

**CHOOSE  
WORDS  
CAREFULLY  
....WHAT  
YOU SAY  
MATTERS**

This document may not be reproduced  
without the consent of the author. 10/12

**WRMRC**



OUTWARD  
BOUND



WILDERNESS RISK MANAGEMENT CONFERENCE

www.nols.edu/wrmrc | (800) 710-6657 x3

# ASK YOURSELF THIS QUESTION....

- What will this sound like when you are on the witness stand at trial telling this story or repeating what you said?

# EXTERNAL

- Marketing Material
- Applications
- Medical Forms
- Student Agreements
- Release and Waivers
- Contracts

[www.nols.edu/wrmc](http://www.nols.edu/wrmc) | (800) 710-6657 x3

**WRMRC**  
WILDERNESS RISK MANAGEMENT CONFERENCE  
NOLS OUTWARD BOUND SGA

This document may not be reproduced without the consent of the author. 10/12

# INTERNAL

- Logs
- Incident Report
- Crisis Plan
- Policies and Procedures
- Witness Statements

This document may not be reproduced without the consent of the author. 10/12

[www.nols.edu/wrmc](http://www.nols.edu/wrmc) | (800) 710-6657 x3

**WRMRC**  
WILDERNESS RISK MANAGEMENT CONFERENCE  
NOLS  
OUTWARD BOUND  
SCA

# Why Words Matter

- Fairness
- Legal liability
- Misrepresentations can cause contract or Release and Waiver to be non enforceable

This document may not be reproduced without the consent of the author. 10/12

WRMRC



OUTWARD  
BOUND



WILDERNESS RISK MANAGEMENT CONFERENCE

www.nols.edu/wrmrc | (800) 710-6657 x3

- Are you using a term which has a certain connotation in the law?

# Legal Words

- Examples:
  - DANGEROUS
  - SAFE
  - DUTY
  - NEGLIGENT

This document may not be reproduced  
without the consent of the author. 10/12

WRMRC



OUTWARD  
BOUND



WILDERNESS RISK MANAGEMENT CONFERENCE

www.nols.edu/wrmrc | (800) 710-6657 x3

# “SAFE”

- What does “safe” mean
  - Free from risk of harm
- Don't make promises that you cannot keep
- You cannot ensure safety
- There are no assurances of safety
- Avoid absolute words like “safe”



# Use the Right Word

There is a word for what you intend  
to say. Use it

Is there another context?  
Get it right!

# External - Marketing Material

- Website
- Printed pamphlets/brochures
- Telephone contact
- Application/Questionnaire
- Release and Wavier document
- Medical Forms
- Orientation packet

www.nols.edu/wrmc | (800) 710-6657 x3



This document may not be reproduced without the consent of the author. 10/12

# Information Disseminated

- Description of activity or program
- Talk about Risks (known or unknown)
- Participant responsibility
- Goals of program
- Objectives for activity
- Expected clients
- Level of activity
- Qualifications of leaders
- Description of emergency preparedness.

# What Message is in a Photograph?



WRMVIC  
WILDERNESS RISK MANAGEMENT CONFERENCE  
www.nols.edu/wrmvic | (800) 710-8657 x8  
OUTWARD  
BOUND  
SOA

This document may not be reproduced without the consent of the author. 10/12

# Who is your audience

- Who is the intended reader/recipient
- Family member
- Participant

This document may not be reproduced without the consent of the author. 10/12

WRMRC



OUTWARD  
BOUND



WILDERNESS RISK MANAGEMENT CONFERENCE

www.nols.edu/wrmrc | (800) 710-6657 x3



## PARENT ORIENTATION PACKET

Please fill out and turn in the attached:

- Orientation Survey
- Involvement Opportunities Survey
- Parent/Guardian/Caregiver Contract

Thank You.

**WRMRC**



NOLS  
OUTWARD  
BOUND



WILDERNESS RISK MANAGEMENT CONFERENCE

www.nols.edu/wrmrc | (800) 710-6657 x3

This document may not be reproduced without the consent of the author. 10/12

# Information Made Available to Public

- Location of activity
- Risks – known or unknown
- Environmental factors (weather, altitude, rocks, rivers, animals, reptiles)
- Equipment descriptions
- Transportation logistics

# Consistent message

- Audience level of understanding.
- Reader's expectation (environment, weather, supervision, medical help, etc.)
- Be consistent
- Beware of different contexts
- Beware of possible misinterpretations
- Eliminate the unknown



# Responsibility

- Explain if client is responsible for something.
- Explain what you are not responsible for
- Explain if using a subcontractor
- Explain if staff not supervising activity
- Explain if no medical care

# Contracts

- Be clear
- Set out responsibilities
- Get indemnity
- Additional insured
  
- Ask for help with contracts

# Avoid

- Avoid promises that you cannot deliver (snow, sun, high waves, etc.)
- Avoid “always”
- Avoid untrue statements
- Avoid saying you “will eliminate danger”
- Avoid “best” or “most”
- Avoid “guarantee”
- Avoid ambiguity
- Avoid “safety record is unmatched”



[www.nols.edu/wrrmc](http://www.nols.edu/wrrmc) | (800) 710-6657

**WRRMC**  
WILDERNESS RISK MANAGEMENT CONFERENCE



This document may not be reproduced without the consent of the author. 10/12

# Gather Information from Client

- Physical abilities
- Experience
- Disabilities
- Limitations
- Medications
- Fears/concerns
- Expectations
- Personal needs

**WRMVC**

WILDLIFE RESEARCH CENTER

WWW.NOLS.EDU/WRMVC



OUTWARD  
BOUND



This document may not be reproduced  
without the consent of the author. 10/12





This document may not be reproduced  
without the consent of the author. 10/12

**WRMVC**

WILDERNESS RISK MANAGEMENT CONFERENCE

[www.nols.edu/wrmvc](http://www.nols.edu/wrmvc) (300) 710-6657 x3



OUTWARD  
BOUND



# Legal Terms

- Negligent – The failure to do something which a reasonable person of similar circumstances would do.



