

# Frequently Asked Questions (FAQs)

## About our Participation Agreement

*Last updated 1/13/2020.*

### ***What is the Participation Agreement?***

Our Participation Agreement is a legal document governing many aspects of a person's participation in a Sierra Club activity. Among other things, participants acknowledge and take responsibility for the risks of participating, and promise not to hold the organizer responsible for injuries. There is also a medical release and an optional publicity permission.

### ***Why does Sierra Club use a Participation Agreement?***

The Participation Agreement serves several purposes, and rolls together several forms that used to require multiple signatures. It includes, for example, an assumption of risk, liability waiver, medical consent, and photo permission (optional). While no document can prevent a lawsuit, our Participation Agreement can help protect Sierra Club, including its staff and volunteer leaders.

### ***Who decided that Sierra Club should use Participation Agreements?***

Sierra Club has required activity waivers for many years. The current Participation Agreement form, which includes a waiver, was [approved by the Board of Directors in September 2019](#), after extensive input from volunteer leaders and staff.

### ***Why can't the Participation Agreement be shorter?***

In response to repeated requests from staff and volunteers, we have folded into this agreement three other forms that used to be separate. Combining three forms into one makes it longer, but cuts down on overall paperwork. The Participation Agreement that the Board adopted in 2019 also reflects changes in the law.

### ***Why can't we have a simpler form for things like day hikes?***

Sierra Club has chosen to use a universal Participation Agreement form across the organization. Having different forms for different activities can be frustrating for volunteers, increases the risk that the wrong form will be used, and makes it harder to update things when needed. Having a single form will help the organization operate more smoothly. Keep in mind, too, that even simple activities like day hikes or bus rides can cause injuries.

### ***Why is publicity permission included in the form?***

Publicity permission is always optional.

In past years, a separate photo/video release was widely used in tandem with a waiver form, to permit photos and videos of the participants to be used. Combining the two forms addresses longstanding requests to simplify the paperwork. People who don't want to give permission can simply make a note near their signature (for example, by writing "No Publicity").

Staff and volunteer leaders who learn that someone has not given permission must not use photos or videos of them, or quote them, in any Sierra Club materials (including but not limited to newsletters, web pages, social media, et cetera).

### ***Are Participation Agreements mandatory?***

Sierra Club [requires Participation Agreements](#) for many types of activities. Program Safety staff are responsible for deciding which outings, activities, and events require them.

Please assume that you do need to use Participation Agreements, unless you confirm otherwise. If in doubt, ask entity leadership, your manager, or email [program.safety@sierraclub.org](mailto:program.safety@sierraclub.org). It's better to have a signed Participation Agreement and not need it, than to not have it and wish that you did.

We've provided a list below of activities that generally do and do not require Participation Agreements. We will update this list as we gain experience with the new form. You can also email [program.safety@sierraclub.org](mailto:program.safety@sierraclub.org) for further guidance, or to request an exception.

### *Activities that almost always require Participation Agreements (subject to change):*

- Day hikes
- Sierra Club Outings
- Transporting people via private/chartered bus, boat, aircraft, or other vehicle
- Walk-a-thons, 5k runs, and the like
- Fundraising activities with incorporated outings and activities
- Guided activities
- Overnight events or activities
- Activities involving unaccompanied youth and minors
- Large and complex group events and activities
- Courses that include outdoor activities
- If Sierra Club is partnering with other organization(s) on an event and want to use a single form rather separate forms for each organization, please email [program.safety@sierraclub.org](mailto:program.safety@sierraclub.org) for assistance.

*Activities where Participation Agreements may not be needed, but should at least be considered by someone who can approve the decision not to use them.*

Your entity leadership, manager, or other appropriate person should review the activity and approve the decision not to use Participation Agreements. When in doubt, use the Participation Agreement, or email [program.safety@sierraclub.org](mailto:program.safety@sierraclub.org) for guidance.

- Regular Sierra Club meetings

- Table or booth at a venue such as a farmer's market or fair
- Events open to the public like a rally or parade
- Activities led by another responsible organization, where we are attending as supporters but are not hosting or leading any specific activities
- Informal meetings or classes of adults indoors in a building that is made available for public use, is accessible to emergency services (e.g., is not in a remote location, and can be reached quickly by firefighters), and is connected to communications networks (e.g., has a working phone and/or internet connection)

## Using the Participation Agreement

### ***Where can I get the forms?***

Go to the [Participation Agreement page](#) on Campfire, or email [program.safety@sierraclub.org](mailto:program.safety@sierraclub.org)

### ***Which languages are available?***

All formats are available in English, Spanish, Mandarin, Vietnamese, Korean, and Haitian Creole. However, the versions embedded in Campfire Events and Team Sierra are currently available only in English.

