

Updated: 12/13/01

Liability, Insurance, and Risk Management Issues A Guide for Faculty and Staff

Southeast Missouri State University

This information is designed to answer the most frequently asked questions regarding liability, insurance, and risk management issues involving extracurricular activities, off-campus business trips, field trips or class trips. It is also designed to facilitate your communications with the participants before you go on a field trip, and to give you tools to help you make your trips safer.

This information was prepared by the Risk Management Department, which provides the campus community with the support and advice necessary to:

- Maintain a safe, healthy campus.
- Protect the University's assets through a risk identification process.
- Comply with applicable environmental and safety standards and regulations.

If you have any questions regarding this material or need any assistance, please contact:

Tom Nelson: Risk Manager
MS3875
Extension 6860

A. PERSONAL LIABILITY ISSUES

Q: Does my personal liability, in relation to the students, change because I am leading a field trip?

A: No, there is no significant increase or decrease in potential liability because you are off campus.

Q: Will the University protect me if I am sued?

A. University employees are covered under the State Legal Expense Fund for liability arising out of the performance of their jobs. However, no one is insured for willful misconduct.

Q: Are Graduate Assistants and Student Workers considered employees and are they covered by the University's insurance?

A: Yes to both questions. Generally, individuals who perform work for the University for pay are employees. Graduate Assistants and Student workers are considered employees and are covered the same as other employees by the University's insurance for their actions while performing work for which they receive pay.

Updated: 12/13/01

B. AUTO LIABILITY & INSURANCE

Q: How am I covered when driving University-owned Vehicles?

A: University-owned vehicles are covered under the State Legal Expense Fund for liability (injury to third parties and third party property damage). We are self-insured for physical damage (comprehensive/collision). The same holds true for student workers who are required to drive a university-owned vehicle as part of their daily jobs.

State vehicles are to be operated only by state employees who possess a valid drivers license. Non-state individuals such as volunteers, spouses and children should not operate state vehicles. Further, they should not be passengers in a state vehicle unless they are on official state business. Contractors are prohibited from using state vehicles.

Q: What if I am driving a rented vehicle?

A: Usage of rental vehicles for official state business is provided liability coverage by the State Legal Expense Fund, as well as comprehensive and collision coverage.

If you rent a vehicle while working on behalf of the University (including unpaid or volunteer work), you should rent the vehicle in the name of the University and your own name. This means that you should sign both your name and "the name of the University" on the rental agreement. The University will then respond as if the rented vehicle is an "owned" vehicle, so you should decline liability and collision insurance, unless your department has specifically decided to purchase the collision waiver.

It is important to inspect any rented vehicle before driving it. Make sure any dents, scratches or other damage to the vehicle are noted on the rental form. Otherwise, the University may have to pay for damages you did not cause.

Q: Do I have coverage from the University if I have to drive my own car?

If your vehicle is damaged as a result of an accident, whether it is your fault or not, your personal comprehensive / collision coverage would respond. You are responsible for any deductible amounts under your policy. If you do not carry any collision insurance, then the entire amount of the damage is your responsibility. Neither the University nor the University's Insurance will pay for any physical damage to your vehicle - **you use it at your own risk.**

If there were injuries involved with the accident, your personal auto insurance policy would be primary coverage for any medical claims by passengers in the event that you are at fault. Provided that the medical costs exceed your policy limits, the State Legal Expense Fund MAY provide secondary coverage, but will depend on the circumstances of the accident and will be at the discretion of the State's Office of Administration.

Obviously if another driver is at fault, their auto insurance would be primary coverage.

Updated: 12/13/01

Q: Does it matter if I have to drive my own car as part of my condition of employment?

A: No. Mileage reimbursements are designed to include an incremental cost for insurance and deductibles.

Q: What do I do if I am in an auto accident while on University business and driving a University-owned or rented vehicle?

