

Camp Mandated Reporting Requirements and Related Issues — An Update

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A camper tells a counselor of events at home which the counselor believes might constitute physical abuse, beyond reasonable punishment. A camper is overheard telling cabin mates of sexual activity with a school teacher during the prior school year. A parent reports, that when her child arrived home from camp, he complained that he awoke one morning to find his shorts had been taken off during the night as he slept. A counselor “punishes” an unruly eleven-year-old camper by forcing him to spend the night alone in the woods adjacent to the camp. A counselor observes two six-year-old male campers touching each other’s private parts while in the swimming pool. A counselor finds that six teenaged female campers are filming each other “goofing around” naked in the shower-house.

Are these events reportable to state authorities under applicable state laws which require the reporting of suspected child abuse? The descriptions of events may have been exaggerated. The events “back home” may not have occurred at all! When does punishment become abuse? And when does sexual activity exceed “mere” teasing, experimentation, and curiosity? Camp directors must be prepared to answer these questions — and others which may be tougher — in order to protect the children in their care and to be in compliance with the reporting laws in their states.

Introduction

This is an update of “To Report or Not to Report . . . Is That the Question?” by Marge Scanlin which appeared in the October 1996 issue of *The CampLine*. We will focus here on the legal duty to report incidents of suspected abuse — physical, sexual, and emotional. Camp directors may consider other obligations in response to such incidents — ethical, cultural, or otherwise. For example: a camp may choose to report an incident it is not legally obligated to report and to report it to persons other than those authorities mandated by law. In the context of these incidents, camps must also consider policies regarding reporting to parents, and internal reporting — staff to camp director. We will address these latter topics briefly in our discussion below. We will also touch on ways in which camps can be proactive in training and preparing staff in the important effort to identify abuse, minimize incidents, and comply with these reporting laws.

The topic is important, for a number of reasons:

- Reporting laws are designed to protect the health and welfare of our campers. Nothing could be more important.
- The ACA Camp Crisis Hotline service continues to receive numerous calls reflecting uncertainty regarding the legal obligation to report suspected abuse of a child. The calls increase each year. This increase may be the result of increased

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confusion about mandated reporting laws, more incidents, or a heightened awareness of the reporting requirements — ACA representatives are unsure as to the cause of the increase. Whatever the reason, we are grateful that the questions are being asked. Hopefully, the increase reflects better recognition of abuse and a new understanding of the potential for harm if matters are not addressed promptly by trained professionals.

- A variance between states’ laws identifying who is obligated to report what, and to whom, has compounded camps’ uncertainty regarding reporting obligations.
- The bottom line — reporting is the law! Statutes impose penalties for failure to report (and immunities for those who report in good faith).
- An understanding of the laws may prevent an incident, and importantly, your camp will be better prepared to recognize abuse and potential abuse, and know how to respond to any allegation or incident.

Minimizing Chances of Abuse and Maximizing Staff Awareness

Before reporting becomes an issue, responsible camp directors will have taken a number of steps to reduce the chances of an incident of abuse at camp and to train staff to recognize abusive situations. These steps include:

- Staff training to prevent abusive conduct (their own conduct and the conduct of others at camp); to recognize acts of abuse and their symptoms (the abuse which affects the child may have occurred at another place and time); and to understand reporting requirements. (For a sample Child Abuse Prevention Policy, see the Resource CD that accompanies the 2006 *Accreditation Process Guide*, HR 11C.)
- Criminal background checks, including checks of sexual offender registries, of staff and of others (including contractors) likely to have contact with the campers.
- Knowledge of local laws that identify abuse and reporting obligations (consult with your attorney and representatives of appropriate agencies).

