



MONTANA MUNICIPAL INTERLOCAL AUTHORITY
PO Box 6669
Helena MT 59604-6669

RISK MANAGEMENT BULLETIN

Please distribute to all appropriate personnel and post in a conspicuous place.

TO: MMIA Program Participants

RM Bulletin #06-11

DATE: March 28, 2011

FROM: John Cummings

RE: Summer Help & Swimming Pool Staff

With summer approaching, we must once again deal with recalling and hiring seasonal/temporary employees and gathering volunteers. In the event your municipality needs to bring on both seasonal and temporary employees, make sure you know the differences in their employment status and benefit entitlements. You can refer to Section 2-18-601 of the Montana Code Annotated, (MCA) in order to review the definitions of seasonal and temporary employees. These definitions can be found at <http://data.opi.state.mt.us/bills/mca/2/18/2-18-601.htm>.

Pool Staffing Reminder

It is important for members with municipal pools that there are very specific staffing requirements. All staff hired must have proper life guard certifications and also must be current with all required certifications for your municipality to be in compliance with State pool statutes. Staffing numbers are dependent on square footage. For more information on this and other pool related issues, we suggest contacting the State. For specific pool information contact Paul Reeves, (406) 444-2823, preeves@mt.gov.

Safety

Once hired, it is important that your employees receive the proper safety training. The Montana Safety Culture Act (39-71-1501 to 39-71-1508 MCA) requires that employees receive the appropriate employee orientation, job specific safety training and periodic refresher training. As a guideline, orientations should include, but are not limited to, the following items:

- Where the employee can find a copy of the municipality's safety policy
- The safety expectations of the municipality
- The supervisory chain of command
- How to report accidents or unsafe conditions
- Emergency Plans and procedures as they may apply

In addition, the municipality should provide education specific to the equipment and tasks required of each position. These standards can be found at <http://erd.dli.mt.gov/safety-and-health/montana-safety-culture-act/requirements-of-all-employers.html>.



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Harassment

Summer help brings with it unique challenges regarding the broad spectrum of ages employed by the municipality. Often parks, recreation, and pools hire high school and college age students. In these areas, municipalities need to carefully orientate these employees as to what constitutes harassment, sexual or otherwise. In addition, you should provide these employees with the appropriate steps to follow in order to file a grievance. MMIA is always available to provide your summer help with sexual harassment training.

Employment of Minors

In addition to safety concerns, it is also important that your municipality understands how to deal with child labor standards, as some seasonal employees are normally students/minors. The Montana Child Labor Standards Act (41-2 Part 1 of the MCA) should be reviewed to make sure that children/minors are not subjected to prohibited employment conditions. Sections 41-2-106 through 108 of the MCA deal with conditions that affect the employment of minors ages 14-15; Section 41-2-110 deals with exemptions from prohibited employment of minors who are 16-17 years old. These standards can be found at <http://erd.dli.mt.gov/labor-standards/child-labor-law/103-montanas-child-labor-law-reference-guide.html>.

PLEASE NOTE: Minors age 14 and 15 cannot operate power driven equipment such as lawn mowers and power driven string trimmers. They can perform other domestic garden and lawn care chores using hand operated devices such as shovels, rakes, hoes etc. Minors age 16 and 17 can use power mowers and string trimmers. They cannot use chainsaws and string trimmers equipped with brush and wood cutting blades.

Special Events and Volunteers

Spring and summer are the times when many communities hold special events. Municipalities may choose to augment their pool of employees with volunteers; even if only for a couple of days. Volunteers can present a different set of challenges as their status with the city may be unclear to supervisors or the general public. It is important to remember that volunteers may be considered agents of the municipality while acting within the course and scope of their volunteer duties. This may constitute a liability exposure to your municipality.

Your municipality can help reduce its risk by treating volunteers similar to how you would treat employees. Rather than sending them off with no orientation or instruction, ensure that they are capable of completing the desired task in a safe and responsible manner. It may be necessary to provide them with some training and instruct them to seek guidance from actual municipal employees if they have questions. They should know who is in charge of them and who to report to in the event of a problem or emergency.

Sometimes, despite your best prevention efforts, a volunteer may get injured. It is important to know the status of the volunteer so that there is no confusion over whether or not the volunteer is covered under the municipality's workers' compensation coverage. Periodically, volunteers are mistaken for independent contractors, but this is most likely not the case. Section 39-71-120 MCA identifies the criteria necessary for someone to be considered an independent contractor.



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If the individual is an emergency response volunteer, it is required that they be covered for worker's compensation. Workers' Compensation statutes exclude non-emergency volunteers from coverage unless the employer elects to purchase additional insurance specifically for its volunteers. This means your municipality's volunteers will not be covered for workers' compensation unless it elects to purchase such additional coverage and notifies the MMIA in writing. Covered volunteers must be identified by name and social security number; their service hours must be logged and identified using the proper classification code. The MMIA has reporting and premium guidelines available upon request.

Summary

Properly identifying employees, orientating them to your policies and procedures, and conducting appropriate job specific training can ensure that seasonal/temporary employees and volunteers can add a much needed boost to the increased demands put on your municipality during this season. In addition, be sure your swimming pool staff is certified and your staffing levels meet the required levels.

Should you have any questions regarding the proper processes and procedures to follow please feel free to contact John Cummings at (800) 635-3089 or at [jcummings@mmia.net](mailto:jcumings@mmia.net).

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