

## **Alpine Club of Canada - Waivers and Insurance FAQ**

### **Last Update – 18 April 2024**

#### **Waivers**

Waivers are legal documents that can be referenced in a court case, or litigation, in potential cases against the Alpine Club of Canada, trip leaders or potentially others. Generally, a waiver's purpose is to act as a defense for particular participants, leaders, and organizations from liability arising from various things that may happen. Issues regarding waivers, and having them properly signed, have been important in the outcomes of recent court cases related to incidents during outdoor activities. Thus, it is very important that trip leaders pay due diligence to waivers, for their own good and the good of the Alpine Club.

#### **1. Who needs to sign waivers?**

All participants on ACC trips need to sign a waiver, including leaders, participants, volunteers and contractors. Waivers cover all participants (see section on minors) including non members. All ACC members should sign the yearly online waiver when they join ACC and/or renew their ACC membership. As of May 1st 2024 all members with an active status of membership will have signed the online waiver.

#### **2. For what trips do waivers need to be signed?**

Waivers should be signed for all trips involving athletic and/or mountain activities.

This includes trips to indoor climbing gyms. While gyms have their own waivers, should an incident occur, lawsuits may involve all parties including the ACC. So, ACC waivers must be signed.

Trips that are purely social – i.e. awards dinners, pub nights, meetings – do not require waivers.

#### Multi-Day Trips

For non-members on consecutive multi-day trips, only one waiver must be signed. An example of this would be a 3-night backpacking trip. However it must be made clear that the waiver is for the whole trip.

For non-members on non-consecutive multi-day trips, it is best practice to have new waivers signed for each day of the trip. An example of this would be a course covering 2 separate weekends.

#### Trip Location

The waiver generally holds in all Canadian Provinces that practice English Common Law.

In Quebec, participants cannot waive their rights. The waiver should still be signed to show that they have reviewed the risks. The waiver form will then act as an acknowledgement of risk, which is still helpful in potential litigation.

For international trips, the validity of the waiver depends on the particulars of the law of the country, and the jurisdiction in which a case is brought. As usual, the best practice is for participants to sign the waiver, and leave it up to the courts to decide in what way the waiver may be used.

#### **3. What version of the waiver should I use?**

When using the paper waiver, trip leaders should use the most up to date waiver on the ACC national website.

[ACC Trip Waivers](#) -

[https://www.alpineclubofcanada.ca/web/ACCMember/Adventures/ACC\\_Trip\\_Waivers/ACCMember/Adventures/Trip\\_Waivers/ACC\\_Trip\\_Waivers.aspx?hkey=1b1343ac-0a1f-498a-8c2f-e150da8d0963](https://www.alpineclubofcanada.ca/web/ACCMember/Adventures/ACC_Trip_Waivers/ACCMember/Adventures/Trip_Waivers/ACC_Trip_Waivers.aspx?hkey=1b1343ac-0a1f-498a-8c2f-e150da8d0963)

The most current waiver was updated in 2024. Waivers from previous years are not to be used: They may not be legally up to date.

The current version is TWO pages. Ensure that BOTH are signed. While this means more paperwork, having separate waivers for each participant is best practice in case of litigation.

#### **4. When should waivers be signed?**

It is important that when paper waivers are used, that waivers be signed in a setting where the signee

- does not feel pressured to sign
- can read the waiver
- be apprised of the risks involved in the current trip

Ideally this should NOT be at the trailhead/carpool spot, rather ahead of time where a participant can read the waiver and be able to discontinue their participation in the event without penalty (i.e. having to wait, losing a payment/deposit or drive a distance back home).

However, given the current use of paper waivers and the fact that groups may meet at a trailhead, carpool spot or other location, this is not always possible. To reduce the potential for any issues, the best practice for trip leaders is to:

- Provide participants a copy or link to the waiver in advance and strongly encourage them to read through the waiver.
- Where possible in calendar software or trip sign-up, have a check/click box where participants can indicate they have read the waiver and agree to it.
- In the trip listing/announcement, provide information on the risks that participants may encounter on the trip ([see sample list UPDATE LINK TO NEW SITE](#)). With the use of the online waiver, the risks MUST be listed on the trip listing/announcement in a location that all potential participants can read prior to signing up for the trip. The listing should also have a tick-box or similar for the participant to indicate that they have read and understood the risks.