A: At the scene of the accident:

- Do not admit any liability for the accident even if you think you are at fault. Exchange driver/insurance information with the other party. Get written statements from any witnesses, or get their name, address and phone numbers for later contact. Obtain a report of the accident from the attending law enforcement agency.
- If there was no other car or person involved in the accident, or if the vehicle is damaged while it was parked, follow the steps below.

Back on Campus:

- Immediately file an accident report with the Department of Public Safety, and provide a copy of the police report that was provided to you by the attending officer at the scene. Public Safety will forward a copy of the report to Risk Management, who will file any mandated state accident reports to the proper authorities.
- If the vehicle is assigned to your department, and your department has a person who is responsible for coordinating the use of the vehicle, notify the department Vehicle Coordinator and give that person copies of all reports. The Department Vehicle Coordinator will coordinate with Risk Management on any insurance claims.
- Risk Management will explain how to make arrangements to have the vehicle inspected for insured repairs.
- **DO NOT HAVE THE VEHICLE REPAIRED BEFORE IT IS INSPECTED!**

C. WORKERS' COMPENSATION CLAIMS

Q: Who pays any medical bills or lost wages if I am injured while I am working?

If you are injured while you are working, including injuries suffered in an automobile accident, your medical costs and lost wages are covered by Workers' Compensation, in accordance with the provisions of the Missouri Workers' Compensation Law.

Q: What do I do if I have an injury?

A: IMMEDIATELY INFORM the Benefits Office in Human Resources (HR). You will be directed to complete an accident report and accident investigation report. Cooperate fully with HR in detailing how the loss or accident happened and identifying any way that the loss could have been avoided.

D. PERSONAL PROPERTY

Q: What if my personal property is lost or damaged while I am leading the trip?

A: If your personal property is lost or damaged while you are on the trip, whether it is your fault or not, your own homeowners/tenants insurance coverage would respond. You are responsible for any deductible amounts under your policy. If you do not carry any homeowners/tenants insurance, then the entire amount of the damage is your responsibility. The University will not pay for any loss or damage to your own personal property - you use it at your own risk.

E. LIABILITY RELEASE

It is important that individuals be informed of the dangers they may face while participating on a field trip or other University sponsored event. It is strongly recommended each person sign a *liability release* form before participating in the event, to establish their voluntary participation and acknowledge that they have been fully warned of the dangers and that they are aware of their responsibility for their own safety. This form does not waive his/her right to recover for losses caused by negligence of the University or its employees.

Examples of University Sponsored-Activities That Would Require Liability Release Waivers:

- White-water rafting trip to Colorado.
- Spelunking field trip to Perry County.
- Participation in the Soccer club.
- Intramural Weight Lifting Tournament.

Examples of Activities That Would Not Require Liability Release Waivers:

- Typical activities that are considered mandatory for completion of a course for credit. This would include geology field trips, botany or ecology field trips, and student teaching assignments.
- Work activities for employees.
- University-sponsored trips to Powell Hall to attend the symphony, or trips to Busch Stadium to see the Cardinals play baseball.

Updated: 12/13/01

University faculty and staff are encouraged to review planned activities that could place them at risk for liability, and utilize the following liability release forms as necessary.

Liability waiver forms available online on the university website at <http://www6.semo.edu/riskmanagement/focus.htm> include:

- Liability Release for Participation in University-Sponsored Off Campus Activities and Field Trips: those faculty and staff members who are supervising field trips or activities that are outside the normal classroom setting should obtain signatures from participants on this form.
- Liability Release for Participation in University-Sponsored Recreational Sports: those faculty and staff members who are supervising University-sponsored Recreational Sports (intramurals and club sports) should obtain signatures from students on this form.
- Liability Release for Service and Experiential Learning Programs: those faculty and staff members who are supervising University-sponsored Experiential Learning Programs should obtain signatures from students on this form.
- Liability Release and Limited Durable Power of Attorney for Participation in University-Sponsored Study Tours Abroad: those faculty and staff members who are supervising University-sponsored Study Tours Abroad should obtain signatures from students on this form.