

Back Out Camping: When Your Summer Plans Change Part I

Rabbi

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HaVaad

When parents wish to opt out of a camp they enrolled their child in, the first thing to do is try and determine if the slot can be replaced.

When the slot can be replaced.

If the camp is able to replace the slot with another child, the parents have the ability to back out of the camp without any responsibility

to pay the camp, even if a *kinyan* was made. Furthermore, if the (full) camp tuition was prepaid it would have to be refunded.

Even if the parents signed an application form which stated they would be responsible for the full tuition in the event they cancel their slot, this would generally not include such an instance where the camp has the

ability to replace the slot, unless the application clearly stated so. Even so, although the camp would have the option of charging the tuition and not replacing the slot, they would not be allowed to keep the tuition *and* replace the slot.

Although the camp is generally required to refund the tuition, if the parents requested the parents to prepay a portion of the tuition and labeled this payment as a "deposit" there is strong basis to allow the camp to keep this payment, since it is generally understood that a "deposit" is non-refundable.

Even though the parents have the option of backing out, nevertheless, *Chazal* would allow the camp to have *tarumos* - justified grievances - against them for causing her the hardship of replacing

their slot. However, if the camp is able to find a replacement without difficulty, *and* the child did not start attending the camp yet, *tarumos* will not apply.

Even where there would not be *tarumos*, the parents would still be looked down upon by *Chazal* and termed *mechusar amana* - lacking faithfulness - for reneging on their word.

If the parents are backing out due to a change in circumstances that took place after they signed up, they can be lenient with regard to *mechusar amana*. This change could be an unforeseen complication such as the parents moving to another area, or a new opportunity

arising such as a new camp opening up which offers significant advantages over

this one. However, if at the time of their commitment, the parents knew of the

opportunity but only later decided to avail themselves of it, or if they knew

they may be able to find such an opportunity but didn't bother looking around for it until later on, *mechusar amana* would still apply.

Finding the replacement

Even though the parents may not be allowed to back out if a replacement cannot be found, nevertheless, the responsibility to find a replacement falls on the camp, and as long as the camp would be able to fill the slot with reasonable effort, the parents are absolved from reimbursing them.

Consequently, if the slot is not filled and a *bais din* determines that this was due to the camp's lack of effort in finding one, the parents will not have any financial responsibility to the camp.

However, it would still be appropriate for the parents to take this task upon themselves in order to preclude the camp from having *tarumos*

- justified grievances on them.

The camp is not required to replace the slot with a child that they would not have agreed to accept with their regular registration. If the slot can only be replaced with such a child, it would be considered as if the slot cannot be replaced at all.

If the camp still had extra slots before this cancellation, then even if they do end up finding another child to enroll after the cancellation, this

new enrollee would not be considered as replacing the parent's slot but rather

just filling the original unfilled slot. However if the parents find a replacement themselves, this slot would then be considered as a replacement for

their slot and not for the original slot.

Oness

- unavoidable termination

If it becomes unfeasible for the child to attend the camp for one reason or another, this is a case of *oness* and the parents may cancel the

enrollment without any *halachic* consequences. This would even be in a case where the parents have prevented the camp from filling the slot by them signing up. *Mechusar amana* and *tarumos* would also not apply.

However,

according to some *achronim*, the camp would not be required to refund the parents any prepaid tuition or deposit they had already paid.

Even if application form stated that the parents would remain responsible for the tuition in the event they cancel their slot, they will generally still not be obligated to pay in such cases of *oness*, unless it the application specifically included as such.

Often, it will be necessary for a *Dayan* or a *beis din* to personally hear the specific situation in order to determine if it is indeed one of an *oness*. On a general note, some examples of what may be considered an *oness* are: the parents moving out of town for the summer (with regard to a daycamp), the child becoming sick, or if the child simply refuses to go to the camp.

If the parents had knowledge of (or had reason to anticipate) the *oness* at the time they signed up, yet did not inform the camp

of this, then the fact that the *oness* occurred would not absolve them from their responsibility. However if the camp had equal knowledge of the likelihood of the *oness*, then it would absolve the parents from their responsibility.

For example, if the parents knew that their child had a social issue which would likely make it unfeasible for him/her to be in this camp,

yet decided to try their luck and enroll him without informing the camp of this, and now they realize that it is in fact unfeasible for him to be there, this *oness*

would not absolve them from being responsible for the tuition.

However, if the camp also knew of this social issue when they enrolled the child, the *oness* would absolve them.