

MSC MEMBERS BULLETIN

SPECIAL ANNUAL STAFF & EMPLOYMENT ISSUE

GETTING READY FOR THE 2023 SEASON

IMPORTANT REMINDER: *This information is being provided for your general educational purposes only. You should always consult your attorney or other advisors for advice on how the law applies to specifics at your camp.*

Define your Season: Unemployment Compensation – Labor Dept Form FX-25

Youth camps are classified as “Seasonal Industries” under the State of Maine Unemployment Compensation Law. The “Season” is set by the camp and must be less than 26 weeks in order to maintain the “Seasonal” classification. Seasonality affects your unemployment tax liability on wages for employees eligible for unemployment benefits. See the section below for which classes of employees are NOT eligible for unemployment. Camps are required to list the beginning and ending day of their season on the Maine Department of Labor’s form FX-25. The State Unemployment Office sends these out annually, and it is important to fill this out to protect yourself as a seasonal employer from unemployment claims. If you don’t get a form and you are seasonal, you should contact the Department at (207) 621-5127. FX-25 is not downloadable on the web; you must establish an account. The employment season is not the same as the camper season. FX-25 dates define your employment season and thus the dates should be the same as on the employment contracts or letters of hire for your seasonal employees eligible for Unemployment Compensation. Here is how this relates to unemployment claims: If eligible seasonal employees’ employment ends on the end date you entered on your FX-25 and they then file for unemployment, they may be entitled to benefits, but the benefits will NOT be charged to your camp’s account (since their unemployment is after the end of your season). If their employment ends before the date you entered on your FX-25 (during your season), they may be entitled to benefits and in that case the benefits WOULD be chargeable to your camp’s unemployment account. (However, if you are a non-profit camp who has elected reimbursement of unemployment benefits in lieu of contributions, you may be required to pay unemployment benefits to an employee whose unemployment period is outside of your season.)

Full-Time Students and Volunteers are not eligible for Unemployment Compensation

Because full-time students are not eligible for unemployment compensation, there is no requirement to pay Federal Unemployment Taxes (FUTA) or Maine Unemployment Taxes (SUTA) on the wages for services performed by a student if the service is performed in the employ of the camp for less than 13 calendar weeks in the calendar year and,

- ☐ The camp did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year or,
- ☐ The average gross receipts for the camp for any 6 months in the preceding calendar year were not more than 33-1/3 percent of its average gross receipts for the other 6 months in the preceding calendar year.

Full-time student is defined as—

- ☐ An individual who is enrolled as a full-time student at an educational institution or,
- ☐ An individual who is between academic years or terms if the individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term and there is a reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term.

The MSC Members Bulletin is a periodic publication for camp members of the Maine Summer Camps/ MYCF.

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Volunteers performing service for civic, charitable or humanitarian reasons, without expectation of receipt of compensation are not eligible for unemployment compensation.

Hiring Reminders

Maine New Hire Reporting: Maine employers are required to report information about newly hired or rehired employees to the Maine Department of Health and Human Services, Child Support Services: Division of Support Enforcement & Recovery (DSER). The purpose is to enable the DSER to obtain or enforce orders against persons who have failed to pay required child support. The report is due within 7 days of each hire or rehire and must include a specific list of information for any employee who receives a W-2 form and any independent contractor who will be paid \$2,500 or more in a year. Failure to file a report subjects the employer to a civil penalty of up to \$200 per month for each violation. For more information go to:

<https://www.maine.gov/dhhs/ofi/programs-services/child-support-services/employers/new-hire-faq>

- ☐ Employment at will: If you want to be able to terminate employment without cause and without notice, you should clearly state in writing in the employment agreement or letter of hire that the employment is “at will”. Without cause means that the employment may be terminated for any reason not specifically prohibited by law, or no reason. Upon written request by the employee, the employer must provide the reason for termination in writing within 15 days. Note however, at will employment may be terminated at any time by either the employer or the employee.
- ☐ Hiring Discrimination: Maine resource on allowed hiring questions: <https://www.maine.gov/mhrc/laws-guidance/employment/pre-employment>

Pay Period Requirement & Counselor Exception

Any employee who is NOT a counselor, junior counselor or counselor-in-training or otherwise exempt as described below under “Minimum Wage” must be paid at least the current hourly minimum wage rate. Typically, at a camp this includes kitchen, maintenance, laundry and office staff.

