

## TRANSCRIPT: I WANT TO HOLD YOUR HAND – A WEBINAR ON SEXUAL HARASSMENT & SEXUAL MISCONDUCT

Alan Cooper: Welcome to I Want to Hold Your Hand, the first in a series of webinars presented by the A. M. Skier insurance agency addressing timely topics in the camping industry. My name is Alan Cooper, and I'm general counsel and claims director at A. M. Skier, and I will be moderating this webinar.

Today, we will be discussing an issue that is on everyone's mind, sexual harassment and sexual misconduct. I've heard many times that what was acceptable in 2017 is no longer acceptable in 2018, but I must disagree. Sexual harassment was not acceptable in 2017 nor in prior years. The difference is that now people are willing to come forward and to do something about it.

We will therefore focus upon the before and after, how to prevent harassment and misconduct by creating a culture within your camp that makes clear such conduct is unacceptable and how to react in the event a claim is made. The concepts we will discuss apply to both day camps and residential camps as well as to conduct both on campus and away from camp during time off.

In order to facilitate this discussion, we are joined by a panel of experts with various experience in this field. Kara Klaus-Major is the director of International Sports and Training Camp in Northeastern Pennsylvania. Fran Mendelowitz is a clinical social worker with vast experience treating the mental health aspects of sexual harassment and sexual assault. Tony Sherr is an attorney with over 30 years of litigation experience defending camps against claims of workplace misbehavior.

At the conclusion of this session, we hope that we have provided you with strategies to combat what is sure to be an issue of great concern to all.

How we're going to start off is just to address, telling you something that you already know, how important this topic is and how it affects the camping world and the success of the camp on how a camp operates, and Kara, if you just take a minute or two to discuss that.

Kara Klaus: Yeah, I think it's so important, the culture of our camps, the culture that as directors that we set and as leadership team members, and when it comes to the rules and policies and structure and philosophy that we create safe environments for both our staff and our campers. We all have a passion for camp. That's why we're here. We all want everyone to walk away as better, stronger people, and we want to protect any wrongdoings or any negative things as much as we can. So really it's just about talking about what we can do

as camp directors, as camp professionals, to try to protect our populations and have healthy experiences.

Alan Cooper: Kara, are you concerned that this year might be different in terms of responding to these issues and receiving complaints and being brought to your attention?

Kara Klaus: I think every year camp directors face a lot of challenges, and some years it's epidemics and some years it's all different, and I think this year obviously sexual harassment is going to be a hot topic. We need to educate ourselves as much as possible, and that's why I'm honored to be here to learn as much, to share as much, because yes, sexual harassment, sexual discrimination, they are going to be hot topic items that we need to be able to respond appropriately to.

Alan Cooper: Okay, now Francine, I think it's important so we understand, obviously, I would hope all of us here and everybody listening feels that sexual harassment's inappropriate and sexual misconduct and would like to prevent it to be able to properly address it, but can you, from a clinician standpoint, let us know why is it so important? Obviously it being the right thing to do, what effect it has on people and what effect it might have on the operation of camp?

Francine Mendel: I think that's a great question. I think this is a very timely topic. It's so important that we're having this discussion. What I think is that when people go to camp, especially staff members, they go because they think camp is fun. They go because camp is safe, and they go because camp provides for them a sense of belonging, a surrogate family of sorts, and so I think that when they encounter sexual harassment, they lose all of that and they lose their sense of self-esteem. They come into contact with self-blame and self-loathing, and that leads to anxiety and it leads to depression, and they no longer can function as a staff person at camp.

Alan Cooper: It almost sounds like it's even more important than a typical workplace because of the relationship of camp. Situations where, when I was a prosecutor and we would deal with sexual assaults, and when the sexual assault was among family members it was so much more difficult to deal with and had such a different kind of effect. Not that any sexual assault's acceptable, but when that breach of trust from either a family member or somebody else, a clergy, a scout leader, a coach, somebody like that who you feel that you have that bond with breaks it, it has even a more negative effect.

Francine Mendel: Absolutely. It's institutional betrayal, but it's betrayal and it's a wound that's inflicted by a nurturing force, and that causes such tremendous trust problems and self-esteem problems. The research has shown that these kinds of wounds end up showing up up to 10 years later, so and for many staff people this is their very first work experience, and the research is showing that 10 years later, and in my practice, it can be 20 and 30 years later, that we're working on these issues, on the trauma that's been inflicted.

Alan Cooper: Now, Tony, we're going to get into some nuts and bolts, legal issues, and just a couple of minutes, but the notion of what can happen. What have you seen in terms of the types of litigation that you deal with, what effect that litigation may have either if not just monetary but from a reputation standpoint of view, from a time-consuming standpoint of view, I mean the importance of avoiding this.

