

***INSTILLING PRINCIPLES OF RISK MANAGEMENT
INTO THE DAILY PRACTICE OF STUDENT AFFAIRS***

A Book Based on the 2001 Webseminar Sponsored By:

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INTRODUCTION:
INSTILLING PRINCIPLES OF RISK MANAGEMENT
INTO THE DAILY PRACTICE OF STUDENT AFFAIRS
BY BRETT A. SOKOLOW, JD

While risk management may sound like a corporate concept, or an insurance function handled by the college business office, a small group of people aims to change that. We believe strongly that risk management principles have a place in student affairs practice, and that student affairs administration, administrators and students can benefit greatly from the introduction of certain risk management principles into regular practice. Risk managers will find in reaching out to student affairs administrators a number of shared goals, and those shared goals can be used to create strategies for synergies that will help student affairs administrators to become stronger purveyors of the risk management ethic. This book is about fostering greater cooperation between risk managers and student affairs administrators. Some chapters are written from a risk manager's perspective, to help student affairs administrators to understand better the risk management function, and the goals of the risk manager. Other chapters are written from a student affairs administrator's perspective, to help risk managers understand student affairs goals and practices.

Risk management is applicable to any discipline, which encounters, engenders, or engages in risk-producing activities. Risk can be related to liability, insurance claims, institutional prestige, planned giving and campus community safety-- all things that have become common concerns to student affairs administrators.

Four Guiding Principles

Here is a list of four principles that should guide the course of synergistic campus risk management, writ large in a holistic sense.

- **Risk Management Practice Should Create Synergies with the Institutional Mission and Ethics¹**

Institutional values should guide the goal setting and implementation of risk management efforts. Conduct codes or professional ethics guidelines are the tools of maintenance of the institutional mission, and they are key tools of effective risk management. One informs and reinforces the other, and risk management practices should be justifiable on the basis that they are supportive of the institutional mission and ethics. Risk managers may identify certain student practices that are problematic from their perspective, and it may be their desire to see those practices addressed, or addressed more comprehensively. The vehicle for communicating that risk identification, and engendering response from student affairs may be the institutional mission. Risk managers are risk averse by nature. Student affairs administrators are not generally of the same mindset. Most will not let the threat of a lawsuit or hefty insurance policy claim stand in the way of what they believe to be the right thing to do, or the developmentally sound thing to do. Nor should they yield to legal terrorism (more on this later) or feel compelled to compromise principles. But, a proactive collaboration will be able to serve the purposes of both risk managers and student affairs administrators, if a common motivating force can be identified. The mission can serve as the common ground from which proactive collaboration can emerge.

- **The Risk Management Function Is a Holistic Mind-set.**

If the campus risk management function is only performed by the office of the risk manager, or the business office, risk is not being comprehensively, proactively or effectively managed. Risk managers need to make teammates of their colleagues, and ask their assistance in spreading sound risk management practices throughout the institution. Teambuilding includes reaching out to the usual suspects, but also reaching out to those you might not normally consider, such as student activities professionals, information technologists, internship coordinators, office support staff, etc. One of the

¹ Topic headings—but not content—from this introductory section were paraphrased from several online risk management websites. The contents are in the public domain.

key practices of the successful risk manager is to educate campus and community constituencies as to what the risk management function is, and how other departments can be effective purveyors of the risk management message or function. An effective risk manager will be available to these professionals and departments to assist them in enhancing their mission, and in reflecting an outsider's view, which can offer an important objective lens through which to examine and update institutional practices. In a corporation, decisions are made a light-speed. Very few colleges and universities operate administratively on a corporate model. In fact, colleges and universities are much more static, of more limited resources, and less likely to want to change the status quo—even when that status quo is outmoded—because it remains functional. Accepting the pace of slower decision making and slower innovation is key to setting reasonable expectations. Where a risk manager is vital is in helping administrators to identify when outmoded processes and practices cease to be functional, and to attend to them before implosion, rather than post-implosion. Administrators tend to accommodate to institutional bureaucracies over time—it is in the nature of bureaucracy—to perpetuate its longevity without heed to the specific stewardship of one administration. Yet, entrenched bureaucracy is an enemy of risk management. Institutional risk managers can help to simplify practices and procedures and help administrators to incorporate more flexibility into static operations.

- **Risk Management Must Be a Dynamic Ethic, Distinct from Risk Containment.**

While risk managers often practice this principle, other institutional constituents only witness the risk management function as crisis response or experience it as additional paperwork or a regulatory burden. If risk management is seen as a burden, the teamwork ethic has not been effectively inculcated. Risk management should be part of the job description for key administrators and support staff members. Risk containment is the reactive element of risk management, and is a vital aspect of the practice. But, to be the dynamically effective ethic that risk management can be, containment must be only one element, and proactive risk reduction is another. Risk containment should be a practiced science, supported by protocols, response networks, media and publicity relations,

indemnifications, legally enforceable rights, insurance and strong partnerships and ties with the medical, legal, law enforcement, hazardous materials, and other key crisis responders. The dynamism should be reflected more in the proactive aspects. For example, risk management strategies that worked well for several years might become ineffective over time, or become stale because of changes in personnel or processes. An assessment system must identify when changes and improvement are needed, or when a whole different strategy is called for. New risk identification and reduction tools must be developed and implemented to meet changing needs and demands.

- **Risk Management Cannot Be an Afterthought.**

Risk managers who come to the field through a pure insurance background, as is common, can tend to have an insurance-centered approach to risk. Colleges and universities are best served by risk managers who also seek sound grounding in other than the pure insurance-related skills of the profession, including comprehensive risk assessments, and even risk mapping techniques, who can effectively utilize general counsel and legal advisors for regulatory compliance information, who are skilled trainers and communicators, and who know how to bring the resources of their insurers to bear as partners in risk management. On the institutional side, recognition of the risk management function is slow in coming. A minority of colleges have dedicated risk managers. Most colleges tack the risk management function onto the professional duties of some other administrator, giving less emphasis to risk management as a fully realized field. In some ways, there are parallels to judicial affairs administrators, within the student affairs department. Some colleges can tend to treat the judicial affairs field as the bastard stepchild of student affairs, rather than as area of specialization in its own right. Similarly, college administrators too often view the field of risk management as a sub-function of the business office. To proactively, holistically and dynamically manage risk, institutions must devote adequate resources to their risk management functions, and enable their risk managers to access professional development opportunities. This commitment by senior administrators should be seen as an investment in the institution that will pay off handsomely.

Preview of the chapters of this book

The six chapters that follow build upon these principles with specifics. In Chapter One, Beverly Costello, Risk Manager at Yale University, offers student affairs administrators a tutorial on the basics of university risk management and the insurance function. In Chapter Two, Ed Spencer, Associate Vice-President for Student Affairs at Virginia Tech, offers a roadmap for successfully incorporating risk management functions into the student affairs realms of housing and dining. In Chapter Three, John Wesley Lowery, Assistant Professor of Higher Education in the Department of Educational Leadership and Policies at the University of South Carolina, gets into the nuts and bolts of risk management recordkeeping for student affairs practitioners. This chapter will also help to provide risk managers with insight into some of the arcane and Byzantine regulatory hoops through which student affairs administrators must jump. In Chapter Four, we are treated to an elaboration of issues of due process and legal considerations in the administration of student discipline, an area that is popping up more and more often on the radar screens of risk managers. This chapter was written by Dennis Gregory, Assistant Professor of Educational Leadership and Counseling at Old Dominion University. Chapter Five is an offering on risk assessment in student affairs from the editor of this book, Brett Sokolow, a higher education risk management consultant who serves as President of the National Center for Higher Education Risk Management. This chapter helps to bridge the gap with helpful hints for student affairs administrators who desire to apply risk management techniques more effectively. Finally, Chapter Six is from Troy Harris, Director of Risk Management and Procurement at Westmont College. This chapter, on risk management in study abroad programs, offers a checklist for proactive steps to protect students studying in other countries, and demonstrates how risk managers can make meaningful contributions to student affairs programmatic areas. It also offers an example of the risk management mini-course that Westmont uses for its students.

It may strike the reader that these chapters do not flow topically from one to the other. Instead, they flow thematically. They are connected because the issues they address and areas they cover are all high-risk areas that are in need of critical attention and increased emphasis by student affairs and risk management practitioners alike. This book is the first of several that will continue to hit high-risk issues and areas, and the reader will be best-served by thinking of this

book as a collection of six self-contained monographs, rather than as a cohesive thesis. That is why we have included materials from the 2001 NCHERM/URMIA Webseminar, *Instilling Principles of Risk Management into the Daily Practice of Student Affairs*, in each chapter. After each author's narrative, you will find their original outline from the webseminar, reproductions of their Power Point™ presentation slides, and their biographical and contact information. We hope the chapters and supporting materials are helpful to you.

CHAPTER ONE

RISK MANAGEMENT IN THE HIGHER EDUCATION SETTING : AN OVERVIEW

BY BEVERLY COSTELLO

What I first want to discuss about university risk management as opposed to other types of risk management is that there are two inherently opposing philosophies at work. In higher education, the goal is to spread information and share information with as many people as possible. In sharp contrast, risk management is the business of controlling; controlling information, controlling risk, and controlling situations so that they don't become a financial burden to the organization.

Five areas of risk

The risk management function is also a great deal more than purchasing insurance. People often think of their risk manager as someone who buys our auto policy or who buys our workman's compensation policy. Risk management is by far a great deal more than that. Risk management is about identifying risk in a lot more areas than specifically property, or people. The first category is called strategic risk. Strategic risk means thinking about what the goals of the university are. What are the university's objectives? What is the operational structure of the university? How does that structure support objectives? How do various risk factors affect the success of the strategic goals of the university?

A second area is financial risks. There clearly are financial risks resulting from the fact that universities own property, and automobiles. But there is also a potential for financial risk if we've mislead someone, defamed someone, violated someone's copyright, or done something that could cause us to suffer the financial implications of lawsuits and liability.

A third area is operational risks. This really has to do with our on going management process, how employees are handled, how student affairs is handled, how certain volunteer groups, sports teams, classroom activities, and research materials are handled. This area also extends to internal operational risks, from accounting and finance, to health and safety, to medical services. There

are a great many areas that fall within operational risk that are outside of what people might quickly consider to be the concerns of the risk management department.

A fourth area is compliance risk. This is a significant issue for both public and private institutions. We need to be sure that we are complying with the laws in terms of hazardous waste rules, automobile rules, occupational health and safety, and on and on, representing an ever-changing array of compliance issues that we need to take care of the best we can.

Last but not least, by any means, is the area of reputational risk. This is clearly a very difficult one to quantify. Yale, and I'm sure every other university, does not want to have its image tarnished by exposures. If we can have some control over those, we'd certainly want to. So, it would be in my interest, here at Yale, to have an idea of the standards and the policies that our public relations people take advantage of or follow. I consider it my responsibility to bring it to the attention of other departments that what they do can affect Yale's reputation. That too is an issue of concern to risk management.

Once you understand the types of risks we address, the next question is what do we do about those risks? We then assess the severity and immediacy of the risk, in order to prioritize it. The final step then is to purchase insurance, or finance the insurance, or implement various loss control standards.

Types of Insurance Coverage

A basic insurance program that fits for most organizations, and certainly holds true for universities, is to buy general liability coverage that protects the university from what we call "slip 'n falls," which are any type of third party claims for bodily injury or property damage. We also purchase an all risk property program, for protection from fire, windstorm, hail, theft, and that type of loss. This coverage would also provide reimbursement in the event of a burst pipe or facility failure. I also strongly suggest that the property program include builders' risk and boiler and machinery coverages. Sometimes, those are purchased separately. I think it is a good idea to have them incorporated in the common policy so that there is no confusion about which policy

applies in a given loss. Builders' risk is the property insurance for operations of a building when they're under the course of construction. The limit grows in value as the building itself grows.

