

## **Common Questions Concerning State Insurance Coverage**

The purpose of this memorandum is intended to provide general information to the University community. It is not intended to address every possible fact situation. Particular questions should be addressed to the Office of the University Attorneys or Risk Management and Safety.

### **Does the State of Arizona provide liability insurance coverage for University of Arizona 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 The University of Arizona. With limited exceptions the State's insurance coverage protects all officers, agents and employees and authorized volunteers of the University against liability for negligent acts and omissions of any nature while acting in an authorized capacity in the course and scope of employment and/or duties.

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

Arizona Revised Statutes '41-621.R. says the following:

For the purposes of determining whether a state officer, agent or employee is entitled to coverage under this chapter, "within the course and scope of employment or authorization" means:

1. The acts or omissions that the state officer, agent or employee is employed or authorized to perform.
2. The acts or omissions of the state officer, agent or employee occur substantially within the authorized time and space limit.
3. The acts or omissions are activated at least in part by a purpose to serve this state or its departments, agencies, boards or commissions.

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

State Risk Management will insure negligent acts by students when they also qualify as employees, agents, or authorized volunteers. 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.

### **Does liability 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 covered by liability insurance by State Risk Management. The key to State coverage is authorized activity and authority, not location.

### **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. The University Attorneys' Office also monitors these cases and works with the Attorney General to resolve claims and lawsuits.

### **If I am 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.

### **Does this immunity apply to activities of University administrators?**

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 am 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 Office of University Attorneys will provide (or retain) 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, In addition to excluding coverage for acts that are not within the course and scope of employment and authorization, State Risk Management excludes coverage for losses arising out of or directly attributable to the commission of a felony. Losses of university property may also be excluded from insurance coverage if reporting requirements are not met, or if the loss does not qualify for coverage as defined in the coverage statute.

### **What coverage does Risk Management provide if I am driving on University business?**

**Any person driving in an authorized capacity on university business may be covered for automotive liability by State Risk Management, with certain limitations. This can include employees, agents, students, and volunteers that are authorized to drive on university business. Coverage is applicable in any location, provided the driving activity is within the course and scope of authorization and university business. When driving personal vehicles, or other non-state owned vehicles, state insurance coverage is secondary to any other valid and collectible insurance. Additionally, no coverage is provided for damage to personal vehicles driven on university business, because the mileage reimbursement rate includes a cost factor for personal insurance. Employees injured in automotive accidents are covered by worker's compensation insurance. The state does not provide medical coverage for non-employee passengers that might be injured in an accident, although liability insurance may be applicable for the driver if he/she was negligent.**

### **What if I am 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. To find out how to report a claim or to learn about available benefits, you may contact the University Department of Risk Management and Safety, Worker's Compensation section (520) 621-3626.

Office of the General Counsel and University Attorneys / Risk Management & Safety

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