Tony Sherr: Well, the importance of avoiding it is obvious on a couple levels, but mostly what has been discussed here as to somebody's self-esteem, you're ruining the whole feeling of the camp when something like this happens, and more than anything it's important to deal with it right away, not let anything linger, and make sure that whatever caused this that is eradicated, and more important than that is try to prevent it from the beginning, and I think that's what we really need to address today.

Alan Cooper: So let's address it. So we'll start with you, Tony, and work back the other way. Give us, in a few minutes or less, the nuts and bolts of sexual harassment, especially as it applies in the unique situation of a camping industry, both in day camp and in sleep-away camps where there's some issues that take place that are unique to sleep-away camp environments. You can start.

Tony Sherr: Sure. Essentially there's two kinds of harassments. One is known as quid pro quo, and that's where the harasser, impliedly or otherwise, is expecting something in return for a good assignment, for a nice evaluation, whatever it may be, and there it's definitely the situation where you have a superior with a person below them, somebody who is being supervised by that person.

The other is the hostile work environment, and that speaks for itself where the person being harassed feels that this is creating a hostile work environment and something that he or she doesn't want to work in. One of the most important concepts when talking about sexual harassment is that the subjective mind of the harasser does not matter. It does not matter whether the person being accused of harassment intended to harass somebody. It's looked at from the point of view of the person being harassed, and it's their subjective determination as to whether or not the conduct which is being complained of is harassment or not. So it has to be looked at specifically from the point of view of the person being harassed.

Alan Cooper: I mean, in my experience that I understand, the quid pro quo is much more obvious, obviously, and in the camp setting probably not as likely to occur because it's a short season. It's seasonal work, and that idea of promotion and pay raises and things like that are less likely. Not that it can't happen. I want to address two issues when you talk about the hostile work environment, one being my belief that a lot of times the harassers don't think they're harassing.

They think they're telling a joke. They think it's funny. They think somebody may like to be complimented, and obviously there's a difference between saying, "You look nice today," versus, "Wow, that really makes your chest look big," or

something like that. Obviously those are two extreme examples, but that idea of bringing it to their attention and making sure that they're aware of something happening so that they're made aware of it because otherwise, even if they don't know, if the recipient feels they're being harassed that's where the action takes place.

So, Kara, let me ask you how do you address that? What would you say to your camp to avoid that situation that somebody who is feeling they're being sexually harassed in the workplace knows what to do, how to stop it? What would you say about it?

Kara Klaus: Yeah, I think so much is about the tone that the directors and the leadership team set from the beginning, whether it be from orientation or your training. I think that people need to know that it's not acceptable behavior. So if you set the standard high and you say, "This is what's acceptable, and this is what's not," then you're removing as much gray as you possibly can, and that way, if someone is harassed or they feel they're being harassed, they are going to feel very comfortable to come to whether it be the director or their leader or whoever it may be, to say, "Hey, I'm uncomfortable." So I think it's so important that the directors, the owners set the tone that it's just not acceptable whatsoever.

Alan Cooper: So how do you do that? Obviously, you don't want that to happen at your camp, and everybody says, "I'm going to set that tone. We don't have that." How do you do that though? I mean really, other than saying, "Don't do that. Come forward," how do you change it, create that culture, or if that's not your culture, how do you change it?

Kara Klaus: Right. Well, I can only speak from our experience, and we do have a lengthy orientation. It's about a week and a half, and we cover all of that in great detail. We take a lot of the A. M. Skier documents about sexual harassment, and we also have a guest speaker come in from A. M. Skier, which is so helpful. So we go over it, and then they have someone else that they're hearing that's a professional to come in and go over it as well.

In the past, we've also had police officers come in, different pillars from the community come inside, and really let staff know that this is an important issue, and if something happens, you have to follow through. You cannot say, "This is our policy," and not enforce it because then I think everyone knows that it really doesn't matter what they say. I think you have to set the standard, educate your staff, educate everyone as to what's acceptable in your camp culture, and then if something does happen, you need to be able to follow through.

Alan Cooper: Fran, you suggest that ... I know throughout camp there are staff meetings and issues that get addressed, and I know certain topics are considered to be so important that camps often like to bring in an outside person, a police officer, an expert, somebody to talk about child abuse and certain kinds of important activities. Do you think that's enough?

Francine Mendel: What I think is that it's the beginning of a conversation. So I think that orientation is the perfect time to start the conversation, but I do think that if we don't continue to reinforce that throughout the summer what could happen is people could get friendly and they could let their guard down a little bit. So I think that the conversation needs to be perpetuated.

I think that we need to create civility training or something called It's On Us, which is a training, like a bystander intervention training, so that it's not about just a victim and a perpetrator, it's about a camp community, and I think that we need to train everybody at camp to step up, to buddy up, if they recognize something like sexual harassment, they can't keep it a secret. They must speak because harassment is perpetuated through secrecy. So I would continue that training, and I would make safe spaces for people to talk about it throughout the summer.