The next very important area for a university is automobile liability. That would cover the vehicles owned by the university as well as leased and rented vehicles. Some universities decide not to provide coverage for rental vehicles. Yale takes the position of providing the coverage. It can be done either way. Automobile is a significant risk, especially for universities with sport teams, and clubs, and various other student groups. I find my greatest activity is in the automobile area.

The next area of insurance is umbrella or excess liability. Umbrella would extend over all the underlying liability policies, like general liability, auto liability, and a portion of worker's compensation, called employer's liability. There is an excess policies layer on top of the umbrella. Excess is a means of purchasing higher limits of insurance in a more cost effective manner.

The question always comes up about how much liability insurance you should buy? I would say you buy as much insurance as you can afford. The market is changing and we are now in a hard market. When the market is softer, I certainly recommend purchasing as much insurance as you can. There is not a rule of thumb that I know of, to say that based on the amount of assets you have, you should buy a certain amount in limits. I think that a minimum for a university should fall in the area of \$50,000,000. And when you can purchase more, it should be done.

The next area of insurance comes out of the varied standard of property and casualty. I'm going to talk about educators' legal liability. That has to do with the malpractice, if you will, of the institution's professionals. If someone felt that the curriculum of a given class was inappropriate, or professors were teaching their students in areas that shouldn't be taught, a suit might be filed. Educators' legal liability can go a great deal further than that, but that is the primary area of coverage.

Some institutions represented may have a medical institution as part of their university--Yale has the Yale Medical School. But, medical malpractice is separate from educators' legal liability, though it is also an important coverage to have in place.

"Trustees and Officers" is the "Directors and Officers" type of coverage that corresponds to the university. In some coverages, this area is included with the educators' legal liability. Without this type of coverage, a university could not find directors or trustees. This coverage provides protection for suits brought against those individuals for their breach of duty as directors or officers. A significant element of that coverage includes all the employment practice related coverages. That includes discrimination, wrongful termination and sexual harassment claims brought against the directors or officers.

Another basic part of insurance that should be part of your program is fiduciary liability. That is an "Errors and Omissions" type of coverage which, among other things, protects the university against suits brought by outside parties for mismanagement of the employee benefits plans. That can be the 401K plan, the pension plan, or whatever happens to be in place. This is a significantly broader type of policy than what might be provided in a general liability policy.

The fidelity bond is yet another area. It is crucial that you have protection for loss or theft of money and securities. There is a significant amount of cash that passes through various hands on a university campus. The tuitions alone and the various accounts receivable and accounts payable represent a significant risk. There are also areas within a university outside of the expected, including the development offices, the investment office, and various operations that are shared with the public. Here at Yale we have the Peabody Museum, the Yale Art Gallery and the British Art Center which are very much used by the public. There is therefore a considerable amount of cash in those places.

A very basic area, and one mandated by law, is that you have workers' compensation. That insurance is to protect you for injury to employees if they're hurt while working on the job. This is a huge area in terms of the university, its workstations, workflow and getting people back to

work. The limits provided by workers' comp are statutory and there is also, as previously mentioned, an element of workers' compensation called employers' liability.

Another area that I consider part of the basic program is non-owned aircraft liability. Though the university may not own airplanes, often the executives or staff travel, and it is important to have coverage in the event of a catastrophe.

The next areas are what I call extras, and I'm just going to quickly go through them. They're not what I consider to be a mandatory part of the program, but are areas that I have found helpful for university insurance.

Miscellaneous Surety Bonds. Construction is going on continuously at our university and I'm sure at many of yours. Often, the city in which you are working on the construction is requiring bonds. Some of the sub-contracts require bonds. Sometimes you may want to require bonds of your contractors. Construction projects seem to create a small flow of surety bonds, so it is useful to have a surety relationship with your broker or given carrier.

The second "extras" area is TULIP, tenant users' legal liability. It is a means by which you can cover third parties using your facilities for non-university purposes. An example might be that at Yale we have a beautiful chapel, called the Tell Chapel, and many people want to use that chapel to get married and have a reception following. The group of family and friends involved in the wedding would not have their own insurance, but they can purchase TULIP through the risk management office and be able to have a million dollar limit of liability dedicated for that purpose. It is a very easy program and I recommend it highly to those of you who have that type of exposure.

Another area is owners and contractors protective insurance. If there are situations where there are a significant number of renovations or construction going on, you may want protect the university more by purchasing an owners and contractors protective policy for that particular project.

Yet another area is fine art, which may not be a minor area on your campus. If you have a significant amount of fine art, you should be covering that differently than you would standard property.

The next area is a foreign package policy. Many universities, including Yale, send students abroad. The faculty also travels outside the United States for various studies. It is imperative to have general liability, automobile liability and some element of foreign workers' compensation for travel abroad. We purchase this through a foreign package policy.

Another area is transit. Often items will be brought into the United States to our university or vice versa. It is a good idea to have transit insurance in place. It can be part of the property program or not. We happen to have a separate foreign transit policy, but it involves a lot of minor transactions. It is useful for the departments to call risk management and say, "I'm expecting a shipment of books from London and I'd like them to be covered for x amount of dollars," and we can take care of that for them.

The next area is travel and accident insurance. This is health-related coverage for people when they are traveling. It should be in place both for domestic and foreign travel, and cover employees, faculty and staff, and students. It should be made available to students for purchase.

The next item on my list is a student liability and property program. In principle, students own their own risks, in that their behavior and their belongings are their responsibility. We have made an insurance program available to them at a very relatively low cost that will provide this type of protection for them and will keep it separate from the university insurance program.

And last, I have an emergency assistance plan. This is really a service, more than insurance, that provides for medical repatriation coverage and advice for people when they are traveling. It is typically used for people outside the United States, but there can be some needs internally. I'm just in the midst right now of trying to coordinate an emergency assistance plan that will offer that service to all members of the Yale community, be it staff, faculty and students and it is a struggle because it involves all types of insurance.

The Risk Management Spiral

Let me talk a little bit about what I call the Risk Management Spiral. It is an ever-evolving process. I'm continually assessing the risk. I need to quantify it once a year for my insurance renewal. I'm always reading the Yale Daily, looking at various newspapers, visiting the departments, giving informal presentations as well as formal presentations and trying to get a handle on all the activity. And, as I said, the university is in the business of educating and providing information. I only hope to keep up with it.

How do a risk manager quantify it? Quantifying to me is to look at risk in terms of how it can relate back to the insurance companies for calculating the premiums. What is the value of the properties? What is the value of our fine art? How many employees do we have? How much square footage do we have? What types of operations do we have and what bearing do they have on the overall operation of the university?

Then, I need to mitigate for the potential of loss, both from a severity and a frequency standpoint. An example is that I teach a driver awareness class for anybody, student or staff, who drives as a university-related function for a significant part of their time. For the staff, that means people who drive more than 20% of their time, and for students, it is those who are responsible for student groups or clubs, or some sports team. It's mandatory that they take that class and through it we hope to reduce the frequency and severity of fender-benders. Another area may be working with our facilities department. When a building is planned for construction, we will work with them to see that the appropriate fire protection and construction methods are used to make sure the loss is as small as possible, if we have one.

Part of the spiral is the need to adjust the program. For every little new piece of information, I find I may want to adjust the insurance. I don't do that frequently. It is not something you want to do all the time, but if you have a significantly changed circumstance, it is worth changing the program. As I change things, it is important to communicate those changes throughout the university. And then, the spiral starts again. I call it a spiral because you are not going around in

circles; there is progress. It is an upward spiral, not a downward spiral because you're continually tweaking and improving the risk management controls that you have.

Student Affairs Risk Management

As far as risk management within student affairs, that is a challenge. I have taken on this challenge by meeting with people who are active in student affairs, namely the Dean, the Registrars, Athletic Directors, and Housing Directors. I've met with them informally and I meet with them on a formal basis, trying to get them to become the risk managers for students. They become conscious that risk management is not a bad word when they understand I'm not there to not pay claims or file suits or duck responsibility. I share with them my teamwork philosophy that the safety of the students is a responsibility that we all share.

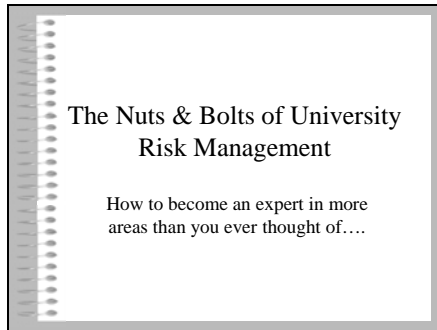
One of the practices I think is valuable is to train university staff who are directly involved with students to become risk management deputies. I think that is important to do it for staff, as well as possibly for some student leaders. There are student councils and organizations that I think are helpful to meet with to give them some idea of the whole concept of risk management.

I also suggest that you prepare a risk management service brochure. It is something that could be handed out as part of the basic packet of information that the students get. It should be broken into the risk management issues for the university; and students' personal risk management. The section for the university would include such things as: driver awareness, the use of university space, travel related risk and emergency contacts and procedures. The section for the students, having to do with their own personal risk management, could include personal property insurance, personal liability insurance, FAQs on what do I do when something happens, or if my laptop is stolen or if my bicycle is stolen, and things like that. It could also list a few other medical related coverages for the personal side of risk management, namely emergency assistance, medical insurance, accident insurance, and life insurance. And again, contacts, as the contacts for the personal issues may be different than those for the university.

I conclude with this thought--expect surprises. I am continually surprised by activities that I learn of. I've hopefully structured the insurance program to be broad and flexible enough so that we are covered in any event. I feel that the greatest responsibility of risk management is to be aware of as much as possible, because information feeds all the other decisions.

A Primer on the Nuts and Bolts of Insuring a College—Presented by Beverly Costello
Power Point Slides From the 2001 Webseminar Presentation

Slide 1



Slide 2



Slide 3

The Risk Management Spiral

- Assess the risk
- Quantify the exposure
- Mitigate the potential for loss – frequency and severity
- Adjust the program
- Communicate the change
- Assess the risk.....

Slide 4

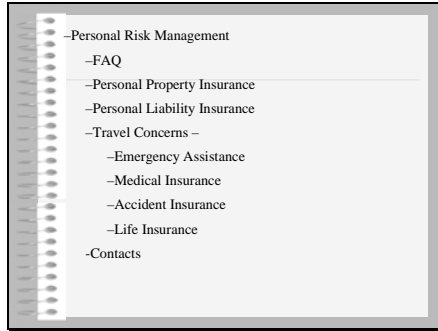
Risk Management & Student Affairs

- Meet with the Dean, Registrar, Athletic Director, Housing Director etc. before the new school year begins.
- Examples...examples...examples
- Train University Staff who are directly involved with students to become Risk Management Deputies
- Be willing to give impromptu insurance lessons

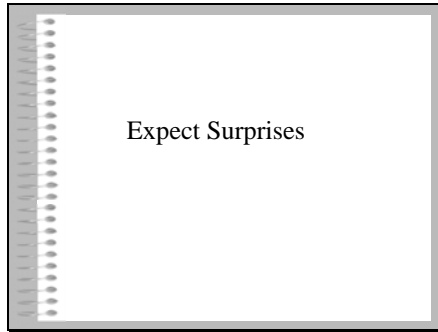
Slide 5

- Prepare "Risk Management Service Highlights" brochure for students
 - University Risk Management
 - Driver Awareness Class Requirements
 - Use of University Space and Equipment
 - Emergency Contacts and Procedures
 - Travel Risk

Slide 6



Slide 7



MEET THIS CHAPTER'S AUTHOR

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CHAPTER TWO

RISK MANAGEMENT ISSUES RELATED TO HOUSING AND DINING

BY: EDWARD F.D. SPENCER, Ed.D.

In this chapter, I have chosen to focus on some selected issues in housing and dining for which I think risk management is key, and to offer some brief comments and suggestions in this area.

