



PEP ON POINT

Building Stronger Communities Together

FIRST QUARTER 2023 NEWSLETTER

AWARDS & ACCOLADES

PEP Receives Financial Award

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AWARDS & ACCOLADES

PEP RECEIVES AUDITOR OF STATE AWARD

A recent financial audit of the Public Entities Pool of Ohio (PEP) by the Auditor of State's office has returned a clean audit report. **PEP's excellent record-keeping has earned it the Auditor of State Award.**

The *Auditor of State Award* is presented to entities upon the completion of a financial audit. Entities that receive the award meet the following criteria of a clean audit report:

- PEP filed timely financial reports with the Auditor of State's office in accordance with the Generally Accepted Accounting Principles (GAAP).
- The audit report does not contain any findings for recovery, material citations, material weaknesses, significant deficiencies, Single Audit findings, or questioned costs.
- PEP's management letter contained no comments related to:
 - Ethics referrals
 - Questioned cost less than \$10,000
 - Lack of timely report submission
 - Reconciliation
 - Failure to obtain a timely Single Audit
 - Findings for recovery less than \$100
 - Public meetings or public records.

Congratulations to PEP for this recent recognition and its ongoing demonstration of financial strength and stewardship!



FEATURE ARTICLE



DOES YOUR LOCAL GOVERNMENT HAVE A SOCIAL MEDIA POLICY?

BY NATACHA MCCLAIN, PEP LITIGATION MANAGEMENT TEAM

Social media is a quick and effective way to communicate with a large audience. As a result, it has become one of the most popular methods of communication for local governments to inform, educate and seek input from the public about a variety of topics. Social media has now become “the modern public square” and often replaces the use of physical spaces – like public squares and town halls – as a forum for citizens to speak out on issues of public importance. Like public squares and town halls, social media public forums must also preserve the rights afforded by the First Amendment to the United States Constitution, including an individual’s right to free speech. If the government violates these rights, it can be held liable under federal law. One way for a local government to reduce the likelihood of violations of free speech and civil liability is by adopting a written Social Media Policy.

Does My Local Government Need a Social Media Policy?

Among the first few considerations for a Social Media Policy is whether your local government will have a social media presence. If so, you should also decide whether the local government social media platform would be best served as a one-way communication stream precluding individuals from leaving comments, or as a two-way communication stream that allows individuals to leave comments. If a two-way communications system is desired, designate an employee (and back-up employee) who will be responsible for posting content and monitoring comments. Consider making these responsibilities a part of the job description and require that the social media activity is performed on-the-job, and conversely, that any personal social media activity is performed outside of working hours to best protect free speech rights of your local governments’ employees.

Finally, consider how you will disseminate your Social Media Policy. One idea is to make it a part of

your Employee Handbook and require all current and future employees to sign an acknowledgment that the Employee Handbook (along with the Social Media Policy) has been received, reviewed and understood.

How Should a Social Media Public Forum be Monitored?

Social media platforms that are public forums (i.e. two-way interactive spaces that provide a comment section) are subject to strict First Amendment scrutiny and the designated employee and back-up employee should be trained NOT to delete protected speech (which can include negative or critical comments). In general, public comments that are critical or are otherwise opinions with which the public entity or designated employee disagrees cannot be censored and can be protected free speech. Other protected free speech could include profanity, public ridicule, comments that might embarrass a public official, inflammatory posts and content that may defame someone. In addition to deleting comments that may constitute protected free speech, blocking an individual from participating in a designated social media public forum may also be a violation of the First Amendment.



The designated employee and back-up employee should be trained to carefully and closely monitor public comments for inadvertent deletion of comments by social media filters. Because profanity may be considered protected free speech, consider turning off the profanity filter or selecting a weak or medium setting and narrowly tailoring any list of obscenities to be blocked. Moreover, the designated employee's professional contact information should be made available, so questions about any comment deletions or blocked access can be quickly addressed.

How a public entity monitors social media and punishes violators should be identified in the Social Media Policy. A Mission Statement described in the Policy, as well as on the social media platform, can help define the purpose and goals of the social media activity.

Should a Public Entity Restrict Employees' Personal Social Media Activity?

Employees are also afforded the right to free speech. That being said, certain employee conduct can be prohibited. First, consider prohibiting employees from using personal social media while on-the-job. Second, prohibiting other conduct that may cause their personal social media activity to convert personal accounts into a public forum should be considered. While the courts are split about what social media activity constitutes state action that converts personal accounts to public forums, best practices would be to advise public officials to keep personal and professional activities, including campaigning activities, separate.