Alan Cooper: Create that culture where people feel, I would think, not only that it's safe to come forward and you'll be protected, but the notion that we want this, because what you spoke on earlier, we don't want this going on at camp. It's not a legal issue. I mean it could be a legal issue and hopefully it doesn't. We're going to talk about how to prevent that, but not that we don't want it because we want our staff operating at top efficiency and not have these other things to deal with and they're impinging on their performance. So please, if something's going on, we got to know about it so that we can address it.

Francine Mendel: Right. I think it's a little complicated, and also because some of the staff members are children, and if they do see other staff members as family like perhaps even father or mother-like, it's very hard for them to come forward if it's about somebody like that and they tend to keep it secret and they hide in self-blame and in shame and they are party to something called betrayal blindness like, "This couldn't really be happening. This is my camp. This is the place that I belong. It couldn't be happening," and so we need to let them know that even if it's that difficult, they have to push through that and talk to someone.

Alan Cooper: Kara, you want to say something?

Kara Klaus: Yeah. I would like to add on from, and this is a lot of times I'll sit and I'll go, "Okay, well how can we do that?" It's just an idea. We have a weekly one-on-one meeting with every staff member, and it's just about 10 minutes long and it starts with, "How are you doing? How are you feeling?" If we notice that they're a little down, we'll say, "Are you okay? How are your energy levels?" Establishing that from the get-go right at the beginning and having that consecutively every week, you really do your ... Their immediate director establishes strong bonds with them and makes it more likely that they're going to come forward because you're essentially checking in with them once a week just to make sure everything's okay, and it just might be a tool that you're interested in using because I highly recommend those one-on-one, 10-minute meetings with each staff member.

Alan Cooper: Now, Tony, we had ... Every camp has, I assume, a sexual harassment policy, and if they don't, they should, and we have a form that we send out. You can go to the EEOC website and get something as well, but beyond that, Tony, what would you suggest about how to create that culture in a way that if there is an issue that comes up you've done your due diligence from a legal perspective?

Tony Sherr: A couple points here to make initially and on the question, Alan, and one is that you have to remember that it does not have to be opposite sex, number one. Number two, the harassment does not have to be a supervisor. The harassment can be a visitor. The harassment can be a third-party vendor who comes to the camp, works on a contract basis for a week or so.

Alan Cooper: A parent.

Tony Sherr: Could be a parent. It could be a peer. It could be a coworker. So it's more than just staff on staff, and you have to be aware, and I think talking to the people and understanding where they're at at any given time is very important, and more important than that even is to have a peer network. In talking about a policy, a written policy, it's very important in terms of legal liability to have written policy, but it's probably even more important in terms of training that you have an adequate policy, and should note here that probably worse than not having a policy is not following your policy once you have a written policy. It's very important to follow that written policy.

There are essential things that must be in the policy, and one of the most important things, and this is a training issue as well, is how do you report harassment? How does it get reported? What we find a lot of times is that a person, a 20-year-old child essentially, is very reluctant to talk about something to the director who might be 40 years older than that person, a parent, and in a completely different place. So you want to make sure that in your policy and in your training that the reporting system is one that can be followed easily by someone who is feeling harassed and feels comfortable. You want to make sure that that person feels comfortable in telling someone, and then you can work it up the line, and then the issues become, once you as a camp learn that somebody's feeling harassed, what do you do next?

The most important thing in that aspect is to make sure that an adequate investigation is conducted. What is an adequate investigation is a fact-specific, facts and circumstances-dependent, in determining what you should be doing in your investigation. Without a doubt, the alleged harasser and the alleged person being harassed must be interviewed. They each must know that the other person is being interviewed. The interviews should be conducted by a professional, in most cases.

Alan Cooper: Realistically. Realistically in an eight-week summer session, if the notion of the harassment is, "He's snapping my bra, he's ..." Realistically, to bring in an outside person, a lawyer, a private investigator, might be difficult. So obviously, that's one way to go, and in one serious ones might be the only way to go, but in

these kinds of things, someone brings that to your attention, you interview those ... It's common sense about how to conduct, I would say, that factual investigation, so ... I'm sorry. Go ahead.

Tony Sherr: I'm sorry. Go ahead.

Alan Cooper: Well, my issue was so you've done this investigation and let's say your conclusion is that the guy snaps somebody's bra strap or made comments about her breasts or inappropriate comments or using bad ... something like that. What do you do?