ALL EMPLOYEES are required to be paid at least every 16 days. There is a Maine Department of Labor informal EXCEPTION for camp counselors and junior counselors only which is:

- ☐ The camp must prorate the lump sum offered in the contract over the number of 16 day periods in the season and establish a regular payday;
- ☐ All required deductions must be computed by pay period;
- ☐ Counselors and junior counselors must be permitted to

draw up to the full amount of each net amount due on each payday or can allow the amount to be held until requested and must clearly understand that they have this option.;

- ☐ Employees will be provided with a statement each date wages are due indicating the date of the pay period, gross amount, itemized deductions and net amount due.

MINIMUM WAGE FOR 2023 is \$13.80/Hour

All hourly employees in Maine must be paid at least minimum wage. For these employees, a portion of wages may be the reasonable cost of board or lodging if actually used by the employee and shown on employee statements and wage records. The “reasonable cost of board and lodging” may be determined by the State Department of Labor (DOL); however, if the cost is provided in the employee’s contract, it will be accepted by DOL unless obviously unreasonable.

Counselor Exemptions

Counselors, junior counselors and counselors-in-training at licensed summer camps (including both resident & day camps counselors) are exempt from minimum wage and overtime requirements, as are employees who are under the age of 18 and who are employees of summer camps and similar seasonal recreation programs not requiring such licensure operated as or by non-profit organizations.

Other Exempt Employees

Employees who (1) not only through job title but also through the performance of duties meet the definition of an “executive” or “administrative” or “professional” employee under Maine law and (2) are paid a salary at or more than an annual rate of 3,000 times the current hourly rate of pay (for 2023 that is: $\$13.80 \times 3,000 = \$41,400$), and provided that this amount is more than the Federal rate for salaried employees (which it currently is), are exempt from overtime compensation obligations..

Rest Breaks for Hourly Wage Employees

Maine law requires all employees required to be paid minimum wage to have an unpaid 30-minute (consecutive) rest break after 6 consecutive hours of work. A meal time lasting at least 30 consecutive minutes counts as a rest break if the employee is completely relieved of duty during that time. An employee and employer may negotiate for more breaks, but this should be put in writing.

Harassment – Sexual and Other

Posting Notice. Camps as employers are required to post in a prominent and accessible location a poster regarding the illegality of sexual harassment in the workplace. See poster requirements below.

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Individual Employee Notification. In addition, camps must annually provide each employee with an individual written notice that includes at a minimum the following information: (1) the illegality of sexual harassment; (2) the definition of sexual harassment under state law; (3) a description of sexual harassment, utilizing examples; (4) the internal complaint process available to the employee; (5) the legal recourse and complaint process available through the Maine Human Rights Commission (the “Commission”); (6) directions on how to contact the Commission; and (7) the protection against retaliation for making a complaint. The notice must be delivered in a manner to ensure notice to all employees without exception, such as including the notice with an employee’s pay.

Training. Camps with 15 or more employees shall conduct an education and training program for all new employees. Training provided must include: (1) the illegality of sexual harassment; (2) the definition of sexual harassment under state and federal laws and federal regulations; (3) a description of sexual harassment, utilizing examples; (4) the internal complaint process available to the employee; (5) the legal recourse and complaint process available through the Commission; (6) directions on how to contact the Commission; and (7) the protection against retaliation for making a complaint. Employers shall conduct additional training for supervisory and managerial employees, which must include, at a minimum: (1) the specific responsibilities of supervisory and managerial employees; and (2) methods that these employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints.

Compliance Checklist. The Department of Labor has developed a compliance checklist for employers covering the training requirements described above. The checklist is available on the Department’s publicly accessible website. The Maine Human Rights Commission also provides a link to the compliance checklist on the Commission’s publicly accessible website. Employers shall use the checklist to develop a sexual harassment training program and shall keep a record of the training, including a record of employees who have received the required training. Training records must be maintained for at least 3 years and must be made available for Department inspection upon request.

Enforcement. The Department will enforce the notification requirement and, upon inspection or complaint, shall ensure that employers have provided the training as required.

Penalties. An employer who violates this law may be assessed a fine by the Department as follows:

1. An employer who violates the workplace posting requirement may be assessed:
 - a. For the 1st violation, a fine of up to \$25 per day, not to exceed \$1,000;
 - b. For a 2nd violation occurring within 3 years of a prior

violation, a fine of not less than \$25 per day up to \$50 per day, not to exceed \$2,500; and

- c. For a 3rd or subsequent violation occurring within 3 years of 2 or more prior violations, a fine of not less than \$25 per day up to \$100 per day, not to exceed \$5,000.
2. An employer who violates the individual employee notification or training requirements may be assessed:
 - a. For the 1st violation, a fine of \$1,000;
 - b. For a 2nd violation, a fine of \$2,500; and
 - c. For a 3rd or subsequent violation, a fine of \$5,000.

