

Product Responsibility Best Practices	SUBJECT Undue Influence Training	LAST UPDATE July 2019
	APPLIES TO <ul style="list-style-type: none"> • Suppliers • Distributors • Decorators 	FOCUS ON Undue influence component of children's products certification rules
	QUICK LINKS <ul style="list-style-type: none"> • PPAI Corporate Responsibility: ppai.org/corporate-responsibility/ • UL: industries.ul.com/premiums-promotional-and-licensed-goods • Consumer Product Safety Commission: www.cpsc.gov 	

Italic grey text indicates a hyperlink listed in the Online Resources section of this document.

Background:

On February 8, 2013 the *Consumer Product Safety Commission (CPSC)* issued regulations (1107.24 and 1107.26) to ensure that manufacturers and their employees do not exert undue influence on testing laboratories to alter test methods or results which serve as the basis for certifying a product's compliance under federal law.

A key element of this rule is undue influence training for company employees.

What Must You Do To Comply?

Establish procedures to safeguard against the exercise of undue influence on a third-party laboratory.

Policy. Develop a written policy statement from company officials that the exercise of undue influence is not acceptable. A *sample policy* PPAI members can adopt for their own use is available on the PPAI product safety resource page.

Training. Every appropriate staff member must receive training on avoiding undue influence and sign a statement attesting to participation in the training. PPAI has archived an *Undue Influence webinar* on this topic that one can use.

Retraining. This is required for any substantive changes in policy.

Notifications

- The CPSC must be immediately notified of any attempt by the manufacturer to hide or exert undue influence over test results.
- Employees must be told that allegations of undue influence may be reported confidentially

What Is 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.

Best Practices To Avoid Unduly Influencing A Third Party Lab

The CPSC recognizes that a variety of solutions may have to be deployed to comply with this regulation and allows for some flexibility in the process of using tracking labels as long as the basic elements are consistent.

Develop and Implement. Put in place a clear policy that not only satisfies the rule but will also accentuate to staff the importance to the company:

- Make the written undue policy statement visible and available to customers and the public
- Include the undue influence policy in your company's code of conduct

Communicate. Staff needs to hear clearly that undermining the credibility of test results can result in defective products that may harm users, bring liability to the company, and result in the loss of business.

Training Specifics. Use examples to illustrate how staff can intentionally and inadvertently commit acts of undue influence on labs;

- Make all training available online so employees can participate in training regardless of physical location.
- Do not test "golden samples."
- Ensure you follow appropriate sample selection protocols.
- 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.

Factory Requirements. Communicate your policy to your

factories and advise them that they must not exert undue influence on third party labs. They need to understand that doing so may result in test reports ruled invalid by the CPSC and cause you liability as the “certifier” for failing to exercise due care in preventing undue influence in your supply chain.

Protecting Staff. Staff should know they will be “safe” if they report any acts of undue influence and the company will use all reasonable efforts to protect the confidentiality of their identity and the nature of the report.

Reporting Requirements

Incidents Of Undue Influence. Manufacturers must inform their employees that allegations of undue influence may be reported confidentially to the CPSC. 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.

Employee Training. 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.”

Exercising Due Care Over Supply Chain

The training obligation applies to the employees of 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. If the importer receives a test report that is the result of undue influence, the CPSC could deem the certificate invalid and the CPSC may hold the domestic manufacturer/importer responsible for failing to exercise due care.

Recordkeeping

Records of undue influence procedures, including training materials and training records of all employees, 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.

Online Resources:

PPAI Sample Undue Influence Statement of Policy: www.ppai.org/media/1846/pr-guide-undue-influence-policy.pdf

CPSC Age Determination Guide: https://www.cpsc.gov/s3fs-public/Draft%20Research%20Document%20for%20Updating%20Age%20Determination%20Guidelines%20for%20Toys.pdf?0ap6_dYUWpkLn.Bqc.S2qXpJJnr3LI3N

CPSC FAQs on Children’s Products: www.cpsc.gov/Business--Manufacturing/Business-Education/childrens-products/FAQs-Childrens-Products/

PPAI Promotional Products Turbo Test: ppai.org/corporate-responsibility/product-responsibility/solutions/#8104f083-d27d-4788-83f6-8c236b8d9494

Consumer Product Safety Commission (CPSC): www.cpsc.gov

Recalls: www.recalls.gov

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