Key issues and effective strategies

Let us address two basic questions: what are some key issues and what are effective strategies to address these issues? Let me turn first to the area of facilities. One of the key problems that we face in the facilities area of residence halls and dining centers is that of deferred maintenance. Many projects on our campuses have been deferred, primarily as a result of lack of funding or attention and, thus, we face a major backlog of projects that do need attention. I would suggest that we need to prioritize these projects in such a way that we devote attention to life safety issues first, and amenities and aesthetics second and last. This is basically a Maslovian approach to our needs, but one from a risk management perspective that places the emphasis where it belongs. For instance, replacing worn floor coverings in a residence hall should generally take precedence over adding a nicety such as a new computer lab.

A second suggestion would be doing a cost benefit analysis. One should ask, what is the cost of this project, and what are the benefits that are going to be reaped from it? For example, is it worth investing \$1 million to upgrade a data communications system in the residence halls, where the number of students expected to use that upgrade is about 2% of the residence hall system?

Turning to a second area, on-going housekeeping and maintenance, I would suggest that effective risk management here would entail adopting a set of standards and adhering to those standards. If those standards are to be adopted and met, we need regular inspections of the work of housekeeping and maintenance staff to ensure that those standards are being met. Often we believe that such standards and inspections are negatives or “turn offs” for our staff. I suggest to

you that we can turn this around as a positive thing, when there are rewards and awards attached to meeting those standards. For example, staff can be recognized at annual departmental recognition ceremonies for having met or exceeded those standards. Within our own staff at Virginia Tech, we have annual awards, such as a “golden bucket award,” for the most outstanding housekeeping services. So, what may first appear as a negative can, in fact, turn out to be very positive for our staff.

A third part of the facilities area would be that of renovations. We need to be asking ourselves whether we are going to engage in major or minor renovations and what the implications of those decisions will be. For instance, a major renovation, such as gutting a building and reconfiguring perhaps a traditional residence hall into a suite- or apartment-style residence hall, is going to bring into play many new issues of code compliance that would perhaps not be issues if a minor renovation were being done. One needs to think though, from a risk management perspective, to what extent the institution wants to engage in a major renovation, knowing that there may be very complicated factors involved. On the other hand, such major renovations may be prudent and even necessary from a risk management perspective and should be undertaken. I think here of the aging facilities that many of us have, with very narrow corridors and stairwells, that are grandfathered by current code, but which would require substantial changes if major renovations were being done to these facilities.

Likewise, I would hope, in managing risk, that we would be concentrating, again from perhaps a Maslovian perspective, on life safety issues before moving on to higher order needs that frequently arise when we start talking about adding amenities to residence and dining centers. Prudent risk management would suggest that we ensure we are meeting the health and safety needs of our students first, before going on to meeting their needs for a better looking building, a more attractive entrance way, etc.

A fourth area in facilities is that of new construction. My suggestion with new construction is that there be a very careful choice of architect and contractor throughout the appropriate processes that most institutions have in place. A committee that reviews proposals from A&E firms as part of that selection process is important. The membership of that committee is critical

so that we are including not just residential and dining staff, the university architect and capital planning and construction, but also staff from physical plant, from health and safety, and perhaps even some from the risk management office itself. As plans come to final design stage, I would suggest that there be a very thorough internal and external review of those plans. What I mean is that the institution should internally review these plans in multiple offices, and also utilize outside offices, such as the State Department of Engineering and Buildings, if that is the process in a given state, the State Fire Marshal's Office, etc.

Furnishings is another area where risk management figure prominently. We need to pay attention to quality control issues in selecting a vendor, and selecting specific pieces of furniture. There could be real consequences for users and occupants if we wind up choosing a desk chair that is poorly constructed, or a piece of kitchen equipment that is not up to the task for which it was intended. Also at issue with furnishings is the question of liability. An institution needs to be careful to attend to quality, stability, and foreseeability issues. For instance, more and more of us are moving to loft system furnishings in our residence halls. Are we paying careful attention to these new furnishings, their structure, their materials, their stability and their resistance to, heaven forbid, the possibility of collapse?

I think of this loft issue, also, with respect to our partnership with student organizations. For example, we allow our student government and programming organization, the Residence Hall Federation, to contract with a private vendor to supply lofts to students in the residence halls. Although this is a contract between a student organization and a private vendor, we need to be careful, as an institution, because of the potential liability that we take on for officially endorsing and approving such a project. There clearly are responsibility issues here on the part of the institution, even though the contract is between the student organization and the vendor. We do have responsibility to ensure the quality of such lofts.

Another very current area in facilities is that of fire safety. We have seen some tragic residence hall and fraternity house fires over the past few years. Also, we are seeing various bills introduced in state legislatures and in the Congress to legislate new fire safety regulations. As institutions, we need to ensure that all of our residence halls are in full compliance with current

codes, both state and federal, and that we keep abreast of all changes at the various levels of government that would impact these codes. We need to think about retrofitting our buildings and whether it would be wise to retrofit older residence halls, from a cost benefit standpoint, even though a code does not yet require that particular retrofit. With new construction, with the kinds of review processes that I talked about earlier, we need to ensure that a very careful review of fire safety systems is being done within the institution and outside the institution by appropriate officials, such as the local and state fire marshals.

A final facilities issue that is also at the forefront these days is that of campus security and security systems in residence halls. To manage our risk here, we need to ensure that appropriate access control systems exist in residence halls and that careful decisions are made on the hours during which residence halls are locked and the rules under which one can gain access to the halls. In other words, is the residence hall accessible to its residents 24 hours a day or is it perhaps accessible to anyone during daytime hours, but only to residents of that particular building during evening hours? The answers to these questions are very much dependent upon the environment in which the institution finds itself and what are determined to be reasonable and appropriate levels of security and access restriction for that particular institution. Electronic access cards systems and/or night monitors and security guards at residence hall entrances can regulate access control.

There are certainly reporting issues involved with security, as we must ensure that those who become aware of security problems and breaches report them to appropriate housing officials and/or to the campus police. Similarly, there are situations that arise when we find that there may be a problem that is occurring, such as someone peeping into rooms, or bathrooms in residence halls, where we may, from a risk management perspective, have a responsibility to warn residents that it is occurring and that we are attempting to apprehend such a person. There is substantial case law with respect to “duty to warn” and our responsibilities and need to ensure that we fulfill our obligations in this regard.

Lastly, in the area of security, there are occasional incidents that occur where we may need to employ exceptional, unusual measures. For instance, we had a situation on our campus a number

of years ago where the town police alerted us that there was a strong possibility we had an escaped convict on campus. We immediately ordered a lock down of all the residence halls as an extra, exceptional and unusual measure. Unusual situations require unusual responses.

Programs and conferences

Let me turn now to the programs area and begin that by talking about summer conferences, which bring with them different dimensions than the usual housing of college students. I have found over the years that it is important to have solid understandings with conference clients, and to ensure that there are formal and completely worded contracts to avoid misunderstandings and even issues of unintended liability.

The second part of working with conferences is the importance of having some type of handbook or manual for participants which spells out emergency procedures, who to contact about what, and other critical information. Additional staffing of summer conferences is critical to ensure that there is an adequate number of staff, and that they are properly trained in working with the different clientele conferences bring to our campuses. Conference clients can range from the little 2-year-old child to the 90-year-old Elder Hostel participant. They bring with them their unique set of expectations and issues. Having such young children and elderly conference participants places high liability on us to ensure that the facilities are properly constructed and maintained to accommodate the special needs of such populations. Indeed, risk management for summer conferences can be quite a broad and extensive issue.

Another selected area that I would mention here is that of special programs. For example, I think of some of the learning communities and theme housing programs that many of us are offering. It is easy to begin making statements about what one can gain by participating in such a program, but I think we need to be careful about promising growth, development, maturity, an enhanced grade point average, etc. The principle here is that we should only promise what we can deliver. We can stipulate what the goals of a program are. We can report assessment results in terms of what predecessors in a given program have shown, in terms of gains in academic performance or

whatever, but I think we need to be careful not to make promises that the same thing will happen to someone if he/she enrolls in that program.

Another area here would be family housing, and there are a couple of key issues there to think about. One of those is eligibility. I believe that institutions need to be careful and clear about who is eligible to take up residence in family housing, so that there are no misunderstandings later. If we look at some of the cases over the years, institutions get into difficulty when they deny someone the ability to live in family housing and yet have no clear policy which would prohibit such a person from living there. So, clearness of eligibility is really paramount. The other issue is liability. In family housing we take on a broader range of tenants from the infant all the way up to perhaps the live-in father or grandmother of a student tenant. Because this is family housing, and presumably apartment housing, there are many more liability issues to think about.

Finally, in the programs area, I would offer some comments about food programs and food safety. I recommend that institutions train their staff in both the HACCP and Serv-Safe programs to ensure that dining centers are living up to the high quality standards provided by these particular programs. For example, with our own staff, we have worked hard to ensure that all of our supervisors have had training in both of these areas so that we can be guaranteed that, regardless of who is on duty at a given moment in time, the dining center will be well-supervised because of this professional training. Another topic here would be quality control where the basic principle in managing risk is to ensure the high quality of foods purchased and served in our dining centers. We can do this through development of and insistence upon standards that often exceed restaurant minimums.

Let me now address the area of services. I believe that colleagues around the country would agree with me that we are seeing an increasing number of students who bring to the campus past histories, significant problems, and in many cases, what I call, for lack of a better term, "bizarre student behavior." Such students are challenging to work with, and I have found that putting together a "behavioral evaluation committee" or "care team" is a wise approach. This then allows professionals to work as a team to evaluate the behavior of a particular student from a

medical perspective, a counseling perspective, a campus judicial perspective, or a student housing perspective, in order to make better decisions for the university and more successfully manage the risk of having the student on the campus.

A second area here would be crisis management and I would offer two particular suggestions for managing risk. First, it is important that housing and dining programs have in place a disaster or emergency response plan that has been put together by a diverse and widely representative group throughout the housing and dining department and other departments. Second, it is critical that the housing program has a significant role on the crisis management committee of the college or university. We have had the experience at our institution in recent years of putting together a disaster plan and helping to redraft our crisis management plan and committee. I should note, too, that disaster and crisis management plans are documents like a strategic plan. They must be updated as we restructure departments, as we gain experience in working with a particular kind of disaster or crisis, and as we reshape our philosophy.

Another area that comes to mind in the services area is that of student background information. Most of the time in housing programs we do not have a great deal of background information about our students. But occasionally, some things will surface. For instance, I think most of us have encountered situations where allegations or facts about a student's past emerge that cause one to be concerned. Sometimes we learn that a student has a criminal record and it behooves us to have a policy and procedure in place as to how we will respond in such circumstances. Do we do criminal background checks on all of our tenants? Would we really want to get into the business of doing so? Or do we want to have a policy and procedure that allows us to take some action, if and when we become aware of any serious criminal backgrounds that might present problems for others living in residence halls?

Another concern is the whole area of contracting. It is important to manage risks by having a systematic annual review of our contracts, not just by the housing office and student affairs division, but also by offices such as legal counsel and risk management. Similarly, we need to make appropriate contract revisions as a result of successful challenges. Sometimes a student will challenge a particular policy, perhaps even in court, and it is appropriate and necessary to

change contracts and policies when such challenges are successful in order to prevent problems in the future.

An area that is receiving much attention these days is that of telecommunications and information systems. It is critical that institutions have put in place an acceptable use policy to deal with potential misuses of equipment and systems on the part of both students and employees.

I would suggest that housing departments and other departments engage in what we might call a risk analysis of information assets. We recently completed such a risk analysis in our department and it is a very valuable document that forced us to prioritize and decide what were the most critical assets, how we would manage their loss, etc. These are issues we too often do not think about, until we are suddenly faced with a crisis.

The final area that I would add some comments on here has to do with staffing in residence halls and dining halls. As we manage risk, I think we need to think about what levels and types of staff are needed. Decisions need to be made about to what extent we give responsibility to paraprofessionals, such as undergraduate resident assistants, and where the dividing line should be for our campus for moving on into graduate staff and full-time professional staff. Criteria such as size of building, the nature of the building population, and past experiences with respect to appropriate staff to student ratios, come into play. Likewise, in dining centers, we need to be careful about the level of responsibility entrusted to student workers, versus student managers, versus professional management staff.

