

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

Association of Jewish Camp Operators,)
 Samuel Werzberger, MD, FAAP,)
 Ariela Orkaby, MD, MPH,)
 Beth Statfeld,)
 Gail Zahtz,)
 Plaintiffs,)
 v.)
 Andrew M. Cuomo, Governor of the)
 State of New York, in his official capacity,)
 Defendant.)

Case No. 1:20-CV-0687 (GLS-DJS)

DECLARATION OF MEIR FRISCHMAN

Pursuant to 28 U.S.C. § 1746, I, Meir Frischman, hereby declare as follows:

1. I am the Founder of the Association of Jewish Camp Operators (the "Association"), which is a consortium of independent Jewish summer camps that have a shared commitment to creating immersive and unique camp environments to instill traditional religious Jewish values in their campers. The members of the Association serve more than 40,000 Jewish children at camps in New York State each summer. I served as the Director of two large Jewish overnight camps for more than 40 years.

2. The members of the Association typically host camp each summer from late-June through late-August. This summer, the members planned to commence camp on or about June

25, and prepared accordingly. For this summer, a significant part of that preparation was working with physicians to develop an appropriate medical protocol to deal with COVID-19.

3. Governor Cuomo did not announce his decision to prohibit overnight camping until late in the afternoon of Friday, June 12. By that late date, because of the uncertainty about their ability to operate, almost all, if not all, of the non-Jewish overnight camps in New York State had already announced that they would not be opening this summer.

4. By the time of the Governor's June 12, 2020 announcement – which was less than two weeks prior to the planned commencement of camp – the camps affected by the Governor's decision banning overnight camps for summer 2020 were Jewish overnight camps.

5. As explained below, overnight camping is an important and necessary component of the religious education and training that many Jewish parents want for their children. For that reason, even in the best of times overnight camping has a far greater percentage of Jewish children participating than other summer activities, such as day camping. Upon information and belief, there are not more than 150,000 overnight campers in New York State in a typical summer, with nearly a third of those campers attending Jewish overnight camp. By contrast, a far smaller percentage of all day campers attend Jewish day camps. And by further comparison, children who attend Jewish schools in New York State comprise approximately 5% of the total K-12 enrollment.

Jewish Overnight Camps Are Vital Component of Jewish Education

6. Part of the reason for the highly disproportionate percentage of Jewish children who attend overnight camp is that, for over a century, Jewish overnight camps have offered children an invaluable and unique setting to inspire a religious understanding of the world and to inculcate the Jewish way of life. See Steven M. Cohen, *et al.*, *Camp Works: The Long-Term Impact of Jewish Overnight Camp* 17 (Spring 2011), <https://jewishcamp.org/wp-content/uploads/2017/03/Camp->

Works-FINAL-PDF.pdf. These camps allow Jewish children to live together for weeks as a community, removed from outside secular influences, thereby forming bonds of friendship and loyalty that build a long-lasting yearning for a sense of Jewish community and the Jewish faith. *Id.*

7. The overnight camp's immersive environment also "powerfully promotes interest in, and passion for, Jewish literacy and living." Amy L. Sales and Leonard Saxe, *Limud by the Lake: Fulfilling the Educational Potential of Jewish Summer Camps* 1–2 (Oct. 2012), https://avichai.org/knowledge_base/limud-by-the-lake-fulfilling-the-educational-potential-of-jewish-summer-camps-2002/.

8. Jewish camps teach Jewish values and promote Jewish education. In that way, Jewish overnight camps have become a critical facet of the development and growth of the Jewish community. Studies show that children who attend Jewish overnight camps grow up more connected to the Jewish community and have an increased adherence to religious practice. *See* Cohen, *Camp Works* 11; Rabbi Jason Miller, *The Magic of Jewish Summer Camp*, HuffPost (Updated Dec. 6, 2017), https://www.huffpost.com/entry/the-magic-of-jewish-summer-camp_b_1390856.

9. Overnight camps offer a unique immersive experience that separates children from the outside world and envelops them in an enclosed, safe society whereby bonds form in the rhythm of camp life. *See* Sales and Saxe, *Limud by the Lake* at 6–7. Jewish values are "woven into the very fabric" of overnight camp, which "creates intensity around Jewish life" making "it possible to live Judaism at camp in a total, holistic fashion" through adherence to Jewish practices and education. *Id.* at 7–15.