HIRING REQUIREMENTS

Camps as employers must prepare Form I-9 to document verification of the identity and employment authorization of each employee (both citizen and noncitizen) to preclude the unlawful hiring of noncitizens who are not authorized to work in the United States. Employers must retain original I-9 forms for three years after the date of hire, or one year after the date employment ends, whichever is later. The forms should be stored separately from other personnel files. For more information go to <https://www.uscis.gov/i-9>.

Camps as employers may not use or inquire about the compensation history of a prospective employee from the prospective employee or a current or former employer of the prospective employee unless an offer of employment that includes all terms of compensation has been negotiated and made to the prospective employee, after which the employer may inquire about or confirm the prospective employee’s compensation history.

CHILD LABOR LAWS

Camps may employ minors between the ages of 14 and 17 , subject to certain conditions imposed by the State and Federal governments. No minor under the age of 14 may be employed at camp. Regardless of the employee’s status as a minor, all other state and federal employment laws apply. In addition:

1. **Prohibited Job Duties:** No minor may work in direct contact with hazardous machinery or hazardous substances. The Maine Department of Labor provides a list of duties a minor cannot perform as part of their job function, which depends in part on whether the minor is under the age of 16. Visit https://www.maine.gov/labor/labor_laws/publications/guide_to_employment_of_minors.pdf. (for example, a 17-year-old may drive automobiles without passengers during daylight hours within 30 miles of camp; a minor under the age of 16 may not drive or work with a ladder). In addition, the federal Fair Labor Standards Act provides a list of acceptable and prohibited job duties depending on the minor’s age: <https://www.dol.gov/sites/dolgov/files/WHDLegacyFiles/childlabor101.pdf>. (for example, no minor under the age of 16

may be employed as a lifeguard).

2. **Work Permit:** Before employing a minor under the age of 16 (regardless of whether school is in session or not) the minor employee must provide you with a work permit approved by the Bureau of Labor Standards, signed by both the superintendent or designated school official and the minor's parent or legal guardian (26 M.R.S. § 775). The minor can apply for the work permit after the minor has the promise of the job. You must keep all work permits issued on file.
3. **Hourly Restrictions:** Generally, a minor is only permitted to work a certain number of hours each day and in a week. A minor employed by a licensed youth summer camp is exempt from the daily and weekly hourly restrictions imposed on minors under Maine law. 26 M.R.S. § 774(4); *see* 29 U.S.C. § 13(a)(3) (also exempt under Federal hourly limitations if camp does not operate for more than 7 months in calendar a year, except that under federal law, no employee between the ages of 14 and 15 may work before 7.a.m and after 9 p.m. between June 1st and Labor Day.
4. You must keep daily records for each minor you employ, documenting the time the minor started work, total hours worked, and what time the minor finished for the day. This record is subject to inspection by the Maine Department of Labor.
5. Violation of Maine child labor laws is a civil violation subject to fines ranging from \$250 to \$50,000 per incident. Violations of Federal child labor laws come with similar civil penalties.

Once the minor turns the age of 18, regardless of whether they are still a student, child labor laws do not apply.

OTHER EMPLOYER ISSUES CRIMINAL BACKGROUND CHECKS

Maine Youth Camp Rules require you to determine if an employee or volunteer has a sexual criminal history. These are spelled out in 10-44 C.M.R. ch. 208, § 6.A.3. a-b. ACA accreditation also requires a check of the National Sex Offender Public Registry <https://www.nsopw.gov/>. Many camps routinely conduct third party background checks as a basic screening tool. The State considers non-compliance with Rule 6.A.3 to be a critical violation.

Normally, an employer may not request a social security number from a prospective employee on an employment application or during the application process for employment. However, camps are exempt if they are using that information for the purposes of a preemployment background check and the numbers are being provided on a voluntary basis.

THIRD PARTY BACKGROUND CHECK OPTION

If you use a “consumer reporting agency” to do a background check on applicants for employment, you are subject to the Federal (and Maine) Fair Credit Reporting Act (“FCRA”). It requires you to give notification to each applicant for employment of your intention to use a consumer reporting agency to do a background check on the applicant and requires you to obtain the applicant's written authorization to do so. The notice must be a stand-alone document and can include the authorization given by the applicant. An electronic signature provision can satisfy the “in writing” requirement.

The consumer reporting agency will require you to certify that you have notified the applicant, received her/his authorization, that you will take the required action described below if you decide to not hire the applicant based on the information in the agency's report, and that you will not use the information for any illegal purpose.

