,

group’s indemnity obligation (see below).

Importantly, the camp should communicate with its own liability insurance representative to assure that its activities with user groups are properly understood and covered by the camp’s existing policy. A camp’s insurance representative is usually an appropriate individual to review the insurance requirements for user groups.

### **Liability Issues**

Having identified the camp’s and the user group’s respective areas of responsibility, the document should reflect the parties’ agreement regarding legal responsibility, in the event of an injury or other loss. By way of example: if the agreement assigns to the user group the responsibility for conduct and

3. A provision describing that this is the entire agreement between the parties;
4. A provision specifying the law to be applied to the agreement;
5. A provision calling for mediation and determining costs to be born by the parties, in the event of a dispute over the agreement; and
6. A provision describing that each party should have workers' compensation insurance for their respective employees, as required by law.

### Parties' Signatures and Date

A place for the parties' signatures and date, potentially prefaced with a statement that the parties have "read and understand the agreement," as well as the parties' acknowledgment that the agreement is binding upon them.

### Conclusion

A camp should approach the variety of arrangements it may enter into with user groups in the same pragmatic and thoughtful way that it organizes and manages its mainstream camp programs. Take time to think through the issues with your lawyer and insurance representative, and develop a written agreement that clearly and accurately reflects arrangements that your organization makes with different user groups. Doing so will not only clarify the understanding between the camp and user group, but hopefully, minimize the risk of incidents, and decrease potential legal exposure. ■

*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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## *A camp's insurance representative is usually an appropriate individual to review the insurance requirements for user groups.*

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### References

- <sup>1</sup> 'User Group' is the term used in the *ACA-Accreditation Standards for Camp Programs and Services, 1998* ('ACA Standards'), to collectively define these outside parties (see, e.g., p. 13 and 192).
- <sup>2</sup> The ACA Standards note the value of these user contracts and a variety of key provisions to include in these types of documents. See, e.g., p. 13, p. 192, p. 222 (relevant standards noted for 'lease/rental' arrangement), p. 227.
- <sup>3</sup> *Id.*, p. 222 & 227. Legal counsel should also consider application of the ACA Standards as they apply to the camp's specific arrangements (for accredited camps, or those seeking accreditation).
- <sup>4</sup> See ACA Standards, PD 5, p. 105.
- <sup>5</sup> See ACA Standards, HW 21 – 23, pp. 68-70.
- <sup>6</sup> See ACA Standards, OM21, p. 84.
- <sup>7</sup> 'Release' or 'waiver' is a general term used to signify an agreement, signed by a participant, or the parent of a minor participant, before the event. The document can include a description of activities, an acknowledgement and assumption of risks, a release and indemnity provision, and other important content, oftentimes dictated by specific state law. Camps should work with their legal counsel to craft these documents, consistent with their own operation, and any applicable state law.
- <sup>8</sup> These forms can provide the camp with another layer of liability protection (in addition to the user group's indemnity agreement/insurance) in appropriate cases, as well as serve as a productive way to relay important information to user-group participants.

permanent neurological disability. The typical medical costs for a drowning victim who survives the event can range from \$75,000 for the initial emergency room treatment to \$180,000 a year for long-term care. Costs for caring for a drowning victim who suffers brain damage can be more than \$4.5 million. These figures do not include legal fees, court-awarded judgments, damage to the camp's reputation (which could impact donations), or bystander claims from a relative.

Two factors make a camp drowning very difficult to defend in court: it's reasonable to expect the aquatic facility to be maintained safely, and it's reasonable to expect appropriately trained supervisory personnel on the job during swimming activities to respond appropriately in a timely manner. In general, the only potentially defensible causes of a drowning at camp are pre-existing medical conditions (seizure or heart attack), and those defenses would be contingent on the circumstances of the entire situation (what was the camp told on the medical forms, what did the lifeguards know, etc.). The defense attorney would have to show that the youth would have died from the medical condition even if the camper had been on land.

There are three key elements for camp directors and aquatic risk managers to address: facility design, prevention and response. Each of these elements poses challenges that will be unique to your camp as well as elements that will fall under industry standards, certification curriculum, and governmental regulations.

