



October 30, 2008

Ruth Charbonneau, Director  
Office of Legal and Regulatory Affairs  
Office of the Commissioner  
Department of Health and Senior Services  
PO Box 360  
Trenton, NJ 08625-0360

**RE: PRN 2008-296**  
***NJ Youth Camp Safety Standards Proposed Readoption with Amendments***

Dear Ms. Charbonneau,

I am writing on behalf of the American Camp Association, NJ Chapter (“ACA NJ Chapter”), in response to the proposed readoption with amendments of the New Jersey Youth Camp Safety Standards (“NJYCSS) at N.J.A.C. 8:25. ACA represents not for profit, for profit, religiously affiliated day and resident youth camps. There are just over 100 ACA accredited youth camps operating in New Jersey for whom we represent and speak on behalf of with these written comments.

We have had the opportunity to work with the Department on many of these proposed revisions and compare New Jersey’s requirements to the ACA’s own standards for accreditation. As the Department is aware, the ACA’s accreditation requirements far exceed the state’s requirements for youth camps under the NJYCSS. As a result, ACA camps have already implemented many of the changes the Department is proposing in these regulations. However, there are a few areas we would request clarification or amendment.

**N.J.A.C. 8:25-3.2 Staff**

We have several comments related to the proposal at N.J.A.C. 8:25-3.2 for youth camp staff screening. The ACA is committed to the physical and emotional safety of children and youth. This commitment is reflected in the education, training, publications, and camp standards that ACA provides. ACA believes that camps should utilize multifaceted screening and hiring programs and support practices appropriate to the program consideration of each camp. An important aspect of any screening program is biometric-based criminal history background checks for all staff and volunteers with access to children, youth, or vulnerable adults. We are not in disagreement with the intent of this

section's requirement, but rather request the some clarification on the application of these new screening tools.

**Character Reference Checks.** The ACA NJ Section requests that the Department reconsider the new requirement for three (3) character reference checks for staff screening as proposed at N.J.A.C. 8:25-3.2(g)2. Specifically as it relates to younger staff members without extensive resumes and work experience, obtaining three character references from individuals not related to them can be challenging. The ACA has had experience in this area and currently recommends that its accredited camps obtain at least two (2) reference checks for new camp staff in its Accreditation Standards.

*ACA NJ Section recommends the Department reduce the number of character reference checks required under N.J.A.C. 8:25-3.2(g)2 from three (3) to two (2), especially in light of the extensive staff screening being proposed in these regulations.*

**Criminal History Background Checks.** The ACA-NJ Section strongly request that that the Department include language authorizing the use of an alternative, comparable resource(s) for criminal history checks for camp staff as proposed at N.J.A.C. 8.25-3.2(g)3. The current language requires that the youth camp operator or director consider the criminal history of each staff member obtained *specifically* and *only* through the New Jersey State Police ("NJSP") website at [http://www.njsp.or/about/serv\\_chrc.html](http://www.njsp.or/about/serv_chrc.html) . Based on the proposal, a youth camp shall either order a criminal name check or a more extensive fingerprint check for each staff member. The New Jersey State Police website fees range from \$18 to \$41 depending on the type of background check you request and advertises a 10 day turnaround time for either service. Many of our camps have utilized this NJSP service in the past and find it extremely unworkable for youth camp operations. The cost is high, regardless of whether it is incurred by the youth camp or paid by the prospective staff, and the turnaround time for NJSP experienced by many of our youth camps goes well beyond 10 days and upwards to 3 months, which is obviously a problem for youth camps with staff being hired for an 8 week period of employment.

The ACA's national office has identified well over a dozen private vendors with the ability to conduct criminal history background checks with significantly lower costs and faster turnaround times than the New Jersey State Police site. Just as an example, many ACA for profit and not for profit camps already use National Background Invest. Inc. (<http://www.nationalbackground.com> ) or Intellicorp® (<http://www.intellicorp.net>) and can access a Criminal History Record Search, Social Security and Address Verification Report, and Sex Offender Registry search for a prospective staff member with results in *real time* or within 24 hours for a total cost ranging from \$8.00 to \$10.00 per search. ACA has been working nationally with many of these private vendors to help ACA members receive a package of services specific for youth camps. Allowing youth camps operators to seek out alternative, cost-effective and timely access to criminal history background information for prospective camp staff will better serve the intent of this proposal.