10. In Association camps, the campers typically have from three to five sessions each day devoted to Jewish education and to group prayer. Even something as mundane and routine as mealtime is infused with Jewish values as blessings are recited before and after meals. The Sabbath camp experience is particularly unique and inspiring, with substantial portions of the day devoted to prayers, singing Jewish songs and hearing stories and other lessons conveying Jewish values, history and heroes. The camp Sabbath is a life-altering experience for many campers.

**The Members of the Association Will Adhere to Health and Safety Protocols
to Ensure the Safety of the Overnight Camps**

11. The members of the Association engaged a team of nationally recognized infectious disease and other health policy professionals to develop health and safety protocols to ensure that Jewish overnight camps are safe for children and staff this summer. A copy of those protocols is attached hereto as Exhibit A. A list of the physicians who have endorsed these protocols is contained at p. 2 of Exhibit A.

12. Under those protocols, camp administrators and staff will be rigorously trained in these special measures to ensure a healthy camp experience that mitigates the exposure of campers and staff to COVID-19. *See Ex. A at 5.*

13. All campers and staff will be subject to testing for COVID-19 antibodies and for COVID-19, and individuals who test negative for each will be required to remain isolated at home for 14 days until the commencement of camp. *Id. at 5–7.*

14. No individual with a high-risk medical history will be allowed to attend camp. *Id.*

15. Each camp also will be required to have an on-site health director, report COVID-19 cases to local jurisdictions, engage in the monitoring of possible COVID-19 symptoms in campers and staff before and during camp, including conducting regular temperature checks every 72 hours and screening of all individuals, and follow aggressive sanitization measures. *Id. at 7–*

12. Any potentially infected individual will be quickly separated from other children and staff in a predesignated area. *Id.* at 14–15.

16. Finally, overnight camps will require the parents of children attending the camps to sign consent forms requiring adherence to these health requirements.

17. Overnight camps thus present a safe environment for campers and staff. Overnight camps also are safer than day camps or child care services, which allow children and staff to go home each night, expose themselves to relatives, friends, neighbors and others and then return to the program the following day

18. Data demonstrates that COVID-19 health concerns in children are significantly lower than in the rest of the population. Cases among children are exceptionally low compared with older individuals, and COVID-19 has caused almost no hospitalizations of camp age children.

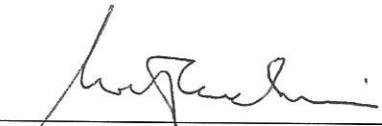
19. Moreover, overnight camps are uniquely positioned to segregate children and staff from the community at-large and protect against the transmission of COVID-19, and Jewish overnight camps are located in areas of the State which will be in Phase Three of the State's reopening plan by the time camps open, and Phase Four shortly thereafter.

20. The members of the Association wish to hold overnight camps this summer to provide this vital religious and developmental experience for Jewish children, but Defendant's restrictions render such conduct illegal and subject to penalty.

21. If allowed to open overnight camps, the members of the Association would adhere to these or similar health and safety guidelines designed to curb the transmission of COVID-19 at overnight camps.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 21, 2020.



Meir Frischman

Exhibit A

COVID-19 Health and Safety Plan

Recommended Protocols for NYS Overnight Summer Camps

*Providing Safe and Healthy Environments for
Campers and Staff to Protect Them From the
COVID-19 Pandemic*

*Association of Jewish Camp Operators
May 10, 2020*

Reviewed and approved by:

- *Dr. Aaron Glatt, MD, FACP, FIDSA, FSHEA, Chairman, Department of Medicine, Chief Infectious Diseases and Hospital Epidemiologist, **Mount Sinai South Nassau***
- *Dr. Nigel Paneth MD MPH, FAAP, University Distinguished Professor Departments of Epidemiology & Biostatistics and Pediatrics & Human Development, **Michigan State University***
- *Dr. Arturo Casadevall, MD, PhD Chair, Molecular Microbiology & Immunology Alfred & Jill Sommer Professor and Chair Bloomberg Distinguished Professor, **Johns Hopkins Bloomberg School of Public Health***
- *Dr. William Borkowsky, MD, PhD, Professor Department of Pediatrics Infectious Diseases, **NYU Langone Medical Center***
- *Dr. Glenn S Hammer, MD, Infectious Disease, Assistant Clinical Professor, **Mount Sinai Hospital***
- *Dr. Shmuel Shoham, M.D. Associate Professor of Medicine Infection Management in Compromised Hosts, Infections in Organ Transplants, Infectious Disease, **Johns Hopkins Hospital***
- *Dr. Jeffrey P. Henderson, MD, PhD Associate Professor of Medicine and Molecular Microbiology, **Washington University School of Medicine Division of Infectious Diseases***
- *Dr. Daniel S. Berman, MD, FACP, Infectious Disease Specialist, **Montefiore Medical Center***

Medical Board:

- *Dr. Moshe Lazar, DO FAAP, Pediatric Associates of Brooklyn*
- *Dr. Seth Kurtz, MD FAAP, Quality Health Care*
- *Dr. Alan Werzberger, MD FAAP, Best Healthcare*

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Introduction

Summer camp is an essential part of a child's growth, offering a healthy, fun and structured opportunity for learning and personal growth. For nearly a century, New York's summer camps have made an invaluable contribution to the health and well-being of many hundreds of thousands of children.

As the State of New York moves past the worst of the COVID-19 pandemic, summer camps must now prepare special measures to ensure the availability of a healthy, summer camp experience that reasonably mitigates the exposure of campers and staff to COVID-19.

The mitigation of these risks will be accomplished by strict compliance with the current regulations of the NYS Sanitary Code and Children Camp Code, Part 7, Sub 7-2. Camp administrators and staff must be rigorously trained in the above, as well as in new elective measures detailed in this document, with the ultimate goal of diminishing risk of exposure to COVID-19.

The guidelines herein are according to the current data, and are valid only so long as the number of cases in New York continue to decline.

Training

Camp administration shall train all staff members in the protocols outlined in this document, as well as the relevant NYS Department of Health and CDC guidelines regarding COVID-19. Training shall take place long enough prior to the commencement of camp to allow staff to properly understand and prepare for their duties.

Testing

Although the presence of COVID-19 antibodies are not proven to demonstrate immunity, current evidence-based literature suggests that persons with such antibodies are unlikely to get COVID -19 in the near future¹. Therefore, all campers and staff will be required to undergo testing, as follows:

¹ Based on the pathophysiology of other known viruses, infectious disease researchers expect that antibodies will neutralize COVID-19. This study provides evidence that COVID-19 individuals who recover acquire protective immunity: <https://us19.campaign-archive.com/?u=cf98149bee3f299584374540a&id=d53772e4a9>

Antibody testing gives camp medical staff an enhanced knowledge for managing any potential outbreak. If a camper has fever and the camp medical staff knows that he was antibody positive, the medical staff will look for other reasons for his fever.

Sufficient EUA approved antibody tests will be available by mid to late May.

Campers & Staff to Age 22:

1. Campers and Staff must test positive in June for COVID-19 antibodies via an EUA-approved test administered by a physician.
2. Campers and Staff who test negative for antibodies must also test negative for COVID-19 via PCR test administered by a physician 14 days before the start of camp.
3. After testing negative for COVID-19, campers and staff must remain isolated at home (no visitors) until the commencement of camp.
4. Any campers or staff members with a medical history that places them at high risk if exposed to COVID-19, or requiring chronic immunosuppressive therapy will not be allowed to attend camp.

Staff Ages 23 – 49:

1. Staff must test positive in June for COVID-19 antibodies via an EUA-approved test administered by a physician.
2. Staff who test negative for antibodies must also test negative for COVID-19 via PCR test administered by a physician 14 days before the start of camp.
3. After testing negative for COVID-19, staff must remain isolated at home (no visitors) until the commencement of camp.

4. Staff members with a medical history that places them at high risk if exposed to COVID-19, or requiring chronic immunosuppressive therapy will not be allowed to attend camp.

Staff Age 50+:

1. Staff must test positive in June for quantitative IGG antibodies via qualified lab.
2. Any staff members with a medical history that places them at high risk if exposed to COVID-19, or requiring chronic immunosuppressive therapy will not be allowed to work at the camp.