Tony Sherr: Well, once you've conducted this investigation, and in your scenario we'll assume that it's 50/50. It's he said, she said. There's no independent evidence to show who's wrong and who's right. Well, in that case in this current atmosphere with 50/50, our recommendation is always give that complaint credence and do something about it in terms of discipline. It may be-

Alan Cooper: What would be appropriate discipline in the scenario I just gave you? Does somebody get fired for that? Do you speak to that person? Do you give them a second chance? How does that-

Tony Sherr: Under that scenario, it doesn't sound like somebody should get fired for snapping a bra. Somebody should get some type of discipline, maybe we talked about docking off days or [crosstalk 00:19:55]

Alan Cooper: Whatever camp, but not automatically termination.

Tony Sherr: Not automatically terminated and that person is sent back to the training, if you were, and that person needs to be retrained and understand, and because you're in the closed environment of a camp, these things are not going to remain confidential, so it probably should be addressed with the entire staff, again, as a retraining, as a point in time where going forward this is not tolerated.

Alan Cooper: Let me add one comment. I want to swing back to Kara with some questions. So one other thing I would say is if you're going to have that notion of there are various people that you can report to, whoever you're comfortable with in a certain level, make clear that they are not to resolve these issues on their own. It's still an issue for the director to decide what to do, not for the 25-year-old supervisor to say, "Don't worry about it. It's not a big ... Suck it up and deal with it." It always should be brought to the director who makes that final decision.

Tony Sherr: We would say that on a much broader scale that once a complaint is made, it cannot be withdrawn. It cannot be set aside. It has to be dealt with mostly because if it's put aside and it's not dealt with and there's a recurrence, a lot of problems.

Alan Cooper: Okay, so question for everybody before we change into something entirely different. So you receive that report and you make that decision that whatever internal type of discipline. How do you protect the accuser? You had pointed out it's a small community. They're young people, and it's one thing to say, "Come forward," and an offshoot of that is when the accuser says, "This is between you and me. I don't want anybody to know. I don't want my name to come out. I'm just letting you know that so-and-so is snapping bras." How do you handle that when the accuser says, "I am making this on a condition of confidentiality"? I'll start with Tony, and we'll go around.

Tony Sherr: I think you have to emphasize in that case that it can't be completely confidential, that the incident itself has to be dealt with, and the person being accused has to be confronted about it, and that there may not be any confidentiality. In terms of protecting the reporter, and this is another area of training, and there's something in the law called retaliation, and retaliation occurs after a person makes a report and something else happens to that accuser by the accused. It has to be emphasized almost as much as there's no tolerance for sexual harassment, there's absolutely, positively no tolerance for any type of retaliation whatsoever.

Alan Cooper: It's just part of your culture.

Tony Sherr: Yes.

Alan Cooper: So almost like when a child comes and says, "I have something I want to tell you. Promise you won't tell." From the beginning, you have to say, "I cannot make that promise to you," because you certainly don't want to make that promise and then break it.

Tony Sherr: That's correct.

Alan Cooper: Okay, would you, Kara, or Francine, do you have anything to that before we switch topics a little bit?

Kara Klaus: Yeah. I would agree, and I'll go back to my point about the training and the policies that you had talked about. I know we use a policy that's from A. M. Skier where right in the training they are told that a full investigation will take place. So they know upfront, ahead of time, that we've said, "We will be talking to the accuser and we will be talking to the accused." So it's something that they might ... It might not be in the forefront of their brain, but they have heard it before, so it's not like it's going to totally surprise them. So I think that's important to say, to follow the policy, and that you've already put that out at the very beginning of their camp experience.

Alan Cooper: Coupled with the policy of no tolerance for retaliation.

Kara Klaus: Right.

Alan Cooper: Okay.

Tony Sherr: It has to be, if I may, [inaudible 00:24:11] the emphasis, though, you don't want to chill people from reporting-

Kara Klaus: No.

Tony Sherr: ... because it's not going to be confidential.

Kara Klaus: Yeah.

Tony Sherr: So you have to go over that at the beginning as well that-

Alan Cooper: There's protection as well.

Tony Sherr: ... you have to report it, but you're going to be protected.

Kara Klaus: Yeah.

Alan Cooper: Francine, anything to add to that?

Francine Mendel: Right. I would just offer a little more support to that person who came forward and to let them know also that this could be helpful to others in the future, but most importantly that you're glad that they came forward and that it's not their fault, and if there's anything else that they need in terms of emotional support that the staff is available to them.

Alan Cooper: Okay, so let's move into something a little more difficult, and it may affect sleep-away camps more, but I think it's a day camping issue as well. Let's start with the sleep-away. It's a day off, it's a night off, and the staff members return from the night off and someone complains to you, and as Tony said, it doesn't have to be male to female. It can be female, male, male, whatever the case may be. Staff member complains to you, and she says, "We were out last night. We were drinking. We were in the woods. We were in a hotel room, and we were kissing, and next thing I know ... I don't know what happened. I woke up. He was on top of me, and I think he may have had ... I don't know, and I'm telling you now."

