



Summer camps on campus: A risk management guide for postsecondary professionals

There are a number of benefits to postsecondary institutions hosting summer camps on campus, including community outreach, revenue generation, recruitment of potential students, and positive publicity. However, such programs can also expose the institution to risk and administrative burdens. Importantly, the presence of minors on campus is accompanied by a different set of federal and state laws, duties and responsibilities, and policies and procedures than those which apply to the presence of college students.

To assist postsecondary institutions in navigating the preparation for and implementation of summer camp programs on campus, Thompson Coburn's Higher Education practice has created the following best practices guide. This tool can be used in conjunction with the free, 90-minute, on-demand webinar, "Best Practices and Risk Considerations Relating to Summer Camps on Campus," available for viewing at thompsoncoburn.com.

Camps typically arise at institutions via one of two structures: an institution-sponsored camp or a third-party-sponsored camp. Many institutions host both. An institution-sponsored camp involves the institution planning, staffing, and controlling all aspects of a camp. A third-party-sponsored camp involves the institution leasing its facility to a third party to run its camp on the institution's premises. The institution's considerations differ based on the camp structure. The guide is divided accordingly.

While many of an institution's considerations remain consistent year-to-year, the COVID-19 pandemic has expanded the scope and demands of summer camp planning. In addition to any applicable state requirements, institutions may need to alter normal camp protocols in the following ways:

- More staff to account for potentially increased employee leave;
- Division into smaller groups of campers for activities;
- Fewer campers overall to ensure social distancing;
- More outdoor activities;
- Staggered drop-off/pick up;
- Appropriate social distancing for activity/age group;
- Relaxed cancellation/refund policy;
- Overnight arrangements (i.e. one camper per room; increased ventilation);
- Dining arrangements (i.e. prepackaged boxes or bags);
- Discourage sharing equipment/belongings;
- Staff leave policies that are flexible/non-punitive;
- Encourage reporting of illness and COVID-19 symptoms;
- "Podding" groups; and
- Hand washing breaks/ hand sanitizer stations.

Further, institutions should establish a plan for COVID-19 exposure. For example, staff members or campers who come in close contact with an individual who tested positive for COVID-19 may be required to take a COVID-19 test or complete a quarantine period. The institution should implement protocols for contact tracing and providing notice of COVID-19 cases to campers and families. For additional information, we recommend reviewing the Centers for Disease Control's Guidance for Operating Youth Camps and the American Camp Association's COVID-19 Resources.

Please note that this guide is not a comprehensive review of every consideration necessary to hosting a summer camp on campus. The process is complex, and institutions are strongly encouraged to consult counsel as they work toward providing these services.





Best Practices Guide for Institution-Sponsored Summer Camps on College Campuses

Before Camp

- **Approving Camps:** Consider who at your institution is responsible for approving a particular camp and what information decisionmakers need to see (i.e. proposed schedules, business plans, revenue projections, or requested support from the institution).
- **Insurance:** Consider whether your institution's insurance covers the following:
 - Operation of camp for minors (property; comprehensive general liability; worker compensation; health insurance for the owner, staff, and campers; personal property; vehicle liability);
 - Sexual misconduct/molestation for minors; and
 - Business interruption.
- **Staffing**
 - **Screening:** Establish a staff screening process that considers state law screening requirements and varies in accordance with the employee or volunteer's level of access to children. The American Camp Association suggests that camps require:
 - » a criminal background check,
 - » at least two references, and
 - » a personal interview for all new staff based on camp property.
 - **Employment and Payroll:** Appropriately classify counselors and staff as employees, independent contractors, or volunteers. If considering using stipends, take care to follow applicable laws.
- **Minors:** Establish a "Protection of Minors" policy and implement protection of minors training, including education on mandatory reporting obligations, spotting signs of abuse or harassment, and rules regarding social media posts.
- **Forms and Agreements**
 - Use forms and agreements that include the following provisions:
 - » **Assumption of risk:** This provision provides a potential defense to claims of negligence. Assumption of risk clauses should be as specific as possible, identifying known hazards and avoiding general language. Further, the clauses should directly address risks associated with COVID-19.
 - » **Hold harmless provision:** This provision relieves one party of blame or liability for damages.

- » Indemnification: This provision allocates risk. In the context of summer camps, the provision assigns the risk of covering certain claims and losses to the camper/their guardian.
- » Medical Acknowledgement and Consent: This provision certifies that the camper can safely participate in the camp and gives consent for medical treatment and care in the event of an injury.
- » Photography and video release: This provision is necessary if the camp is planning to take and/or post to social media photographs or videos of campers.
- » Cancellation: This provision should address the circumstances under which the camp could be cancelled or rescheduled and the applicable refund policies under those circumstances.
- If the camper is under 18 years old, the camper's guardian should sign the forms and agreements, as well.
- Note that institutions using electronic signatures should ensure that the signing procedures abide by relevant federal and state laws and regulations.
- Payment
 - Determine the method(s) of payment the camp will accept.
 - Ensure the payment process meets all PCI DSS compliance standards.
- Revenue: Determine whether the camp will keep the revenue it generates or if the revenue will be deposited into a general fund for the institution. Determine further how the revenue arrangements affect camp budgeting.
- Training
 - In addition to specific training regarding protection of minors, camp staff should receive training regarding rules and expectations; emergency protocols and emergency contact information; illness and injuries; and missing camper protocols.
 - Compliance with all trainings should be tracked and monitored.
- Vendors
 - Perform due diligence on any vendors selected, particularly if vendors have any access to campers.
 - Ensure appropriate contractual terms are included.
- Drop Off/Pick Up
 - The age of the campers will guide this policy.
 - Designate a location for pick up/drop off. Consider requiring:
 - » a photo ID for the individual picking up a camper;
 - » a list of individuals permitted to pick up each camper; and
 - » additional forms and/or releases if a camper is permitted to walk home or take public transportation.