I commented earlier about background information and that it is key with respect to staffing. Do we really want to risk being surprised by having on our staff an RA who has a record as a sexual predator? Do we want to have in our business office someone who has a past conviction for embezzling funds? Institutions need to make some careful decisions, in concert with their personnel, risk management, and legal counsel offices, for which positions to require background checks, and how to respond to those checks should they turn up derogatory information.

The last area I would note in the staffing area is that of training and certification. We need to train our staff in appropriate ways and give them the kinds of experiences and tools that they need in accordance with the job we ask them to perform. RA's need extensive training in such areas as crisis management, communication, mediation, intervention, and referral. Dining hall workers need significant training in food handling procedures and dining hall management staff need appropriate training and certifications in things such as HACCP and Serv-Safe, as I suggested earlier. Some institutions have decided that it critical to have some staff, in each residence hall and each dining hall, fully certified in CPR. These are the kinds of decisions that need to be made in the staffing area.

The foregoing are some key areas of housing and dining that I think have significant risk management issues embedded in them. While my topics may not comprise a complete laundry list, it is clear the institutions that effectively manage risk in housing and dining need to pay careful attention to each of these areas.

**OUTLINE FROM THE LIVE WEBSEMINAR PRESENTATION:
HOUSING AND DINING**

What are some key risk issues?

What are effective strategies to address these issues?

1. Facilities

Deferred Maintenance

- Prioritization of projects
- Cost/benefit analysis

On-Going Housekeeping and Maintenance

- Standards
- Inspections

Renovations

- Major or minor?
- Code compliance
- Life safety issues vs. amenities

New Construction

- Careful choice of architect and contractor
- Thorough internal and external review of plans and designs

Furnishings

- Quality control
- Liability issues

Fire Safety

- Code compliance
- Retrofitting
- New construction

Security

- Access control
- Reporting issues
- Duty to warn situations
- Exceptional, unusual measures

2. Programs

Summer Conferences

- Contracts/understandings
- Handbooks
- Staffing/supervision
- Children

Self-Operated vs. Contracted/Privatized

- Clear delineation of responsibility

Special Programs

- Promise only what can be delivered

Family Housing

- Eligibility
- Liability issues

Food Programs and Food Safety

- HAACP
- Serve-Safe
- Quality Control
- Options
- Making exceptions

3. Services

“Bizarre” Student Behavior

- Behavioral Evaluation Committee

Crisis Management

- Disaster Plan
- Crisis Management Committee

Protection of Rights

- Careful review of contracts and handbooks
- “Consultation Moments”

Student Background Information

- Extent of knowledge
- Acting on that knowledge

Contracts

- Systematic annual review
- Revisions from successful challenges

Telecommunications/Information Systems Issues

- Acceptable use policy
- Risk analysis of information assets

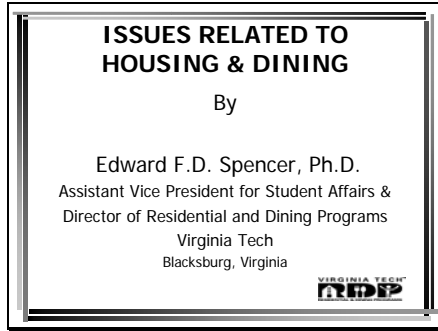
Staffing

- Paraprofessional vs. professional?
- Background checks?
- Training and certifications

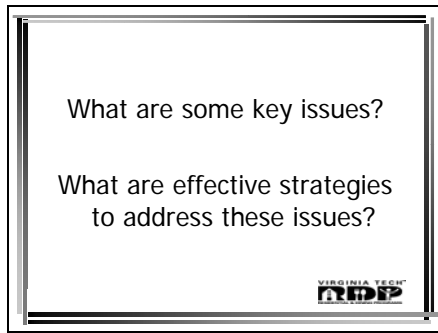
RISK MANAGEMENT ISSUES RELATED TO HOUSING AND DINING

Power Point Slides From the 2001 Webseminar Presentation

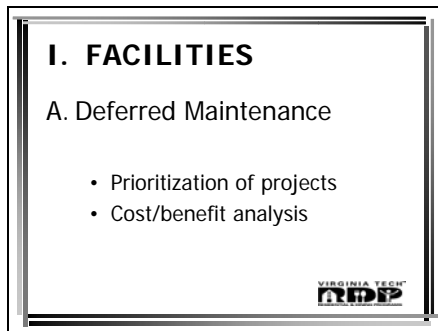
Slide 1



Slide 2



Slide 3



Slide 4

Facilities

B. On-Going Housekeeping & Maintenance

1. Standards
2. Inspections

VIRGINIA TECH
CRDP

Slide 5

Facilities

C. Renovations

1. Major or minor
2. Code compliance
3. Life safety issues vs. amenities

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CRDP

Slide 6

Facilities

D. New Construction

1. Careful choice of architect and contractor
2. Thorough internal and external review of plans and designs

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Slide 7

Facilities

E. Furnishings

1. Quality Control
2. Liability Issues

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Slide 8

Facilities

F. Fire Safety

1. Code compliance
2. Retrofitting
3. New Construction

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Slide 9

Facilities

G. Security

1. Access control
2. Reporting issues
3. Duty to warn situations
4. Exceptional, unusual measures


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II. Programs

A. Summer Conferences

1. Contracts/understandings
2. Handbooks
3. Staffing/supervision
4. Children




Slide 11

Programs

B. Special Programs

Promise only what can be delivered




Slide 12

Programs

C. Family Housing

1. Eligibility
2. Liability issues



Slide 13

Programs

D. Food Programs and Food Safety

1. HACCP
2. Serv-Safe
3. Quality Control

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CRMP

Slide 14

III. Services

A. "Bizarre" Student Behavior

Behavioral Evaluation Committee

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CRMP

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Services

B. Crisis Management

1. Disaster Plan
2. Crisis Management Committee

VIRGINIA TECH
CRMP

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Services

C. Student Background Information

1. Extent of knowledge
2. Acting on that knowledge

VIRGINIA TECH
IRDP

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Services

D. Contracts

1. Systematic annual review
2. Revisions from successful challenges

VIRGINIA TECH
IRDP

Slide 18

Services

E. Telecommunications/
Information Systems


1. Acceptable use policy
2. Risk analysis of information assets

VIRGINIA TECH
IRDP

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IV. Staffing

- A. Paraprofessional vs. professional
- B. Background checks?
- C. Training and certifications



MEET THIS CHAPTER'S AUTHOR,

ED SPENCER

Dr. Edward Spencer received a B.A. in psychology from the University of Rochester in 1967, an M.A. in student personnel administration in higher education from Syracuse University in 1970, and both an M.A. (1980) and Ph.D. (1981) in social psychology from the University of Delaware.

A professional in Student Affairs for over 30 years, Dr. Spencer's area and department head responsibilities have included housing, residence life, dining services, judicial affairs, new student orientation programs, community relations, and fraternity, sorority, and off-campus housing. Dr. Spencer came to Virginia Tech in 1983 as Director of Housing and Residence Life, became Director of Residential and Dining Programs in 1989, and was named Assistant Vice President for Student Affairs in 1996. While working in Student Affairs at the University of Delaware, he taught several undergraduate courses and he now teaches both graduate and undergraduate courses at Virginia Tech.

Dr. Spencer has received numerous honors and awards (e.g., Dissertation of the Year from the National Association of Student Personnel Administrators, Most Outstanding Faculty Advisor and Most Outstanding Chapter Advisor from the Sigma Chi International Fraternity, Executive of the Year from the New River Valley Chapter of Professional Secretaries International), is noted for a variety of professional publications and presentations, and serves on many local, regional, and national committees and organizations.

CHAPTER THREE:
RECORD KEEPING RISK MANAGEMENT
BY: JOHN WESLEY LOWERY, PH.D.

This chapter address not simply record keeping but the intersection between the issues related to record keeping and compliance with federal regulation, particularly FERPA and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. I will first address the Family Educational Rights and Privacy Act of 1974 (FERPA), commonly referred to as the Buckley Amendment, in honor of its author, Senator Buckley. The legislation was initially passed in 1974. The legislation did not follow a traditional legislative model and was not considered by a Congressional committee. Instead, it was an amendment to pending legislation from the floor of the Senate, which helps explain much of the confusion that we've experienced in the years since then. In fact, Congress had to go back only six months later and make substantial revisions to the legislation so that regulations could be implemented to enforce it.

FERPA been amended numerous times in the past three decades, including significant amendments in 1990 and in 1998, which will be addressed in this chapter. Most recently, regulations were issued for FERPA in July 2000 to implement the changes to FERPA included in the Higher Education Amendments of 1998. This 2000 Notice of Final Rules for FERPA is very helpful because the Department of Education provided new regulations and a comment section which accompanies the regulations. These comments often provide significant additional guidance. These comments respond to questions that commenters have posed about the regulations.

Students have three primary rights under FERPA

1. The right to inspect and review educational records,
2. the right to seek to amend records, which the student feels are inaccurate, and
3. the right to have some control over the disclosure of information from education records.

It is important to recognize that “some control” is somewhat limited. The regulations include at least 15 specific exemptions to FERPA by which records can be released without a student's written consent (34 CFR § 99.3).

In discussing education records, it is important to understand exactly what an education record is. There is a very simple and straightforward two-part definition used by the Department of Education. First, it contains information directly related to the student and secondly, it is maintained by the educational agency or institution or a party acting for that agency. There are some specific exemptions in the regulations themselves. They exempt the records of a law enforcement unit, alumni records, medical records, and parents' financial records. The regulations state:

(a) The term means those records that are:

(1) Directly related to a student; and

(2) Maintained by an educational agency or institution or by a party acting for the agency or institution.

(b) The term does not include:

(1) Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

(2) Records of the law enforcement unit of an educational agency or institution, subject to the provisions of § 99.8.

(3)(i) Records relating to an individual who is employed by an educational agency or institution, that:

(A) Are made and maintained in the normal course of business;

(B) Relate exclusively to the individual in that individual's capacity as an employee; and

(C) Are not available for use for any other purpose.

(ii) Records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student are education records and not excepted under paragraph (b)(3)(i) of this definition.

(4) Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are:

(i) Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;

(ii) Made, maintained, or used only in connection with treatment of the student; and

(iii) Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution; and

(5) Records that only contain information about an individual after he or she is no longer a student at that agency or institution. (§

99.3)

Generally, one should assume it is good advice that when creating records about student, they are education records and protected by FERPA, unless one has a specific reason to believe otherwise.

The other piece of advice, and it is a valuable piece of advice, that has been given by the Department of Education, in particularly LeRoy Rooker, who was Director of the Family Policy Compliance Office, is that institutions should assume as a basic starting point that they need to receive written consent before they release information from a student's education record. In order to be a valid written consent, the document must include the following elements: one, it must specifically identify the records that are to be disclosed; two, it should state the purpose of the disclosure, although that can be very broad; third, it should identify who the records should be given to, or can be given to. The regulations state:

(b) The written consent must:

- (1) Specify the records that may be disclosed;
- (2) State the purpose of the disclosure; and
- (3) Identify the party or class of parties to whom the disclosure may be made. (34 CFR § 99.30)

This is important because institutions need to ensure that each of these elements is included when they are developing written consent forms, so that they do not assume they received written consent, when in reality they have not. The other thing about written consent that is important to recognize is when we are releasing information with written consent from the student, the student can request a copy of those records that have been disclosed for their own information as well.