- Relationships with local agencies charged with the responsibility for handling reports of abuse. This can include in-service staff training with representatives of those agencies.
- Written policies for reporting, internally, incidents of suspected abuse, including clarity on who is to report and how. Policy details can include, among other things, how contact will be made with a parent or parents of the child (who may be implicated in the suspected abuse).
- A culture and process that encourages staff reporting, even if the incident involves a fellow employee.
- Written rules of behavior for staff and campers, addressing abusive conduct and the resulting consequences. These might include a carefully crafted requirement that suspected abusive conduct be promptly brought to the attention of camp management. (See the October 1996 *The CampLine* article previously mentioned and the ACA Resource CD, HR 11D for sample Behavior Guidelines.)
- Your camp and camp management are informed of ACA standards that address abuse and reporting issues. These standards include the following:
 - Staffing: HR 3 (Hiring); HR 4 (Staff Screening — 4A is mandatory re: sex offender registry checks); HR-8 (Personnel Policies); HR 11 (Training); HR 12 (late hire training); HR 13 (In-service Training); HR 15 & 16 (Staff/ Camper interactions and Behavior Management); HR 18 & 19 (Supervision of Staff and Supervisor Training); HW 19 (Parent Notification).
 - Other — Staffed Public Providers: PT-14, PC-17, PD 29, PH-17 identify different activities staffed by an outside provider, and require the camp to provide supervision (have a camp staff member on the trip) for activities staffed by outside providers.

Reporting Requirements

Reportable Abuse or Neglect

What type of abuse are we talking about, what are the reporting requirements for camps and camp staff, and to whom should they report? There isn't as much clarity on these points as we might like, and, as noted above, state requirements vary. It is important to remember, in any event, that the issue is the welfare of the child — that is, the child who is the subject of the suspected abuse.

State laws may define child abuse and/or neglect, and these definitions may be linked to that state's civil child protection laws. Physical, sexual, and emotional abuse are common and broad terms used in the context of these reporting laws. Definitions of "neglect" can include a child's (lack of) physical or emotional care, feeding, or guidance in the home — or possibly even extend to that occurring in the camp setting.

The bottom line is — when in doubt, report! Reporting a known or suspected crime is not within the scope of this article, but we will address the issue generally. If you've reported abuse to state

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and county authorities pursuant to state child protective laws, that agency will oftentimes report the alleged abuse to law enforcement authorities, or possibly advise you to report, if they suspect a crime is involved.

ACA Standards

ACA Standard HR 11 requires that camps have written evidence that their staff have received training in camp programming and camper supervision, including (among others) the following topics: "Recognition, prevention, and reporting of child abuse, child-to-child, as well as adult to child, both outside of and during the camp setting." OM-13 requires that staff members file written incident reports with the camp, and HW-19 requires camps to have a written policy that informs parents or legal guardians of when, and in what instances, the camp will notify the parents of an illness or injury to campers. Other ACA standards highlighted in the "Minimizing Chances of Abuse and Maximizing Staff Awareness" section discuss how to raise awareness on abuse issues.

State Law Requirements

In many states (see ACA's Web site: www.ACAcamps.org/publicpolicy/regulations/report.pdf for a helpful breakdown), state law requires that camps be licensed by the state — oftentimes the Department of Health and Human Services (HHS) or other regulatory agency. This licensing may be accompanied by regulations that lay out licensing requirements. Often, these regulations will detail reporting requirements, both those that must be made to the actual licensing body in the event of a suspected abuse, as well as to the county social services or law enforcement agency — tracking the state's child protection laws' reporting requirements. A state's child protection laws may circle back and dictate mandatory reporting requirements for those that must be licensed to operate under the child care licensing laws (like camps), or, mandate reporting for "licensed counselors" or other professionals. Reporting laws, like those in Texas for example, appear to apply to anyone: "A person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter."

Time frames are often short. They may be "within twenty-four hours" or "immediately" to report to the county department of social services or appropriate agency, as well as to the state licensing body. Note that you don't need to have actual proof that abuse was committed in order to be required to report. Common language in this context may include "reasonable cause to know or suspect" that abuse has been committed. For example, the wording of Colorado's reporting law states that a mandated reporter must report abuse or neglect when [he or she has]: "...reasonable cause to know or suspect that a child has been subjected to abuse or neglect or who has

Note on Criminal Laws

Child abuse and/or neglect can be defined in state laws and linked to that state's mandatory civil child protection reporting requirements. In addition, there is likely a definition of child abuse and/or neglect included in the state criminal code that outlines when the alleged abuse or neglect may constitute a crime. Criminal reporting requirements can be even broader than those outlined in a state's civil child protection laws, requiring "every corporation or person who has reasonable grounds to believe a crime has been committed" to report promptly to law enforcement authorities. Like civil reporting laws, criminal reporting laws may provide the reporter with limited immunity from liability if the report is made in good faith.

observed the child being subjected to circumstances or conditions which would reasonably result in abuse or neglect..." Sometimes, the licensing body's internal reporting requirements are dependent upon an incident the camp has determined is reportable to the department of social services or law enforcement agency under the child protection laws. Check your state's requirements.

