OFF CAMPUS TRAVEL – FIELD TRIPS & OTHER ACTIVITIES
MANAGING THE RISKS

A Guide for Academic and Non-Academic Activities
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MANAGING OFF CAMPUS RISKS

INTRODUCTION

As the colleges are increasing their support of off campus activities the need for risk management on these activities is likewise increasing.

An institution’s off-campus risks are very similar, whether the reason for the trip is academic or not, no matter how far away the trip is, or how long the trip is. What varies is the degree to which the institution may be legally or morally responsible for adverse outcomes, how much information needs to be provided to the participants, and what assistance would be provided to the participants if needed. These legal and moral ramifications are primarily dependent upon how connected the institution is to the trip or activity in terms of selection of the activity, control of the activity, funding of the activity, etc.

How are these risks different from risks on our own campus? First, the College is not in control of the environment where off campus activities take place. We cannot guarantee the safety or quality of the environment where the activity occurs. Second, students may have very different expectations of an off-campus activity than what it actually is, and be unprepared for participation in the activity. Third, different hazards present themselves in off-campus activities, such as the hazards of travel, than are ordinary on campus. Finally, the activities may take the students into different cultures, where different expectations are placed on the students and their behavior, than is typical for on-campus activities.

WHY IS THE COLLEGE RESPONSIBLE FOR THESE RISKS?

Duty to protect. Under Massachusetts law, the case Mullins v. Pine Manor College, 389 Mass. 47 (1983) establishes a college’s duty to protect its students: reasonable care must be taken to protect the well being of its resident students. Reasonable care should be exercised to protect all students from foreseeable harm. This general rule applies whether the students are on campus or engaged in off campus activities, or participating in a study abroad program. The scope of the duty to protect is dependent on the circumstances, most particularly the school’s control over or involvement in the activity. In general, the more control the school has over the activity, the greater the duty to protect students from foreseeable risks. There is generally no duty to protect students from risks which the College has no ability to control.

A student was injured on a bicycle trip that was organized, planned and supervised by the college’s Student Activities Office. The college employees selected the bike route, prepared the route map, operated support vans, and offered safety advice. The plaintiff was injured when she was struck by a truck at an intersection. The court ruled that the college had sufficient control over the event to have a legal duty to take reasonable precautions for the safety of the participants. Hores v. Sargent 646 N.Y.S.2d. 165 (N.Y. App. Div. 1996)
Common Bases for Liability

Negligence. The following are typical of the factual basis for which claims are brought against an institution. Since individuals are also responsible for their own acts of negligence, administrators, instructors, chaperones, and others may be named in a lawsuit where a student has been injured and claims that the negligence of others caused or contributed to the injury.

♦ Failure to warn of defective or dangerous conditions
♦ Failure to maintain or repair equipment
♦ Failure to maintain or repair off campus owned premises
♦ Failure to protect against a known risk
♦ Failure to provide proper guidance, instruction or supervision
♦ Failure to adequately staff events and activities
♦ Failure to provide medical attention when needed
♦ Failure to train, discipline or monitor staff and supervisors
♦ Failure to take reasonable steps to assess risk

Therefore, risk management for off campus risks should pay particular attention to these areas.

Contractual Assumption of Risk. Contracts can be worded in ways that increase the school’s liability.

Vicarious Liability. There is always the potential for the school to be involved in a claim on the theory of vicarious liability, especially if the responsible party has limited or no resources.

Laws and Regulations. Violation of OSHA, EPA or other federal, state or local statues may also serve as a basis for establishing negligence.

Breach of Contract. If a student loses funds or other opportunities due to the cancellation of a trip, the school may be liable for breach of contract claims.

THE SPECTRUM OF CONTROL

The degree to which an institution may be liable for losses or claims arising out of off-campus activities depends significantly on how much control the institution has over the activity. We can identify four levels of control, in increasing order.

1) No Control. An example of this would be students self-organizing and going somewhere using public transportation. There is no connection to the school or any student groups in any way.

