



GUIDE

Deviating from the Code of Conduct¹

Everyone in your organization has an obligation to abide by your Code of Conduct. This is as true for teen counselors or youth leaders as it is for prominent board members. When organizations make exceptions, they neutralize the protective force of the Code.

There will, however, be times when exceptions need to be made for practical or programmatic reasons. Sometimes when organizations draft a Code of Conduct, they worry about farfetched possibilities that would unduly limit a specific term. Envisioning all the permutations of a particular rule will hinder your progress in drafting the Code. Instead, do your best to legislate for routine programmatic realities and include a general clause regarding emergencies and exceptions. Doing so allows your organization to take enforcement seriously while still accommodating extenuating circumstances when necessary.

Exceptions should be minimized, and when they occur they should fall into one of two categories: emergencies and pre-approved. All exceptions, whether emergency or pre-approved, must be documented.

EMERGENCY DEVIATIONS

Emergency situations may require deviations from the Code of Conduct. In such situations, it is of course essential to do whatever is necessary to keep everyone safe in the moment. The litmus test for determining whether you are facing an emergency that justifies violating the Code of Conduct is:

1. Is there a clearly articulable urgent reason for violating the Code?
2. Is this the only course of action that could achieve the same results without violating the Code?

1. This resource is written as an accompaniment to the sample Code of Conduct (*Best Practice 5, Interaction Guidelines*). The premise being presented here - the need to plan for and document exceptions - applies equally to all of your organization's safeguarding policies, procedures and practices. If your organization has a full Safeguarding Youth Policy (including topics such as screening, training, responding), you can expand the language in this resource to be about "Policy Exceptions" more broadly and not just exceptions to the Code of Conduct.

Best Practice 5 Interaction Guidelines

OBJECTIVE

Develop a system for anticipating and documenting deviations from the Code of Conduct.

AUDIENCE

Child Safety Committee and relevant programmatic staff

TIME

hour to read discuss, 1 hour to adapt accompanying sample forms.

If the answer to these questions is 'yes,' take steps to keep all present safe even if this means violating the Code of Conduct. When the crisis has passed, the incident should be documented and communicated to the Child Safety Committee. Accompanying this resource is a sample form to use in such instances (see *Necessary Deviation from the Code of Conduct, Best Practice 5: Interaction Guidelines*). Note that this form differs from the *Incident Report* form (*Best Practice 8, Develop Response Protocols*), where a third-party reports a Policy or Code of Conduct violation. Here, the individual who deviated from the Code of Conduct submits the form. Someone who knows when to deviate from the Code and alerts the Committee models safe behavior as much as someone who never broke the Code to begin with. It is when individuals violate the Code and attempt to hide the violation that we become concerned.

EXERCISE ON EMERGENCY DEVIATIONS

Scenario: Your day camp's Code of Conduct prohibits staff from giving youth rides in their vehicles. Your camp is running a late night drop-off program when a child has a medical emergency. You are located in a rural area, and it will take an ambulance 20 minutes to arrive, but the child must get to the hospital immediately. What should your staff do?

Sample Solution: Your staff should drive the child to the hospital even though this violates your Code of Conduct.² A non-driving staff member should let the hospital know to expect the child and alert the parents to meet the child at the hospital. Later, when the crisis has passed, your staff should record the incident, explain why it was necessary to deviate from the Code, and submit the documentation to your Child Safety Committee (see accompanying sample form: *Necessary Deviation from the Code of Conduct*).

Summary of Emergency Deviations Protocol

1. Determine if an emergency exists.
 2. If an emergency exists, do whatever is necessary to keep everyone as safe as possible, even if this requires you to deviate from the Code of Conduct.
 3. Utilize other available safeguards to minimize potential risk associated with the deviation.
 4. Once the emergency has passed, submit a Necessary Deviation form to the Committee.
- Pre-Approved Exceptions

2. Because an adult driving a medically vulnerable child off-site through rural areas alone is a higher risk situation than an adult remaining on-site with multiple children, where parents and others may drop in unexpectedly, if one adult is able to safely supervise the onsite program, the extra adult should accompany the driving adult. Of course, if there are so many youth on-site that one adult cannot safely supervise, the third adult should remain on-site.

PRE-APPROVED EXCEPTIONS

When staff or volunteers plan a youth event, they may occasionally request an exception to the Code of Conduct. Whenever possible, such exceptions should be approved by the Committee before the violation occurs; see the accompanying *Exception Request* form (*Best Practice 5, Interaction Guidelines*). The litmus test for the Committee in determining whether to approve an exception, is:

1. Is there a clearly articulable reason that makes the exception necessary?
2. Can no other safeguards be enacted to serve the same protective purpose as those intended by the Code of Conduct?

If the Committee approves an exception request, this approval should be communicated to others who will observe the exception, so that they do not confuse the exception with the rule or worry that an individual is violating the Code. Finally, the Committee should authorize the exception only for a specific duration. The Committee's decision, any additional safeguards, and set durations should be documented on the *Exception Request* form. The Committee should retain the original form for their records and return a copy to the individual who submitted the request.

EXERCISE ON PRE-APPROVED EXCEPTIONS

Scenario: Your Code of Conduct requires that pictures of children be taken on an official synagogue camera and never on personal devices. Your synagogue's camera breaks several days before a major youth event, and it will take the synagogue time to repair or replace the camera. What should your youth director do?

Sample Solution: Your youth director should submit an *Exception Request* form to the Committee as soon as they learn that the synagogue's camera is broken. In their request they ask permission to use a personal device to take pictures of youth at synagogue events until the synagogue has a working camera again. The Committee approves the request to use a personal device under the following conditions, which are enumerated on the form:

1. The personal device must be a stand-alone camera, not a phone, i-Pad, or similar camera.
2. The personal camera must remain in the synagogue until all photos are transferred to the synagogue's computer and deleted from the personal camera.
3. If it will be obvious that the youth director is using a personal camera (e.g., their personal camera is known to the congregation by its distinctive color), they must explain to program participants why they are using a personal camera and inform them that the Committee has approved this exception to the rule.

4. The youth director has two weeks to fix or replace the synagogue's camera, during which time they may use their own. If additional time is necessary, they must request it in writing from the Committee.

The Committee keeps the original form for their files and provides a copy to the youth director.

Summary of Pre-approved Exceptions Protocol

1. Identify extenuating circumstances in advance
2. Complete and submit *Exception Request* form to the Committee
3. On the *Exception Request* form, the Committee
 - a. Rejects or approves the request
 - b. If approved:
 - i. Lists any additional safeguards to be implemented
 - ii. Sets an expiration date for the approved exception
4. After filling out the *Exception Request* form, the Committee keeps the original for their records and returns a copy to the requester

Sample Policy Language

In limited situations, it may be necessary to deviate from the Code of Conduct. When such deviations can be anticipated in advance, written approval must be requested and received from the Committee before an exception is made (see the *Exception Request* form, attached). In instances when it is not possible to anticipate a necessary deviation from the Code of Conduct – such as during an emergency when compliance with the Code would jeopardize safety – the Committee should be notified in writing as soon as possible after the deviation (see the *Necessary Deviation* form, attached).