Prior to taking an “adverse action” based in whole or in part on information contained in the report, such as deciding not to hire based on the report, you must provide the applicant with a copy of the report and a “Notice of the Consumer's Rights under FCRA”. The consumer reporting agency must provide you with a copy of this notice, which you can send to the applicant. It should also be able to provide you with a form notice as described above.

REMINDER: OSHA REQUIREMENT

The Occupational Safety and Health Act requires camps to maintain records of work-related illnesses and injuries. The required record keeping Forms 300, 300A and 301 can be accessed online at <https://www.osha.gov/recordkeeping>. Information about the requirements can be viewed and downloaded.

Required Employment Posters

Employers must display certain posters in the workplace where workers can see them.

There are 9 required posters and they can be downloaded from:

<https://www.maine.gov/labor/posters/index.shtml>.

For questions call the ME Dept. of Labor: 207-623-7900. The posters are:

Minimum Wage

Video Display Terminal

Child Labor Laws

Worker's Compensation

Regulation of Employment

Sexual Harassment

Occupational Safety and Health Regulations

Maine Employment Security Act (only if you are a state, county or municipal employer)

Whistleblower's Protection Act

Optional Posters: These are available at:

<https://www.maine.gov/labor/posters/index.shtml>

Federal Government Posters (US Dept of Labor):

<https://www.dol.gov/general/topics/posters>

POST CAMP EMPLOYMENT OPPORTUNITIES

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2023 Spring Training Opportunities

Challenge Course/ Ropes	Contact Email	City/State	Start	End	Cost
Adventure Basics: Level 1 Training	amartino@high5adventure.org	Brattleboro, VT	Apr 19, 2023	Apr 23, 2023	795.00
Beyond Basics: Level 2 Training	amartino@high5adventure.org	Brattleboro, VT	Apr 10, 2023	Apr 13, 2023	750.00
Beyond Basics: Level 2 Training	amartino@high5adventure.org	Brattleboro, VT	Jun 1, 2023	Jun 4, 2023	750.00
Advance Technical Skill: Level 2 Review	amartino@high5adventure.org	Brattleboro, VT	May 13, 2023	May 14, 2023	385.00
Level 1 Challenge Course Cert Exam	amartino@high5adventure.org	Brattleboro, VT	May 13, 2023	May 13, 2023	200.00
Level 2 Challenge Course Cert Exam	amartino@high5adventure.org	Brattleboro, VT	Apr 14, 2023	Apr 14, 2023	225.00
Level 2 Challenge Course Cert Exam	amartino@high5adventure.org	Brattleboro, VT	May 5, 2023	May 5, 2023	225.00
Managing an Adventure Program	amartino@high5adventure.org	Brattleboro, VT	Apr 4, 2023	Apr 6, 2023	540.00
MAP Challenge Course Mgr Cer Exam	amartino@high5adventure.org	Brattleboro, VT	Apr 7, 2023	Apr 7, 2023	275.00
Spotters Ready: Low Challenge Course Elements	amartino@high5adventure.org	Brattleboro, VT	May 23, 2023	May 24, 2023	385.00
Beyond Basics: Level 2 Trainings	amartino@high5adventure.org	Brattleboro, VT	May 18, 2023	May 21, 2023	750.00
High 5 Adventure Basics-4 Day	terri@susancurtis.org	Stoneham, ME	Jun 6, 2023	Jun 10, 2023	350.00
High Ropes Facilitator	training@wyonegonic.com	Denmark, ME	Jun 5, 2023	Jun 8, 2023	495.00
Low Ropes Facilitator	training@wyonegonic.com	Denmark, ME	Jun 9, 2023	Jun 11, 2023	335.00
Climbing Wall and Belay Training	training@wyonegonic.com	Denmark, ME	Jun 12, 2023	Jun 12, 2023	95.00
Equine	Contact Email	City/State	Start	End	Cost
Equine First Aid Awareness	training@wyonegonic.com	Denmark, ME	June 14, 2023	June 14, 2023	95.00
Lifeguard and Water Safety	Contact Email	City/State	Start	End	Cost
Water Safety Instructor	lwing@clubaycc.org	Waterville, ME	May 6, 2023	May 14, 2023	400.00
Lifeguard Class	lwing@clubaycc.org	Waterville, ME	May 12, 2023	May 21, 2023	300.00