Since the College does not assume any liability for its students, the school would have no liability for any loss which might arise out of such a trip.
2) **Permissive/Tolerance.** For example, we may identify opportunities for student trips, and perhaps even provide students partial stipends for the trip, but advise the student that the College has no relationship to the activity. Many internships fall into this category. The College’s liability for these activities is very limited. Only if we had reason to know that the trip sponsor was grossly negligent, reckless or indifferent to the safety of the participants and we failed to warn our students would there be likely to be any liability on the part of the College. It is critical for these types of activities; however, to make sure that the student knows that the College has no control over, or responsibility for, the activity. It is also useful to advise the student that the College has not investigated the activity sponsor, and that the student should not rely on the fact that the College may have identified the trip as an indication that the College endorses it in any way.

3) **Contractual/Collaboration.** Even within this general category, there is still a spectrum of control which exists between the College and the other party. For example, the College may collaborate with a local social service agency on a specific project. The College may select the timing, the specific project from a list of potential projects, and provide transportation to and from the project. The agency may manage the site; provide the tools, supervision and refreshment. Examples of this include JYA programs which are jointly sponsored with other institutions or social service programs jointly organized with social service agencies. Internships may also fall into this category.

Both entities could share liability for an accident arising out of the project. Depending on the nature of accident of injury, one entity or the other could be completely liable.

4) **Extension/Direct Sponsor.** This would define an activity for which the College has complete control. It selects the activity, the group leader, provides or arranges transportation, provides the equipment necessary for the activity, and so forth. Examples of this include academic field trips, College-sponsored JYA programs, or an overnight outing trip as part of freshman orientation.

The College has the same liability for these types of activities as it would for any activity on its campus. Where public facilities such as restaurants or hotels may be used, direct premises and products liability would not be imputed to the College, but failure to use reasonable care or discretion in the selection of the facilities could be.

**What Kinds of Risks are There?**

The risk of loss can be summarized very succinctly. It is the risk of bodily injury or personal injury to students, staff or faculty, loss of college or personal property of students, staff or faculty, or injury (bodily, personal or property damage) to third parties. It is worth examining some of the detail that this summary encompasses. This list includes academic and non-academic activities.
Participants’ Risks

1) Bodily injury, disease, death or other harm (including loss of or damage to personal property), and attendant medical costs
2) Legal costs, arrest, detention
3) Costs of repatriation or medical evacuation
   *Travel overseas adds risks to the list above*
4) Loss of travel papers, passport, visas
5) Cultural, Political, Legal and Environmental conditions, including program cancellation

Institutional Risks

1) Loss caused by bodily injury, disease, death or other harm (including property damage) to third parties (including participants) for which the institution is legally liable, arising from the trip or travel
2) Loss of students, faculty or staff
3) Loss of or damage to property owned by the institution
4) Loss of reputation
5) Fines, fees or other regulatory sanctions or penalties for failure to comply with local regulations, laws or codes
6) Costs of repatriation or medical evacuation

Who is at Risk

Students // Faculty // Staff // Alumni // Volunteers // Grant Funded/Sponsored
Others // Others traveling at the request/sponsorship of the institution (e.g. family members)

Where

Local // Regional // National // International // Owned Locations // Non-owned Locations // Subcontractor Locations

When

Class Field Trips (Academic and Non-academic) // Junior Year Abroad (JYA) // January Term (JT) // Summer Study // Breaks // Weekends // School holidays

Why

Academic // Internships // Social Services (volunteer work) // Athletic // Club Sports // Other Clubs // Recreational

How

Travel - trains, planes, buses, automobiles, other
Premises - slips, falls
Activities - academic, athletic, recreational
Crime - assault, theft, rape, murder
Environmental - disease, weather
Cultural / Political / Legal - war, arrest, imprisonment, drugs/alcohol, harassment
WHAT INSTITUTIONS CAN DO TO MANAGE OFF-CAMPUS RISKS AND LIABILITIES

A. Activity Planners and Leaders should:

1) Assess safety conditions at the site, or obtain a safety evaluation. If the college uses the site repeatedly, conduct safety assessments periodically. Know the area or country where the students are visiting; know what geographic areas to avoid; if traveling to a foreign country, know the political climate as well.

