

Playground Safety and Standards of Care

by Scott Burton

There is much more to playground safety than meets the eye . . . and ears! In my career in playground safety I've continuously heard some upsetting comments like:

- "We were told our playground was safe because it passed inspection!"
- "Our playground is new, so it's safe, right?"

Well, we all want the children to be safe on the playground. But getting to that point is another story.

State inspectors tell me they only check for items on their checklist and those are minimum requirements set by the state; you can exceed those rules if you'd like. And you had best like to do that, because oftentimes dozens of hazards go undetected. Unidentified hazards are injuries waiting to happen. More on this in a moment.

Safety Standards

The American Society for Testing and Materials (ASTM) publishes national

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playground safety standards for public use playgrounds (which does not mean publicly 'owned'; it's the 'use' by the public's children that is key). The standards that apply to child care centers are the F1487, F2373, F1292, F2049 to name just a few. These are available for purchase at www.astm.org.

The Consumer Products Safety Commission (CPSC) publishes national playground safety guidelines for public use playgrounds called "Public Playground Safety Handbook" (#325). These apply to child care centers as well. This free publication is available at www.cpsc.gov.

The ASTM and CPSC rules are critical to keeping children safe. They are the "Standard of Care" in the playground industry, especially in parks and schools. Being the "Standard of Care" for an industry means a great deal. It means the degree of care that an owner/operator (of a child care center in this case) should use, and which rules they know, or should know about, to make their playground safe for children. Unfortunately, these are often unfamiliar to child care centers. But when an injury occurs, watch out! Those rules have been accepted into courts across the land as the rules to comply with. They have both been adopted into state laws in 19 states and are under consideration in others.



THIS TOT SEAT OPENING PASSES THE PULL TEST FOR A HANGING HAZARD — Photograph by the Author

ASTM organization is a voluntary one, but it is quite different for the standards they promulgate. Standards may be called 'voluntary,' but when they are used and cited to the extent that they become the "Standard of Care," they have moved away from being in the 'voluntary' category.

ASTM Standards are not voluntary in the sense that producers seek independent IPEMA (International Playground Equipment Manufacturers Association) certification of compliance with ASTM and advertise it as such. Compliance with ASTM and CPSC is a matter of survival for manufacturers in a competitive marketplace, and a matter of defense against liability claims to owners/operators. ASTM and CPSC compliance is required in almost all bids for playground equipment. Numerous states have enacted laws regarding compliance with ASTM and CPSC. When an entity chooses not to follow the minimum standards of care in the industry, they do this at their own risk. Of course, when ASTM Standards are adopted into law, that escalates the issue even further. A critical aspect for owners/operators to consider is that compliance to these standards and guidelines, whether law or not, has actually resulted in refunds of insurance premiums, so compliance is recognized by the industry in many ways. Additionally, CPSC enforces its guidelines through product recalls, product bans, and by contacting and fining manufacturers to change defects (hardly 'voluntary').

Of the 2,775 sites that I've audited (some sites have multiple playgrounds), all had Class 1 (life-threatening) hazards! Now that doesn't mean that none of the equipment passed. Lots of equipment passes; but a lot fails as well. Sometimes the equipment passes, but the use zones don't. Or the fencing was not adequate to protect children from a car crashing into the playground (or keeping children from defeating the gate latch and running into the street).

When I arrived at one child care center in California to do a safety audit, the director told me she had just bought all new roto-molded plastic playground equipment. I had to tell her that it never should have been sold to her since the equipment is only designed for home, not commercial use. "But it was from a catalog that came to our school!" she said. I had to tell her that some catalogs do not verify that the products they carry will comply with applicable ASTM or CPSC rules for commercial centers. I could not pass her hazardous equipment: Plastic climbers were not anchored; slides didn't have a transition rail to help the children sit down, and so on. There were a lot of hazards. I felt horrible. But, I had to fail what I found to be non-compliant.

State inspectors may mean well, but I've witnessed when they did not check their

findings against these national standards and guidelines. This leaves centers under the belief that they are 'safe.' I've had cases where an inspector passed a playground for surfacing materials since they saw sand on the ground: "Bingo! You're safe!" But without measuring the depth of the sand, they didn't detect the hazard that it was only 1/2" thick over a concrete slab! It did not offer any impact protection and caused broken bones to occur . . . and lawsuits! If playgrounds are not inspected and modified correctly, a child can get hurt or killed.

Some centers go out of business because they are unaware of having to comply with ASTM and CPSC, over and above what the state may ask you to do. I hear, "But that's what we have insurance for." Ah, but insurance companies only cover you for so much money. Have you heard of jury awards in the millions? Even some pre-suit settlements can wipe out your policy limit, and then you run the risk of not being insurable, or worse, being on the hook for the amount over and above the policy limit! Did you know they can attach a lien on your home and garnish your wages if you are named along with your company?



