



ASCIP *RISK ALERT!*

Date: August 4, 2000

Attention: ASCIP Members

Subject: PLAYGROUND SAFETY AND LIABILITY

Recently a Santa Ana, California, jury awarded a plaintiff child \$1.4 million dollars in costs and damages resulting from a playground accident wherein the pupil fell from a piece of play apparatus, broke his arm, and reportedly suffered complications from that injury which resulted in permanent loss of the use of that limb.

ASCIP obtained a copy of the pleadings (public documents) from the Court and reviewed the arguments and issues which resulted in this extreme award. The plaintiff alleged that the District was liable for the accident although it was not contested during the litigation that the playground apparatus may have been in compliance with current Consumer Product Safety Commission Playground Safety Guidelines. One theory of liability involved the alleged existence of a dangerous condition of public property. A second theory of liability was related to negligent supervision although the jury found that, in their opinion, there was no negligent supervision involved. The theory of dangerous condition was, in part, supported by evidence of prior accidents on similar equipment within the District and by certain recommendations proposed by various playground safety organizations and consultants. These groups contend that the Consumer Product Safety Commission Playground Safety Guidelines for the recommended maximum heights of certain play equipment are too high for some user age groups resulting in more severe accidents when they do occur. Although the District, which is not an ASCIP member, is considering an appeal of the award, this trial brings forth issues which may be important to all playground operators.

At this time, ASCIP believes that the Consumer Product Safety Commission Playground Safety Guidelines are the accepted minimum standard of care in the playground industry in the United States. Since these standards are common to all State or local jurisdictions and are the basis of the training programs for Certified Playground Safety Inspectors, we view these guidelines as the accepted baseline by which conforming playgrounds may offer reasonable safety to users. However, ASCIP observes that not every child from every age group will be able to use every part of every playground with a guarantee of absolute safety. With that understanding, it should be realized that District liability for playground accidents may be alleged even though those playgrounds may be in full compliance with the Consumer Product Safety Commission Playground Safety Guidelines. Therefore, ASCIP recommends the following:

- 1) The current Consumer Product Safety Commission Playground Safety Guidelines should be used as a starting point for evaluating playground safety, and;
- 2) Existing playgrounds should be reviewed for other potential risks and liabilities beyond those related to Consumer Product Safety Commission Playground Safety Guidelines compliance, and;
- 3) New playground equipment and installation proposals should be evaluated for risks beyond compliance with Consumer Product Safety Commission Playground Safety Guidelines.

Reviewed July, 2006