Health Director

Camps shall have a Health Director on-site while camp is in session.

The Health Director must maintain a log of all COVID-19-related incidents, including appearance of symptoms, mitigation efforts and contact tracing reports. These records will be available on-site and in the administrative offices of camp, and be available to the relevant County and State health authorities upon demand.

Camp infirmary will be fully stocked with PPE in the case of infection for all medical staff.

Reporting Requirements

In the event that a camper or staff member is diagnosed with COVID-19, the Health Director will provide documentation on the case and the mitigation measures taken by the camp within 24 hours to the local County Health Department, both by phone and in writing.

Segregation Area

Each camp shall have a designated area, physically situated at least 10 feet away from the general population, where individuals displaying COVID-19 symptoms will be held while awaiting testing or removal from camp.

Pre-Camp Monitoring

1. 14 days before the commencement of camp, all campers and staff must be monitored for symptoms of COVID-19.
2. Before boarding the buses for departure to camp, campers and staff will be screened for symptoms.

In-Camp Monitoring

1. While camp is in session, campers and staff will be screened for symptoms via questionnaire and temperature check by the nurse every 24 hours.
2. Results for each camper's routine monitoring will be logged by camp staff.

As indicated by the CDC, COVID-19 Symptoms, are:

- Cough
- Shortness of breath/difficulty breathing

Or two of the following symptoms:

- Fever
- Chills
- Tremors
- Muscle pain
- Headache
- Sore throat
- New loss of taste or smell

Pediatric Multi-System Inflammatory Syndrome (PMIS)

In recent weeks, a possible complication of COVID-19 relating to children has come to light - the Pediatric Multi-System Inflammatory Syndrome (PMIS), a very rare disease, similar to Kawasaki Disease. It is suspected that children's immune reaction to COVID-19 causes this complication. **PMIS is not contagious in children².**

The medical director will train our staff to vigilantly watch for symptoms of PMIS. Additionally, symptoms will be clearly posted in all bunkhouses. During our daily temperature checks, all campers will be monitored for symptoms. Any camper showing symptoms of rash, abdominal pain, vomiting or fever will immediately be brought to the camp infirmary and evaluated by the camp EMT, registered nurse, physician's assistant or doctor.. A prearranged pediatrician will immediately treat the child.

All camps will have a medical doctor visit their facility three times a week to evaluate any camper as required. These doctors will be on call 24/7.

² NYC Department of Health <https://www1.nyc.gov/assets/doh/downloads/pdf/imm/covid-19-pmis.pdf>

In the event that a camper or staff member is diagnosed with PMIS, the local County Health Department will be notified within 24 hours

Sanitization

Aggressive measures shall be taken throughout the session to mitigate the risk of COVID-19 transmission. These measures shall include:

1. Sanitizer will be available for camper and staff use at designated locations throughout the campgrounds. Signage will be posted throughout the camp regarding requirements of hand sanitization.
2. Campers and staff shall follow CDC hand-washing guidelines: before and after preparing or serving food, or treating a cut or wound; after using the toilet; after touching an animal, animal food or waste; and after touching garbage.
3. Sanitization of all commonly touched surfaces, including playground equipment, door handles, water system fixtures, sports equipment, etc., numerous times daily.

4. Avoid or eliminate, where possible, the use of all commonly touched equipment or items that cannot be easily cleaned and sanitized.
5. Training of relevant staff in proper use, application and safe storage of disinfectants and cleaning equipment.
6. Ensure that all offices, bunkhouses etc. are properly ventilated; increase the circulation of outdoor air throughout all structures through the use of fans, and by opening windows and doors whenever this poses no safety or health risks to campers.

Pools

According to the CDC, there is no evidence that the virus that causes COVID-19 can be spread to people through the water in pools, hot tubs, spas, or water play areas. Proper operation and maintenance (including disinfection with chlorine and bromine) of these facilities should inactivate the virus in the water.

As an additional measure, the COVID-19 director will supervise and oversee the pool maintenance for proper chlorine level and follow the interim guidance for disinfecting around the pool.

