



SHIFT BRIEFING



REPORTING UNSAFE CONDITIONS

I want to remind you of the importance of reporting unsafe conditions as you go about your job today and every day. Let me give you a little background.

- We are members of a JIF or Joint Insurance Fund. This means we are essentially self-insured. We put money in a pool with the other JIF members, and all injuries, vehicle or property damage, and liability claims are paid out of that pool of money. Money that is not spent eventually comes back to the members to be used as they see fit, such as new vehicles, equipment, and such.
 - It is in our best interest to keep as much money in the JIF as possible by reducing injuries, minimizing damage to our properties and vehicles, and the topic of today's briefing, protecting ourselves from general liability claims.
- When it comes to general liability claims, New Jersey provides a level of limited immunities for public entities. It is referred to as Title 59 Immunities. Title 59 places three hurdles that must be overcome before a claim can even be considered in court. If we can show that one of the hurdles was not met, we can defend ourselves quickly and cheaply. The first hurdle is there must be a permanent injury resulting from the incident. So a person cannot successfully sue for a sprained ankle on our soccer field.
- The second hurdle is called 'Notice'. Notice means the public entity knew or should have known, about the condition that caused the injury. There are 2 types of Notice:
 - Actual Notice – This is why good risk management includes periodic inspections of facilities, playgrounds and athletic fields, roads-signs-walkways, and the JIF provides model checklists.
 - Constructive Notice – This is where the public entity SHOULD have known the condition existed. For example, a damaged swing led to an injury to a child. It was found that a Public Works crew had picked up the trash in the park earlier and did not report it. This is also commonly used by claimants with dangerous sidewalks. The local police and municipal trash or recycling vehicles drive past for months and months. The municipality should have known that the sidewalk was raised and started the process to have it repaired.
- The third hurdle is that the actions of our agency were palpably unreasonable. Doing nothing in response to an unsafe condition will generally be considered 'unreasonable' by a court.

This is why it is so important that you keep an eye out and report dangerous conditions. This agency will gratefully accept all reports of unsafe conditions.

If they are our responsibility, we will log them and prioritize corrective actions to maintain our Title 59 Immunities.

If the dangerous condition is another party's, such as a traffic light that is out on a county road, a traffic sign blocked by vegetation, or a dangerously raised sidewalk, we will notify that party, again to maintain our Immunities and transfer the risk to them.

Not knowing is a detriment because we must spend more money from our JIF to defend ourselves. Whereas if we knew about a hazard and took action to correct it, our lawyers may be able to assert our Title 59 Immunities and keep our taxpayer money in our community.