Okay, and all the issues that we talked about or with confidentiality, they still apply. So now we have this, it happened off campus, or let's even take it a step further. It's a day camp, and they said, "We had an informal party. It was a camp thing we had on Saturday night. We were out drinking, all the staff members, and the same thing took place, and I'm telling you, camp director, this." So it was off camp property and off camp time, okay?

I got to confess, for years our position was generally, "It's not a camp event. I mean we can be supportive. We can be helpful. If people want to contact the

police, we will be as supportive as we can, but this was not a workplace event," okay? I stand corrected, and in this year we had an incident like that and working with a particular camp and with their advisors, we came to the conclusion that that's no longer the case anymore, and the feeling being this still remains a camp event. That's not sexual harassment. I'm going to call it sexual misconduct, some of which could border on or cross the line over into criminal conduct. So let's go through, again. Let's discuss then again. We'll start with Kara and go through your experience with that or your feelings towards it.

Kara Klaus: Yeah, I think one of the wonderful things about camp is that people can become so close and so comfortable with each other, but the danger is that it is so easy to cross the line or to even know where the line is. For a lot of these staff who are 21, 22, they might not have figured out where the line is yet, and then when you add alcohol into the mix, it's like the line disappears. Again, I would go back and too say, "What is your culture? Do you permit drinking on days off? Do you look the other way to underage drinking?"

So I think that is very important when it comes to preventative and saying, "Again, this is our camp culture. This is not acceptable." Then if something does happen, it's so important when it becomes a much more serious nature like this that you reach out to people like A. M. Skier and they're professionals and they're experts because I think that's when it becomes so important that we are doing everything properly.

Alan Cooper: Okay. Francine? Anything to add?

Francine Mendel: I think this is very tricky, and I think that it can be the precursor to some pretty severe mental health consequences. So I would agree with Kara wholeheartedly, and I would first and foremost let the person know again that you're glad they came forward, it's not their fault, and then I would move forward with not just providing help on the part of camp staff, but I would bring in a specialist to work with the victim and potentially ... I don't know what's going to happen [crosstalk 00:28:13]

Alan Cooper: Someone who's potentially been the victim of a crime as opposed to being hostile workplace.

Francine Mendel: That's right. I think it's a different situation, and I would definitely [inaudible 00:28:21]

Alan Cooper: We all agree that I was wrong last year and I'm right this year, that this is an event that can't be poo-pood and needs to be addressed not exactly as if, but not to be dismissed just because it happened away from camp.

Tony Sherr: We do agree, and the scope of protection, if you will, is much broader than just on the clock at camp, and we recommend in establishing the jurisdiction of the workplace and in this case the camp, in your policy you establish a wide

jurisdiction and let people know that it's not just what happens on the facility itself. Anything that's going to affect the workplace when these two people go back to work is going to be of concern to that camp and to you as an employer, and therefore the jurisdiction is extremely wide, and it could have anything to do which affects when they get back on to the campus and ... You're right now, Alan.

Alan Cooper: Okay. Thank you. It's nice to be right sometimes. So I have two issues then that I want to talk about, and by the way, that includes a day camp, the Saturday night party among camp staff too.

Tony Sherr: Absolutely. Absolutely.

Alan Cooper: Okay. So let's address this two ways. First issue I have is, and we'll see which order we want to do it is. We'll take a vote. Issue number one, that's great. How do we do everything we can to prevent it? Okay, some practical tips for that number one, and number two, when that comes in, what to do about it in the sense we investigate. We talk maybe in that instance you might want to bring in somebody from the outside if necessary. We certainly encourage the victim. If he or she wishes to involve law enforcement, we'll be supportive. The usual tips that apply when law enforcement is involved, you don't want the police coming to camp issue. You're going to bring the person there and give him or her as much time off as they need in order to address that.

So let's talk about prevention first, and then we'll say, "But if we can't prevent it," a couple questions. So one thing that I have found, and we'll go around, is this notion that Kara brought up about alcohol, and how alcohol affects judgment, not just from the victim but also from the perpetrator, that somebody who might never do anything like that gets drunk and judgment is impaired, and as I always like to explain to camp counselor, and I speak to them, there is a continuum. There is a line where somebody is able to consent and somebody's passed out drunk, and that's a rape. When you move along that continuum where someone has had enough to drink where maybe they're capable of consent and maybe they're not, and if they are on the wrong side of that line and some judge or jury or police officer makes that decision, that staff member is now a rapist. So be very careful in putting yourselves in situations where you're at higher risk for these crimes to take place.

Everyone I've ever seen, and this is in years as a prosecutor in an area where there's 60, 70 camps around, and working here, there's alcohol. We have never had in camp, that I'm aware of, with one exception many years ago of a stranger rape, somebody jumping out of the bushes. It's an acquaint ... always someone they know and think they can trust, and the important thing is it almost always takes place in an area where help is not readily available if needed, in a hotel room, away from the group in the woods. So if something is going south, there's nobody there to stop it, nobody there to hear it, and those are the danger spots.

