



Undue Influence Training

Anne Stone, CAE

Director of Advocacy and Member Engagement

- This information is being furnished by PPAI for educational and informational purposes only. The Association makes no warranties or representations about specific dates, coverage or application. Consult with appropriate legal counsel about the specific application of the law to your business and products.

This is not new...

CPSIA requirements effective February 8, 2013

- Testing and Labeling Pertaining to Product Certification – 16 CFR 1107
 - Certification of Children’s Products 1107.20
 - 1107.21 – Periodic Testing
 - 1107.23 – Material Change
 - 1107.24 – Undue Influence
 - 1107.26 – Recordkeeping
 - 1107-30 – Consumer Product Labeling Program

Purpose

- Establish protocols and standards for ensuring continued testing of children's products
- Material change requirements
- Safeguards against exercise of undue influence
- Establish program for labeling of consumer products

What is undue influence training?

- Undue influence training is training to ensure that manufacturers and their employees do not exert undue influence on testing laboratories to alter test methods or test results that serve as the basis for certifying a product's compliance under federal law.



If you interact with a third-party testing lab, what must you do?

- Establish procedures to safeguard against the exercise of undue influence by the manufacturer on a third-party laboratory
 - Written policy
 - Training and retraining
 - CPSC notification of any attempt to hide or exert undue influence over test results
 - Staff assurances

Written policy

- Develop a written policy statement from company officials that the exercise of undue influence is not acceptable



Written policy

- This policy should not only satisfy the rule, but also accentuate to staff its importance to the company
- Make the written undue influence policy visible and available to customers and the public
- Consider including the policy in the company code of conduct

Sample written policy

Product Guides*

[How To Read Compliance Documents](#)

Test reports and compliance certificates are as complex as they are necessary. This instructional guide takes you step-by-step through the process of reading and understanding these reports.

[Product Safety Communication Tool](#)

Discuss campaign development and consumer product safety with your end buyer client with this helpful worksheet.

[Product Safety, Social & Environmental Best Practices](#)

This guide will provide you with direction and clarity in assessing and meeting product safety, social and environmental compliance challenges with self-assessment tools, best practices, checklists and frequently asked questions.

[Guide To Navigating The CPSIA](#)

The 2012 Guide To Navigating The Consumer Product Safety Improvement Act is your one source for CPSIA information. This book covers everything from a definition of a children's product, to standards and regulations, to specific supplier and distributor information and even answers to your most frequently asked questions.

[Product Safety and Social Responsibility Presentation](#)

Learn more about international labor standards and environmental and social expectations with this comprehensive presentation.

[PPAI Guide To Managing Responsibility For Product Safety, Social And Environmental Standards](#)

A guide to managing responsibility for product safety, social and environmental standards in the promotional products industry.

[CPSC Small Business Guide](#)

Guidance on the Consumer Product Safety improvement Act (CPSIA) for small businesses, resellers, crafters and charities.

[CPSC Laboratory Test Manual for Toy Testing](#)

Requirements for testing of toys and other articles intended for use by children 12 years and under.

[Handbook For Manufacturing Safer Consumer Products](#)

The underlying premise of the Handbook is that safety must be designed into and built into consumer products in the United States in conformance with the requirements of product safety systems planned, established, and implemented at the direction of executive management.

[California's Proposition 65 Guidebook](#)

Since its enactment more than 15 years ago, California's Proposition 65 has distinguished itself as an unusual statute that requires the business community's careful attention.

[Resin Identification Codes](#)

[Undue Influence Statement of Policy](#)

[Product Safety FAQ's](#)

Have questions? PPAI's got answers. Find them here with PPAI's searchable compilation of frequently asked questions regarding product safety and the CPSIA.

News and Current Events

Awards And Recognition

End Buyer Initiatives

PPAI LAW

Product Safety

Product Guides*

Education and Resources*

Articles

CPSIA

CPSIA Tracking Labels

PPAI Speaking On Your Behalf

Prop 65

International Standards

Best Practices

Tracking Label Video

Compliance In A Box

Research

PPAI Code Of Conduct

Industry Job Board



Undue Influence Statement of Policy

STATEMENT OF POLICY

Our company has various responsibilities under the Consumer Product Safety Improvement Act (CPSIA) for ensuring children's products meet the requirements of the CPSIA.

Testing and certification of children's products are important parts of the process of compliance. By law, we must not apply undue influence on what the law calls "third party conformity assessment bodies" which are the testing laboratories we use to conduct the testing of those children's products, to produce favorable testing results for us.

The law does not provide a definition of "undue influence." It is our company's policy that any action or statement that undermines the credibility and validity of the testing process used for the certification of children's products is undue influence. If you have any doubt, report it.

All reported incidents of possible undue influence will be promptly and fully investigated.

TRAINING

It is our company's policy that we will train all employees who interact with testing laboratories to make certain no one engages in actions or makes statements that will be considered undue influence. If we change our undue influence policy, we are committed to retraining all employees regarding those changes.

In accordance with the requirements imposed upon us by the Consumer Product Safety Commission (CPSC), all employees who are trained will be required to sign a statement attesting to their training attendance.

PROCEDURE

If you witness or are aware of what you believe is an incident of undue influence, it is your responsibility to report it.

Every effort will be made to keep a report confidential, but remember, all of us have the responsibility to report undue influence, even though it may be difficult or uncomfortable to do so. Further, be assured, we will not tolerate any retaliation against you for reporting any incident or participating or cooperating with any investigation of an undue influence report.