2) Provide adequate adult supervision. Make sure that the supervisors are properly trained for the activity. If you will be in a foreign country and local personnel will be working with students, check on their background.

3) Provide safety information, both written and oral, to prospective participants so that they can make informed decisions about their participation, and their behavior while on site. In particular, identify any inherent dangers associated with the trip, avoidable dangers characteristic to the locale, high crime areas, and health risks.

4) Provide an orientation to participants in order to help them improve their avoidance of high-risk situations and their skill in dealing with problematic events.

5) Provide warnings (and supervision if necessary) to students regarding extra-curricular activities if overseas or in an unfamiliar locale, such as a large city.

6) Monitor the local environment and provide safety updates to the participants (or advise them of resources to aid them in doing this for themselves).

7) Take appropriate action in the event of a serious deterioration in the local safety environment.

8) Assist participants should a serious safety issue come to the attention of local personnel or the trip leader.

9) Evaluate the safety issues surrounding any program events, excursions, or other services, whether arranged by the institution or by a third party. Ensure that safe means of transportation are being provided.

10) Secure or provide referrals for appropriate medical, legal, psychological or other professional assistance for participants experiencing difficulties when traveling overseas.

11) Advise participants what the institution expects from them.

12) Advise participants what action the institution may take if the participant does not adhere to the institution’s guidelines for behavior.

13) Have participants sign an informed consent agreement or a waiver confirming that they have been informed of and understand the risks, and have accepted the risks voluntarily, that they have the capacity to participate, that they will abide by the institutional guidelines, and that they will accept the consequences if they do not.

Some of these may not be necessary for a local or regional field trip, but are appropriate for an internship or foreign travel. In general, all international programs all require waivers.
B. Immunity - Massachusetts law (M.G.L. c.231, §85K) limits the college’s liability to $20,000 for torts committed in the course of any activity which is engaged in to directly accomplish the charitable purpose of the college. This immunity does not extend to individual employees or agents of the college.

C. Waivers and Releases are generally enforceable under Massachusetts law. While the College does not typically request waivers for academic programs or any mandatory program, it is not unreasonable for the college to require waivers for recreational programs, internships, or other activities that are beyond the usual educational operation of the college.

D. Participation Agreements and Informed Consent Forms are essential to meet the college’s duty to warn. It will also serve the function of informing the student what is required of them, and obtaining their agreement to abide by the institutional guidelines, and confirming their capacity to participate in the event or activity. This is handled through the form the students sign when they enroll in the program, however it does not relieve you of the responsibility to warn of specific risks on field trips, etc.

E. Insurance and Indemnification is managed through the Five College Risk Management Office. If there are any contracts associated with the trip, they should be checked by Risk Management to ensure that the college is not contractually assuming liability that it would otherwise not have, and to make sure that the proper insurance and indemnification agreements are in place.

F. Safety Policies and guidelines should be established and monitored to see that they are carried out, both locally and overseas.

   **Most Important: Do the right thing!**

**WHAT INSTITUTIONS CANNOT DO, AND NO PARTICIPANT, INSTITUTION OR PARENT SHOULD EXPECT**

Participants and parents should be informed that the College cannot and will not:

1) Guarantee the safety of participants.
2) Assure that the risk will not be greater than at home.
3) Monitor the daily personal decisions, choices and activities of individual participants.
4) Stand in loco parentis.
5) Prevent the participants from engaging in illegal, dangerous, or unwise activities.
6) Represent the interests of participants accused of illegal activities.
7) Assume responsibility for the actions of participants not employed or otherwise engaged by the Institution.
8) Assume responsibility for events that are beyond the control of the institution and its subcontractors.
9) Assure that participants will only be accepted to sites that are appropriate to their personal limitations.
10) Assume responsibility for situations which arise due to the failure of a participant to make full disclosure of pertinent information prior to departure.
11) Assure the adherence to US norms of what is appropriate and acceptable behavior in matters of due process, individual rights, political correctness and sensitivity, relationships between the sexes, and among diverse racial, cultural and ethnic groups.