Now I know, Francine, you had talked about an idea you had mentioned earlier about a buddy system. When you're in high-risk areas, in the pool you have a buddy system, and developing and encouraging or even mandating a buddy system for time off from camp. Can you explain that?

Francine Mendel: Absolutely. I would add that to any training. You can call it civility training. You could call it bystander intervention training. You can call it buddy training. What's most important is to let staff members know that they don't let friends leave alone when they're in an altered state, when they're drunk or maybe not even, maybe in an altered state because there's something going on in their lives that's causing them to have impaired judgment. Friends need to have a buddy that will watch out for them if they think they are going in that direction. We don't want them to leave alone, so friends don't let friends get into that position if they can help it [crosstalk 00:32:50] perpetrator. And the perpetrator.

Alan Cooper: Friends of both the male and the female or both males and both females. "Dude, you're too drunk to be doing this. You're [inaudible 00:32:56] Don't-

Francine Mendel: That's right.

Alan Cooper: Because you're going to get yourself in trouble. The both of you are too wasted.

Francine Mendel: Just like you would take their keys away.

Alan Cooper: That's a great idea. Great idea. Tony, anything to add on that? Any ideas you would have?

Tony Sherr: The one thing I would like to add on this is that in writing your policy and in training, the emphasis has to be on that this policy is victim-centered, and that in close calls, 50/50 calls, you're going to come down on the side of the victim's account. If you want to take that out further in talking about the situations you're talking about, if you, victim, can't give your account, you're unable to because of your impairment, then you can't be helped, and that's where the policy's going to end and-

Alan Cooper: You're placing yourself at greater risk.

Tony Sherr: That's a training issue, and that has to be emphasized from the outset that even though this is a victim-centered policy, we're going to believe the victim, and the other side of this is well, here you have this other person who's being accused of harassment, and what is that going to do to him or her and what is that going to do to him or her reputation moving forward? Well, in this situation, because it's a victim-centered policy, and you're going to try to take this from the point of view of the victim to prevent it, and in talking about prevention itself, that that person who puts the person who's being accused of harassment can't put himself in that situation because he may not be able to explain himself.

Alan Cooper: He's at risk as well. Correct.

Tony Sherr: He's putting himself at great risk for being falsely accused, and again, this is a training situation.

Alan Cooper: So but I can hear people out there, and I'm thinking it myself, so you're guilty until proven innocent?

Tony Sherr: Essentially that's true. There's no due process with respect to how we're going about disciplining someone who's being accused of harassment.

Alan Cooper: Okay. All right. So let's go ... so in their scenario, we've done our investigation. We've done everything we can. It's he said, she said. They're both altered. She says, "This is what I think happened. I'm not sure." The guy says, "I don't remember a whole lot. I thought she was ready, willing, and able. I don't know if I did anything wrong." Now you have, at a co-ed camp, you got the men on one side, you got the women on the other. You have this 50/50 situation. You're not sure. Nobody wants to call the police, and when I say nobody, the victim does not wish to involve law enforcement. What do you do? Do you terminate the individual?

Here, let me set up some scenarios. Scenario number one is you say, "I don't know what happened. I'm not going to fire somebody based on evidence that's not clear-cut, so we're going to talk to everybody and explain what's going to happen going forward, and if anything like that happens again you're out of here." That's one scenario. Another scenario is to say, and I've camps who've done this, is to say, "You know what? This is a difficult situation. You've been the victim of something here, and if you want to go home to be with your family, that's perfectly understandable. It's encouraged. It's fine. We'll pay you. That's not the issue, and guy, same thing. We're not sure what happened, but to have you here is going to create a situation here, so we're sending you home too as well with pay." Another alternative is to just send the guy home with pay, and fourth alternative is to get rid of him and not give him a nickel.

Don't let me forget, Francine, to add a clinical component to this in terms of victims and dealing, processing this through the camp if people are going to remain at camp or even if people aren't going to remain at camp, almost as you would deal with some sort of other kind of tragedy at camp. So but before [inaudible 00:36:49] don't let me forget, let's start with Kara. What do you think of those four scenarios? Where would you stand? Again, it's 50/50. It's 50/50 here. I just don't know what happened, and the accusation is something that this is not snapping a bra. This is something that could conceivably construed as criminal activity.

Kara Klaus: Yeah. For me, in this scenario that they both can't remember what had happened, I think that they're both the victim in many ways, if they're both at the situation where they can't really remember what had happened. So I think it

is important to talk with each of them with empathy and compassion because they're both feeling like they're victims.