### ***What formats are available?***

You have a choice of these formats:

- Individual Participation Agreement (one form for each participant)
- Local Outings version (sign-in sheet format)
- ICO version (for unaccompanied minors; includes trip and participant information)
- Online (embedded in Campfire Events and Team Sierra)

### ***When should participants be told about the Participation Agreement?***

The Participation Agreement requirement should not come as a surprise to either participants or other leaders or organizations. Potential participants should be informed as early as possible, and always prior to the activity. Publicity materials, including newsletter listings and flyers, should include a notice that participants will be required to sign a Participation Agreement. You should also make sure that others involved with leading or organizing the activity (such as ICO agency leaders, guide services, or partnering organizations) know in advance that we require Participation Agreements.

### ***What options do we have to collect signatures?***

- (1) You can have participants sign their own paper Participation Agreement (regular or ICO versions)
- (2) You can have multiple participants sign a single Participation Agreement via a paper sign-in sheet (the Local Outings version), or
- (3) You can collect signatures digitally, through Campfire Events or Team Sierra.

### ***Who should sign the Participation Agreement?***

Each adult participant, and the parent/guardian of each minor participant, must sign the Participation Agreement before the activity begins. Leaders are not required to sign the Participation Agreement.

### ***When and where should participants sign the Participation Agreement?***

Leaders/organizers must ensure that all participants have ample time to read the Participation Agreement, as well as an opportunity to back out of the activity if they decide they do not feel comfortable signing it. The appropriate time and place to give people the agreement will depend somewhat on the nature of the activity.

Engage ahead of time:

For outings that require participants to complete paperwork ahead of time (such as some Inspiring Connections Outdoors outings, multi-day and international outings, bus charters, SSC events and activities), the Participation Agreement should be provided to the participant (or parent/guardian) along with the other paperwork, and signed and collected prior to the activity start date.

Earlier is better:

If distributing the form and collecting signatures in advance isn't feasible, do it at the earliest possible time. For example, if people are meeting at a school to [carpool](#) to a trailhead, get the Participation Agreements signed at the school. Even if the activity officially starts at the trailhead, you need to get the Participation Agreements signed before people get into the car.

### ***What do I do if someone refuses to sign the Participation Agreement at the last minute?***

This is obviously a difficult situation, but a person who does not sign the Participation Agreement cannot be allowed to participate.

### ***What if I have a blind participant who is not able to read the Participation Agreement?***

Send the Participation Agreement and a description of the activity to the person advance. They may have a computer program, friend, or helper to read it aloud. You can also offer to read it to the participant at the beginning of the activity. If this is done, it is best if someone else is also present and signs or initials the Participation Agreement near the participant's signature.

## **Minors**

### ***Can minors sign the Participation Agreement?***

No. Liability waivers signed by minors are not enforceable. Anyone under 18 must have the Participation Agreement signed by his or her parent or legal guardian. In Delaware and Nebraska, the youth must be 19 to sign. In Mississippi, the youth must be 21.

***Can another adult (such as a scout leader or teacher) sign on behalf of the parent or legal guardian of a minor?***

No. Only a parent or guardian can sign a minor's Participation Agreement.

***Can an unaccompanied minor participate, and if so, what do I need to do?***

Yes, an unaccompanied minor may participate, as long as the parent or legal guardian signs the Participation Agreement.

***Will we still use the old minors' release form?***

No. The Participation Agreement replaces the old minors' release form.

## **Electronic/online version**

***Is there an online version?***

Yes. Campfire Events allows registrants to read and sign the Participant Agreement online when/if they register. Please refer to the [Taking Attendance Instructions](#). People who sign up to participate in a Team Sierra event will also receive the online version of the Participant Agreement. We are working to replace an older version with the new Participation Agreement by January 1, 2020. Even if people sign up online, the leader or organizer must bring a paper copy in case anyone requests it.

***Why must I still carry a paper copy?***

It is a legal requirement that you make a paper copy of the Participation Agreement available to anyone who requests it, even if they have already accepted it digitally.

Until the new Participation Agreement is loaded into Campfire Events and Team Sierra, please continue to bring a paper copy of the legacy version that participants are accepting online.

***How can I access the online version when there is no signal?***

If you load the taking-attendance page when you are at home and keep that page open on your phone, you can take attendance at the trailhead, even if there is no signal. Campfire Events will save any info you enter or change. Once you have wifi access again, you can save your changes and they will be uploaded into Campfire Events.