Changes to FERPA

There are changes to FERPA that have been made in recent years of which student affairs professional need to be particularly aware. The first change happened in 1990, when the Student-Right-To-Know and Clery Act amended FERPA to allow colleges and universities to inform a victim of an alleged crime of violence of the final results of a student disciplinary proceeding against their alleged perpetrator. In this area, the regulations state:

(13) The disclosure, subject to the requirements in § 99.39, is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense [non-forcible sexual offenses was added to the regulations after the passage of the Higher Education Amendments of 1998). The disclosure may only include the final results of the disciplinary proceeding conducted by the institution of postsecondary education with respect to that alleged crime or offense. The institution may disclose the final results of the disciplinary proceeding, regardless of whether the institution concluded a violation was committed. (34 CFR § **99.31**)

Congress came back in 1992, in the Higher Education Amendments of 1992, and required colleges and universities to provide that notification when it is an allegation of a sexual assault. The original 1990 change allowed institutions to develop policies. In 1992, they said with sexual assault cases, institutions must provide that information, and that is an important distinction. The regulations for the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act state:

Both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense. Compliance with this paragraph does not constitute a violation of the Family Educational Rights and Privacy Act (20 U.S.C. 1232g). For the purpose of this paragraph, the outcome of a disciplinary proceeding means only the institution's final determination with respect to the alleged sex offense and any sanction that is imposed against the accused. (34 CFR § 668.46)

The changes in the Higher Education Amendment of 1998 were very significant, from a FERPA perspective, because there were a series of changes to the Family Educational Rights and Privacy Act. The first change allowed institutions to adopt policies whereby they may disclose publicly the final results of any disciplinary proceedings conducted by the institution against a student who is an alleged perpetrator of a crime of violence or a non-forcible sexual offense, provided that certain circumstances are met. In order to engage in this public notice about a student, that student must have to be an alleged perpetrator of a crime of violence or alleged to have committed a non-forcible sexual offense. Secondly, the institution has to determine, as a result of its campus disciplinary proceeding, that the student has in fact committed a violation of the institution's rules or policies. The regulations state:

34 CFR § 99.31

(i) The disclosure, subject to the requirements in § 99.39, is in connection with a disciplinary proceeding at an institution of postsecondary education. The institution must not disclose the final results of the disciplinary proceeding unless it determines that -

(A) The student is an alleged perpetrator of a crime of violence or non-forcible sex offense; and

(B) With respect to the allegation made against him or her, the student has committed a violation of the institution's rules or policies.

(ii) The institution may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student.

(iii) This section applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.

From a risk management perspective, if colleges and universities choose to engage in this type of public notice, that they must make it very clear that the institution has not determined that the student has committed a crime of violence. The institution does not have the power to do that; only the courts can do that. Instead what the institution is doing is determining that the student has committed an offense under the campus judicial code, which meets the definition that has been provided by the Department of Education. The concern which has been raised is that institutions may face libel suits if they accuse students of having committed crimes, when the institution does not have the authority to make that determination.

Its also important to recognize that the institution, when making this public notice, does not have the authority under this new policy to disclose information about any other student on campus, including victims or witnesses, without their prior written consent. And public release is only permitted for those decisions that were reached after October 7th, 1998.

The final results of a campus disciplinary proceeding have been defined for us by the Department of Education. A final result means the decision or determination made by the board or group on your campus that is authorized to make those decisions, and the release of information can only include the following information; the name of the student who has been found responsible; the violation that they committed, which can include both definitions from your code of student conduct as well as a plain language description of the behaviors in which they engaged; and any sanctions imposed by the institution. Any disclosure beyond that would constitute a violation of FERPA.

Please take note that the Department of Education, through the regulatory development process, moved away from the definition of crime of violence originally set forth in the United States Code. In the eyes of many student affairs professionals, this was a useful move. Instead the Department have created an all-inclusive list of crimes of violence: arson, assault offenses, burglary, robbery, kidnapping and abduction, sexual offenses - both forcible and non-forcible, criminal homicide - murder and manslaughter, and destruction, damage or vandalism of property. The Department of Education has provided clear definitions for each of those terms so that institutions can make a reasonable determination as to whether or not the offenses under their code, that a student has been accused of violating, meet these particular definitions. The regulations state:

§ 99.39 What definitions apply to the nonconsensual disclosure of records by postsecondary educational institutions in connection with disciplinary proceedings concerning crimes of violence or non-forcible sex offenses?

As used in this part:

"Alleged perpetrator of a crime of violence" is a student who is alleged to have committed acts that would, if proven, constitute any of the following offenses or attempts to commit the following offenses that are defined in appendix A to this part:

Arson

Assault offenses

Burglary

Criminal homicide - manslaughter by negligence

Criminal homicide - murder and nonnegligent manslaughter

Destruction/damage/vandalism of property

Kidnapping/abduction

Robbery

Forcible sex offenses.

"Alleged perpetrator of a nonforcible sex offense" means a student who is alleged to have committed acts that, if proven, would constitute statutory rape or incest. These offenses are defined in appendix A to this part.

"Final results" means a decision or determination, made by an honor court or council, committee, commission, or other entity authorized to resolve disciplinary matters within the institution. The disclosure of final results must include only the name of the student, the violation committed, and any sanction imposed by the institution against the student.

"Sanction imposed" means a description of the disciplinary action taken by the institution, the date of its imposition, and its duration.

"Violation committed" means the institutional rules or code sections that were violated and any essential findings supporting the institution's conclusion that the violation was committed.

The other change to FERPA that was included in the Higher Education Amendments of 1998 was a provision introduced by Senator John Warner from Virginia, to allow institutions to share information with parents if their child is found to have violated any Federal, State or local law or any rule or policy of the institution governing the use or possession of alcohol or other drugs, provided that particular circumstances are met. The regulations state:

(i) The disclosure is to a parent of a student at an institution of postsecondary education regarding the student's violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance if -

(A) The institution determines that the student has committed a disciplinary violation with respect to that use or possession; and

(B) The student is under the age of 21 at the time of the disclosure to the parent.

(ii) Paragraph (a)(15) of this section does not supersede any provision of State law that prohibits an institution of postsecondary education from disclosing information. (34 CFR § 99.31)

It is important to acknowledge that this was not the first time that FERPA allowed for parental notification. There has always been a provision under the law that allowed institutions to share information with the parents of a dependent student as defined by the IRS. In this area, the regulations state:

The disclosure is to parents, as defined in § 99.3, of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986. (34 CFR § 99.31)

What is important to note about this particular alcohol policy is that it no longer hinges on dependency as defined by the IRS. Instead, the new provision hinges on two different considerations: is the student under the age of 21 at the time the notification is made; and has the institution determined that the student has committed a disciplinary violation with respect to such use or possession? It is important to recognize that this is a very different standard than under

the public notice provisions about crimes of violence discussed above. For public notice, the Department of Education requires the institution to conduct a disciplinary proceeding and find the student responsible. With parental notification, the Department of Education has said simply that the institution must determine that the student has committed an offense. In the comments which accompany the final rules the Department clearly articulated that an institution could choose to determine by means other than the campus judicial system that a rule had been violated. The comments stated:

We note that an institution may make a determination under this exception without conducting any sort of disciplinary proceeding. We reached this conclusion for two reasons. First, we compared the language used by Congress in this exception and the "crime of violence" exception. The "crime of violence" exception permits the disclosure of final results of a disciplinary proceeding conducted by the institution. This statutory provision clearly indicates that, before making any disclosures under this exception, an institution must first conduct some type of hearing or proceeding.

However, the drug and alcohol provision is worded very differently. That statutory provision does not use the term "disciplinary proceeding," and we believe Congress' choice of words was deliberate. Therefore, we do not have the authority to require schools to conduct a disciplinary proceeding in order to determine that a student has committed a disciplinary violation with respect to drug or alcohol use. Institutions may establish and follow their own procedures for making these types of determinations.

The limited nature of this disclosure supports our interpretation that this exception does not require institutions to conduct any sort of formal disciplinary proceeding. This exception permits disclosures only to parents. In contrast, disclosures made in accordance with Sec. 99.31(a)(14) can be made to the public. Thus, we believe that Congress intended to make it easier for institutions to inform parents of drug and alcohol violations by allowing the institution to release the information without conducting a formal disciplinary hearing.

The important risk management principle here is that institutions need to clearly understand and articulate what their policies are. The way that both of these releases of information are structured, they are designed to be permissive. Congress and the Department of Education have not said to institutions of higher education that they must adopt policies of public notice or parental notification. However, for public institutions, there are bodies that may enact other laws that may compel colleges to release this information. In the state of Missouri, Missouri Circuit Court interpreted Missouri's Open Records Law to require that institutions release this information under their open records law because it was no longer protected by FERPA; that was the Public Notice Release. A number of states have moved to adopt policies or have passed laws that require parental notification. So for public institutions, this is not as permissive as it seems on its surface.

It is important to consider some issues related to FERPA in the student disciplinary process, because often the issues here get cloudy. The first had to do with records, which contain personally identifiable information about multiple students. The regulations state in this situation that students only have a right of access to that information that is directly related to them and does not reveal information about other students. In disciplinary cases, the Department of Education suggests, for example, that when a victim comes forward to file a complaint and the victim is also a student, in order to share information from the complaint with the accused student, the victimized student should clearly indicate within the file that he/she is giving written consent under FERPA. It is important to realize that to my best knowledge, no institution of higher education has ever been subject to a FERPA complaint because they did not get this consent. The reality is that victims recognize that this information is going to be shared. However from a risk management perspective, it is protective measure. It is relatively straight forward, and can be easily achieved.

Being attentive to consents would also avoid the problem with transcripts of hearings, when transcripts contain information about multiple individuals. The use of written consents can avoid problems when you need to share information with the accused student so that they can provide for their own appeals, for example. The use of written consents avoids a conflict between

expectations of fairness under a code of student conduct and the expectations regarding the protections of student records within the Family Educational Rights and Privacy Act.

We've already talked about the release of hearing outcomes and the ways those can now be done. FERPA does require, and this is an important point, that colleges and universities maintain a record of each request for access to and disclosure of personally identifiable information from the education records of a student, except in certain particular cases. Those exceptions include disclosures to the student, him or herself, disclosures to school officials with legitimate educational interests, disclosures to parties who have written consent from the student, the release of directory information, which is permissible under FERPA, and certain grand jury subpoenas which are delivered under seal. In any other case, including parental notification and release of information to the public and victim notification, FERPA requires that the institution maintain a written record of the request and the disclosure of that information. That disclosure record needs to be kept with the discipline record itself, so that within the disciplinary file, we have clear information that indicates, for example, that the final results of the hearing were shared with the accusing student, that information was shared with the parents, or that information was shared with the public. This ensures that the student whose record it is has the ability to determine what information has been released.

FERPA gives only vague guidance on how long records have to be maintained. The only thing that FERPA says about maintaining records is that an institution cannot choose to destroy records for which there is an outstanding request. However, public institutions in particular need to carefully consider whether state laws mandate the maintenance of certain records for specific periods of time.

The Clery Act

This chapter will now shift focus to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, which from this point forward will simply be referred to as the Clery Act. Legislation was originally passed in 1990 as part of the Student Right-to-Know & Campus Security Act. The first part of the legislation deals with graduation rates and financial

aid, and will not be addressed here. The second part of the legislation specifically addresses issues of campus security. It was amended in 1992 and in 1998 by the Higher Education Amendments. The regulations were most recently revised in the November 1st, 1999 Federal Register. The Clery Act requires that all institutions of higher education that receive federal financial assistance, including federal financial aid to students, provide an annual security report to all students and current employees. And, institutions must provide a summary of that information to all prospective students and employees. The report has to include statistics for the three most recent calendar years for the occurrence on campus, in non-campus buildings or property and on public property of fifteen crimes that are reported to local police agencies or to campus security authorities. It must also make a myriad of security policy and practice-related disclosures.

One caution to institutions, which is evidenced over and over again in the Department of Education's enforcement of the legislation, is that a campus security authority includes not only campus police, but also other campus officials who have significant responsibility for campus and student activities. That is a very broad definition and the Department of Education has made it clear that they expect institutions to take affirmative steps to ensure that they are receiving all reports of crime made to all of these campus security authorities—not simply campus police.