# Forms of Negligence

1. Negligence -
2. Negligent Supervision
3. Failure to Warn
4. Failure to Instruct

# Lawsuit – Discovery Standard

- Everything is discoverable!!
- If it is relevant is admissible at trial
- But in discovery - if it is reasonably calculated to lead to the discovery of admissible evidence must be produced in discovery

# Internal Documents are Evidence

- Broken piece of equipment
- Photographs
- Diagrams
- Maps
- Trip Logs
- Field Resource Guide/Manual

This document may not be reproduced  
without the consent of the author. 10/12

www.nols.edu/wrmc | (800) 710-6657 x3



# Staff Manual

- Policies and Procedures
- Follow industry standards and practices
- Comply with Accreditation
- Ask for help

# Field Guide for Staff

- Be consistent with other material
- Be sure that staff follows procedures to the letter, because when in trial a plaintiff's attorney will hold them to it.
- How will you as program director of field staff explain it to a jury if staff did not follow your own procedures.

# Policy

- Zero Tolerance – be clear on meaning
- Avoid Confusion –
  - “should” versus “must”
  - “are expected to” versus “always”
  - “our practice is” versus “our policy is”
- What about “staff judgment”?

# Staff Documents

- Qualifications of Staff; resumes, job applications, payroll, evaluations, etc.
- Training Records
- Certification – Current?
- Clinics held
- Staff manuals, training materials, handouts,
- Log entries
- Internet

Business Records are discoverable  
and must be kept for years after  
incident.



# Incident Report

- Stick to the FACTS only
- Do not talk about “Cause”
- Gather written statements
  - Facts only
  - Memory fades with time
  - Details are forgotten

# Choose your words carefully

- What happened?
- Where it happened?
- When it happened?
- Who was involved?
- Background on program?

This document may not be reproduced  
without the consent of the author. 10/12

www.nols.edu/wrmc | (800) 710-6657 x3

**WRMCG**  
WILDERNESS RISK MANAGEMENT CONFERENCE



OUTWARD  
BOUND



# Do not Judge

- Do not state a “cause”
- Do not state who is responsible
- Do not speculate about how something happened.
- Do not give an opinion
- Do not give a conclusion

# Witness Statements

- Stick to the Facts
- Do not address cause
- Include full name, address and telephone numbers.)
- Describe location of witness
- Describe what saw or heard
- List all details (weather and surroundings)
- **SPELLING IS IMPORTANT!**

This document may not be reproduced

without the consent of the author 10/12



# WORDS TO AVOID

- Avoid “cause”
- Avoid “fault”
- Avoid “guilt”
- Avoid “admission” or “admit”
- Avoid “responsible”
- Avoid “disaster”
- Avoid “catastrophe”

This document may not be reproduced  
without the consent of the author. 10/12

# Incident Documents are discoverable

- Incident Report
- Witness Statements
- Policy and Procedures
- Paramedic/doctor report
- Participants original Medical Form
- Medical record which has history of injury

This document may not be reproduced without the consent of the author. 10/12

WRMRC



NOLS  
OUTWARD  
BOUND



WILDERNESS RISK MANAGEMENT CONFERENCE

www.nols.edu/wrmrc | (800) 710-6657 x3

# Do Not make Statements like....

1. “We’ve had problems here before”
2. “This horse has been a problem in the past”
3. “We had 3 similar accidents last year”

This document may not be reproduced without the consent of the author. 10/12

WRMCG

WILDERNESS RISK MANAGEMENT CONFERENCE



www.nols.edu/wrmcg | (800) 710-6657 x3



When you leave here...

- What words will you change?
- What will you review and rewrite?

Ask yourself

How will this sound when I  
am in a Courtroom in  
front of a jury???

www.nols.edu/wrrmc | (800) 710-6657 x3



This document may not be reproduced  
without the consent of the author. 10/12

WRMRC

WILDERNESS RISK MANAGEMENT CONFERENCE



OUTWARD  
BOUND



[www.nols.edu/wrmrc](http://www.nols.edu/wrmrc) | (800) 710-6657 x3

This document may not be reproduced  
without the consent of the author. 10/12



**WRMRC**



**OUTWARD  
BOUND**



WILDERNESS RISK MANAGEMENT CONFERENCE

[www.nols.edu/wrmrc](http://www.nols.edu/wrmrc) | (800) 710-6657 x3

This document may not be reproduced  
without the consent of the author. 10/12

## Analyze this Sample from a Website Message:

“Our program has been conducting adventure based and outdoor learning experiences for schools, adult groups, and other organizations for over 30 years, and holds an excellent safety record. Over 80,000 participants have safely and successfully experienced our premium-quality education programs.”

## Sample B to analyze

“We are proud of our attention to safety and to the sustained achievements in program safety. Our accident prevention infrastructure ensures that each participant benefits from our extensive risk management systems and that our program offers thoughtfully developed experiential programs that minimize risk and maximize educational impact and value.”

## Sample C to analyze

“Our programs enjoy specific staff-to-participant ratios. Wilderness programs have multiple staff with each group to help ensure safety, a policy that leads the industry in safety management. Participants receive safety briefings as a regular part of the program.”

## Sample D - What do these sentences promise?

“We hold insurance coverage with liability and other appropriate insurance policies. Safety policies have been developed for all activities, and we participate in internal and external reviews of our operations to ensure that we continue to excel in both program safety and quality.”