

CURRENT LEGAL ISSUES

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DRUG FREE WORKPLACE

- Mandatory Testing:
 - Pre-employment
 - Reasonable Suspicion
 - Accidents
- Post Accident Testing – nexus between accident and drug use
 - “Directly caused by impaired state”
 - Not perceived as punitive or embarrassing or likely to deter injury reporting
- Worker’s Compensation – nexus?

WHAT ABOUT OSHA?

- Local governments are not subject to Occupational Safety and Health Administration (OSHA) regulations.
 - If a state wants to administer its own OSHA program it must include public employees.
 - Alabama has not done this.
- But ...
 - Best practices?
 - Can and will be used against you in a court of law ...



ALABAMA'S DRUG-FREE WORKPLACE PROGRAM

- Sections 25-5-330 through 25-5-340, Code of Alabama 1975
- Mandatory 5% premium discount on Worker's Compensation Insurance for employers who comply and qualify under the program
 - Written policy
 - Substance abuse testing
 - Resources for employee assistance
 - Employee training and education (1 hour semi-annually for employees; 2 hours for supervisors)
 - Confidentiality standards provided for

DRUG FREE WORKPLACE



- Oral v. Urine v. Hair testing
 - Reasonable suspicion
 - Auto accident
 - Work related accident
- Drug testing only shows that a substance exists in a person's body NOT whether the person can work safely
- **CAUTION:** retaliation if an employee reports a work related injury

EMPLOYEE ASSISTANCE PROGRAM (EAP)

- Mandatory referral?
- City Handbook? Contract?
- CAUTION:ADA issues
 - Job performance ok in most cases



SPEAKING OF THE ADA ...

- Reasonable accommodation
 - Police
 - Fire
 - Inspections
 - Maintenance

REPORTING OF HARASSMENT AND/OR DISCRIMINATION

- Recent reporting best practices
- Education and updates for employees
- Training for supervisors
- Preparing for investigation
- Follow-up
- **NO RETALIATION FOR REPORTING**

WORKPLACE SAFETY ISSUES



- Fire
- AED
- Workplace Violence/Active Shooter
 - Workplace violence questionnaire

PEER SUPPORT LEGISLATION PASSED

- Act 2018-416
- Certain communications between first responders and peer support members are confidential with regard to emotional and moral support provided due to on the job stress or an incident in which the first responder was involved in his or her official capacity.
- Federal Court?

PUBLIC EMPLOYEE LIABILITY

- Wright v. Cleburne County, --So.3d--, 2017 WL 6629201 (Ala. Dec. 29, 2017)
- Statute providing for a cap on damages recoverable against governmental entities **is not** applicable to individual-capacity claims.
 - Line and scope of employment
- Legislative Study Committee
 - Caps and Immunity?



Loss Control Division

of the Alabama Municipal Insurance Corporation
and the Municipal Workers Compensation Fund

Sponsored by The Alabama League of Municipalities



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Reference Documents by Subject A-Z

The Loss Control division collects and maintains this reference library for the education of our member municipalities. The documents below are .doc files unless noted.

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Search Reference Documents

15 Passenger Vans

15 Passenger Van Sample Policy (pdf) 15PV-001
15 Passenger Vans Best Practices 15PV-002

Accident Investigation

Accident Investigation Form - Sample 1 (pdf) AXIN-001
Accident Investigation Form - Sample 2 AXIN-002
Accident Investigation Form - Sample 3 (pdf) AXIN-003
Accident Investigation Guidelines AXIN-004
Five Questions to Ask During Incident Investigation (pdf) AXIN-005
Guide to Identifying Causal Factors (pdf) AXIN-006
Sample Near Miss Accident Report AXIN-007
Sample Vehicle or Equipment Accident Report AXIN-008
Sample Vehicle & Equipment Incident Review Program (pdf) AXIN-009
Accident Review Board - Sample Policy AXIN-010

Americans with Disabilities Act (ADA)

ADA 2000 City Government Common Problems (pdf) ADAR-001
ADA 2000 Small Town Guide (pdf) ADAR-002
ADA 2010 Standards (pdf) ADAR-003
ADA 2012 Swimming Pool Access (pdf) ADAR-004

Property Inspections

Employee Report of Hazard (pdf) PRIN-001
Fire Assessment Poster (pdf) PRIN-002
Life Safety Evaluation Checklist (pdf) PRIN-003
Maine Municipal League Inspection Guide (pdf) PRIN-004
Risk Assessment Checklist PRIN-005
Sample Facilities Inspection Checklist PRIN-006
Workshop Safety Checklist (pdf) PRIN-007

Recreation

Archery
Archery Park Guide RCAR-001

Bleacher Safety

Bleacher Safety Guidelines RCBL-001
CPSC Guideleines - Retrofitting Bleachers (pdf) RCBL-002

Equestrian

Equestrian Event Signage Statute RCEQ-001

General

Sample Emergency Plan for Sports Facility RCGN-001

LOSS CONTROL RESOURCES

- www.losscontrol.org
- Access through ALM website
- Provided by AMIC and MWCF
- Full of resources

QUESTIONS?

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DUMB QUESTION THAN
IT IS TO FIX A DUMB
MISTAKE.