## Facility Design

While the majority of drowning incidents at summer camps are directly related to lack of supervision, the design and maintenance of the aquatic areas can certainly contribute to a drowning or cervical spine injury. The following are risk management considerations for the design of your aquatic areas:

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- **Lifeguard Chairs:** The shape of a pool and the positioning of lifeguard chairs can create blind spots for the lifeguards. Chairs set on the deck away from the water create a blind spot immediately in front of the lifeguard. A good rule-of-thumb is to position lifeguards in an elevated position (usually 5 feet but check your state regulations) at the edge of the deck with a coverage zone of 45 degrees on each side. Lifeguard chairs should be equipped with an umbrella to reduce sun exposure.
- **Signage:** Most states require you to post "No Diving" signs and water depths on the deck of the pool or lake pier. Some states require you to post the water depths on the side of the pool above the water line. It's a good risk management practice to do both. Make sure you indicate the unit of measure (feet) for the water depth. A pictogram for the "No Diving" sign is also a good idea for those who can't read or don't read English.  
All aquatic areas should have signage posted detailing the rules of use. Many states have specific regulations about not only the wording of various rules, but also the specific font size, contrasting colors, and language.
- **Float Ropes:** All pool and lake swimming areas should have a safety-float rope separating the deep end from the shallow area. State regulations vary on the water depth, but most regulations fall around 4 feet 6 inches.
- **Size of Zones of Coverage:** Many aquatic areas, particularly open water, are simply too large for one lifeguard to cover. Remember, the lifeguards zone of coverage is three-dimensional, not just the surface. The size of the zone a lifeguard can cover depends on the clarity and depth of the water, swimming ability of the guard, additional rescue equipment (swim fins for example) that might normally be used, swimming abilities of campers, and other factors. A general rule-of-thumb is that a lifeguard should be able to get to anywhere in their coverage zone within twenty seconds.

## Prevention

The best drowning is the one that did not happen. Prevention is (or should be) 98 percent of the lifeguard's role. The role of prevention is probably the most overlooked element in terms of staff screening, training, skills verification, and equipping. Consider the following prevention risk management recommendations:

- **Swimmer Behaviors:** Little is done in the way of initial certification training to assess the swimmers and their behaviors. The lifeguard's role is not just to enforce the posted rules, but to identify potential problems and intercede. For instance, the nine-year-old nonswimmer who is holding onto the side of the pool and edging his way into deeper water should be instructed to go back before he slips

off the side. Few people drown while in a horizontal position; people usually drown in a vertical position. A key behavior lifeguards should target is a swimmer's ability to make forward progress in the water.

- **Staff Screening and Preparedness:** Many camp directors think that a "certification" equates to "qualification" for a lifeguard. This is a very dangerous and inaccurate assumption. Numerous camp directors have found forged lifeguard certifications. These cards were sold on college campuses, and the forgery came to light only when the lifeguard's swimming and rescue skills were observed to be lacking. A call to the issuing American Red Cross chapter showed they had no training records for the lifeguard.

Many factors can influence a lifeguard's ability to physically perform the job. Some physical factors can be dealt with, some cannot. If a lifeguard can't dive to the bottom of your swimming pool and retrieve a person using their rescue tube, then that lifeguard should not be guarding the deep end. That doesn't mean that they can't guard the shallower waters, or perhaps if the lifeguard is provided swim fins, they can perform the rescue in deep water successfully. Another physical factor that camps should address is the use of corrective eyewear and sunglasses. If a lifeguard can't see the victim, they can't perform their job properly, and the chance of a successful rescue diminishes. Polarized sunglasses are highly recommended, as they reduce the effects of glare. The US Lifesaving Association has determined that lifeguards wearing contacts and operating in open-surf conditions is a job disqualification due to the likelihood that the contacts can be dislodged in turbulent surf, even with the use of goggles. Job disqualification for use of corrective eyewear or physical limitation needs careful study and even legal advice.

Lifeguard preparedness is a mental exercise as much as it is physical. If a lifeguard is "zoning" in the chair on a hot day, they can be the great-

est rescuer in the world and it won't matter. Many factors can contribute to lifeguard fatigue including noise, amount of time spent in the sun, high temperatures, amount of water consumed, sleep deprivation, alcohol consumption, monotony, and prescribed medications. Fatigue can also significantly impact peripheral vision. Combine reduced peripheral vision with a lack of vigilance, and you have a deadly combination for almost any activity. Two steps camp directors can do to help address lifeguard vigilance include:

**Step 1:** Rotate lifeguard positions every twenty to thirty minutes. Simply getting up and moving around often helps as does a change of view.