*ACA NJ section strongly recommends that N.J.A.C. 8:25-3.2(g)3 be amended to include other comparable resources for criminal history record information as an alternative to the NJSP website in order to provide youth camp operators or directors with flexibility to comply with the requirement in this proposal in a timely and cost-effective manner.*

**Criminal History Background Checks for Minors.** The ACA Accreditation Standards also limit criminal history background checks to camp staff 18 years and older since juvenile records are unavailable and even when tried as an adult, information for minors is not typically included. To require youth camp operator or the prospective minor staff member to incur the cost for a criminal history search that will yield no information does not serve the intent of the Department under N.J.A.C. 8:25-3.2

*ACA NJ Section requests that N.J.A.C. 8:25-3.2(g)3 be amended to require criminal history record information only for prospective staff members 18 years and older.*

**Sex Offender Registry Checks.** We would also ask you to consider a similar amendment to the proposal at N.J.A.C. 8:25-3.2(g)4 which requires sex offender registry checks for each staff member.

New Jersey's ACA accredited camps are already required by the ACA to provide a sex offender registry check for each staff member annually. The ACA Accreditation Standards mandates the use of the United States Department of Justice, National Sex Offender Public Registry website at <http://www.nsopr.gov>. This site is similar to Family Watchdog®, which is the required registry outlined in this section of the proposed regulations, as it provides the public free access to each participating state Sex Offender Registry under one searchable site. As more of these resources become available to the public, it is appropriate to allow youth camp operators greater flexibility to comply with these new requirements to better serve the intent of this proposal.

*ACA NJ Section strongly recommends that N.J.A.C. 8:25-3.2(g)4 be amended to specifically include the United States Department of Justice, National Sex Offender Public Registry website <http://www.nsopr.gov> and also provide language to recognize the use of other comparable national sex offender registry websites to comply with the requirement in this proposal.*

It may also be important to note that the proposed requirement that both the national and New Jersey specific sex offender registry sites be checked is redundant and requires youth camp operators to check a prospective staff member twice. New Jersey's Sex Offender Registry participates in the existing national registries and therefore the need to check both is unnecessary.

*ACA NJ Section recommends the proposal be amended at N.J.A.C. 8:25-3.2(g)4ii to require the New Jersey Sex Offender Internet Registry be checked only when the New Jersey's registry does not participate in the national registry check required under N.J.A.C. 8:25-3.2(g)4i.*

**Criminal History Background Checks and Sex Offender Registry Checks.** ACA NJ Section is requesting clarification as to the application of N.J.A.C. 8:25-3.2(g) and (i).

Application. ACA NJ Section requests that the Department clarify its intent as to the application of the new staff screening requirements under N.J.A.C. 8:25-3.2 for the 2009 camp season. It is not clear whether it is the intent of the Department to require camp operators or directors to apply the proposed staff screening requirements, particularly the criminal history record and sex offender registry checks, to only prospective camp employees beginning with the 2009 camp season, or whether the Department is seeking to have the proposed staff screening requirements apply to all camp employees, current and prospective, for the 2009 camp season?

*ACA NJ Section strongly requests that the new staff screening requirements, specifically the criminal history record information, be applied only to new camp hires beginning with the 2009 camp season. If is the Department's intent to capture all employees current and prospective for the 2009 season, the ACA NJ Section strongly recommends that the Department consider phasing in the proposed staff screening requirements, specifically the criminal history record information, over the 2009 and 2010 camp seasons.*

New Hires. As we consider the application and impact of N.J.A.C. 8:25-3.2, it is also important to address the issue of what is a “new” staff member in the context of generally accepted practice in the camp industry. Specifically, N.J.A.C. 8:25-3.2i provides that camp operators do not have to secure a criminal history check or a sex offender registry check annually for staff employed continuously with no interruption by the camp. As a point of information, ACA accredited camps are currently required under ACA Accreditation Standards to perform a sex offender registry check on all staff *annually* regardless of whether the staff's employment has been continuous or interrupted. However, ACA recommends that criminal history background checks be secured only for all *new* staff hires, seasonal and year-round. Staff, according to ACA's interpretation in this context, is considered “new” upon initial hiring, and if there has been a break in employment of 12 months or more.

The ACA NJ Section would ask the Department to strongly consider a similar definition of “an interruption” in staff member's employment by a camp. When a counselor is initially hired by a camp for the June through August camp season the camp operator or director needs to consider an initial staff screening as proposed under N.J.A.C. 8:25-3.2(g). However, once the camp season is over, that staff counselor is no longer employed by the camp. Under the proposed rules, this is an interruption in staff member's employment by the camp and that counselor will now become a “new hire” for the following June-August camp season with that camp. ACA NJ Section believes that the Department needs to recognize that this scenario may be unique to the camp industry where seasonal staff members remain constant year after year and are not “new” or “prospective” employees of the camp.