The regulations define campus security authority as:

Campus security authority:

- (1) A campus police department or a campus security department of an institution.
- (2) Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department under paragraph (1) of this definition, such as an individual who is responsible for monitoring entrance into institutional property.
- (3) Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.
- (4) An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus

judicial proceedings. If such an official is a pastoral or professional counselor as defined below, the official is not considered a campus security authority when acting as a pastoral or professional counselor. (34 CFR § 668.46)

In the comments, which accompanied the final regulations, the Department of Education amplified this definition:

To determine if an institution must collect crime statistics from a particular employee or official, or provide a timely warning report based on crimes reported or known to the employee or official, an institution must first determine if that official is a campus security authority. In addition to campus law enforcement staff, a campus security authority is someone with "significant responsibility for student and campus activities." Absent this responsibility, an employee is not a campus security authority. For example, a dean of students who oversees student housing, a student center, or student extra-curricular activities, has significant responsibility for student and campus activities. Similarly, a director of athletics, team coach, and faculty advisor to a student group also have significant responsibility for student and campus activities. A single teaching faculty member is unlikely to have significant responsibility for student and campus activities, except when serving as an advisor to a student group. A physician in a campus health center or a counselor in a counseling center whose only responsibility is to provide care to students are unlikely to have significant responsibility for student and campus activities. Also, clerical staff are unlikely to have significant responsibility for student and campus activities. Since official responsibilities and job titles vary significantly from campus to campus, we believe that including a list of specific titles in the regulation is not practical. However, as stated above, we will provide additional guidance at a later date concerning interpretation of these regulations.

The crimes that institutions have to provide information for are: criminal homicide (negligent and non-negligent manslaughter), sex offenses, (both forcible and non-forcible--which should be reported separately) robbery, aggravated assault, burglary, motor vehicle theft and arson. Arson and negligent manslaughter must be reported for the first time with the 1999 calendar year.

Those were changes included in the Higher Education Amendments of 1998. Institutions also

have to provide information regarding arrests for liquor law violations, drug law violations and illegal weapons possession. In 1998, the Clery Act was further amended to say that statistics need to be provided as well for any person who is not arrested, but is referred instead to the campus judicial system for liquor law violations, drug law violations and illegal weapons possessions. That began with the 1999 calendar year. Referral to the campus judicial system is defined as:

Referred for campus disciplinary action: The referral of any student to any campus official who initiates a disciplinary action of which a record is kept and which may result in the imposition of a sanction.

It is also necessary to provide information about hate crimes for the body of the seven main crimes listed above, as well as any other crime involving bodily injury that is reported to a campus security authority for which there is manifest evidence of intentional selection of the victim on the basis of their actual or perceived race, gender, religion, sexual orientation, ethnicity or disability. The one word of caution in this area is that even if the institution does not have any hate crimes for a given calendar year, it must clearly state that it has had no hate crimes in its statistical report by filling in the table with a zero. A number of institutions have been found in violation by the Department of Education for simply not including the information at all, because the institution perceived that it did not have to because it had no crimes, in fact, to report.

All Clery Act crimes must be reported in four geographically delimited categories: on campus; those that occurred in residence halls; those that occurred in a non-campus building or property; and those that occurred on public property. With a number of these definitions, particularly non-campus buildings or property and public property, the institution has significant flexibility in how it defines these terms. The regulations provide the following definitions:

Campus:

(1) Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and

(2) Any building or property that is within or reasonably contiguous to the area identified in paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

Noncampus building or property:

(1) Any building or property owned or controlled by a student organization that is officially recognized by the institution; or

(2) Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

Public property: All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

I would strongly recommend that institutions bring together a group to evaluate all properties owned by the campus and the area around the campus to make determinations about areas in which to include crime reports. It is important that you have your risk management staff involved because they understand clearly what land and property the institution owns. Defining the limits of your campus and off-campus boundaries will provide the necessary records, should the Department of Education inquire about the use of the definitions. The institution could respond that certain key individuals met to evaluate all of our properties and made decisions based on certain criteria as to whether the institution would report crimes from these areas. The Department of Education has suggested that institutions may indicate through the use of a map what areas they are reporting crimes in and I believe that is very helpful.

Another significant change in the Clery Act included in the Higher Education Amendments of 1998 are provisions for the Acts enforcement through fines by the Department of Education. It now has the authority to impose fines up to \$25,000 for each substantial misrepresentation of the number, location, or nature of the crimes required to be reported.

In terms of record retention and the Clery Act, it is important that institutions recognize that records must be maintained to substantiate the information released under the Clery Act for three calendar years after disclosure. Which means that, in reality, institutions must keep records for at least seven years. Take the example of the 2000 Annual Security Report in which you include 1997, 1998 and 1999 data. You then need to keep the information to substantiate these statistics for three years after 2000. Records created in 1997 will have to be maintained through 2003. These are important issues to be aware of because when the Department of Education investigates a complaint, it will demand access to these records so that it can determine whether or not the institution has accurately disclosed information and statistics.

RECORD KEEPING RISK MANAGEMENT

OUTLINE FROM THE LIVE WEBSEMINAR PRESENTATION

Family Educational Rights and Privacy Act (FERPA)

Originally passed in 1974, the Family Educational Rights and Privacy Act, commonly referred to as the Buckley Amendment, governs access to and disclosure of information contained in a student's education record. The legislation has also been amended by Congress a number of times since its original passage. FERPA guarantees a student's right of access to their education records and the limits the transferability of those records without the student's written consent. However, it should be noted that the regulations implementing the legislation contain more than a dozen exceptions to this written consent requirement. It is impossible to discuss recordkeeping in higher education and student affairs without considering FERPA.

- Brief Overview & History

- Written Consent to Release Information

- Permissible Releases without Written Consent

 - Subpoena

 - Release to the public

 - Parental Notification

 - Victim Notification

- FERPA and the Student Discipline Process

- Recordkeeping Requirements for the Release of Information

- Record Retention and FERPA

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act was originally passed in 1990 and has been amended by Congress several times over the past decade. The legislation requires that institutions prepare an annual security report that contains various policies and campus crime statistics for the previous 3 years. The Higher Education Amendments of 1998 created fines for noncompliance and the Department of Education has begun fining institutions.

- Brief Overview & History

- Enforcement of the Clery Act

- Record Retention and the Clery Act

Recordkeeping Practices to Minimize Liability and Enhance Risk Management

Institutions with well-developed recordkeeping practices can help to limit the liability by maintaining the records necessary to demonstrate to the courts or a regulatory agency that the appropriate actions were taken. Recordkeeping can also enhance risk management by aiding institutions in identifying problem areas more easily than when incidents are viewed in isolation.

- Document, Document, Document

- Use of Records to Aid in the Prevention of Future Incidents

RECORD KEEPING RISK MANAGEMENT

POWER POINT SLIDES FROM THE LIVE WEBSEMINAR PRESENTATION

Slide 1

Recordkeeping

John Wesley Lowery, Ph.D.
Assistant Professor
Educational Leadership & Policies
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Slide 2

**Family Educational Rights And
Privacy Act of 1974**

Slide 3

**The Family Educational Rights
and Privacy Act**

- Originally passed in 1974
- Amended numerous times over the past 3 decades
- Codified at 20 USC 1232(g)
- Regulations appear at 34 CFR 99
- The most recent Final Rule was published in the *Federal Register* on July 6, 2000 (pp. 41852-41863).

Slide 4

**Students' Rights Under
FERPA**

- Right to inspect and review educational records.
- Right to seek to amend records.
- Right to have some control over the disclosure of information from educational records.

Slide 5

FERPA Definitions

Education Records (34 CFR 99.3)

- Contains information that is directly related to a student and
- Is maintained by an educational agency or institution or by a party acting for the agency or

Slide 6

Written Consent Must:

1. Specify the records that may be disclosed;
2. State the purpose of the disclosure; and
3. Identify the party or class of parties to whom the disclosure may be made. (§99.30)

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Written Consent

FERPA requires that if the student so requests that the institution shall provide the student with a copy of the records disclosed. (§99.30)

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Victim Notification

FERPA was also amended in 1990 by the Student Right-to-Know and Campus Security Act to allow colleges & universities to inform the alleged victim of a "crime of violence" of the final outcome of the student disciplinary proceeding against the alleged perpetrator. (§99.31)

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Victim Notification

The amendments to the Student Right-to-Know and Campus Security Act in 1992 **require** colleges and universities to inform the victim of an alleged sexual assault of the final outcome of the disciplinary proceeding against the alleged perpetrator.

Slide 10

**Release of Final Results
Student Disciplinary Process**

FERPA was amended by the Higher Education Amendments of 1998 (Section 951) to allow institutions to disclose the **final results of any disciplinary proceeding** conducted by such institution against a student who is an **alleged perpetrator of any crime of violence, or a nonforcible sex offense**, in certain circumstances.

Slide 11

**Requirements for Public Notice
(§99.31)**

1. The student is an alleged perpetrator of a crime of violence or non-forcible sex offense; and
2. With respect to the allegation made against him or her, the institution determines as a result of the disciplinary proceeding that the student has committed a violation of the institution's rules or policies.

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**Requirements for Public Notice
(§99.31)**

1. The institution may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student.
2. This section applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.

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Final Results

Final results means a decision or determination, made by an honor court or council, committee, commission, or other entity authorized to resolve disciplinary matters within the institution. The disclosure of final results must include only the name of the student, the violation committed, and any sanction imposed by the institution against the student. (§99.39)

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Crimes of Violence

The Department of Education has provided an all inclusive list of "crimes of violence:"

Arson	Assault offenses
Burglary	Robbery
Kidnapping/abduction offenses.	Forcible sex offenses.
Criminal homicide—murder and manslaughter	
Destruction/damage/vandalism of property	

(§99.39)

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Parental Notification

FERPA was amended by the Higher Education Amendments of 1998 (Section 952) to allow institutions to release information to parents information regarding any violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance in certain circumstances.

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Parental Notification

1. The the student is **under the age of 21** [at the time the notification is made]; and
2. The institution **determines** that the student has committed a disciplinary violation with respect to such use or possession.

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FERPA and the Student Discipline Process

- Records which contain personally identifiable information about multiple students.
- Transcripts
- Hearing Outcomes

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**Recordkeeping Requirements
of FERPA**

FERPA requires colleges and universities maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student (§99.32).

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**Recordkeeping Requirements
of FERPA**

Except disclosures to:

- the student,
- school officials,
- parties with written consent,
- release of directory information,
- and grand jury subpoenas as discussed in §99.31.]

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**Record Retention
Requirements of FERPA**

- FERPA does not define how long institutions must maintain education records, but does prohibit the destruction of records for which there is an outstanding request of access from the student.
- Public institutions should also consider state laws which may establish standards for maintaining these records.

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**The Jeanne Clery Disclosure of
Campus Security Policy and
Campus Crime Statistics Act**

Slide 22

Campus Security Act

- Originally passed in 1990 as part of the Student Right-to-Know and Campus Security Act.
- Amended in 1992 and 1998 by the Higher Education Amendments.
- Codified at 20 USC 1092f
- Regulations appear at 34 CFR 668.46
- The most recent Final Rule was published in the November 1, 1999 *Federal Register* (pp. 59060-59073).

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Campus Security Act

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act requires that all institutions of higher education which receive federal financial assistance produce an annual security report which is notice of which is sent to all current students and employees and a summary of which is available to all prospective students and employees.

Slide 24

Crime Statistics

The Annual Security Report must include the statistics three most recent calendar years concerning the occurrence on campus, in or on noncampus buildings or property, and on public property of the following crimes that are reported to local police agencies or to a campus security authority:

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Crime Statistics

1. Criminal homicide (Murder and Manslaughter)
2. Sex offenses (Forcible and Nonforcible)
3. Robbery
4. Aggravated assault
5. Burglary
6. Motor vehicle theft
7. Arson (beginning with 1999)

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Crime Statistics

Arrests for liquor law violations, drug law violations, and illegal weapons possession.

Persons not included above of this section, who were referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession (beginning with 1999).

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Hate Crimes

An institution must report, by category of prejudice, any crime it reports and any other crime involving bodily injury reported to local police agencies or to a campus security authority, that manifest evidence that the victim was intentionally selected because of actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability.