***Will participants be able to "sign" the new Participation Agreement online?***

Yes. Campfire Events allows registrants to read and sign the Participation Agreement online when/if they register. Please refer to the [Taking Attendance Instructions](#). Team Sierra also provides the Participation Agreement online.

***Will I have to hand my device to participants?***

Yes. If you choose to obtain digital signatures at the beginning of the activity, you will need to hand your device to the participants so they can accept the Participant Agreement themselves. You cannot press the button to accept it on their behalf. If you do not want other people handling your device, you can either have them sign paper versions, or have them register beforehand and accept the Participant Agreement using their own device.

***What about leaders who don't have smart devices?***

Leaders always have the option of using paper versions. There is a sign-up sheet version that will be convenient for many kinds of activities.

## **Concessionaires, partners, and other third parties**

***The concessionaire running my outing requires participants to sign a liability waiver. Do participants need to sign the Sierra Club's Participation Agreement, too?***

Yes. A waiver between the concessionaire and the participant protects the concessionaire and its employees, not the Sierra Club and our leaders. It is good to inform participants prior to the outing if a concessionaire's waiver form will also need to be signed.

***For my activity, the participants have already signed a liability waiver with the sponsoring social agency or partnering organization. Is our Participation Agreement also needed?***

Yes. A Sierra Club Participation Agreement needs to be signed. A liability waiver between the agency and the participant generally protects the agency and its employees—not the Sierra Club and our leaders. If in doubt, email [program.safety@sierraclub.org](mailto:program.safety@sierraclub.org).

***For my activity, partnering organization personnel are participating in the activity. Do they need to sign the Participation Agreement?***

Yes. The Sierra Club needs the same protection from those personnel as it needs from its other participants.

***My entity runs official outings in conjunction with another organization. Do the members of the other organization on the outing need to sign the Sierra Club's Participation Agreement?***

Yes.

## **Enduring Participant Agreement (enduring waiver)**

***What is an enduring Participant Agreement and when can it be used?***

Program Safety occasionally approves a special arrangement in which the organizer of a recurring activity (like a regular conditioning hike) is able to collect signed Participation Agreements only once every year, rather than at the beginning of each hike. To do this, the organizer must take on extra record-keeping duties, and demonstrate their ability to maintain the program.

There are very few such programs (formerly known as “enduring waivers”) in place, and we don’t encourage them because of the extra record-keeping that’s required. They are best suited to activities that repeat at least weekly and have at least 25 participants. Any entity interested in applying to set up such a program should work through its chapter to request Program Safety approval.

***Can participants sign a single Participation Agreement for well-attended, repeating activities?***

An entity, working through its chapter, may ask the Program Safety team to approve an enduring Participation Agreement program. If the Program Safety team approves, and the entity is willing and able to undertake the necessary record-keeping, participants in these specific outings or activities will be able to sign the Agreement just once every year (as approved by Program Safety staff).

## **Liability waivers are legal and enforceable.**

***Are liability waivers enforceable?***

Yes. While the specifics vary somewhat from state to state, liability waivers have afforded very real protection to both individuals and organizations. In several cases involving the Sierra Club, lawsuits have been dismissed or limited in scope because of a signed waiver. You may have noticed that when you use the services of other organizations—whether renting a kayak, taking a boat ride, or even downloading music—you are required to sign or click on an agreement including a waiver. This is a reflection of the widespread use and belief that liability waivers will protect those organizations from liability.

***What if a participant says waivers "aren't worth the paper they're printed on?"***

You must not allow participants to be left with the impression that the waiver in the Participation Agreement has no meaning. Simply state that the Sierra Club is confident that liability waivers are enforceable and several court cases have demonstrated this to be true. It is not in either the leader's interests or the Sierra Club's interests to downplay the importance of the liability waiver.

***Is a participant really giving up the right to sue?***

Nothing can prevent someone from filing a lawsuit. A Participation Agreement is just one piece--a very critical piece—in the defense against lawsuits. It may serve as a deterrent to a frivolous lawsuit. If a lawsuit is filed, it may lead the court to dismiss the case fairly quickly. If a case goes to trial, it may provide the leader and the Sierra Club with a defense.

***How does the Participation Agreement protect me, the leader?***

The liability waiver and some other provisions of the Participation Agreement are designed to help protect the Sierra Club and its agents—including staff, volunteers, and outings leaders acting on behalf of Sierra Club.

