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Safe Schools Agenda

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A monthly service provided to help you with your efforts to make your school safe for students, staff and the public

More on Playground Safety Rules

Last month, we alerted you to the new law in New York State adopting the newly revised Consumer Product Safety Commission's (CPSC) recommendations for new equipment on public playgrounds. We received a request from a reader for an explanation of the new rules. The CPSC rules take up 72 pages, which are more than we can handle in a two page newsletter, but we can give you an overview.

First, the law, **General Business Law 399-dd**, deals with "Construction or installation of playground or playground equipment." The definition includes "any play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures."

The regulations include, for the first time, special provisions for playgrounds appropriate for children of day care age.

The law gives the Attorney General authority to bring an action in the Supreme Court for a judgment enjoining the continuance of a violation and for a civil penalty of not more than one thousand dollars for each violation. If the court finds that the violation is knowing or willful, the fine can be as great as \$10,000.

Key Points

- ✦ The new rules were effective on July 1, 2007.
- ✦ Compliance with the rules is required when constructing a new playground or replacing or modifying a major type of playground equipment.
- ✦ The rules do not apply when performing routine maintenance on the playground.

- ✦ The rules are limited to playgrounds designed for six or more children.
- ✦ "Critical height" is based upon the cushioning effect of the equipment's surrounding material. The height of the equipment is therefore determined by how soft the surface is around the equipment. See the CPSC Handbook for a detailed chart of the critical heights for equipment installed on various acceptable playground surfaces.
- ✦ Equipment should be grouped by recommended age range and activity levels of children.

Significant Revisions

- ✓ Age ranges expanded
- ✓ Guidelines for track rides and log rolls added
- ✓ Exit zone requirements for slides changed
- ✓ Critical height table revised
- ✓ Suggestions for surfacing over asphalt added
- ✓ Standard safety performance specs for playground equipment
- ✓ Standard safety performance specs for public use playground equipment for children 6 months through 23 months.
- ✓ Standard spec for impact attenuation of surface systems
- ✓ Standard specs for engineered wood fiber for use as impact attenuation surface systems
- ✓ Standard specs for poured-in-place playground surfacing
- ✓ Standard specs for determination of accessibility of surface systems
- ✓ Standard safety specs for drawstrings on children's' upper outerwear
- ✓ Standard guide for fences
- ✓ Suggestions for sun exposure

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The person responsible for playground maintenance should review the **Revised Public Playground Safety Handbook**. It can be downloaded from www.cpsc.gov/cpscpub/pubs/325.pdf. Use this safety checklist to inspect playgrounds with the new requirements in mind.

Falls to the surface are sources of the most frequent and serious injuries. Even though the new rules do not apply to maintenance, these surfaces deserve special attention.

Safety Checklist:

1. Make sure surfaces around equipment have at least 12 inches of wood chips, mulch, sand or pea gravel, or mats made of safety-tested rubber or rubber-like materials.
2. Check that surfacing extends at least 6 feet in all directions from play equipment.
3. For swings, make sure surfacing extends, in back and in front, twice the height of the suspending bar.
4. Make sure play structures more than 30 inches high are spaced at least 9 feet apart.
5. Check for dangerous hardware, like open “S” hooks or protruding bolt ends.
6. Make sure space that could trap children measure less than 3.5 inches or more than 9 inches.
7. Check for sharp points or edges.
8. Look out for tripping hazards, like exposed concrete footings and rocks.
9. Make sure that elevated surfaces, like platforms and ramps, have guardrails to prevent falls.
10. Check playgrounds regularly. Set up a schedule and assign responsibility for conducting, documenting, and follow-up of any discrepancies.
11. Take any damaged or unsafe equipment out of service until repaired.

Workers’ Comp Coverage for Users of School Facilities

School districts regularly lease or issue permits to individuals or entities that are school-related AND non-school related to use buildings and/or grounds. Regardless of the nature of the organization, or its mission, it is important that the district include language in its permit document holding the district save harmless from all liability, including, specifically, Workers’ Compensation (WC) claims.

This contractual risk transfer is, of course, a viable option only when the individual or entity accepting the risk has ample financial resources to pay any claim for which he has accepted responsibility. Lacking a transfer of risk, if an individual is injured and if there is no WC coverage, any benefits statutorily due to that individual will have to be paid out of district funds.

Is the person a district employee?

Employer-employee relationship can be created by:

- Traditional employment situations
- General contractor/subcontractor relationships
- “Legal” employer-employee relationships
- Borrowed servants.

When the status is not clear, an injured person may look to the district for coverage if the entity to which permission was given to use the facilities doesn't have protection.

School districts should always insist that WC coverage be provided by all lessees and renters regardless of length of occupancy or purpose of use. There is an alternative which is usually less costly for the renter; the combination of an Occupational Accident policy and Contingent Liability coverage. The district should be named as an additional insured and get a copy of the endorsement with the certificate of insurance.

JUST A REMINDER

The **Safety Agenda** has gone **Green!**

Please keep us informed if your email address is changing so we can continue to send the Safety Agenda to you.

Changes may be sent to Lynn **Green** at 610.458.1050 or email her at lgreen@glatfelters.com.