RESPONSIBILITIES OF PARTICIPANTS

Participants should be required to agree in writing that they will:

1) Advise the institution of any health or psychological conditions that will assist the institution in planning the off-campus experience.
2) Read and carefully evaluate all materials issued by the institution, or recommended by the institution (for example, State Department or Center for Disease Control web sites, or other brochures or publications about the location of the trip or travel). Look for and read information on safety, health, legal, environmental, political, cultural and religious conditions at the site.
3) Make personal decisions and conduct his/her private life in an intelligent, prudent fashion, paying particular attention to local conditions as outlined by the provider and as observes by the participant.
4) Assume responsibility for the consequences of his/her own decisions and actions.
5) Purchase and maintain appropriate insurance policies and abide by the conditions, if any, imposed by the carriers of such policies.
6) Abide by any code of conduct (e.g. Student Code of Conduct, Faculty Handbook) as may be published or distributed by the institution.

Responsibilities of Parents

Parents should be advised to:

1) Obtain and evaluate safety information concerning the trip/travel/program.
2) Be involved in the decision of the student to participate in a particular program.
3) Engage the participant in a thorough discussion of safety and behavior issues related to the program.

FREQUENTLY ASKED QUESTIONS

This section is designed to answer the most frequently asked questions regarding liability and insurance issues around off campus activities and College sponsored travel. This section is
specifically applicable to Amherst, Hampshire, Mount Holyoke and Smith and reflects current insurance policies and risk management guidelines. Policies may change from time to time. If you have any questions regarding this material please contact:

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Five College Risk Manager  
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E-mail ecarmich@mtholyoke.edu

A. Personal Liability Issues

Does my personal liability, in relation to the students, change because I am leading a trip?  
No. While there is always a potential for you to be sued personally for the work you perform for the College, there is no significant increase or decrease in potential liability because you are off campus. The risks are in the trip’s specific activities, particularly if any are hazardous.

Will the College protect me if I am sued?  
The Colleges carry insurance policies for its liability, and its employees are also covered under these policies for their negligence, as long as they are acting “at the direction of the College” and “while acting within the scope of his or her duties”. No one is ever insured for willful misconduct or criminal acts. Individual claim circumstances must be investigated prior to the extension of defense and indemnification.

Are there more risks for trips overseas?  
There may be a higher degree of risk which is associated with foreign travel, whether because of air travel, local conditions or unfamiliarity with one's surroundings. However, the liability issues remain the same no matter where the travel. It is especially important for trip coordinators to keep in mind that most students will not have traveled overseas, and will need very basic information. Encourage them to share information about the trip with their parents, verbally as well as any written materials provided.

B. Auto Liability & Insurance

How am I covered when driving College Owned Vehicles?  
The College insures all its vehicles for liability (injury to third parties and third party property damage) and physical damage (comprehensive/collision). If you are credentialed and driving a college-owned vehicle with the permission of the College, then you are an insured driver under the College's policy. The same holds true for students or others who are credentialed and driving College vehicles with permission.

What if I am driving a Rented Vehicle?  
If you rent a vehicle in the US while working on behalf of the College you should rent the vehicle in the name of the College and your own name. This means that you should sign both your name and “[name of] College” on the rental agreement. The College's Auto Policy 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. Never rent a vehicle valued in excess of $50,000.
If you rent a vehicle overseas always take the full insurance for both liability and physical damage. Note – some international rental companies have “tiered” insurance – be sure to take the better coverage.

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 College may have to pay for damages you did not cause.

Do I have coverage from the College if I have to drive my own car?
You may drive your own vehicle on College business. When you drive your own car on College business, your own insurance policy serves as a "primary" policy for third party liability and physical damage to your vehicle. If you purchase or lease a vehicle while you are overseas for your personal use, it is covered as any other personal vehicle. You should purchase insurance that is required in the country you are based in. Check with the agent what limits are appropriate. Keep in mind you may be driving to other countries, and you may need higher limits. The College has an international insurance policy that would respond for the balance of the claim.