- Alan Cooper: The perpetrator is a victim?
- Kara Klaus: If he can't remember and she can't remember, if she can't fully remember, I would look at them both that way, yes.
- Alan Cooper: Okay, and what would you do in that scenario?
- Kara Klaus: Again, I would definitely call in professionals for help, but it sounds like they have crossed the rules of our camp in the fact that they have become so drunk that they couldn't function properly, and in that case, I would feel comfortable in letting them both go. Again, I would have to have more information. There would have to be further investigation, but from the standpoint of we say, "Do not come back to our camp intoxicated because ... " Are we assuming this was off camp or [crosstalk 00:38:11]
- Alan Cooper: Off camp.
- Kara Klaus: Okay. All right. So it was off camp, so that's a little bit different, but again, everything would have to be taken into account.
- Alan Cooper: Okay. How about she says, "He did it. I'm sure of it," and he said, "No way did I do anything like that," and that's all the evidence you have, and it's 50/50, and you just can't tell? Does that change the scenario?
- Kara Klaus: It changes the scenario in that that to me is definitely police involvement and professional involvement. That goes way above what my schooling and education that I'm able to properly handle at that point.
- Alan Cooper: Okay. Francine. Your call now. You're up.
- Francine Mendel: [crosstalk 00:38:46] a little bit like Kara. I would err on the side of professional, legal advice after having gone through the policies that are hopefully very specifically stipulated. I do believe that we have to be very specific in our policies, and I really like what Tony said when he said it's even more important to abide by what's written, and it sounds like this is a bit fuzzy. I would still bring in legal counsel or anybody from A. M. Skier who has some background in this, but I also would not neglect the emotional issues that will arise from this, not just on the part of the alleged victim and perpetrator but also the reverberations that will happen in camp that this will spread like lice does in a camp setting.
- Alan Cooper: Of course it will.

Francine Mendel: It's a small environment, everybody knows everybody. Protecting confidentiality is just a tough thing to do. So we may develop a situation where we have to counsel not just those two but the rest of the campers and staff.

Alan Cooper: Okay, so that, I understand where you're coming from as a clinician on that, and Kara says if it's everybody's just went out and got so drunk that they're violating our policy, I'm letting you go because of that, even if it's on time off, if it's on a day off.

Kara Klaus: Yeah.

Alan Cooper: Okay. I understand about treating the reverberations, and I think that's a very good point, almost like a trauma that happened at camp, a death of a staff member almost. Same theoretical concept. Let's say ... and the victim in this, and you say it's law ... the victim says, "I don't want to call the police," and the victim's an adult. This isn't a child. Victim's an adult. Says, "I don't want to call the police." So I'm going to go to Tony then. So you heard Kara's take on it. Those are the four options, and if there's another option, be my guest. [crosstalk 00:40:36]

Kara Klaus: I do want to say this wasn't my take based on the information. I want to give that little caveat.

Alan Cooper: I understand. Right, right. Understood. [crosstalk 00:40:44] Sorry. Oh.

Tony Sherr: At the outset, we have to emphasize that it does depend, and this is a very lawyer thing to say, upon the facts and the circumstances of any given situation, but the important thing here to remember, and why we have this policy, is not necessarily because it's going to tell us how to discipline somebody or it's going to tell us how to deal with this. What this policy is in place for and what we have this training for is to prevent this, and that is our number one goal.

So in the 50/50 scenario, and you're not going to have a victim saying, "I don't remember what happened," and the alleged perpetrator saying, "I don't know what's going to happen," because somebody's going to report this, and that person, typically the victim or maybe the victim's friend, is going to report it, and then you know something happened. Something happened because otherwise you're assuming it wouldn't be reported. So once it gets to you, we're already past the point of saying, "All right, I'm not going to do anything," and because we have a victim-centered policy, we're going to come down hard on the alleged perpetrator from the legal point of view, and in a 50/50 scenario, that person, that alleged perpetrator, by my reckoning under these facts and circumstances, is going to be let go and not the victim.

Alan Cooper: Okay, and you let go, no pay?

Tony Sherr: Let go, no pay.

Alan Cooper: You're out of here, and if victim wants to go home, she would go home.

Tony Sherr: [crosstalk 00:42:24]

Alan Cooper: I would pay her for the summer. I wouldn't make an issue of that.

Tony Sherr: Correct.

Alan Cooper: I would just say so. Whether victim stays or goes, would you agree with Francine that it would make sense, not so much from a legal perspective maybe, but that sense to help the camp work through this?

Tony Sherr: Absolutely. It does become a camp-wide problem, and again, what we don't want is we don't want these two people to get drunk and to go to a hotel room. That's what we're trying to prevent.

Alan Cooper: By doing that, we don't want the next two people to do that.

Tony Sherr: Correct.

Alan Cooper: We used to say camps that ... Kara brought up about underage drinking. If somebody is caught underage drinking and they're fired, the message is sent not to drink underage. If they're not disciplined appropriately, then there's really no rule at all.

Tony Sherr: The message is, "This is okay. We're not going to enforce it."