#### **5. Who should witness waivers?**

In the case of a waiver, a witness is someone who has heard the participant being warned of the risks, heard the participant stating that they understand the waiver, and who has seen the participant sign the waiver.

Best practice is for trip leaders to witness waivers. They are usually the person who has informed participants about the risks involved, and they will be in the best position to testify in a court case.

Others can witness waivers as long as they can attest to all of the above conditions.

### **Minors**

#### **1. Who is a minor?**

Minors are persons under the age of majority – i.e. 18 or 19, depending on the particular Province, or the Country.

During a trip, a participant could temporarily become classified as a minor. This could happen as a trip crosses a Provincial or National border.

An example of this is a hiking trip to Mount Assiniboine: The Lodge is in British Columbia, where the age of majority is 19, but most of the access is from Alberta, with an age of majority of 18.

In any case, the aggrieved person will likely be assessed and classified based on the location of the incident.

## 2. Unaccompanied Minors

**Unaccompanied minors are NOT permitted on ACC trips.**

### Exceptions

1. Exceptions may be made on trips led by certified guides where the guide is comfortable with unaccompanied minors.
2. If the participant is 18 and the trip crosses into a jurisdiction where the age of majority is 19. In this case, trip leaders must be fully informed and willing to take on the additional risk, and follow the steps below. (eg. a trip from Alberta to British Columbia with an 18-year-old.)

### Winter Trips

Unaccompanied minors cannot, under any circumstance, be allowed on winter trips into avalanche terrain rated ATES-2 or ATES-3 in National Parks or in Alberta or British Columbia Provincial Parks.

While unaccompanied minors are technically allowed in ATES-1 terrain, it is strongly advised that trip leaders stay out of all avalanche terrain unless they have the appropriate ACMG certification & permits.

## 3. Minors with a Parent/Guardian

Minors accompanied by a parent or guardian can be included on ACC trips at the discretion of the trip leader.

Leaders should be aware that, **in Canada, a parent/guardian cannot sign away the rights of a minor.**

This means that a waiver is not binding in the case of a minor, even when signed by the parent/guardian. Because of this, the ACC insurance will cover a leader/participant(s) in the case of an incident with a minor, the parent/minor/insurance company etc. can still sue.

It is up to the leader whether they choose to accept minors with parents. If they do, the following steps should be taken by the trip leaders/coordinator(s):

- Assess the appropriate age limits for the trip based on terrain, risks, activity etc.
- Prior to the trip, clearly explain the risks to the parent/guardian
- After the parent is informed of the risks, the parent should sign the waiver AND the *ACMG Acknowledgement of Risk* form which is used by the ACC when minors are on a trip
  - <https://www.acmg.ca/03public/resources/waivers.aspx#:~:text=ACMG%20Acknowledgement%20of%20Risk%20Form,not%20a%20waiver%20of%20rights.>
- The minor should be with the parent/guardian at all times – i.e. the minor and parent/guardian should not be in separate groups/areas or out of visual/hearing range of each other

## Insurance

### 1. What/who does insurance cover?

The ACC insurance covers the ACC, trip leaders, contractors, and volunteers in the case that they are sued for an incident on an ACC trip.

- Trip leaders and trip participants must be current (active) members to be covered.
- Non-ACC members (e.g. guests) are **NOT** covered by ACC insurance

### 2. What activities does the insurance cover?

- Day Hiking
- Backpacking
- Mountaineering
- Alpine Climbing
- Rock Climbing (bouldering, top rope, lead, multipitch, rappelling, sport and trad)
- Ski Touring/ Backcountry Skiing
- Ski Mountaineering
- Ice Climbing
- Wildlife Viewing

Water sports are **NOT** covered with the exception of boat access to the Bon Echo Hut in Ontario.

Leaders considering a trip requiring boat access to a campground or hike/scramble/climb should be aware of this limit on coverage.

Leaders should uphold best practices when it comes to the activity(s) on their trip, which can be found in the ACC Leadership Handbooks [LINK](#))

### 3. What does the insurance NOT cover?

The insurance does not cover Gross Negligence.

With that said, gross negligence is a very high bar to meet: it is defined as “a reckless disregard for the safety or lives of others,” or “conduct in which there is a very marked departure from the standard by which responsible and competent people habitually govern themselves”

As long as trip leaders and participants are doing their level best, following established and reasonable policies, and acting in good faith, they should be covered.