## Rolling out the new form (2019)

### ***When will new Participation Agreement be required?***

You can start using the new Participation Agreement now. [The Board of Directors would like for everyone to be using the new form by Jan 1, 2020.](#)

### ***Do I have to use the Participation Agreement?***

Yes, it is [mandatory for many types of activities, outings, and events](#). The Sierra Club needs to operate with one common form across the organization.

### ***Why did things have to change?***

All forms need to be updated periodically. Legal forms, in particular, need to be updated to reflect changes in the law. This new form also responds to many requests we received for a single, consolidated form that would reduce the number of different documents people had to deal with.

### ***Why is the new Participation Agreement longer than the old waiver form?***

The new Participation Agreement has been updated consistent with current law. It also incorporates and eliminates three other forms entirely: the photo/video release, the acknowledgement of risk (a federal land agency requirement), and the minor medical release form.

### ***Will the new Participation Agreement make more work for me, or less?***

If you are accustomed to using only a one-page waiver form, you will now be using a two-page form (with or without a sign-up sheet). If you previously had to use multiple forms (such as separate assumption of risk, medical authorization, or photo release forms), your workload may be reduced. If you are leading an outing or activity for the first time, having a single universal form that is used throughout the organization should make it easier for you to find what you need. On the whole, it is our hope and expectation that the new Participation Agreement should make it simpler and easier for people to take care of this important paperwork.

## Miscellaneous

### ***What do I do when a participant has questions about the Participation Agreement?***

Sierra Club staff and volunteer leaders are not authorized to provide participants with legal advice about the Participation Agreement. While these kinds of agreements have become very common, it is important not to minimize their impact on people's rights and responsibilities. Please be respectful if people express concerns or choose not to sign for any reason. ***Participants who do not sign the Participation Agreement may not participate in the activity.***

***Can we modify the sign-in sheet or ICO trip form?***

The Participation Agreement, and the *legal language* on the sign-up sheet and ICO form, may not be changed without Program Safety approval. However, your entity, in consultation with the chapter, may modify the *non-legal* parts of the sign-up sheet and ICO form to better meet your needs. Non-legal aspects include everything above the line "I, the parent or guardian of the minor named below, agree and consent to the attached Participation Agreement...". Please send a copy of your revised form to [program.safety@sierraclub.org](mailto:program.safety@sierraclub.org).

***Can a participant sign out of an activity, event, or outing and then sign back in?***

No. Participants can't sign out and then in again.

***How long should the Participation Agreements be kept?***

All Participation Agreements must be retained for 6.5 years. If we are going to be using photos or video of the participant, their Participation Agreement should be kept permanently.

***Can signed Participant Agreements be scanned and saved in a digital format?***

It is best to retain the original copies of Participation Agreements in case they are needed for litigation. This means that 1) whoever is designated in the entity to retain Participation Agreements needs to retain the originals and 2) it's a fine idea to scan them for electronic storage, but it is still necessary to preserve the originals.

***If an outing/activity participant were to file a lawsuit against an outing/activity leader for injuries sustained on an outing, is it the policy of Sierra Club to defend and indemnify the leader?***

The Sierra Club has a history of defending its leaders in legal actions when leaders follow Club policy and act within their scope of authority as a leader. Standing Rule 5.1.1 provides that the Board of Directors may, in its discretion, provide by resolution for the indemnification or advancement of defense costs to a volunteer acting at the direction of, and within the scope of their duties for Sierra Club. Under California law, in order for the Board to authorize indemnification or advancement of defense costs, it must determine that the person acted in good faith and in a manner such person reasonably believed to be in the best interest of Sierra Club and, in the case of a criminal proceeding, had no reason to believe that their conduct was unlawful.

***What if our newsletter, activity list, or website does not have any notification about the need to sign Participation Agreements?***

Please contact the appropriate editor or webmaster about the importance of such notice. Here is our suggested notification language:

"All participants in Sierra Club activities are required to sign a standard Participation Agreement. If you would like to read the Participation Agreement before you choose to participate in an activity, please [click here](#), or contact the Program Safety team at [program.safety@sierraclub.org](mailto:program.safety@sierraclub.org)."

***Does the Sierra Club still use a separate Acknowledgment of Risk Form?***

No. The new Participation Agreement incorporates an acknowledgment of risk.

***Why is there no place for people to "sign out" on the Individual or ICO formats?***

The sign-up sheet version includes a "sign out" column for the convenience of the organizers or leaders. Chapters, entities, and programs may require people to sign out. If the current forms do not meet your operational requirements, please contact [Program.Safety@sierraclub.org](mailto:Program.Safety@sierraclub.org).