**Step 2:** Inform lifeguards that part of their summer evaluation will include the question: "How well did the lifeguard maintain their health and demonstrate healthy behaviors to the campers during the summer?" That question covers everything from wearing sunscreen and washing hands, to getting enough sleep and being prepared to work following time off.

No single source lifeguard training certification is going to teach lifeguards 100 percent of what we wish they should know. Such a course would be time and expense prohibitive, which means that aquatic directors have to institute in-service training. The YMCA recommends at least two hours of in-service training

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per month during the high season and at least one hour a month at other times of the year. Additional time would be needed for facilities that have play elements or open water, as these have special procedures. Jeff Ellis and Associates mandates four hours per month for full-time employees and one hour per month (or four hours per quarter) for part-time employees. USLA requires a minimum of sixteen hours per year in rescue skills and refresher training, with additional time for monthly drills and daily workouts to maintain physical fitness and stamina. American Red Cross also recommends in-service training. The camp director's emphasis on making in-service training occur on a regular basis is an indicator of the safety culture of that camp. A word to the wise: document your in-service training. In court, if you didn't write it down, it didn't happen.

- **Visiting Groups:** Should a visiting group be allowed to swim in your pool or lake, or use your boats without a qualified lifeguard present? Absolutely not. Pools are viewed as attractive nuisances, and the host program (camp, school, club, conference center) can easily be held responsible for any injuries or deaths. Even in the winter, an outside pool is potentially dangerous in ways that many directors never considered. For instance, many youths roller blade or skateboard and would like access to a pool. Add accumulated rain water in the deep end of the pool and an unlocked fence, and your facility could soon be under new ownership.

What if the visiting group wants to bring their own lifeguard? Legally, this is a complicated and technical question, because the answer will vary according to the laws, statutes, and legal precedents set in each state. The legal concept here is referred to as "negligence per se," which basically means that if a program violates a statute/law/regulation then the program is negligent. Some states specifically prohibit the use of a pool without a lifeguard provided by the owner. Asking a visiting group to sign waivers or release forms is of little value in

these states. The host program cannot transfer the responsibility for the safety of the group at a pool (and probably a lake) facility. Here are two options for a visiting group wishing to swim at your facility:

**Option 1:** Any lifeguards with the visiting group would serve as extra spotters, not lifeguards. The responsibility for the group stays with the host program.

**Option 2:** The visiting group respects the host program's liability concerns and uses a swimming facility away from the host program.

The use of signage and posted rules around aquatic areas is very important for all aquatic facilities. It should come as no surprise that the wording, size of the letters, and possibly even the language (English, Spanish, etc.) could be dictated by state or local ordinances, which vary tremendously.

Groups that have access to canoes and other boats must also have access to the life jackets. If you don't want groups to have access to the equipment, lock it up.

## Response

A rapid response time is critical if a youth is to make a full recovery following a drowning incident. Most CPR classes state that brain damage does not begin until the person has been without oxygen (underwater) for about four to six minutes. However, a study of drowning claims at Markel indicates that the time frame for full recovery is much shorter. In fact, nearly all youths died when they were underwater for more than an estimated 90 to 120 seconds. Although there have been exceptions to this time frame, youths who recover often have severe cardiac, respiratory, or brain damage.

It is impossible to overstate the importance of opening, and if possible, clearing the airway of drowning victims. Simply opening the airway when the victim's mouth is above the water often results in spontaneous respirations.

There are some fundamental differences between the American Red Cross, YMCA, Jeff Ellis and US Lifesaving Association (USLA) airway-clearing training. American Red Cross lifeguards are taught to bring the victim out of the water (on a backboard if a spinal injury is suspected) onto the side of the pool before beginning rescue breathing and CPR. USLA, Jeff Ellis, and YMCA lifeguards are taught to try to establish an airway as soon as possible, even in the water. It's important that aquatic directors understand the airway-clearing protocols their lifeguards were taught, especially when lifeguards received training through different organizations. If your aquatics program operates at a lake with a large swim area, speak with your lifeguard training agency about which airway clearing protocols to use in your specific situation.