Additional resources on developing a Social Media Policy can be found in the PEP Resource eLibrary or by contacting your PEP Risk Services team.



DID YOU KNOW?

RESOURCE ELIBRARY

Having a plan in place for managing sensitive information is key. If your public entity needs help with managing information, PEP's Resource eLibrary contains helpful resources, including best practices, checklists, sample policies and online training courses through the Public Entity University, which are free for PEP members at www.pepohio.org.

LEGAL ACCESS

PEP also provides 90 minutes of free, independent legal consultation per year to each of its members, which is accessible through the **PEP Legal Access Program** at (800) 367-4818.



RISK SERVICES RESOURCES

ADVANCING TECHNOLOGIES IN PROPERTY MITIGATION

BY NICK LEACH, PEP RISK SERVICES TEAM

Tech gadgets continue to make advancements both in usefulness and affordability and enter our homes at an ever-increasing rate. Many of these products, though, have a functionality that transfers into the public sector and can deliver both increased protection and peace of mind. With a focus on the most common and impactful causes of loss in the property realm, we'll take a look at what some of these products are.

- **Water Sensor Alarms:** These products have been in the market for some time, but a sharp increase in producers has made these devices more affordable than ever, with many packs coming with three to four sensors and a price point around \$75. The user simply puts the sensors near the most common potential water sources, i.e., water heaters, drains, toilets, etc., and when water is first detected, the sensors send a text via Wi-Fi signal to a designated contact. With most municipal buildings being unoccupied a great deal of time, employees will have some peace of mind knowing that they will not find an unexpected water leak when they come to work on Monday morning. While these sensors won't prevent the loss from occurring, they will instantly alert the contact, and thus decrease any potential mitigation needed. The sensors are especially useful during frozen pipe season and when heavy rain is expected.

- **Lightning Strikes:** Ensuring that buildings and towers are properly grounded and that quality surge protectors are installed will provide a great deal of protection in the event of a lightning strike. However, lightning protection systems can actually reduce, and often eliminate, any potential direct damage from a lightning strike. SRAT systems (Streamer Retarding Air Terminals), for example, dissipate potential strikes to towers. There are multiple products of varying costs and success rates, such as standard lightning rods, to more advanced elements like candelabras and dissipators. These systems typically have material costs in the \$1,000-\$2,000 range before installation, but the savings and lack of potential down time in the case of an event are invaluable.

- **Updated Fire Alarms:** The potential effects from a devastating fire are unmatched both in terms of cost and impact to services. New technology can help prevent fires better than the standard smoke detectors. For example, while standard smoke detectors alert as a response to the presence of smoke, air sampling smoke detectors are constantly pulling in air from multiple areas of the building and detect the signs of formation of smoke before advanced fire development. Another advancing system is the visual flame detector. Visual flame detectors are best for hazardous environments and industrial applications but are often used in airport hangers due to the number of flammables present. Visual flame detectors are the most efficient at detecting and notifying of fires in these circumstances, as the detectors do not need smoke to be triggered.



ARE YOU PLAYING AROUND WITH THE IDEA OF A **NEW PLAYGROUND?**

IF YOUR PUBLIC ENTITY IS THINKING ABOUT INSTALLING A NEW PLAYGROUND, CONSIDER THE FOLLOWING:

AREA

Size: What is the projected size of the proposed playground? Make certain to allow enough space for fall zones for the activities and equipment. Most equipment should be placed so that it sits at least six feet from the edges of the playground perimeter.

Location and Layout: Where is the proposed playground location? The playground should be located so that it is safe for children to play. Take into consideration nearby traffic, other playground equipment, outdoor topography, vegetation, ponds, drainage and shade/sun at different times of the day and year.

Make certain the layout works to prevent and reduce injuries. Think about use zones for each piece of equipment, accessibility, age separation, activities that may be conflicting if near each other, minimizing visual barriers so children can easily be seen by caregivers, appropriate signage and labeling on equipment and the level of supervision of children.

Demand: What is the local demand? Consider a questionnaire to residents to determine the needs for a playground in the area and what type of equipment would be best. Also consider other parks and playgrounds in the area and talk with experts such as municipal planners, playground designers and salespersons and your risk services team.

EQUIPMENT/APPARATUS

Age Appropriate: Will the equipment meet the needs of the estimated age of the users? Equipment typically comes in three age appropriate levels including Toddler (ages 6-23 months), Preschool (2-5 years) and Grade School (5-12 years). Each level has age appropriate equipment associated with it. Follow the Consumer Product Safety Commission's Public Playground Safety Handbook for guidance.



Safe and Popular: What equipment/ apparatus is safe and popular for the proposed location and will not compete with other nearby facilities and playgrounds?