*ACA Section recommends that the Department amend N.J.A.C. 8:25-3.2(i) to clarify that no new criminal or sex offender history checks are required for camp staff that has had no interruption of employment greater than 12 months from the initial background check.*

Annual Screening for Employees. The following comment, we believe, is an inadvertent omission as it relates to N.J.A.C. 8:25-3.2(i). N.J.A.C. 8:25-3.2(g) requires the youth camp operator or director to determine whether each staff member's conduct disqualifies that person from employment at the camp by considering certain background information outlined in subsections (g)1, (g)2, (g) 3, and (g)4 *each camp season*. This includes prior employment history, character reference checks, and criminal history and sex offender registry checks. Then, N.J.A.C. 8:25-3.2(i) exempts staff that has had no interruption in employment from annual criminal or sex offender history check for each camp season.

Therefore, it follows that this proposal, as written, would require a camp operator or camp director to perform new prior employment history and character reference checks required under N.J.A.C. 8:25-3.2(g) 1 and 2 each camp season even for staff members who have no interruption in employment by the camp from the time of the initial background check. ACA NJ Section does not believe this is the intent of the Department with respect to continuously employed staff members of the camp.

*ACA NJ Section would recommend that the language in N.J.A.C. 8:25-3.2(i) be clarified to also exclude prior employment history and new character reference checks for staff members who have had no interruption in employment by the camp from the time of the initial background check.*

### **N.J.A.C. 8:25-10.6 Privies and pit-toilets**

Another section requiring clarification from the Department is the prohibition of privies and pit toilets at youth camps.

The Department defines a pit toilet as a receptacle for the containment and disposal of excrement which is not connected to a pressurized water supply and a privy as an outbuilding with one or more seats containing a pit for use as a toilet under the New Jersey State Sanitary Code – Public Campgrounds at N.J.A.C. 8:22-1.2.

It is the understanding of the ACA NJ that the New Jersey Department of Environmental Protection (“NJDEP”) recommended that the Department include the prohibition of pit toilets and privies in the proposed regulations. The NJDEP is currently working on regulations to prohibit large capacity cesspools in New Jersey based upon a federal ban adopted by the United States Environmental Protection Agency in 2005. The NJDEP has determined that pit toilets and privies are captured in the definition of large capacity cesspools and therefore will be banned in New Jersey upon the adoption of future NJDEP regulations. The EPA defines a large capacity cesspool to include a non-residential cesspool (a shallow system for disposing sanitary waste) that has the capacity to serve more than 20 persons per day.

Ms. Charbonneau

Page 6 of 6

The ACA is not aware of any other state taking the same position as the NJDEP with respect to the inclusion of privies and pit toilets in the definition of large capacity cesspools as it relates to the implementation of the EPA's ban. But for this NJDEP interpretation in an upcoming proposal, the Department would have continued its previous policy on existing privies and pit toilets at youth camps for the readoption of the NYCSS.

It is the ACA NJ Section's position that pit toilets and privies located at youth camps are not large capacity cesspools. With that said, the Economic Statement in this proposal states that the Department anticipates only a small number of youth camps, if any, would incur costs for the new requirement prohibiting privies and pit toilets. The ACA NJ Section is very concerned that the Department and the NJDEP is underestimating the impact this prohibition may have on youth camps, particularly New Jersey's not for profit youth camps and Girl Scout and Boy Scout camp properties throughout the state. Many of these youth camps have privies or pit toilets located in very remote sections of their property where it would not be possible to replace them with a sewage disposal system, a waterless toilet or a portable toilet as provided in the proposal at N.J.A.C. 8:25-10.6(b).

*It is ACA NJ Section's strong recommendation that the Department remove N.J.A.C. 8:25-10.6(a), which specifically prohibits youth camps from using existing privies and pit toilets, until such time a final determination is made by NJDEP in its regulations on the question of whether pit toilets and privies are also subject to the federal ban on large capacity cesspools. We would certainly request that the Department consider providing a timeline for compliance with the Section if it were to be adopted as is.*

On behalf of the ACA NJ Section, we thank you in advance for your consideration of these comments to the Proposed Readoption with Amendments to the New Jersey Youth Camp Safety Standards. Thank you, again, for the opportunity to provide this feedback on behalf of the ACA accredited camps represented by the ACA NJ Section.

Please feel free to contact me with any questions or clarifications at (908) 238-9900.

Sincerely,



Tom Riddleberger  
President  
ACA, NJ Section