- **Portable Oxygen:** The International Life Saving Federation (ILSF) takes the following position on oxygen delivery: "The physiological benefit

of providing oxygen to spontaneously breathing drowning victims or during CPR in drowning victims in respiratory arrest is clear and advocates that oxygen should be used in all drowning victims." The major training programs (American Red Cross, YMCA, Jeff Ellis) all have courses in oxygen therapy. Most lifeguards take advantage of this training. Given the position statement of the ILSF, the fact that most lifeguards have the training, portable oxygen is relatively inexpensive, and the clear medical benefits, why would a camp not have oxygen at the waterfront?

- **Automatic External Defibrillators (AEDs):** There is an article in the Fall 2004 *The CampLine* on AEDs in the camp environment that covers this equipment. Suffice it to say that if you don't have one, it would be a good risk management practice to start budgeting for one.

## Summing It All Up

One philosophy that should guide your aquatic management decisions is "we will do everything we can to minimize the amount of time it takes to deliver that first breath." From lifeguard training, close proximity positioning, equipping the guards with the proper rescue equipment, to mock drills and facility inspections, we will do what we can to make our waterfront a model for others.

One YMCA director recently told me about their lifeguard competition. In three years, they have gone from ninety-seven participants to nearly four hundred. They have corporate sponsors giving prizes, and the competition has resulted in lifeguards all over the area practicing and preparing all year round. A lifeguard competition at a camp could be turned into an event day for the campers to reinforce the importance of the lifeguard's role and to recognize each individual. ■

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*Will Evans is the director of safety education for Markel Insurance Company.*

## Aquatic Organizations

- American Canoe Association, [www.acanet.org](http://www.acanet.org)
- American Red Cross, [www.redcross.org](http://www.redcross.org)
- Jeff Ellis & Associates, [www.jellis.com](http://www.jellis.com)
- International Life Saving Federation, [www.ilsf.org](http://www.ilsf.org)
- US Sailing Association, [www.ussailing.org](http://www.ussailing.org)
- US Lifesaving Association, [www.usla.org](http://www.usla.org)
- USA Swimming, [www.usaswimming.org](http://www.usaswimming.org)
- YMCA, [www.ymca.net](http://www.ymca.net)
- YMCA SCUBA, [www.ymcascuba.org](http://www.ymcascuba.org)

# Best Practices for a Successful Cultural Exchange Experience with International Camp Staff

Sharon Kosch

The availability of international staff is made possible by a number of organizations that are formally designated as cultural exchange programs by the U.S. Department of State (Bureau of Educational and Cultural Affairs). Over the last several decades, the use of such staff has evolved from a value-added opportunity into a vital resource for many American summer camps. As this trend continues, we must take care not to lose sight of the cultural exchange aspect of these programs. We must also remember that these governmental programs carry with them a number of regulatory obligations that international staff, camps, and agencies must meet. Compliance has a special significance these days in the delicate balance between increased concerns for security and support for cultural exchange.

American Camp Association (ACA) volunteers and staff meet regularly with the leaders of the international cultural exchange organizations who work with the camp community in providing international staff for camps. This partnership has allowed ACA to promote the benefits of the cultural exchange programs and to influence public policy affecting these programs. This unified approach with the agencies that recruit and screen young people from other countries to work at U.S. camps also allows us to address the issues and trends that have emerged in the programs and to isolate the basic expectations for participating camps.

In addition, ACA has enumerated exemplary practices, i.e., those practices that display a higher degree of commitment to the education and welfare of internationals and the tenets of cultural

exchange. These “best practices” directly contribute to the success of the cultural exchange experience for the camp and for the staff member. They also support the legal and regulatory obligations of the exchange visa program. Refer to [www.ACAcamps.org/international/practices.htm](http://www.ACAcamps.org/international/practices.htm) for a complete listing of ACA-recommended best practices for international camp staff.