BUDGET

Cost: What is the projected cost to construct and maintain a safe playground? Regular maintenance is key in providing a safe and fun experience.

Funding: Where will the funds come from? There are opportunities through grants and fundraising efforts that can help with the purchase and professional installation of a playground for public use.

DESIGN

Commercial Use: Who will have input on the playground design? Make certain the playground equipment is for commercial use. Noncommercial playground equipment is not built to the standards required for regular public use. The proper equipment can mean fewer potential injuries and liability.

Accessibility: Play areas and playgrounds should be accessible to everyone, including people with disabilities. Is the equipment accessible, and are there accessibility routes to and between the equipment?

Security/Safety: When designing the area, consider fencing with the ability to lock the premises and keep the area secured in the evenings and unattended hours. The use of fencing or some similar type of barrier is recommended to prevent children from inadvertently running into the street. The fence or barrier should not preclude proper supervision. In addition, numbers for local police, fire and EMS should be posted. A stocked first-aid kit should be nearby at all times; immediate first aid is very important and can reduce the severity of an injury. Those performing first aid should follow the "Universal Precautions" when handling situations with blood or other bodily fluids. Furthermore, consider the parking area design carefully in regard to the play area. A safe parking area is key to a safe park and playground.

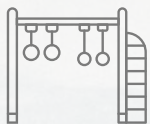
Other Considerations: Make certain to consider other factors related to the playground, including lighting, restrooms, benches, waste receptacles, water fountains, fall material, drainage and landscaping.

LIABILITY

When an agency begins to think about a new playground, one of the most important things to consider is the question of liability. Make sure that all the companies that would be working on the project are highly recommended and provide proof of their liability insurance before the work begins. Also, make sure you have an employee available to routinely inspect and maintain the area and playground equipment. Inspections, maintenance and repairs should be documented.

In this article, a number of considerations were mentioned, but there are many more. It can seem overwhelming when considering all the issues in the early stages of developing a playground, but your PEP Risk Services Team is available to assist. If you have questions or concerns about your current or future playgrounds, please contact the team at

(866) 907-3776.



COVERAGES FOR PLAYGROUNDS

Public entity employees know there are numerous details to consider to successfully operate a playground. One of the most important is liability and property coverage.

WHAT ABOUT LIABILITY COVERAGE?

Playgrounds are covered under your agency's general liability coverage as owned premises, subject to the agreement terms, conditions and exclusions.

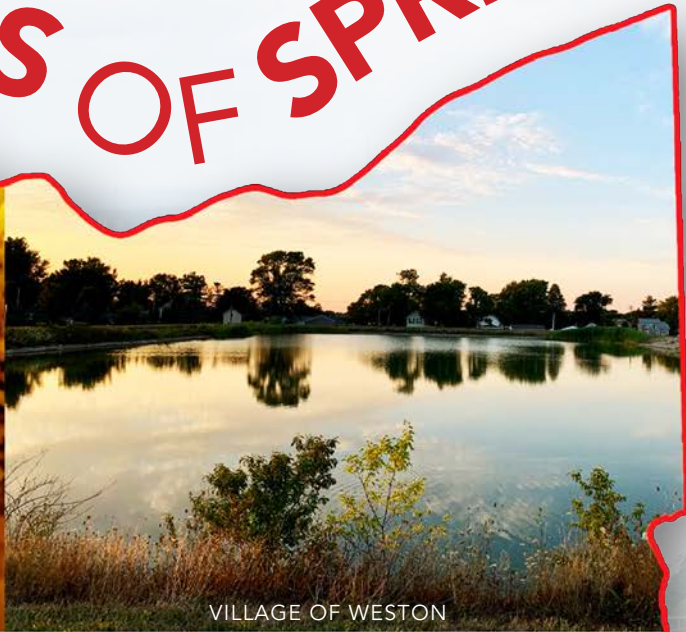
WHAT ABOUT PROPERTY COVERAGE, WHAT IS INCLUDED?

In addition to physical buildings, you may desire coverage for swings, sliding boards, merry-go-rounds, picnic shelters, fences, gates, picnic tables, grills, drinking fountains, portable toilets and other similar items. Be sure that these items are included on your property schedule, otherwise, should a loss occur, there may not be coverage to replace or repair them. If you are not sure if these items are listed on your property schedule or if you would like to add coverage for them, call the PEP Risk Services Team at (866) 907-3776.

