

New York State Public Entities Safety Group 497

Safety Agenda

___ Chief, Fire Department
___ Site Administrators
___ Commissioners
___ Human Resources
___ Supt. Bldgs/Grounds
___ Elected Officials

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Mistakes That Bring Attorneys into the Picture

Settlements usually cost more, whether it is a workers' compensation case or a liability case, when there is an attorney involved. And it is no wonder that attorneys are increasingly involved in workers' comp cases. Just turn on the T.V. or look at the highway billboards and you will see an attorney soliciting business on the basis that only he can "get you the settlement you deserve".

The reality is that employers make a number of mistakes in dealing with injured employees who then become disenchanted and make the call to an attorney.

The first mistake is to receive the report of injury, file the report with the insurer, assume that a claims representative has been assigned, and that an investigation of the facts is being put into operation quickly.

The second mistake is in failing to stay in touch with the claims representative assigned to the case in order to insure that the investigation is ongoing or has taken place.

The third mistake is in failing to get in touch with the injured employee, and staying in touch on a regular basis. Every day that an injured employee, who is worrying about reduction of income and possible job loss, is left "out in the dark," alienation grows until it results in a call to an attorney.

The fourth mistake is to "get tough" with the employee using tactics to make his/her absence difficult and hasten return to work. Example: requiring the employee to come in with a doctor's excuse every week. (The doctor is going to sign the excuse if the employee asks for it anyway, so this

just amounts to harassment.) Another example: demanding to know when the employee will be back to work. Better results can be obtained by using honey rather than the stick. The person in the personnel office and all supervisors should be provided with a script that goes something like this:

1. How are you feeling?
2. Your job is here for you and we all miss you.
3. We have reported your injury to "X" Insurance Company. The address, telephone number, claim number and the name of the claims representative are.....
4. If you don't hear from the claims rep in "X" days, call me and I will look into it.
5. Let us know how you are doing and if you need anything until your first compensation check arrives.
6. If you need work-related accommodations as you recover, let us know and we will work with you and your doctor to help get you back to work.

The fifth mistake is in failing to have a working modified duty return to work program. Successful programs aren't developed on the spot. They take careful planning beginning with an analysis of the physical requirements of the position and clear communication with the injured employee's physician. Success also depends on the support of the involved supervisor(s), understanding of the difficulties many experience in coming back to work and a strong stand against jealousy and harassment by fellow employees.

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The sixth mistake (really the first) is in failing to have a vibrant safety and safety awareness program in place. Prevention of injuries avoids the entire problem of workers' compensation costs, including training and safety awareness costs far less than settlements for injuries that include attorney fees.

Parks and Playground Safety Starts With Good Maintenance

Virtually every municipality maintains one or more parks and playgrounds for its citizens. They do a great deal to enhance the quality of life in their communities. Take the time now to make sure that those parks and playgrounds are in good shape for the coming months. Be aware that more than 486,000 individuals were treated in hospital emergency rooms for injuries related to playground equipment in 2002, according to a study by the National Electronic Injury Surveillance System (NEISS). Many of those injuries could have been prevented by greater attention to playground maintenance. So, pay special attention to the condition of your playgrounds and the procedures for their maintenance.

Falls to the surface accounted for 58% of the injuries, with falls involving striking equipment accounting for another 16%. Contact with protrusions, pinch points, sharp edges and sharp points accounted for nearly 7%.

Because falls are the most common type of playground accident, there should be special attention in the maintenance program to preventing falls and reducing their severity.

Three major physical factors can help reduce the incidence of injury: playground surface, playground design, and equipment installation and maintenance.

The greater the height of the equipment, the more likely a child is going to be injured from a fall and the greater the need for loose-fill surface materials. They should be 12 inches deep under and around equipment up to 8 feet high. Surfacing mats made of safety-tested rubber or rubber-like materials are also safe.

Daily maintenance should include removal of debris and refurbishment of loose-fill materials at the foot of slides, swings and climbers. Loose-fill materials should also be raked to make sure that they do not become packed down. We know of one occasion when bees built nests in wood chips that had not been raked.

No surfacing materials are considered safe if the combined height of the equipment and the child standing on the highest platform is greater than 12 feet.

Playgrounds should be inspected frequently and regularly – preferably on a daily basis. If repairs cannot be made immediately, equipment should be removed from service until repaired. Key problems to look for:

- ☞ Loose, damaged, or missing supports, anchors or footings.
- ☞ Exposed footings.
- ☞ Loose or missing nuts, bolts, or other connectors.
- ☞ Broken or missing rails, steps, rungs, or seats.
- ☞ Bending, warping, rusting, or breakage.
- ☞ Missing protective end caps.
- ☞ Sharp edges or points.
- ☞ Deformed hooks, shackles, rings, links, etc.
- ☞ Worn swing hangers and chains.
- ☞ Worn bearings.
- ☞ Lack of lubrication on moving parts.
- ☞ Exposed springs or joints that could result in pinch or crush injuries.
- ☞ Splintered or deteriorated wood.
- ☞ Cracks or holes in surfacing materials.
- ☞ Trash.
- ☞ Roots, rocks, or poor drainage areas.

From a liability standpoint, it is a good idea to create an inspection checklist tailored to each playground, assign responsibility for the completion of the inspection, correct deficiencies promptly, and keep a record of the these steps.

Publication Number 325 of the U.S. Consumer Product Safety Commission's (CPSC) Handbook for Public Playground Safety contains guidelines for playground design, equipment installation and maintenance.

The CPSC guidelines are considered to be the standard which defendants in liability cases are expected to meet. No public organization which maintains a playground should be without it.