As camp professionals, we unite to address environmental, educational, legal, and financial issues. We set standards for which we hold ourselves accountable, and we understand the moral and ethical aspects of conducting an enterprise that is essentially human in nature. It is reasonable, therefore, that we identify and engage in best practices as we employ counselors and support staff from overseas. Moreover, following such practices is consistent with ACA’s mission: “. . . *enriching the lives of children and adults through the camp experience.*”

Many ACA members already make extensive use of these practices. Whether you currently use international staff, or plan to do so in the future, we hope that they serve as a useful tool for benchmarking current methods and procedures. ACA will continue ongoing cooperation with camps and international staffing agencies to maximize and enhance the use of this most important human resource — international staffing programs — and celebrate the youth development opportunities these programs afford. ■

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*Sharon Kosch is chair of the ACA National Public Policy Committee. She is one of the ACA national volunteers who meets with the international cultural exchange organizations.*

## International Staffing Resources

The following agencies collaborated with ACA to create the Best Practices for international staffing at camp:

### **BUNAC/Summer Camp USA**

P.O. Box 430  
Southbury, CT 06488  
800-GO BUNAC  
203-264-0901  
Fax: 203-264-0251  
[www.bunac.org](http://www.bunac.org)

### **Camp America**

River Plaza  
9 West Broad Street  
Stamford, CT 06902-3788  
800-727-8233  
Fax: 203-399-5590  
[www.campamerica.aifs.com](http://www.campamerica.aifs.com)

### **Camp Leaders**

595 Race Street  
Denver, CO 80206  
303-333-5041  
[www.campleaders.com](http://www.campleaders.com)

### **CCUSA/Camp Counselors USA**

2330 Marinship Way, Suite 250  
Sausalito, CA 94965  
800-999-2267  
415-339-2728  
Fax: 415-339-2744  
[www.ccusa.com](http://www.ccusa.com)

### **Cultural Homestay International**

Camp Adventure USA  
104 Butterfield Road  
San Anselmo, CA 94960  
800-777-5724  
Fax: 415-459-2182  
[www.chinet.org](http://www.chinet.org)

### **InterExchange Camp USA**

161 6<sup>th</sup> Avenue  
New York, NY 10013  
212-924-0446  
Fax: 212-924-0575  
[www.interexchange.org](http://www.interexchange.org)

### **International Camp Counselor Program/YMCA**

5 West 63rd Street, 2nd Floor  
New York, NY 10023  
888-477-9622  
212-727-8800  
Fax: 212-727-8814  
[www.ymcaiccp.org](http://www.ymcaiccp.org)

### **International Counselor Exchange Program**

38 West 88<sup>th</sup> Street  
New York, NY 10024-2502  
212-787-7706  
Fax: 212-780-9283  
[www.international-counselors.org](http://www.international-counselors.org)

### **Jewish Community Centers Association of North America**

15 East 26th Street  
New York, NY 10010  
212-786-5126  
Fax: 212-481-4174  
[www.jcca.org](http://www.jcca.org)

# J-1 Visa Compliance Checklist for Camp Directors

## *Government Regulation*

### **Have I:**

- Acknowledged through the philosophy, programming, and staffing pattern of my camp that the J-1 visa program for camp counselors and summer work travel is a cultural exchange program and that all my international staff are involved in my camp's cultural exchange activities.
- Completed SEVIS validation procedures with my agency, according to the agency's requirements, after the arrival of each international staff member to my camp.
- Ascertained that I will comply with SEVIS procedures and will notify my agency if my international staff change addresses for any reason during their camp contract.
- Determined that all staff have Social Security cards or have recently applied for them.
- Reviewed my personnel procedures to be sure the placement agency is immediately notified of any personnel action involving an international staff member including official warnings, firings, and other disciplinary action.
- Reiterated to my international staff that they must return home upon completion of their program and that they cannot extend their J-1 visa.
- Complied with the state department regulation that camp counselor or support international staff may not function as nurses or health-care aides and cannot be used as au pairs/nannies.
- Verified that I have not violated state department regulations by placing camp counselor applicants in support staff positions.
- Provided arrival orientation specifically for the international staff and included a session discussing the visa implications of leaving camp prior to the completion of their contracts.
- Educated my administrative staff and myself about visa regulations and determined that we understand the differences between a camp counselor and a summer work travel visa.
- Ascertained that the pocket money for each staff member is appropriate according to agency guidelines and that additional money has been allocated to each staff member who works beyond the agency contract.
- Determined that my time-off policy is the same for both international and American staff.
- Determined that my placement dates for support staff do not interfere with their university obligations and are within the visa period set by the sponsoring agency and overseas embassy.
- Provided an evaluation of each staff member to the placement agency upon their completion of the program.
- Obtained worker's compensation insurance for staff according to my state regulations.