PEP MEMBERS GLIMPSES OF SPRING



CANTON CITY PUBLIC HEALTH DISTRICT



VILLAGE OF WESTON



MILL CREEK
METROPARKS



WOOD COUNTY
PARK DISTRICT

AT PEP, WE LOVE TO SEE THE **BEAUTY OF OHIO**

Do you have a photo from your organization you'd like to share? PEP members are encouraged to share photos with PEP for use in our annual calendar, websites, and more. To submit photos of your entity, please visit www.pepohio.org, navigate to *Publications - Annual Calendar*, and download the *Photo Submission Guidelines* to learn how.

MEET THE NEWEST PEP BOARD OF DIRECTORS MEMBER



MR. KEVIN SMITH
MILL CREEK METROPARKS
FINANCE DIRECTOR/TREASURER

SAY HELLO TO PEP'S NEWEST BOARD MEMBER

PEP is pleased to welcome its newest board director, Mr. Kevin Smith, Treasurer/Director of Finance, Mill Creek Metroparks.

Kevin W. Smith has been in his current position for over 11 years, with more than 29 years in the accounting and finance field. Mr. Smith has an Accounting Degree from John Carroll University, along with professional experience with Fortune 500 companies, private companies, and local government. He has experience with finance, payroll, utilities, income taxes, human resources, and information technology.

Mr. Smith is a Certified Public Funds Investment Manager, a member of The Ohio Government Finance Officer's Association and The Ohio Parks and Recreation Association.

On behalf of PEP, we welcome Mr. Smith to the PEP Board of Directors. We look forward to having Mr. Smith help us continue our mission and commitment to provide Ohio public entities liability and property coverage at a fair and stable price, and to deliver risk management programs and services, risk sharing facilities, and protection to PEP members by protecting and defending every member of the Pool.



'FREE FOR ALL'

PEP BENEFITS

TAKE ADVANTAGE OF PEP'S MEMBER SERVICES

PEP members are entitled to benefits that help them better serve their communities. Some are time-sensitive, so take action soon.

PEP+ GRANT

UP TO \$1,000 FOR MEMBERS

As part of PEP's loss control and risk management initiative, PEP members may now apply for a grant of up to \$1,000. Funds are allocated on a first-come, first-served basis, so it's important to apply ASAP. Grants are awarded to help offset qualifying expenses covering safety items that help prevent or reduce liability claims or property losses. Funds are available for purchases or expenses incurred during the application period. Access the PEP+ Grant Program application by visiting www.pepohio.org.

LEGAL ACCESS

FREE CONSULTATIONS

When you need a lawyer's opinion for a community-related issue, put your PEP membership to work. Every authorized PEP member is eligible for up to 90 minutes of free legal consultation per year, covering issues associated with human resources, zoning, land use, open records/open meetings, and more. Authorized PEP member representatives seeking legal consultation services should call PEP Legal Access at (877) 250-5545 to request up to 90 minutes of free advice, guidance or information.

RESOURCE ELIBRARY

PEP maintains an online library, called the Resource eLibrary, which provides access to thousands of free resources to assist with members' risk management needs. The eLibrary can be accessed anytime from a desktop, laptop, or mobile device. Resources include online training, streamed videos, webinars, seminars, policies, procedures, checklists, best practices, and documents, which can be accessed anytime.

PUBLIC ENTITY UNIVERSITY

Public Entity University (PEU) has been a favorite resource among PEP members. We are excited to announce a new platform for PEU will be implemented later this year. The new platform is cleaner, more streamlined, and will continue to provide in-depth and interactive online training courses to address the training needs of PEP members. Topics include: Employment Liability, Streets and Roads, Internet Security/Social Media, Fire Departments, Law Enforcement, General Safety, and many more!

HUMAN RESOURCES

Also getting an upgrade early this year is the Human Resources portal, in the HR section of the eLibrary. The updated platform still includes all of the great HR portal resources such as: information on state and federal employment laws, interviewing, background checks, safety orientations, applications, job descriptions, and terminations. In addition, the Employee Handbook Builder and Job Description Builder allow members to customize policies and job descriptions.

CYBER RISK SERVICES ADVISOR

GET YOUR FREE EVALUATION

Get to know Eric Adonteng, our Cyber Risk Services Advisor, who's ready to help PEP members understand the ins-and-outs of cyber breach vulnerabilities. Eric is tasked with visiting interested PEP members, looking into their IT controls, plans, policies, and processes, to uncover any vulnerabilities. Members can schedule a security evaluation with Eric that will include a plan of action to help prevent cyber breach incidents. Eric will also inventory all member-owned equipment to ensure proper identification and coverage. To schedule a free evaluation, call Eric at [\(240\) 808-9278](tel:2408089278) or email eric.adonteng@persopool.com.