Water Safety Instructor (Blended)	information@winonacamps.org	Bridgton, ME	Jun 10, 2023	Jun 14, 2023	475.00
Lifeguard Instructor (Blended)	information@winonacamps.org	Bridgton, ME	Jun 10, 2023	Jun 15, 2023	525.00
Lifeguard Training with waterfront module	information@winonacamps.org	Bridgton, ME	Jun 14, 2023	Jun 16, 2023	395.00
Basic Water Rescue Course	lwing@clubaycc.org	Waterville, ME	May 23, 2023	Jun 1, 2023	50.00
Lifeguard Recertification	lwing@clubaycc.org	Waterville, ME	Apr 15, 2023	Apr 15, 2023	150.00
Lifeguard Instructor Recertification	lwing@clubaycc.org	Waterville, ME	Apr 22, 2023	Apr 22, 2023	200.00
Waterfront Leadership School	waterfrontleadership@gmail.com	Monmouth, ME	May 26, 2023	May 31, 2023	
Lifeguard Class	lwing@clubaycc.org	Waterville, ME	Apr 10, 2023	Apr 20, 2023	300.00
Shooting Sports, Archery and Riflery	Contact Email	City/State	Start	End	Cost
4-H Level One Archery or Rifle Certification	gary.proulx@maine.edu	Bryant Pond, ME	Jun 11, 2023	Jun 11, 2023	100.00
Camp Rifle Counselor Training	information@winonacamps.org	Bridgton, ME	Jun 8, 2023	Jun 9, 2023	195.00
Archery Instructor Level 1	training@wyonegonic.com	Denmark, ME	Jun 14, 2023	Jun 14, 2023	225.00
Archery Instructor Level 1	training@wyonegonic.com	Denmark, ME	Jun 15, 2023	Jun 15, 2023	225.00
Trip Leader	Contact Email	City/State	Start	End	Cost
Overnight Trip Leader Training	Eri.martin@maine.edu	Bryant Pond, ME	Jun 13, 2023	Jun 14, 2023	250.00
Outdoor Living Skills Staff Workshop	training@wyonegonic.com	Denmark, ME			120.00
Trip Leader Training	gary.proulx@maine.edu	Bryant Pond, ME	Jun 16, 2023	Jun 17, 2023	
Watercraft	Contact Email	City/State	Start	End	Cost
Canoe Level 1 Flatwater Instructor	training@wyonegonic.com	Denmark, ME	Jun 1, 2023	Jun 4, 2023	495.00
US Sailing Counselors Course	information@winonacamps.org	Bridgton, ME	Jun 6, 2023	Jun 7, 2023	200.00
ACA Level 1 and 2 SUP	bobmyron@live.com	Poland, ME	Jul 8, 2023	Jul 9, 2023	295.00
ACA Level 2 Kayak Touring Update/Upgrade	bobmyron@live.com	Poland, ME	Jun 14, 2023	Jun 15, 2023	295.00
ACA Level 2 Kayak Touring Instructor Cert Workshop	bobmyron@live.com	Poland, ME	Jun 12, 2023	Jun 15, 2023	500.00

ACA Level 1 Canoe Instructor Cert. Workshop	bobmyron@live.com	Denmark, ME	Jun 1, 2023	Jun 4, 2023	
ACA Level 2, 3 Canoe	bobmyron@live.com	Brunswick, ME	May 16, 2023	May 17, 2023	295.00
ACA Level 2, 3 Tandem Canoe Instructor	bobmyron@live.com	Brunswick, ME	May 13, 2023	May 17, 2023	700.00
Wilderness First Aid And First Responder	Contact Email	City/State	Start	End	Cost
Wilderness First Aid	andy@campwinnebago.com	Fayette, ME	Jun 11, 2023	Jun 12, 2023	195.00
Wilderness First Aid (Red Cross)	nicole.m.nelson@maine.edu	Bryant Pond, ME	Jun 12, 2023	Jun 11, 2023	250.00
Wilderness First Aid	information@winonacamps.org	Bridgton, ME	Jun 3, 2023	Jun 4, 2023	225.00
Female-led WFR	amanda@shesummits.org	Millinocket, ME	Jun 4, 2023	Jun 8, 2023	675.00
Wilderness First Aid	staff@camparcadia.com	Otisfield, ME	Jun 10, 2023	Mar 11, 2023	275.00
Wilderness First Aid (Red Cross)	nicole.m.nelson@maine.edu	Bryant Pond, ME	Jun 13, 2023	Jun 14, 2023	250.00
Wilderness First Aid	mander@campagawam.org	Raymond, ME	Jun 5, 2023	Jun 6, 2023	200.00
Wilderness First aid	information@winonacamps.org	Bridgton, ME	Jun 15, 2023	Jun 16, 2023	225.00