Slide 28

Campus Security Act

Crimes (including Hate Crimes) shall be reported in separate categories for:

- A. On campus.
- B. Of the crimes on campus, the number of crimes that took place in dormitories or other residential facilities for students on campus
- C. In or on a noncampus building or property
- D. On public property

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Enforcement of the Campus Security Act

Slide 30

Penalties

Upon a determination... that an institution of higher education has **substantially misrepresented** the number, location, or nature of required to be report under this subsection, the Secretary shall impose a civil penalty upon the institution...

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Penalties

The Secretary may impose a civil penalty upon such institution of not to exceed **\$25,000 for each violation or misrepresentation.**

Any civil penalty may be compromised by the Secretary.

20 USC 1094(c)(3)(B)

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Mount St. Clare College

Agreed to pay the Department of Education \$15,000 to settle the complaint of violations of the Campus Security Act including:

1. Crime Statistics Not Accurately Disclosed
2. Campus Security Report Information Not Made Available to Prospective Students and Employees
3. Statements of Policy Omitted or Incomplete

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**Record Retention and the
Campus Security Act**

- Institutions must maintain retain records to substantiate the information released under the Campus Security Act for 3 calendar years after the disclosure (34 CFR 668.24).

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**Recordkeeping Practices to
Minimize Liability and
Enhance Risk Management**

- Document, Document, Document
- Use of Records to Aid in the Prevention of Future Incidents

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MEET THIS CHAPTER'S AUTHOR,

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John Wesley Lowery is an Assistant Professor of Higher Education in the Department of Educational Leadership and Policies at the University of South Carolina. He earned his doctorate at Bowling Green State University in Higher Education Administration. While at BGSU, John served in a variety of roles including Editorial Assistant for *About Campus* and Visiting Instructor for BGSU's College Student Personnel Program. Before beginning his doctoral work in 1996, he was Director of Residence Life at Adrian College in Michigan and University Judicial Administrator at Washington University in St. Louis.

John has been very active in professional associations. He served as a Director-at-Large for the Association for Student Judicial Affairs (ASJA) from 1996 until 1999. He has previously chaired the Legislative Issues and Resolutions Committees of the Association as well as co-chairing the Interassociation Task Force on the National Baseline Study on Campus Sexual Assault. John currently serves on the Core Council on Outreach and Advocacy for the American College Personnel Association (ACPA) and previously served on the directorate body of Commission 15: Campus Judicial Affairs and Legal Issues of ACPA.

John has a Masters degree in student personnel services from the University of South Carolina and his undergraduate degree in religious studies is from the University of Virginia. He is a frequent speaker and author on topics related to student affairs and higher education, particularly legislative issues and student judicial affairs. In recent years, John has presented at numerous conferences including, the American College Personnel Association, the Association for Student Judicial Affairs, Donald D. Gehring Campus Judicial Affairs Training Institute, the National Association of Student Personnel Administrators, the Stetson University Law and Higher Education Conference, and the University of Vermont's Legal Issues in Higher Education Conference.

In addition, John serves as Associate Editor of *Synthesis: Law and Policy in Higher Education* and Contributing Editor to *Synfax Bulletin: A Weekly Annotated Digest of Critical Issues in*

Higher Education. He also writes a regular column in the *Report on Campus Safety and Student Development*, Washington Word. He is the author of a chapter in *Balancing Ethical, Legal, and Development Concerns in Student Affairs Practice* entitled Institution Policy and Individual Responsibility: Communities of Justice and Principle.

Over his career, John has been honored by several professional organizations. In February 2001, he received the Association for Student Judicial Affairs' Distinguished Service Award for "exceptional service over time to ASJA." In April 2000, he received the President's Award Distinguished Service as a graduate student from Bowling Green State University. In 1999, John received the Student Contribution to the Higher Education Profession Award from the Department of Higher Education and Student Affairs at BGSU and received the Outstanding Doctoral Student Award from the Standing Committee for Graduate Students and New Professional of ACPA. In 1997, he was winner of the Graduate Student Case Study Competition sponsored by ASJA. In 1996, he received an Annuity Coepris Award for Emerging Professionals from ACPA and received the Outstanding Research in Judicial Affairs & Legal Issues Award from Commission XV: Campus Judicial Affairs & Legal Issues of ACPA. In 1993, he received the Outstanding New Professional in Judicial Affairs Award from ASJA. While a student at the University of South Carolina, John received the Dr. Gerald L. Saddlemyre Outstanding Graduate Student Award from ACPA and South Carolina College Personnel Association's Achievement Award.

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CHAPTER FOUR:
RISK MANAGEMENT ISSUES RELATED TO STUDENT DISCIPLINE
BY: DENNIS E. GREGORY, ED.D.

Due Process

History

Prior to 1961 the general legal theory that governed student discipline was *In Loco Parentis*, which meant that institutions acted in place of the parents. This gave institutions virtually unfettered ability to deal with students in any way they saw fit. A 1914 case from Kentucky lays this out explicitly when it indicates:

College authorities stand in loco parentis concerning the physical and moral welfare and mental training of the pupils, and we are unable to see why, to that end, they may not make any rule or regulation for the government or betterment of their pupils that a parent could for the same purpose. Whether or not the rules or regulations are wise or their aims worthy is a matter left solely to the discretion of the authorities or parents, as the case may be, and, in the exercise of that discretion, the courts are not disposed to interfere, unless the rules and aims are unlawful or against public policy (Gott v. Berea College, 1914).

However, in 1961, the Fifth Circuit Court changed all of this when it indicated that students in public postsecondary institutions were guaranteed the due process rights provided by the Fourteenth Amendment to the U.S. Constitution (Dixon v. Alabama State Board of Education, 1961). While the Dixon case is often noted as the first case in which due process rights were provided to students by the courts, Gehring (2000) cites an earlier case from Pennsylvania (Commonwealth, ex rel Hill v. McCauley, 1887) which is listed by Chambers (1972) as providing such rights much earlier

The Post In Loco Parentis Period

The primary rights that courts indicated must be provided to students include the following:

1. A notice of charges lodged against the accused;
2. The nature of evidence and witnesses to be used against the accused;
3. The time, date, and place of the hearing;
4. A hearing tailored to the seriousness of the offense;
5. A hearing before an impartial person or body as a finder of fact;
6. The right to refute the charges made against them and a written notice of the findings of the hearing (Gehring, 2000).

After the Dixon case a number of courts described due process rights for students in both the elementary and secondary settings (*Goss v. Lopez*, 1975; *Gonzalez v. McEuen*, 1977; *Ingraham v. Wright*, 1977; *New Jersey v. T.L.O.*, 1985) as well as in public higher education (*Esteban v. Central Missouri State College*, 1967; *Andrews, v. Nowlton*, 1975; *Gabrilowitz v. Newman*, 1978; *Osteen v. Henley*, 1993, and many others). Basically these, and many other cases, described the specific rights that are available to students with regard to standards of proof, availability of legal counsel, double jeopardy and other due process issues.

Generally the courts have said that as the potential for loss of liberty and property interests increases so does the amount of process that is due. A particularly cogent and well-stated summary of these rights is provided by the federal district court in Missouri (*General Order on Judicial Standards of Procedure and Substance in Review of Student Discipline in Tax Supported Institutions of Higher Education*, 1968).

Private Institutions

While public institutions are required to provide constitutionally mandated due process, the same does not hold true for private institutions. Recent federal statutes that include private institutions that receive federal financial aid and other resources under their ambit (FERPA, 1974; the Clery Act, 1990; the Americans with Disabilities Act, 1990; Title VII, and Title IX among others) have somewhat dimmed the distinction, but generally the relationship between the private college and its students is one of contract. Courts have repeatedly asserted that short of a showing of state action, as long as private institutions follow their own procedures, state these procedures in the documents that make up the contract with the students, and act with fundamental fairness, they need not provide the same due process guarantees as public institutions (Fellheimer v. Middlebury College; Mangla v. Brown University, 1998; Dinu v. President & Fellows of Harvard College, 1999). As recently as last year, the Supreme Judicial Court of Massachusetts in Schaer v. Brandeis University (2000) restated this point.

Both public and private institutions provide contractual connections to their students and many institutions provide much more process than is necessary and perhaps even prudent as part of their judicial systems. In fact, several courts have cited the fact that campus judicial systems that reflect the language and procedures of criminal courts are more likely to be seen similarly by students and the courts. As a result, I advocate that student affairs professionals; faculty and students evaluate their systems and remove legal language whenever possible. While certainly not a panacea for these problems, and not a cookie cutter model that fits every situation, I recommend the Model Code of Student Conduct developed by Ed Stoner (Paterson and Kibler, Eds., 1998) be used as a tool for the development of a system that meets institutional needs.

Fundamental Fairness

The key concept in all of the cases dealing with student discipline has been whether the institution treated the accused student(s) with fundamental fairness. While specific due process elements have been part of the considerations by courts, if an institution generally followed its own procedures, did not act in an arbitrary or capricious manner, and treated the case with seriousness, courts have been unlikely to intervene. Most recent cases have dealt with disciplinary procedures and processes in graduate and professional schools. The courts view the removal from these programs as very serious as a result of the increased deprivation of liberty and property rights that may ensue. As noted earlier, the more serious the charge and potential sanction, the more process is due.

Academic Due Process: Courts have generally held that academic decision making, such as that in which students are removed from academic programs for a failure to maintain adequate academic or clinical quality, require less process than disciplinary situations. Here too, though, fundamental fairness, following one's own procedures and a lack of illegal activity (such as race or gender discrimination) are necessary.

Academic Dishonesty: Courts have indicated that academic dishonesty (including cheating, plagiarism, etc.) is a violation of disciplinary rules, and different from academic decision making. Thus, faculty who flaunt institutional procedures and handle academic dishonesty on their own place both themselves and their institutions in jeopardy. This is not to say that an institution cannot delegate the authority of initial adjudication of academic dishonesty cases to

faculty members, but appropriate procedures and a central repository of records are very important in these situations. Occasionally, risk managers can perform a vital service by fostering dialogue so that student affairs administrators and faculty are communicating well on this legal distinction.

Cases In Which Students Also Face Criminal Charges: Whenever a student faces both criminal and campus charges for an alleged offense, great care must be taken. When appropriate, consideration should be given to allowing the student to seek advice from an attorney. It is not necessary to wait until the criminal charges are dealt with before campus charges are heard. In fact, in many circumstances it may be deemed negligent, and/or a violation of laws like Title IX to allow an alleged perpetrator of serious crime to remain on campus during the lengthy criminal process. Only when enough facts are not available to deal with the campus case or there is a specific request from a prosecutor, should you even consider delaying adjudication of campus offenses. In those cases it is recommended that campus officials negotiate with the alleged offender that he/she take a leave of absence from the campus, pending the outcome of the criminal procedure. Generally, the alleged offender is much more worried about going to jail than being removed from college.

In these cases there are no double jeopardy concerns since one procedure is a civil action and one is a criminal procedure. Care should be taken however, since law enforcement personnel can subpoena records of campus judicial proceedings and statements made in campus hearings and investigations may usually be used in court.

Adjudicating Cases Against Student Organizations: Institutions have the right to deal with violations of their policies that are allegedly committed by student organizations. In addition to bringing charges against the organization, individual members may be charged for the same offense. While public institutions particularly have to be concerned that they do not violate an individual's First Amendment rights to Freedom of Association or Speech, how far those rights extend to organizations, or individuals acting collectively, is not as clear. A recent case (*Pi Lambda Phi v. University of Pittsburgh*, 2000) would appear to limit those rights more than has been posited by some authorities. While organizations do not have rights under FERPA, the individual students within the organizations do have such rights. As a result, care should be taken not to violate those rights in zealous pursuit of organizational discipline.