During Camp

- **Camp Rules:** Consider creating and enforcing camp rules covering behavioral requirements; free time; cell phone usage; dorm rules (if applicable); prohibiting weapons and drugs; rule violations, dismissal from camp, and refunds (if any); and COVID-19-specific rules.
- **Activities:** Be deliberate in choices of camp activities, understanding the risk that each may pose.
- **Health Information:** in compliance with applicable law, institutions can request health information forms in order to prepare to accommodate disabilities, allergies, and medication needs. If a camp plans to request such information, the camp should narrowly tailor questions to only the information necessary, ensure confidentiality, and plan to destroy sensitive information.
- **Medication:** Camps must consider how to address storage and administration of medications. This includes considering whether the camp will have access to a nurse or trained medical professional, where the medication will be stored, and what medicine (if any) will be in the personal possession of campers.
- **Disability Accommodations:** State and federal law (the Americans with Disability Act and Section 504 of the Rehabilitation Act of 1973) may govern disability accommodations. In considering appropriate accommodations process and procedures, ask for assistance from trained institution staff, if possible.
- **Scenarios:** Conduct hypothetical exercises exploring responses to common situations that occur during camp to better enable staff to respond and make appropriate decisions in real time.

After Camp

- After each camp term, consider reviewing problems and issues that arose, opportunities for improvement, and the efficacy and functionality of policies and agreements. Evaluate any changes necessary to camp rules, camp administration, security, training, emergency protocols, payment procedures, and insurance.
- **Record Retention:** Retain documents according to the length of time dictated by the relevant statute of limitations.
 - Note that unanticipated claims may arise well after the end of camp.
 - Confidential documents may need to be destroyed after the camp period.



Best Practices Guide for Third-Party-Sponsored Summer Camps on College Campuses

Before Camp

- Approving Camps: Consider who at your institution is responsible for approving a particular third-party camp and what information decisionmakers need to see.
- The Agreement between the Institution and the Third-Party
 - Scope of the Agreement: Describe the arrangement with specificity. Consider including the following:
 - » The purpose of the use of certain facilities, the facility care instructions, and the dates and times during which facility use is permitted. Detail which party is responsible for property damage and replacement costs;
 - » Appropriate insurance coverages, quality of coverage, and amounts;
 - » The third party's fee, deposit requirements, security deposits, and refund policies;
 - » A prohibition on the third party's use of the institution's logo, mascot, trademarks, or other indicia of the institution;
 - » The third party's supervisory responsibilities of campers and background check requirements;
 - » A security plan, as appropriate;
 - » The third party's compliance obligations under applicable laws, regulations, and institutional policies;
 - » The consequences of cancellation by the institution;
 - » The consequences of cancellation by the third party;
 - » A policy for refunds of deposit or fees in the event of cancellation; and
 - » A force majeure clause.
 - Operations: In the event that a third-party camp is run by an employee of the institution as an LLC, ensure that there is a clear understanding of when the employee is working for the institution and when the employee is working for the camp. In addition, resist the temptation to allow the employee to use institutional administrative support for the camp. Finally, take care when marketing camp as to employee affiliations.

During Camp

- Understand the appropriate level of oversight (and distance) between the institution and the camp.
- Make sure the institution and third parties are aware of appropriate points of contact.
- Review and understand the rights of institution under the contract and the obligations of the camp.
- Scenarios: Conduct hypothetical exercises exploring responses to common situations that occur during camp to better enable staff to respond and make appropriate decisions in real time.

After Camp

- After each camp term, consider reviewing problems and issues that arose, opportunities for improvement, and the efficacy and functionality of policies and agreements. Evaluate any changes necessary to camp rules, camp administration, security, training, emergency protocols, payment procedures, and insurance.
- Record Retention: Retain documents according to the length of time dictated by the relevant statute of limitations.
 - Note that unanticipated claims may arise well after the end of camp.
 - Confidential documents may need to be destroyed after the camp period.

For inquiries regarding the summer camp risk management guide, the "Best Practices and Risk Considerations Relating to Summer Camps on Campus," webinar, or other issues relating to hosting summer camps on campus, institutions are welcome to contact Scott Goldschmidt at sgoldschmidt@thompsoncoburn.com.

The information contained herein is provided for educational and informational purposes only, and should not be construed as legal advice. You should not act or refrain from acting on the basis of any content included without seeking legal advice based on the particular facts and circumstances at issue.

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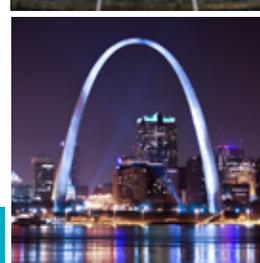
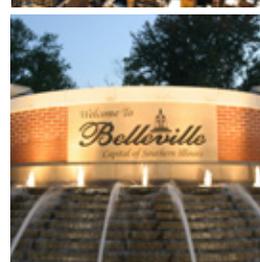
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