## *Sponsor Agency and American Camp Association Recommendations*

### **Have I:**

- Sent information to my international staff prior to their arrival at camp indicating the specifics of their job responsibilities and general information about my camp.
- Included international staff information in my orientation for all staff.
- Obtained copies of certifications, health forms, background checks, passports, and visas for each staff member.
- Provided my health center and administrative staff with information about health and accident insurance coverage for international staff.
- Familiarized my administrative staff and myself with the return flight procedures of each agency and participant's country.
- Reviewed the visa dates, grace period, and projected work dates of each staff member to ensure all comply with the dates of placement at my camp.
- Confirmed international staff have been informed by their agency about rules regarding leaving and reentering the borders of the U.S. during their visa period.

Rev 1/5/05

# How Will Sarbanes-Oxley Affect Your Organization?

Debra Ladyman, C.P.A.

In response to corporate and accounting scandals, the Sarbanes-Oxley Act of 2002 (the Act) was signed into law July 30, 2002. Enacted to restore public confidence and trust in America's corporate sector, the Act makes publicly traded companies, their senior management, and boards of directors more accountable for financial management and reporting practices.

While the Act does not directly apply to nonprofit organizations (NFPs), many provisions of the Act are being embraced by NFPs as part of carrying out their fiduciary responsibilities. Several large NFP trade associations and oversight bodies are providing related recommendations to their members.

Following are some of the key provisions of the Act that your organization may wish to consider voluntarily adding to its corporate governance framework:

## *Establish an Audit Committee*

Many NFPs have created an audit committee as a subcommittee of their boards of directors. An audit committee has responsibility for oversight of the NFP's financial-reporting processes, and NFP management is accountable to the audit committee on such matters.

An audit committee also may have the responsibility to hire, oversee, and compensate the NFP's external auditors. The committee should communicate with the auditors about significant accounting policies and judgments made by management and should pre-approve nonaudit services provided to the NFP by its external auditor.

In selecting an audit committee, and to achieve increased benefits from it, NFPs should consider the Act's requirements for public company audit committees:

- **Independence** — Each member should be an independent member of the board of directors; these individuals should not be members of management and should not receive compensation from the NFP other than for their board service.
- **Competence** — The NFP should attempt to have at least one "financial expert" as a member of its audit committee.

## *Management Responsibilities*

NFPs should consider developing a code of ethics for all employees, including senior management. NFPs also should obtain conflict-of-interest statements from management and the board of directors to clearly establish the organization's self-dealing policy.

Some NFPs also are requiring their chief executive and chief financial officers to certify the NFP's annual financial statements are stated fairly. Management also is responsible to establish and maintain proper internal controls, including those over financial reporting.

## *Whistle-Blower Protection*

Organizations should develop procedures for managing employee complaints and allegations, including developing a process that employees can follow to report inappropriate activities and still maintain their anonymity.

## *Retain and Destroy Documents*

For their protection, NFPs should implement policies for record retention and periodic destruction, covering print and electronic files and documents, voice mail and electronic back-up procedures. They also should periodically assess system reliability.

If an official investigation is in progress or is expected to occur, the organization's policy should clearly state the NFP will stop all document purging until the completion of the investigation.

## *Set Proper Tone*

Be proactive: as your organization responds to the increasing emphasis on corporate governance, assess your board practices and operations. This will help protect your image and reputation and build stakeholder and constituent confidence and trust. In addition, management should emphasize to all organization employees the importance of their fiduciary responsibilities and that inappropriate behavior by anyone in the organization will not be tolerated. ■

## NFP Resources

- Council on Foundations — [www.cof.org](http://www.cof.org)
- National Association of College and University Business Officers (NACUBO) — [www.nacubo.org](http://www.nacubo.org)
- BoardSource — [www.boardsource.org](http://www.boardsource.org)
- Independent Sector — [www.independentsector.org](http://www.independentsector.org)

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