



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Albuquerque Area Indian Health Service
5300 Homestead Road, N.E.
Albuquerque, New Mexico 87110
DHR-AN-01-02

DATE: MAR 21 2001

TO: Division Directors
Chief Executive Officers
All Employees

FROM: Director, Albuquerque Area
Indian Health Service

SUBJECT: Children in the Workplace

This memorandum serves as an annual reminder to all Albuquerque Area IHS employees on IHS' policy on children in the workplace.

The attached Special General Memorandum #91-2, dated April 4, 1991, from the Director IHS, summarizes a legal opinion from the Office of the General Counsel concerning the potential liability to the Federal government if an employee's child who has accompanied the parent to work is injured in the agency's facility.

Federal employees who are injured while in the performance of duties are compensated pursuant to the Federal Employee Compensation Act (FECA), 5 U.S.C., Chapter 81. This Act provides the exclusive remedy for such injuries. If an employee brings a child to the workplace, that child is not covered by FECA and if injured in federally occupied space, could bring a claim against the Federal government if such a practice were permitted.

While the attached policy is addressed to IHS Headquarters employees, it is in our Area's best interest to continue to adhere to this policy. Therefore, this memorandum is issued to remind employees that it is the policy of the AAIHS that employees are not permitted to bring children to the work site during working hours. Exceptions to this policy are permitted only in the most unusual circumstances and with prior written approval of the employee's Division Director or Service Unit Director.

I wish to reemphasize that we must be sensitive to our employees' day-care difficulties; however, we cannot permit children to remain in the work site because of the legal liabilities of permitting such a practice. Managers and supervisors have the discretion to be liberal in granting annual leave to employees who need to make emergency day-care arrangements when unforeseen problems arise, however, this decision must be weighed against staffing needs in support of patient care delivery.

If you have questions, please contact Vince Lujan, Division of Human Resources at (505) 248-4510.

James L. Toya

Attachment

cc: Administrative Liaison, National Programs
Executive Officer, NAIHS
Service Unit Director, Cherokee Service Unit



APR 4 1991

TO: All Headquarters Employees SGM - 91-2
FROM: Director
SUBJECT: Children in the Workplace

The Indian Health Service (IHS) recently received a legal opinion from the Office of General Counsel concerning the potential liability to the Federal Government if an employee's child who has accompanied the parent to work is injured in the agency's facilities.

Federal employees who are injured while in the performance of duties are compensated pursuant to the Federal Employees Compensation Act (FECA), 5 U.S.C. Chapter 81. This Act provides the exclusive remedy for such injuries. If an employee brings a child to the workplace, that child is not covered by FECA and if injured in federally occupied space could bring a claim against the Federal government pursuant to the Federal Tort Claims Act.

Considering the range of possible injuries that children could suffer at the worksite, especially when the parent is working and not providing careful supervision of the child's activities, there is a real possibility of liability to the Federal government if such a practice were permitted.

Therefore, it is the policy of IHS that Headquarters employees are not permitted to bring children to the worksite during work hours. Exceptions to this policy are permitted under the most unusual circumstances and with written approval of the employee's Associate Director. While we must be sensitive to our employees' day-care difficulties, we cannot permit children to remain at the worksite because of the legal liability of permitting such a practice. Managers and supervisors should be liberal in granting annual leave to employees who need to make emergency day-care arrangements when unforeseen problems arise.


Everett R. Rhoades, M.D.
Assistant Surgeon General



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Office of the General Counsel
Business and Administrative
Rm. 5362 Cohen Bldg.
330 Independence Ave. S.W.
Washington, D.C. 20201

MEMORANDUM

SEP 18 1990

TO: James P. Murray, Director
Division of Personnel Management

FROM: Timothy M. White, Chief *TMMW*
Litigation Branch

SUBJECT: Potential Liability - Children in the Workplace

This is in reply to your informal request for advice whether there is any potential liability to the Government if an employee's child who accompanies the parent to work is injured in agency facilities.

As you know federal employees, who are injured while in the performance of duty are compensated pursuant to the Federal Employee Compensation Act (FECA), 5 U.S.C. Chapter 81. That Act provides the exclusive remedy for such injuries. However, if an employ brings a child to the workplace, that child is not covered by FECA and if injured in federally occupied space could bring a claim against the Government pursuant to the Federal Tort Claims Act. considering the range of possible injuries that could be suffered by children at the worksite (especially when the parent is working and not providing careful supervision of the activities of the child) there is a real possibility of liability to the Government if such a practice is permitted.

MAY 1 1991