MEMORANDUM FOR CDT Pat Mitchell, Scoutmaster’s Council, Directorate of Cadet Activities, USMA, West Point, New York 10996

SUBJECT: 2012 West Point Invitational Camporee

1. This memorandum responds to your request for a liability release form for use in conjunction with the 2012 West Point Invitational Camporee. It is our understanding that this event is funded by the Directorate of Cadet Activities (DCA), and that the organizing club is the Scoutmaster’s Council, a Cadet club within DCA. You stated that the Scoutmaster’s Council invites scouting groups to the event, and that it is largely organized and operated by Cadets. A liability release form is enclosed, since most of the scouting participants will be under 18 years of age, the form should be executed by the parents of the attending scouts. This event raises a number of legal and ethical issues, therefore, throughout the event you should be mindful of the guidance below.

2. Rules and Analysis.

   a. Under the Joint Ethics Regulation, section 3-209, endorsement of a non-federal entity may not be stated or implied by DoD employees in their official capacities. Furthermore, the Boy Scouts, Girl Scouts, or Venture Scouts may not do anything that would imply official endorsement of their organizations by West Point.

   b. Given the possibility of injuries, prudent steps should be taken to protect the Government from potential tort liability. Several means are available to limit liability, to include: 1) requiring each participant to sign a release from liability form; 2) requiring a representative of the Boy Scouts, Girl Scouts, and Venture Scouts to execute a release from liability form on behalf of their organizations; or 3) requiring the attending organizations to name the Department of Army, the United States Military Academy, and United States Army Garrison-West Point, as additionally insured on their insurance policy, unless the teams are self-insured. A suggested release from liability and hold harmless agreement is enclosed.

   c. The participants should be aware that those individuals who are ineligible for military health care services may use Keller Army Community Hospital for emergency medical services only. See AR 40-3, para. 13-3. Any such emergency care patient will be referred or transported to a civilian treatment facility after appropriate treatment, if any, in accordance with the military treatment facility’s SOP.

3. Recommendations.

   a. Recommend having the participants execute the enclosed release from liability and hold harmless agreement as opposed to any agreements supplied by the Club. In the case of minors, the guardian or parent must sign.
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b. The Joint Ethics Regulation prohibits the official endorsement of the Boy Scouts, Girl Scouts, and/or Venture Scouts. Therefore, you must be careful to avoid any perceived endorsement of these organizations. Any DoD employees, working at the Camporee in his/her official capacity, must avoid any statements or actions that would imply an endorsement of the scouting organizations.

c. Paragraph 3u(1)(b)(ii) states that the Cadet Camporee uniform will be a Camporee t-shirt, ACU trousers, patrol cap, and combat boots, and that Cadets who are former scouts “will wear the scout rank achieved while in scouting in a plastic patch.” However, Army Regulation prohibits the wear of any badges not authorized for wear under AR 670-1. Therefore, our office recommends that Cadets not wear any scouting ranks while also wearing an Army uniform.

4. The point of contact for this legal review is the undersigned at jonathan.hayden@usma.edu.

Enclosure

JONATHAN C. HAYDEN
CPT, JA
Administrative and Civil Law Attorney
RELEASE FROM LIABILITY AND HOLD HARMLESS AGREEMENT -
2012 Invitational Camporee at West Point

In consideration for receiving permission from the United States Military Academy to enter upon the premises of West Point, New York and to use government facilities and property for the purpose of the 2012 West Point Invitational Camporee, the receipt of such permission being hereby acknowledged, I, the undersigned*, intending to be legally bound, waive and release for myself, my heirs, executors, and administrators any and all claims, demands, and any other causes of action whatsoever, which I may have against the Department of the Army, the United States Military Academy, and their agents, officers, employees, representatives, servants, successors, and assignees arising out of my participation in the Camporee, including, but not limited to, any and all loss, damage, death or injuries suffered or sustained to or upon my person or property as a result of my participating in the ride, and while in, on or upon the premises of West Point during the aforementioned activity.

I am gratuitously using the said area for my sole benefit; and know therefore, in order to avail myself use of the United States Government land to participate in the 2012 West Point Invitational Camporee thereon, I agree to hold the United States Government and the United States Military Academy, their officers, representatives, agents, and employees harmless for any injuries or damages I may sustain to myself or cause to others by reason thereof.

I understand and acknowledge that participation in the Camporee, and use of the United States Government premises, facilities, equipment and services offered by participation in the competition bear certain known risks and unanticipated risks which could result in INJURY, DEATH, ILLNESS OR DISEASE, PHYSICAL OR MENTAL, OR DAMAGE to myself, to the minor identified below, or my property. I understand and acknowledge those risks may result in personal claims against United States Government and the United States Military Academy, their officers, representatives, agents, and employees, or claims against me by spectators or other third parties. These risks include but in no way are limited to the following: (1) the risks involved in use of the premises, facilities, equipment and services offered by the 2012 West Point Invitational Camporee and the United States Military Academy at West Point; (2) the acts, omissions or negligence in any degree of United States Government and the United States Military Academy, their officers, representatives, agents, and employees, or third parties; (3) latent or apparent defects or conditions in equipment, property or the facilities used for the Camporee; (4) my own physical condition, or my own acts or omissions; (5) rescue, first aid, emergency treatment or services rendered or failed to be rendered by United States Government and the United States Military Academy, their officers, representatives, agents, and employees.
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I understand and acknowledge that the above list is not complete or exhaustive, and that other risks, known or unknown, identified or unidentified, anticipated or unanticipated may also result in injury, death, illness, disease, or damage to myself, the minor identified below, or to my property.

The undersigned* further agrees that he or she will indemnify and will hold harmless the Department of the Army, the United States Military Academy, or their agents, officers, employees, representatives, servants, successors, and assignees from any and all costs, charges, claims, demands and liabilities of any kind arising from the willful or negligent acts of the undersigned*.

Nothing to the contrary contained it is understood and agreed that the privileges therein afforded me is in the nature of a privilege, and is not contractual in nature, and that such is revocable at will by the United States Government and the United States Military Academy.

________________________________________
SIGNATURE OF PARTICIPANT

________________________________________
PRINTED NAME

________________________________________
DATE

The undersigned certifies that he/she is the parent or legal guardian of, and has the authority to sign this release for ______________________ (name of participant) and agrees that he or she will assume liability for any loss, damage, injury, death, claims, demands, actions or causes of actions which may be brought by the above participant, or his/her representative as a result of the subject activities.

________________________________________
SIGNATURE OF GUARDIAN
(if applicable)
*Minor children must have the consent of their guardian.