You should report it to your immediate supervisor. If you are uncomfortable with reporting it to your supervisor for whatever reason (for example, that supervisor is involved in the incident of possible undue influence), (name, title, contact info) is the designated individual in our company for investigating any undue influence. You may also report an incident to any officer of the company if you feel that is the best course of action.



Training

- All employees who interact with testing labs must undergo training to ensure that no one engages in actions or makes statements that will be considered undue influence.
- If the undue influence policy changes, all employees must be retrained.

Training

- All employees who are trained are required to sign a statement attesting to their training attendance.



Requirements

- A digital signature or other electronic attestation (such as a check box), indicating that an employee took the training as part of software or online training, would meet the requirement to “sign a statement attesting to participation in such training.”



Training courses

- CPSC does not provide a model undue influence training course.

Undue influence training

- Testing and certification of children's products are important parts of the process of compliance.
- By law, you must not apply undue influence on third party conformity assessment bodies to product favorable testing results

What is undue influence?

- The CPSIA law does not provide a definition of undue influence.

Undue influence

- Undue influence occurs when one party uses his/her position to influence the other party to gain some advantage
- Pressure is typically exerted through persuasion rather than coercion

Undue influence

- Undue influence may result in undermining the integrity of testing data that can result in defective products that may injure or kill consumers, bring liability to the company and cause loss of business.

Best practices to avoid unduly influencing a third party lab

- Ensure you follow appropriate sample selection protocols
- Do not test “golden samples”
- Don’t threaten to change third party testing providers because of an unsatisfactory test report
- Avoid developing personal relationships with the lab that could somehow influence test results

Obligation to exercise due care

- Applies to each domestic manufacturer or importer of a children's product.
- The importer is not required to train employees of foreign manufacturers, but must be sure to exercise due care.

Obligation to exercise due care

- Train your factories in your policy and advise them that their acts of undue influence on labs may cause you to rely on their supplied test reports for CPCs that can be deemed invalid by the CPSC and bring liability to you as the “certifier” for failing to exercise due care in preventing undue influence in your supply chain

Reporting

- If you witness or are aware of what you believe is an incident of undue influence, it is your responsibility to report it
- Ideally, you should report it to your immediate supervisor. If you are not comfortable doing so, you may report it to any company officer.
- The CPSC must be notified immediately of any attempt by the manufacturer to hide or exert undue influence over test results

Undue influence

- For our purposes, any action or statement that undermines the credibility and validity of the testing process used for the certification of children's products is undue influence
- If you have any doubt, report it

Staff assurances

- Manufacturers must inform their employees that allegations of undue influence may be reported confidentially to the CPSC, and manufacturers must tell their employees how to make such confidential reports
- Reports alleging undue influence should be filed with the CPSC Office of the Secretary

Reporting

- You may report incidents of undue influence confidentially directly to the CPSC:

U.S. Consumer Product Safety Commission

4330 East West Highway

Bethesda, MD 20814

301.504.7923 or 800.638.2772

www.cpsc.gov

When undue influence occurs

- Employees who have engaged in undue influence should be disciplined in accordance with the company's policy for employee disciplinary actions
- Discipline may range from a written or verbal warning up and including termination of employment

When undue influence occurs

- The company should take appropriate actions to correct the situation, including retesting of the products and retraining the employees
- The company must promptly report all undue influence incidents to the CPSC.

New CPSIA requirements effective 2.8.2013

- Testing and Labeling Pertaining to Product Certification – 16 CFR 1107
 - Certification of Children’s Products 1107.20
 - 1107.21 – Periodic Testing
 - 1107.23 – Material Change
 - 1107.24 – Undue Influence
 - 1107.26 – Recordkeeping
 - 1107-30 – Consumer Product Labeling Program

Periodic testing

- Manufacturers must develop a Periodic Testing Plan to ensure continued compliance that includes:
 - Tests to be conducted
 - Intervals at which the tests will be conducted
 - Number of samples tested
- At minimum, periodic testing should be performed annually

Material change

- A material change includes changes in:
 - Product design
 - Manufacturing process
 - Sourcing of component parts
 - Tooling
 - Changes in manufacturing facility
- New certification testing will be required on the “new product”

Recordkeeping

- Children's Product Certificate (CPC) for each product
- Records of each third party certification test
- Records of periodic tests
- Records of descriptions of all material changes
- Records of undue influence procedures—including training materials and training records of all employees
- These records must be kept for 5 years and may be maintained in languages other than English if they can be immediately provided to the CPSC and translated into English within 24 hours of a request by the CPSC

Consumer product labeling program

- **MEETS CPSC SAFETY REQUIREMENTS**
 - Label must be visible and legible
 - Product must comply with all applicable rules, bans, standards and regulations enforced by the CPSC
 - Additional labels may be added - Verbiage must not imply that the CPSC has tested, approved, or endorsed the product

Product safety resources

- PPAI: www.ppai.org
- Product Safety powered by PPAI: <http://www.ppai.org/corporate-responsibility/>
- Sample Undue Influence Statement of Policy <http://www.ppai.org/inside-ppai/corporate-responsibility/product-responsibility/education-and-resources/Documents/Guides/Undue%20Influence%20Statement%20of%20Policy.pdf>
- Consumer Product Safety Commission: www.cpsc.gov ; www.recalls.gov
- Questions?
Anne Stone AnneS@ppai.org