Alan Cooper: Right, right. So now would you suggest, and maybe Kara can weigh in, that that notion be discussed? We've mentioned that about, listen, gentlemen, you are also putting yourself at risk here by this kind of activity of being accused of something [crosstalk 00:43:27]

Tony Sherr: Let's not say gentlemen. It could be a woman or a man, right, that-

Alan Cooper: I'll say woman or a man, and then I'm going to say gentlemen is how I always put it because I would say, although we're right now dealing with one that's male and female, we've dealt with male and male ones as well, but to say, "You are putting yourself at risk of not only-

Tony Sherr: Absolutely.

Alan Cooper: ... of being a victim of the crime or the activity but of being accused of something or doing something that you might not otherwise do because you are put ... This is a scary neighborhood that you're entering into here, and if you don't take the proper precautions, you can find yourself on the wrong end of something.

Tony Sherr: That's right, and the emphasis there is do not put yourself in this situation, and you have to know, "Here's what could happen, and we don't even have to prove this. If these allegations are made, you're probably going to be gone."

Alan Cooper: All right, now, father or mother of terminated male staff member sends you a letter and says, "This is you-know-what, and you've impugned my son's reputation, and I want him back at camp or I want you to pay him for the balance of the summer. If not, I'm going to sue you. I'm going Facebook. I'm doing all those kinds of things." What would you suggest?

Tony Sherr: I would suggest that, say, "Go ahead and sue me." Nobody wants lawsuits, but if we're going to have a lawsuit out of this, again, because we're trying to prevent this, we're trying to protect the victims, the lawsuit we want out of this is [crosstalk 00:44:58] harassment.

Alan Cooper: That's the lesser of two evils.

Tony Sherr: Correct.

Alan Cooper: Would you agree with that, Kara?

Kara Klaus: Yeah, and that's why I think it's so important to make sure that you have called in experts and you have done everything correctly because there is a great likelihood that it could end up in court or it could go further up the chain, and so I think it's so important that you're protecting your camp and your camp community as well as all the people within it to make sure that you've reached out and you've done everything by the book and professionally.

Alan Cooper: All right. So let's do this. I think we're pretty much at a good stopping point. I'm going to go around and ask for any final comments or thoughts. Francine, we'll start with you.

Francine Mendel: So first and foremost, let's do our best to prevent this and to help staff and anybody on the premises to know that camp is a safe place. It's a family-like environment, and people that come there just want to feel a sense of belonging, and so as we do trainings and as we do orientations, we must let people know all of the things that we discussed today, but I would also vote for continuing that weekly contact to let people know that we're here for them and we can help to prevent this, and again, don't forget to do civility training, bystander intervention training, just to keep camp the fun, safe place that it's always been.

Alan Cooper: Okay. Tony?

Tony Sherr: My final thoughts are you must have this written policy. It must be professionally done. I know that Skier performs this service. You may have outside legal counsel that you want to talk to about this, but this is something that you need in place both the policy and also the training.

Alan Cooper: Okay. Kara?

Kara Klaus: For me, I just, as the camp directors in the summertime, we deal with everything, and it's very easy to get completely overwhelmed, and then you have a major incident, something like this. My message is reach out for help. There's so many places that you can go for help. Use the resources that you have, and don't feel that you've got to figure it out all on your own.

Alan Cooper: Okay. I would just add what I alluded to earlier, that camp is, when it comes to issues involving sexual harassment and sexual misconduct, camp is a dangerous place. It just is. We have people who are there on a short-term basis, people from different cultures often interacting, and they miss the signals. They don't understand what's acceptable in one culture's not acceptable in another, and you just develop this tightness, almost like freshman year of college again kind of thing. Couple that with alcohol, hormones, everything else that we ... I'm not telling you anything you don't know. It is a dangerous place for this area, and I would suggest that those issues about the dangers that lurk outside of camp be emphasized among staff, some of the ideas that Francine had talked about I think are great.

The other issue that I talk about is to make sure that people understand this has to be nipped in the bud. Somebody who's snapping a bra ... I hate to go back to that same issue. If that's happening, if it's not brought to people ... make people understand if it's not brought to our attention so that we can't stop it, it's going to continue, and the best thing a camp can have is to have that concept where culturally it's not only acceptable but encouraged for victims and witnesses to come forward so that things don't snowball into something that's out of control.

Sometimes, hate to say it, a simple, "Knock it off," warning, "We don't do that here. That's not acceptable here," as you would with a camper who was making remarks or bullying and just make clear, "That's not acceptable here," oftentimes can go a long way.

Thank you for joining us today. We sincerely hope that you were able to take something out of this presentation that will help you in addressing what is sure to be an issue that many of you will be dealing with in 2018 and beyond, and please stay tuned for additional webinars covering current topics that arise throughout the year.