If your vehicle is damaged as a result of an accident, whether it is your fault or not, your 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 College nor the College’s Insurance will pay for any physical damage to your vehicle - you use it at your own risk. This also applies to personal belongings in the vehicle.

Does it matter if I have to drive my own car as part of my condition of employment or because no College vehicles are available?
No. Mileage reimbursements are designed to include an incremental cost for insurance and deductibles.

What do I do if I am in an auto accident, while on College business and driving a College-owned or rented vehicle?
If you are in the United States, see instructions in Auto Accidents, Emergencies / Claims. If you are overseas, obtain instructions for the insurance and legal requirements pertaining to an auto accident in your country or the country you may be traveling to from your insurance agent. Follow those instructions. If it is a severe accident, report it to the Risk Manager as soon as possible.

C. Workers' Compensation Claims

Who pays any medical bills or lost wages if I am injured while I am working?
If you are injured while you are working, your medical costs and lost wages are covered by Workers’ Compensation, in accordance with Massachusetts statutory benefits. You are not considered to be working on a 24/7 basis just because you are on a trip or overseas. Contact Human Resources immediately if you are injured while on a trip for guidance in filing a claim and reporting the incident. If you are overseas at the time of the accident, also contact the appropriate dean to advise of your situation.

Volunteers are not eligible for Workers Compensation coverage. Volunteers should contact their health insurer for personal coverage information.
D. Personal Property

What if my personal property is lost or damaged while I am leading the trip?
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. *Neither the College nor the College’s Insurance will pay for any loss or damage to your own personal property - you use it at your own risk.*

E. Travel Accident Insurance / World Wide Assistance

The College provides limited Travel Accident Insurance for its faculty, staff and students when they are traveling on authorized College business or trips. In addition, "World Wide Assistance Services" will provide support for faculty, staff and students when they are traveling on authorized College business or trips. For more information see [Travel Accident & Assistance](#).

INFORMED CONSENT FORMS, WAIVERS & RELEASES

An [Informed Consent Form](#) advises the student (1) what the College does not have control over; (2) basic information about the trip, event or program; (3) what the responsibilities of the student are, and what standards of behavior are expected of the student; (4) what the consequences are of not meeting the expected standards of behavior; (5) clearly warns of the risks involved; (6) confirms the agreement of the student that the risks are voluntarily assumed; (7) the student confirms that s/he is capable of participating in the event; and (8) a medical authorization for the benefit of the student, in the event emergency medical services are needed.

A [Waiver](#) or [Release](#) includes all the information on the Informed Consent Form, and includes (9) the student releases from any loss caused by the school’s negligence; (10) may include an agreement that the student will indemnify and defend the school against any loss the student may cause; (11) may include a covenant not to sue; and (12) should set forth the venue in which any claims may be brought.

Students on Junior Year Abroad Programs have already signed a fairly comprehensive waiver and release. We do not require additional informed consent forms or releases during the Program. However for all trips or programs it is highly recommended that students be informed of the particulars of the trip and any special hazards or other concerns prior to the trip. Such notice is best in writing, but verbal advice is acceptable.

PROGRAM / FIELD TRIP / ACTIVITY / EVENT DOCUMENTATION

*The documentation needed will increase proportionately with the increase in risk of the trip.*

Local field trips that are low risk (e.g. a trip to a town or city) require only a “fact sheet”. If the activity is local or regional with a higher risk activity, such as athletic activities (e.g. rafting), additional documentation may be required of the trip leader to ascertain that appropriate measures have been taken in terms of preparation, having an emergency response plan, etc.

The key to managing this process is to give yourself adequate lead time.
As the leader of the trip, it is important for you to inform the participants what to expect. Here are some general issues you should cover. Use the form provided as a guide for student handouts.

