

# Herberger Institute for Design and the Arts Arizona State University

## Common Questions Concerning State Insurance Coverage

### **Does the State of Arizona provide liability insurance coverage for Arizona State University employees?**

Yes. The Arizona Department of Administration, Risk Management Section, operates a program of insurance and self-insurance coverage for all State employees, including employees of Arizona State University. With limited exceptions the State's insurance coverage protects all officers, agents and employees of the University against liability for acts and omissions of any nature while acting in an authorized capacity in the course and scope of employment.

### **What does the "course and scope of employment" mean?**

Although no definition will cover every situation, in general it includes all acts that are performed by an employee in the pursuit of the University's business and affairs and (1) are authorized to be performed by that employee, (2) occur substantially within the authorized time and space limit, (3) are activated at least in part by a purpose to serve the State.

[\[A.R.S. § 41-621\]](#)

### **When would insurance be provided to students?**

State Risk Management will insure negligent acts by students when they also qualify as employees or as agents. Examples include when they are acting on behalf of the University and under the direction and control of authorized University personnel. This coverage includes students working in internship programs sponsored by the University as long as the students are acting within the scope of the program.

### **Would coverage extend to off-campus activities such as field trips?**

Officers, employees and agents of the University engaged in officially sponsored off-campus activities are insured by Risk Management. Location is not the key—authorized activity is.

### **What if I am sued for discrimination? Is that covered by Risk Management?**

Yes, State Risk Management provides coverage for discrimination claims. Remember, the alleged discriminatory act must arise while the employee is acting in an authorized capacity in the course and scope of employment.

### **If I am sued for a negligent act, will I be provided with an attorney?**

So long as the employee is engaged in official University business, State Risk Management will provide defense either through the Arizona Attorney General's Office or assigned private counsel.

### **If I'm a member of a University hearing board, grievance committee, personnel committee, search committee or other panel which is authorized to make recommendations to University administrators, can I be sued for actions I take in my official capacity as a member of the board or committee?**

Of course, it is always possible that committee members may be sued. But, it is extremely unlikely that you would be exposed to any liability. Under a legal doctrine known as "qualified immunity," courts have recognized that public officers should be able to carry out certain administrative tasks without fear of personal liability. So long as your actions are not malicious or motivated by bad faith, your participation on University committees and hearing boards would be subject to this immunity. Coverage for authorized activities as a board or committee member would be provided in the same manner as in other negligent act situations.

### **I've heard that this "immunity" applies to activities of University administrators. Can you explain more about this?**

Yes, it is true that many acts of University administrators are protected by a "qualified immunity." The immunity applies where the official is engaged in setting policy or performing an act that inherently requires judgment or discretion. The immunity from liability will be forfeited if the official (1) acts outside the outer perimeter of his/her required or discretionary functions or (2) acts with malice or bad faith.

### **Even if I'm immune from liability, will I have to pay a lawyer to handle the initial defense?**

So long as the case falls within Risk Management coverage, the defense will be provided to you. For other cases in which you are acting under your authority as a University employee, the University's General Counsel Office will provide legal services.

**Does Risk Management insurance coverage include contract disputes?**

No, State Risk Management insurance coverage does not extend to claims alleging breach of contract. Even though no insurance exists for contract claims, it is highly unlikely that individual employees would be liable because these individuals would not be parties to the contract. All contracts between the University and third parties are in the name of the Arizona Board of Regents for and on behalf of the University.

**Are there any other exclusions?**

Yes, State Risk Management excludes coverage for losses due to the commission of a felony. This exclusion is not applicable to acts arising out of the operation or use of an automobile.

**Speaking of automobiles, does Risk Management provide any coverage if I am driving on University business?**

Coverage is provided for all employees acting within the course and scope of their employment while driving State-owned vehicles on State business. Liability coverage also exists for employees driving State-owned vehicles to and from work and lunch if such use is authorized. If an employee is driving a vehicle not owned by the State, he/she will not be covered while driving to and from work or lunch unless on State business. Risk Management coverage is secondary to any existing insurance maintained by the employee on private vehicles. No coverage is provided for damage to or loss of an employee-owned vehicle. Also, no medical coverage is provided as an employee would receive worker's compensation coverage.

**I'm also a member of several outside, volunteer groups that assist the University. Does Risk Management insure risks related to those groups?**

This is an area that is unclear. Risk Management will not provide blanket coverage for booster and civic groups such as the Sun Angel Foundation or ASU Foundation. Certain projects undertaken by such organizations, however, may be eligible for Risk Management coverage. These activities would have to be submitted to Risk Management on a case-by-case basis. The safest course of action would be for the outside group to obtain its own insurance.

**Occasionally, off-campus visitors assist University departments and committees. To what extent are their activities insured by Risk Management?**

Anyone performing volunteer service on behalf of the University is covered by Risk Management for claims of negligence so long as the activities are performed under the direction and control of authorized University personnel, as such persons would qualify as agents.

**What if I'm injured on the job? Will Risk Management cover my medical expenses and lost wages?**

Compensation to University employees injured in a job-related accident is provided under the State worker's compensation law. You should report a worker's compensation claim to your supervisor as soon as possible. To find out how to report a claim or to learn about available benefits, you may contact the Benefits Section of the Human Resources Department at (480-965-2701).

**Where can I obtain additional information relating to the University's insurance program?**

The University's Insurance Services department publishes several brochures that are relevant to this issue: "University Liability and Property Insurance Program" (October 1999); "Field Trip and Field Research Safety and Risk Management Guidelines" (September 1999); and "University Risk Management Programs and Services" (October 1999). You should contact Insurance Services at (480) 965-1851 to obtain copies or visit Insurance Service's [web site](#).

Revised March, 2004