THIS "REPAIR" JOB TO A BARRIER WALL CREATED A CLIMBING HAZARD — Photograph by the Author

Some manufacturers will claim compliance to ASTM and CPSC, so that's good! Keep in mind that although they may cite IPEMA certification (which is great by the way!), it does not certify compliance according to CPSC rules, just ASTM. And, there are many rules found in the CPSC document that you must comply with that are not found in the ASTM Standard. So be sure to get it in writing that they comply with both of the ASTM and CPSC rules. Your best bet is to get a third party inspector/auditor to do a compliance check on your site. Get one who is not biased, is not selling playground equipment, and doesn't do repairs (i.e., has no conflicts of interest).

What is the bright side to all of this, you ask? A center can mitigate their liability, and possibly lower their insurance premiums if they comply with ASTM and CPSC rules. More good news to follow. But first, in order to get hazards identified the right way, an experienced Certified Playground Safety Inspector should perform a safety 'audit' on the playground. Make sure the inspector has done a lot of audits (more detailed than 'inspections').

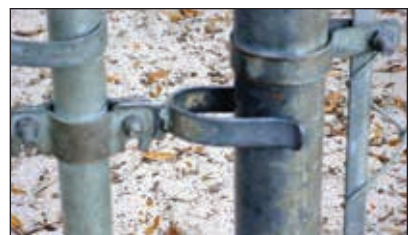
A typical safety audit should take an average of 2 hours on site, plus 2 hours for the report. Why? There's a lot to check for! Here's just a sample of what to look for. A competent inspector should check for hazards identified in ASTM and CPSC such as:

Criteria for Choosing an Inspector

- Is a Certified Playground Safety Inspector with a 'current' certification (certifications expire every 3 years and must be renewed)
- Carries Errors and Omissions insurance and General Liability; ask for proof!
- Has no conflict of interest; inspector doesn't: sell playground equipment, surfacing materials, perform repairs
- Is aware of and fluent with ALL Standards and Guidelines and Laws for playground equipment, surfacing, ADA compliance, playground fencing
- Has related experience (e.g. previous manufacturer, installer, or designer; sits on ASTM subcommittees that writes the national Standards; helps write the CPSC Guidelines; has at least 5 years performing audits)
- Uses 'all' of the tools required for an inspection, not just a 'partial' set
- Is knowledgeable about the rules on signage and labels

There are lots of inspectors out there; some are competent, some are not doing a thorough job. One common problem is having an installer inspect the job after they are done, which is a big mistake (but still better than nothing at all).

FENCE GATE LATCH PROTRUDES AND CAN CAUSE INJURIES — Photograph by the Author



- equipment not allowed for certain age groups. (For example, the rules say: overhead ladders are not for kids under 4; kids 6-23 months have no climbers over 32" high, no whirls, etc.; pre-K's have no track rides, no spiral slides more than 360 degrees, no sliding (fireman's) poles, log rolls, or chain/cable walks; tot seats are for kids under 4; no free-standing climbers with flexible components for pre-K's.)
- unanchored equipment like plastic climbers, slides, playhouses.
- suspended hazards that can cause strangulation.
- overhead hazards that can protrude into where children are playing and impact them.
- surfacing hazards such as: improper depths, deterioration, compaction, mold, obstacles in the playground use zones, bad drainage, no borders to hold in loose fill.
- no signs or labels or improper messages, coloring, placement, applicability (wrong age ranges of users stated for the equipment); no surfacing warning labels; no strangulation labels; no "hot surface" labels; no surfacing level marker labels (for loose fill levels); no "Adult supervision is recommended" label; labels in a Spanish-speaking area are not in Spanish.
- general hazards like rot, corrosion, rust, insect infestations, lead paint.
- stability of equipment and components.
- head entrapment (hanging) openings of various sorts; entanglements (strangulation) by bolts and other projections or by gaps and open "S" hooks; a wide variety of protrusions (causes impact injuries to the eyes, temple, groin).
- guardrails and barriers are not high enough, are climbable, or allow a torso probe to pass through; use zones not far enough; slide slopes too steep; insufficient slide clearances (user strikes adjacent component); slide sidewalls are not at least 4" high; hardware in bad shape; wear and tear on components.
- bare or painted metal platforms, steps or slides are in direct sun and burn a child.
- improper diameter on hand rungs/grips.
- crush and shear points that move can amputate a child's finger.
- sharp edges and points can hurt a child more easily since skin is tender.
- more than 2 swings in a bay, and swings are less than 30" from the legs, and less than 24" from each other.

To make your center safer, get someone who knows the rules well, is insured, has done a lot of safety audits, and doesn't repair or sell playgrounds.

After you make the necessary modifications and/or repairs, make sure you get a Certificate of Compliance. That is a useful tool in lowering insurance premiums, and you can hang it on the wall to show potential clients checking out your center! Last but not least, now you have a good defense in court by being able to

say you complied with ASTM and CPSC rules, as well as state laws. But most of all, the kids are safe.

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"HOME"-STYLE EQUIPMENT IS NOT ALLOWED IN COMMERCIAL SETTINGS, NOR ARE SWINGS ALLOWED ON A COMPOSITE STRUCTURE — Photograph by the Author