Field Trips & Travel

There will be no field trips. Because of the risk of contagion off camp grounds, no off-site activities will be planned, unless the risk of exposure to COVID-19 has so diminished that the State of New York has entered the later phases of reopening.

On-Site Day Camps

The same facility will not be used simultaneously for overnight and day camp. Because of the risk of contagion of campers coming from off grounds, any overnight camp that has a day camp program will cancel the day camp program, unless the risk of exposure to COVID-19 has so diminished that the State of New York has entered the later phases of reopening.

Deliveries

Guards will man entry points to campgrounds at all times, and prevent all access to the site. Guards will wear masks and gloves when accepting deliveries or packages.

Bulk deliveries will only be accepted once delivery drivers have donned masks and gloves. Drivers will drop deliveries in designated safe receiving areas and will not be permitted to enter any facility or to have any interaction with staff.

Visiting Guidelines

There are no approved visiting hours and no visitors to camp will be admitted.

A parent or guardian who must remove their child from camp for any reason will be kept off-site while the child and their belongings are brought out. In order to prevent possible transmission of COVID-19, once the child has been placed in the care of their parent or guardian, they have been dismissed from camp and can no longer be readmitted.

Treatment

1. Any camper or staff member showing symptoms associated with COVID-19 will be immediately isolated in the designated holding area and will be subject to PCR test for COVID-19 administered by a physician.

2. The Health Director shall oversee the segregation of relevant groups from the general population and monitor for appearance of symptoms for a period of 14 days. Should additional campers or staff members show symptoms in this time period, the Health Director will arrange for COVID-19 testing for those segregated.
3. The Health Director will arrange for the transfer of infected campers to the care of their parents/guardians, to be returned home, or to emergency services in the unlikely event of an acute medical emergency.

Medical Attention

Camp Administrators will make necessary arrangements to ensure that common non-acute emergencies (x-rays, stitches, etc.) can be directed to pre-designated medical professionals and practices and routed away from local hospitals.

Conclusion

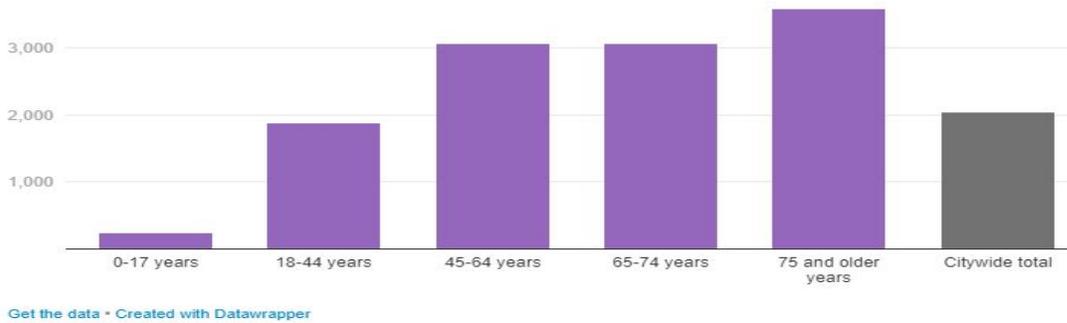
Summer camps represent environments that are uniquely easy to lock down and segregate from the community at-large. When the additional

precautions outlined in this document are taken, the risk of COVID-19 infection to campers and staff is greatly diminished.

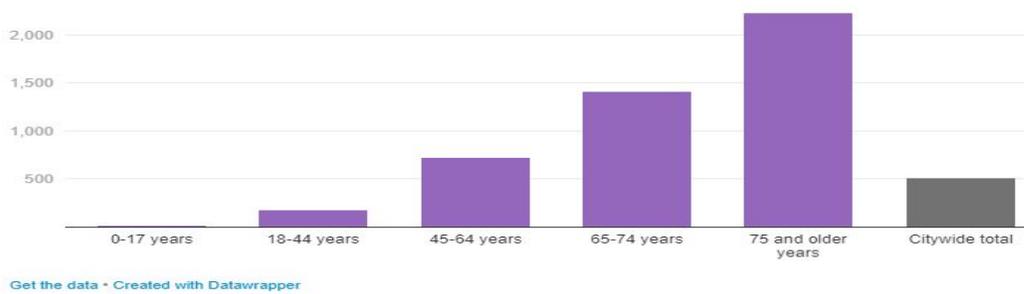
The need for summer camp, paramount under normal circumstances, is doubly important today. The children of New York have suffered through a historically difficult period, having been quarantined in their homes (those in the Five Boroughs confined to very small living spaces) and bereft of social interaction and healthy recreation. The physical, mental and emotional strain of months of lockdown has been immense--but can be safely remedied through access to summer camp.