PEP POLICE ACADEMY & PUBLIC OFFICIALS INSTITUTE

ACCESS RESOURCES

Throughout 2022, PEP created a number of informative webinars and materials for PEP members. In collaboration with Greg Beck, Mel Lute, Tonya Rogers, Andrea Ziarko, and Jim Mathews from the law firm Baker, Dublikar, Beck, Wiley & Mathews, the PEP Police Academy and Public Officials Institute provided one guideline/sample policy every month on law enforcement and public officials issues facing agencies today.

While the program has since concluded, PEP members are now able to access these informative webinars and materials in the Resource eLibrary.

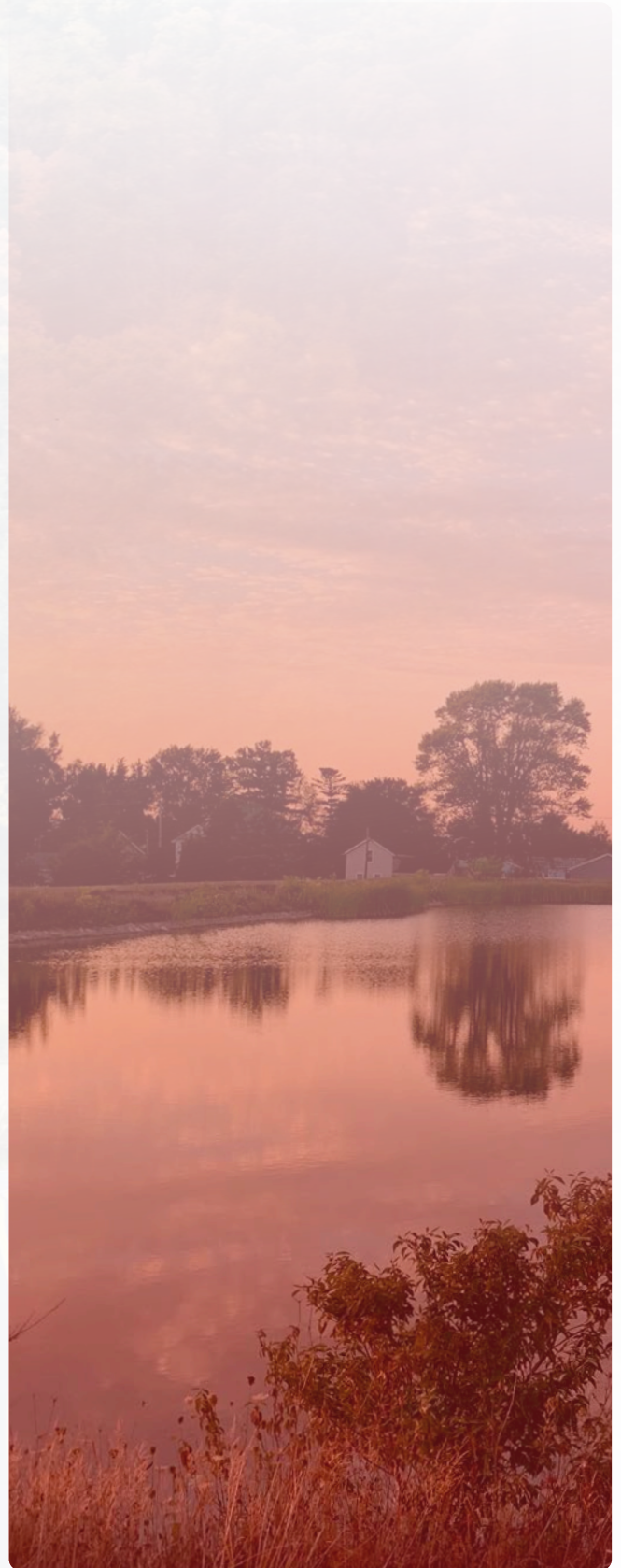


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UPCOMING EVENTS

PEP BOARD MEETING

May 11, 2023

APPLY NOW PEP+ GRANT

Each year, the PEP+ Grant offers \$1,000 to fund or partially fund safety items that will aid in property and liability risk management efforts. PEP is pleased to offer this opportunity and takes pride in reinvesting in PEP Members for the future of Ohio communities. To apply, fill out the form at: www.pepohio.org

Look to PEP for comprehensive coverages, exceptional risk management, and stable and competitive pricing for all public entities throughout Ohio.

PEP BOARD OF DIRECTORS

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Every effort has been made to ensure the accuracy of the information in this newsletter. Professional counsel should be sought before any action is taken or decision is made based on this material.

www.pepohio.org