If the alleged abuse occurred at your camp or in the county in which your camp is located, the abuse is likely reportable to the authorities in that county. However, if the alleged abuse occurred outside of camp, or in another state, sometimes there is an option to report to the county in which the child resides, or in which the incident is alleged to have occurred. Again, check your state's laws.

Benefits of Reporting

First and most importantly, mandatory state reporting requirements are the law. If abuse is suspected, the main goal is protecting the future safety of that child and other children that may suffer at the hands of the abuser. In addition, the reporting camp may benefit from the county's assistance in its (the county's) subsequent investigation of the incident, with the appropriate authorities involved. Lastly, the camp remains in compliance with state law and licensing requirements. Have your legal counsel review your state reporting laws. A common benefit of following mandatory reporting requirements can include limited immunity from civil and criminal liability, if the alleged abuse is reported "in good faith." An additional benefit may be protection for employees from retaliatory discharge if they have reported in good faith. These benefits are intended to encourage reporting to benefit the greater good.

Note that failure to report when mandated, or knowingly filing a false report, may itself constitute a crime and result in liability, civil or criminal — including fines.

Reporting to parents may not be required, but you most likely will feel it critical to report an incident to the parent, or to all parents

in that session or in that cabin. Again, ACA standards require camps to provide parents with their reporting policy. Use care in crafting a policy that fits your camp mission and ethics, as well as informs parents of mandatory state or county reporting requirements.

Reporting "up the chain" is an important issue to address with camp staff. Again, staff should be trained on how to avoid and prevent abuse in camp, as well as be trained in how to spot abuse and report abuse, whether that abuse has occurred on or off the camp premises. Although you may have a reporting "chain of command," there must be a plan B that allows staff to report immediately if their supervisor isn't available. Camp processes should not hamper or delay mandatory reporting requirements!

What about the gray areas? If there is a question — be proactive and report! The cautious camp will undertake some preliminary research (if only an interview of the staff member or other person who observed or learned of the incident) to determine if or how close the event comes to meeting the reporting criteria. Has there been, as one state's statute requires, "mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning"; or "physical injury resulting in substantial harm to the child or the genuine threat of substantial harm"; or "sexual conduct harmful to the child's mental, emotional, or physical welfare." If your research creates a suspicion that a reportable abuse has occurred, your legal duty is clear. You and your attorney should understand the wording and requirements of your particular state's laws.

Much will depend on the apparent impact on the child. We have seen instances where camper parents contact the camp with a suspicion that abuse may have occurred at the camp based upon a camp incident that left open only the mere possibility of abuse (the "missing shorts" incident, described earlier, that occurred during nighttime sleeping hours). Camps that are proactive and report these incidents are able to develop a record, as well as benefit from professional assistance from county and state authorities. Often, the county is required to conduct an investigation, and arrange for a trained professional to interview the child. Whatever the outcome of the investigation, the camp will appear, rightfully, to have acted proactively in the best interest of the child. If abuse is found, the child can be protected, and the camp is in a better position to adjust its programming to avoid problems in the future. The camp's relationship with the parents or guardian of the children in its care should be able to tolerate — even embrace — this reporting strategy, particularly if the reporting commitment has been made clear to those persons up front.

Conclusion and Pro-active Steps

We'll say it again — when in doubt, report! Camps are about caring for kids. Reporting suspected harm to a child is the right thing to do. Abuse and neglect have harmful and long-term effects. Even if the incident didn't occur in your camp, train staff to not turn a blind eye to these important matters. If you haven't done so already, implement staff training on child abuse, reporting requirements regarding suspected child abuse, and ethical considerations. Do