Where are you going?
- What is the climate? Highest and lowest temperatures? Constant rain? Constant sun? Give your students written information and advise as to the type of clothing they should bring, including protective wear such as UV sunglasses, hats, rain ponchos, warm clothing, sun block, proper footwear, etc.
- What are the facilities? Hotels, hostels or camping? Do students need to bring water, pillows, backpacks, passports, non US Currency, etc.? Make sure they know in advance what is needed for the trip, and that they are appropriately prepared for it. All students should know to carry ID and medical insurance cards.
- How safe is the region you are going to? What are the dangers? Give students written warning of the dangers of the region, whether it is of insects, pickpockets, crime, animals or other dangers.

How are you getting there? (College owned vehicles? Rentals? Public transportation?) What happens if someone needs to leave right away? Is there transportation available? If you are in the middle of a desert or have climbed a mountain, or are in the middle of the ocean on a ship, there may be long delays in getting emergency medical care. Students should be made aware of transportation conditions and limitations in writing.

What will the students be doing? What is expected of them? Students should be informed in writing what will be done in the course of the field trip and expected of them as participants in the trip: such as “walking 10 miles a day carrying a 35 lb pack”; or “strenuous walking, climbing and lifting and carrying weights up to 50 lbs.”, or “setting up tents, cooking for the group”, etc.

How long is the trip for? Students should be informed in writing what the start date of the trip is, the end date, and what, if any contingencies could extend or shorten the trip, and what, if any, responsibility the College takes or doesn’t take for said contingencies. For example, if a student pays $500 for a five day trip, and has to leave early because of a personal emergency, is the “unused” portion of the trip refundable?

Keep in mind, you may need to make special provisions for emergencies:

Who is responsible for first aid? Do you have access to communication? Should someone carry a cell phone? If the trip is to a remote or inaccessible region it is strongly recommended that at least two persons on the trip have first aid skills and first aid kits. A lightweight cell phone is also recommended in case emergency aid is needed.

It is especially important to inform or warn the students of any dangers they may face:

For trips to countries other than those you are based in, be sure to give the students information about the country(ies) they are traveling to. The Web site http://travel.state.gov provides the US State Department Consular warnings. For health risks see: http://www.cdc.gov/. List these sites on your fact sheet if you are going overseas.
Sample
Trip Fact Sheet: __________________________________________________________

This is a voluntary trip to______________________ for the purpose of
____________________. Participants are limited to (number, college affiliation)
____________________. Cost is $__________. You must sign up by
___/___/____. Refund policy: _________________________________________________

Starting Point: _________________________________________________________________
Destination(s): _________________________________________________________________
Start Date: ___/___/___ . Return Date: ___/___/___

Contingencies: In the event of any airport closures, call ______________ for travel information
updates.

Local weather conditions: Average Max Temperature ____°
Average Min Temperature ____°

Other: _______________________________________________________________________

Bring the following protective gear/clothing:
e.g., rain gear, boots, etc.

Facilities: (describe)
e.g., You will be sleeping on the floor of a church basement

Bring the following for your personal comfort:
e.g. Pillows, sleeping bag to ____°, sleeping bag mat

Transportation is provided by:
e.g., ABC Bus Service; the College; you or other students

Activities/Physical Requirements:
e.g., You will be doing construction in a city; must be able to use a hammer, and lift 50 lbs.

Other:
e.g., Bring Photo ID, your health insurance card, passport .

This is a general list of things to think of as you are preparing for the trip. It is not intended as
an exhaustive or comprehensive list of conditions you may encounter, perils or hazards which
may exist or a guarantee of services which may be provided. Discuss any concerns or questions
which you may have with the trip coordinator or faculty member before you leave for the trip.
INTERNET RESOURCES

Resources for Faculty/Travel Coordinators for overseas trips

*While these are targeted at academic programs, they can be very helpful for non-academic trips as well.*

**NAFSA**’s (Association of International Educators) Publications can be found at: [http://www.nafsa.org](http://www.nafsa.org)

**SAFETI** - Safety Abroad First - Education Travel Information by Gary Rhodes, USC: [http://www.globaled.us/safeti/](http://www.globaled.us/safeti/)  This website has a lot of references.