Study³

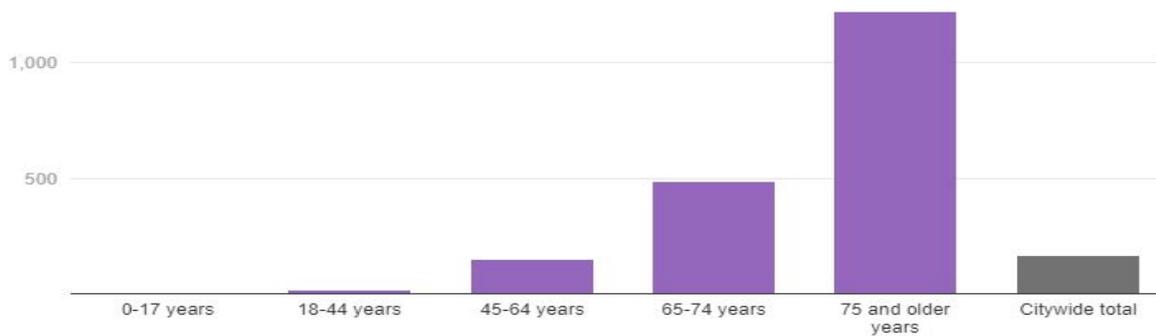
Cases Rate by age



Hospitalization rate by age

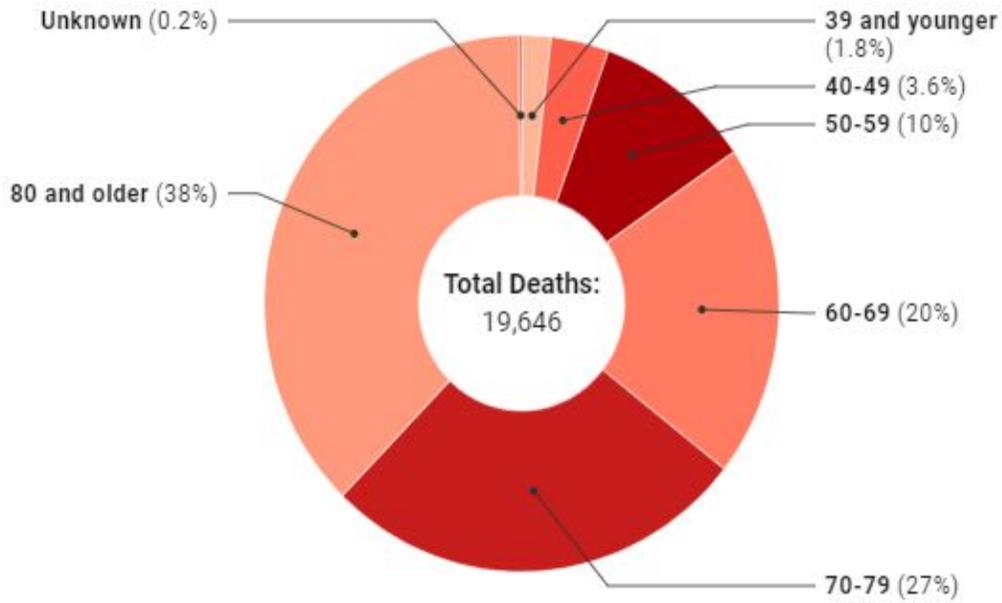


Death rate by age



³Using date form <https://www1.nyc.gov/site/doh/covid/covid-19-data.page>

NY coronavirus deaths by age



Last update: 1 p.m. 5/5

Chart: syracuse.com • Source: NYS Dept. of Health • Get the data • Created with Datawrapper

CDC Hospitalization rate for age 5-17 is 0.1%

