Act 47  Provisional Hiring Ban
Prior to this Act’s passage, employers of 14 to 17-year olds responsible for child welfare or child supervision in a summer camp or similar program were able to obtain a 90-day waiver of various background checks provided certain requirements were met. As of January 1, 2020, Act 47 reduces the waiver period to 45 days and allows waivers to be granted **only** to licensed child day care centers, group daycare homes or family childcare homes, which must apply separately for a waiver.

This law applies to all employees and volunteers age 14 and older who are in direct contact with children.

Public notice from the Department of Human Services: www.media.pa.gov/Pages/DHS_details.aspx?newsid=462

**Major Impacts**
1. **Likely Delays in Obtaining Clearances.** Given the numbers of prospective employees, volunteers and employers who must comply, a processing backlog may prevent timely reporting.

2. **Start Dates.** Prospective employees and volunteers awaiting their clearances cannot start **any** of their duties, including those not involving children, until they are in possession of all their clearances.

**Recommendations**
1. Begin your recruitment, hiring and training process 8 weeks earlier than normal.

2. Plan for the capacity to provide alternate qualified staffing at the expected start date of new employees, in case their start is delayed.

3. Consider limiting participant enrollments, last-minute registrations, or hours of operation in the first few weeks.

Act 87  Tort Claims Act
Effective November 26, 2019, this Act adds a new immunity exception for sexual abuse claims, exposing municipalities and local government agencies to greater liability for negligent failure to prevent, detect, or stop commission of those criminal acts where the victim is under 18 years old.

**Major Impacts**
1. **No Damages Cap.** The new sexual abuse immunity exception is NOT subject to the $500,000 damages cap that applies to all other immunity exceptions. As such, local governments are exposed to unlimited liability for damages under that exception.

2. **No Notification Period.** Act 87 dispenses with the 6-month written notice requirement for claims arising under the sexual abuse immunity exception.

3. **Extended Period for Filing Civil Actions.** Both minor and adult victims of sexual abuse have much longer limitation periods within which to file suit for damages, and may do so regardless of filing a criminal complaint about the alleged sexual abuse.
   - If plaintiff was under 18 years when the sexual abuse occurred, s/he may file the action up to 37 years after they have attained 18 years of age.
   - If plaintiff was a victim between the ages of 18-24, s/he may file a civil action up until they reach the age of 30.

**Recommendations**
1. Inform supervisors, employers, municipal officials and solicitors of the impacts of Act 87.

2. Update records retention policies and capacities for permanent digital storage of enrollment rosters, sign-in sheets, staff attendance, supervision, accident and incident reports, evaluations, background checks, etc.

3. Document compliance with all Child Protective Services Law requirements.


5. Adhere to the PRPS Protocol for Preschool Recreation.

6. Review/update leases and contracts with schools and independent contractors for municipally-sponsored or private-run programs to mitigate liability exposure and ensure adequate insurance coverage.

7. Review/update overall Employee Policies, including those on Personnel Management, Workplace, Operations, Employee Conduct, Employee Supervision, and Job Descriptions, for best practices with respect to future liability claims.
Pennsylvania Child Care Code
The Department of Human Services Day Care Certification regulations in 55 Pa. Code §§3270 provides standards to aid in protecting the health, safety and rights of children and to reduce risks to children in child daycare centers. This chapter identifies the minimum level of compliance necessary to obtain the Department’s certificate of compliance. It applies to facilities in which out-of-home care is provided, at any one time, for part of a 24-hour day to 7 or more children, 15 yrs. of age or younger. It does not apply to part-day school age programs for children who attend kindergarten or older but under 16 yrs. of age if they operate less than 90 consecutive days per calendar year.

A preschool child is defined as “a child from 3 years of age to the date the child enters kindergarten in a public or private school system.”

It does not apply to care provided in a facility where the parent is present at all times childcare is being provided. www.pacode.com/secure/data/055/chapter3270/chap3270toc.html

Major Impacts
1. Feasibility of Compliance. The highly limiting restrictions imposed by the Code prevent most recreation providers from feasibly complying with such certification requirements in the outdoor settings of parks and the indoor multi-use amenities of recreation centers and other facilities.

2. Threat of Noncompliance. The nature of interaction with the Office of Child Development and Early Learning (OCDEL) of the Department of Human Services (DHS) tends toward threatening and intimidating, as it attempts to enforce non-applicable regulations within public recreation programs. Cease-and-Desist orders and substantial fines can be levied.

3. Question of Legal Authority. Not all legal analysts agree that the Child Care Code includes a jurisdiction over municipal recreation programs as child daycare centers. However, the DHS interprets that it does, and intends to enforce it, even if it does not have the capacity to do so everywhere. Until the issue is unquestionably settled by a legal or administrative clarification, many preschool recreation providers, working in good faith, choose to continue their popular programs.

Recommendations
1. Consider certifying your program and facilities with OCDEL.

2. Discontinue preschool recreation programs, or adapt them to include participating parents.

3. Operate all preschool recreation programs in accordance with the PRPS Protocol for Public Municipal Preschool Recreation Programs as adopted by municipal ordinance or resolution.

4. Enlist the support of local parents and legislators for a change in the requirements exempting municipalities who adopt the PRPS Protocol or Public Municipal Preschool Recreation Programs.

Helpful Resources


5. PRPS Protocol for Preschool Recreation www.prps.org/ProtocolforPreschool

6. PRPS Preschool Recreation and Child Day Care Center Certification Regulations Position Statement www.prps.org/PositionStatements


PRPS Legislative Advocacy
1. HB 1831 and companion PA Senate bill for municipal preschool recreation

2. PA Provisional Hiring Parity bill to permit 45-day provisional hiring waivers

3. PRPS Action Alerts www.prps.org/ActionAlerts

4. PRPS Position Statements www.prps.org/PositionStatements

5. Governmental Affairs Committee meets first Thursdays at 9 am via phone conference. New advocates are welcome; request conference link.

6. PA-registered lobbyists for PRPS.

7. www.prps.org 814-234-4272