Off Campus Violations: Institutions have the right to deal with disciplinary violations that are committed by students at off campus locations so long as the ability to do so is indicated in the institution's code of student conduct, and a nexus can be demonstrated between the interests of the college and the off-campus behavior. Such violations should be adjudicated only if they are "detrimental to the educational interests" of the institution. In fact, failure to charge students who have allegedly committed acts of sexual harassment and/or sexual assault as well as other serious crimes off campus may open the institution to allegations of Title IX violations and other potential liability, depending on the circumstances. Institutions should carefully consider whether to deal with such off-campus issues and make conscientious decisions about the risks of either course of action.

Sexual Assault/Harassment

Cases dealing with sexual harassment, particularly those that include allegations of sexual assault, create significant challenges for campus officials. First of all, sexual assault is sexual harassment as defined by Title IX. For this reasons, some authorities recommend that codes of student conduct be set up in such a manner that both offenses are part of a policy dealing with inappropriate sexual activity. This allows campus judicial systems to deal with alleged violations within the same set of charges.

A recent Supreme Court case (Davis v. Monroe County Board of Education Et Al, 1999) as well as the Department of Education's Office of Civil Rights (OCR, 2000) have indicated that institutions may be liable under Title IX for peer on peer sexual harassment, of which sexual assault is the most serious example. In addition, The 1991 Sexual Assault Victim's Bill of Rights has amended the Family Educational Rights and Privacy Act (FERPA) to require equal treatment of alleged victims and alleged perpetrators, and the notification of victims of the results of campus disciplinary action in such cases.

Finally, the Clery Act and its regulations indicate who has responsibility for informing campus security officials, for statistical and other purposes, about sexual assaults. Careful study of these laws is critical to assure that judicial officers understand and meet their responsibilities in these areas.

RISK MANAGEMENT ISSUES RELATED TO STUDENT DISCIPLINE

OUTLINE FROM THE LIVE WEBSEMINAR PRESENTATION

I. Due Process

A. History

1. Theory of In Loco Parentis
2. Gott v. Berea College, 161 S.W. 204 (Ky. 1913)
3. Dixon v. Alabama State Board of Education, 294 F. 2d 150 (5th Cir. 1961)
4. Commonwealth, ex rel Hill v. McCauley, 3 PA Co. CT 77 (1887)

B. The Post In Loco Parentis Period

1. Primary rights provided include:
 - a. a notice of charges lodged against the accused,
 - b. the nature of evidence and witnesses to be used against the accused,
 - c. the time, date, and place of the hearing,
 - d. a hearing tailored to the seriousness of the offense,
 - e. a hearing before an impartial person or body as a finder of fact,
 - f. the right to refute the charges made against them and a written notice of the findings of the hearing (Gehring, 2000).
2. Great number of Post-Dixon Cases
3. Of special significance is General Order on Judicial Standards of Procedure and Substance in Review of Student Discipline in Tax Supported Institutions of Higher Education, 45 F.R.D. 133 (W.D. Mo. 1968).

Private Institutions

1. Not held to same due process standards as publics
2. The relationship to students is one of contract. Institutions must:
 - a. demonstrate fundamental fairness,
 - b. follow your own procedures,
 - c. state your procedures carefully and fully.
3. Recent cases have reinforced both contractual relationship and need for fundamental fairness.
 - a. Schaer v. Brandeis University, SJC-08198 (Supreme Judicial Court of Massachusetts, 2000)
 - b. Fellheimer v. Middlebury College, 869 F. Supp. 238 (D. Vermont 1994)

4. Some federal statutes have weakened private college independence tied to receipt of federal funds.
 - a. Family Educational Rights and Privacy Act 20 U.S.C. 1232g (1974)
 - b. Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. 1092 (f), 1990)
 - c. Americans with Disabilities Act of 1990, 42 U.S.C 12101 et.seq. (1990)
 - d. Title VI
 - e. Title IX

Recommendations for Practice

1. Make clear easy to understand statements about your process in your student handbook and other documents.
2. Remove legalistic language from your code and processes.
3. Join ASJA and/or ACPA Commission XV.
4. Make sure that members of your community evaluate your system regularly and keep it updated.
5. Consider using a model such as the Model Code of Student Conduct, (Stoner, E. N. II, (1998). A model code of student conduct. In The Administration of Campus Discipline (pp. 3-42). Asheville, N.C.: College Administration Publications) as a source for evaluating your system.
 - a. Do not take this or any model and implement in a cookie cutter manner.
 - b. Seek out best practices at other similar institutions.
 - c. Bring in a consultant from ASJA or elsewhere.

II. Fundamental Fairness

- A. As noted above, fundamental fairness is required by the Constitutional guarantees at public institutions and contractual guarantees at private institutions.
- B. Following ones own procedures, and increasing the process provided as the potential for penalty increases are critical.
- C. At public institutions, the liberty and property interests of students are increased at graduate and professional schools.

III. Specific Issues and Concerns

A. Academic Due Process

1. Academic decision making is given deference by the courts.
2. Less process is due.
3. Fundamental fairness still is critical.

B. Academic Integrity

1. Academic dishonesty adjudication is discipline NOT academic decision making.
2. Faculty who flaunt institutional procedures place themselves and their institution in jeopardy.
3. The institution may delegate initial adjudication to faculty as long as appropriate procedures are followed and a central repository for records is created.

C. Cases in Which Students Face Criminal Action

1. Allow student to consult with an attorney when appropriate.
2. Do not wait to pursue on-campus action until after the completion of criminal procedures.
3. Only delay campus adjudication when not enough facts are available or there is a specific request from a prosecutor.
4. Negotiate with the accused to take a leave of absence during the pendency of the criminal prosecution.
5. No double jeopardy attaches in these cases since one procedure is criminal and the other is civil.

D. Adjudicating Cases Against Student Organizations

1. Institutions have the right to deal with disciplinary violations committed by and in the name of, student organizations.
2. Charges may be brought both against the organization and its individual members.
3. Consideration should be given to the First Amendment rights of Freedom of Association.

- a. A recent case would appear to limit those rights.
 - b. Pi Lambda Phi v. University of Pittsburgh, 229 F. 3d 435 (3d Cir. 2000)
4. Organizations do not have the same privacy rights as do individuals, but individual members privacy rights must be protected.

E. Off Campus Violations

1. Institutions have the right to deal with disciplinary violations committed by students at off campus locations.
2. “Courts are likely to uphold off-campus jurisdiction policies, as long as colleges (both public and private) can relate those policies to legitimate institutional objectives-including protecting the college's good name and reputation in the local community” (Pavela, ASJA Law and Policy Report, No. 5, February 21, 2001).
3. Failure to do so may result in title IX liability.
4. Institutions should consciously make a decision about off campus discipline after careful consideration.

IV. Sexual Assault/Harassment

- A. Cases dealing with sexual harassment, particularly those that include allegations of sexual assault, create significant challenges for campus officials.
- B. Codes of student conduct should be set up in such a manner that both offenses are part of a policy dealing with inappropriate sexual activity.
- C. Both the Supreme Court and the OCR have dealt with institutional responsibility for peer on peer sexual harassment.
 1. Davis v. Monroe County Board of Education et al, 526 U.S. 629 (1999)
 2. Revised sexual harassment guidance: Harassment of students by school employees, other students, or third parties, Department of Education, Office of Civil Rights, <http://www.ed.gov/offices/OCR/shguide/index.html> (2000)
- D. Additional concerns include:
 1. Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. 1092 (f), 1990),
 2. Campus Sexual Assault Victim’s Bill of Rights, 20 U.S.C.1092(f)(8) (1992), and
 3. Family Educational Rights and Privacy Act 20 U.S.C. 1232g (1974).

**RISK MANAGEMENT ISSUES RELATED TO STUDENT DISCIPLINE
POWER POINT SLIDES FROM THE LIVE WEBSEMINAR PRESENTATION**

Slide 1

ISSUES RELATED TO
STUDENT DISCIPLINE

BY

Dennis E. Gregory, Ed.D.
Assistant Professor of Higher Education
Old Dominion University
Norfolk, Virginia

Slide 2

I. Due Process

- History

1. Theory of In Loco Parentis
2. Gott v. Berea College, 161 S.W.
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Slide 3

Dixon v. Alabama State
Board of Education,
294 F. 2d 150 (5th Cir.
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The time, date, and place of the hearing,

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A hearing tailored to the seriousness of the offense

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A hearing before an impartial person or body as a finder of fact,

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The right to refute the charges made against them and a written notice of the findings of the hearing (Gehring, 2000)

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Campus Crime Statistics Act (20
U.S.C. 1092 (f), 1990)

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Americans with Disabilities Act of
1990, 42 U.S.C 12101 et.seq. (1990)

Title VI of the Civil Rights Act of 1964,
42 U.S.C. 2000d (1964)

Title IX of the Education Amendments
of 1972, 20 U.S.C. 1681 et. seq. (1972)

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- **Recommendations for Practice**
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Join ASJA and/or ACPA
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Remove legalistic language from
your code and processes.

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Consider using a model such as the Model Code of Student Conduct, (Stoner, E. N. II, (1998). A model code of student conduct. In The administration of campus discipline (pp. 3-42). Asheville, N.C.: College Administration Publications) as a source for evaluating your system.

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Do not take this or any model and implement in a cookie cutter manner

Seek out best practices at other similar institutions

Bring in a consultant from ASJA, NCHERM or elsewhere

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II. Fundamental Fairness

As noted above, fundamental fairness is required by the Constitutional guarantees at public institutions and contractual guarantees at private institutions.

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At public institutions, the liberty and property interests of students are increased at graduate and professional schools

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Less process is due.

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Davis v. Monroe County Board of Education Et Al. 526 U.S. 629 (1999)

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Revised sexual harassment guidance: Harassment of students by school employees, other students, or third parties, Department of Education, Office of Civil Rights,
<http://www.ed.gov/offices/OCR/shguide/index.html> (2000)

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Campus Sexual Assault Victim's Bill of Rights, 20 U.S.C.1092(f)(8) (1992)

Family Educational Rights and Privacy Act 20 U.S.C. 1232g (1974).

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Editor's Note, Dr. Gregory's CV runs to eighteen well-earned pages. I've just hit the highlights here. To view it in its entirety, please visit <http://web.odu.edu/educ/dgregory/resume.html>

EDUCATION

Doctor of Education, 1987 [University of Virginia](#)
Higher Education Administration Charlottesville, Virginia

Master of Education, 1976 [University of Virginia](#)
Educational Administration Charlottesville, Virginia

Bachelor of Science, 1971 [James Madison University](#)
History and Political Science Harrisonburg, Virginia

Associate in Arts, 1969 [Ferrum College](#)
General Studies Ferrum, Virginia

PROFESSIONAL EXPERIENCE

Assistant Professor of Educational Leadership and Counseling, [Old Dominion University](#),
Norfolk, Virginia
July 2000 to present

Assistant Vice President for Student Development and Student Life
[Francis Marion University](#), Florence, South Carolina
July 1997 to July 1998

Associate Dean of Students for Administration
The [University of Tennessee, Knoxville](#), Knoxville, Tennessee
July 1994 to July 1997

Director of Residence Life and Housing
[Wake Forest University](#), Winston-Salem, North Carolina
July 1986 to July 1994

Vice President for Student Affairs and Dean of Students
[Methodist College](#), Fayetteville, North Carolina
June 1985 - July 1986

Director of Campus Affairs
[Ferrum College](#), Ferrum, Virginia
July 1978 - August 1983

Director of Student Life
[Ferrum College](#), Ferrum, Virginia
July 1976 - July 1978

A SAMPLING OF DR. GREGORY'S RESEARCH AND PUBLICATIONS

"Student Judicial Records, Privacy and the Press' Right to Know", Administration of Student Judicial Affairs, College Administration Publications, Asheville, North Carolina, 1998.

Book Review of Critical Issues in Judicial Affairs: Current Trends in Practice, the NASPA Journal, pp. 260-263, Volume 35, No.3, Spring 1998.

The State of Judicial Affairs Current Forces and Future Challenges, Association for Student Judicial Affairs, February, 1998 (Co-authored with nine other current and former presidents of the Association for Student Judicial Affairs for publication on the occasion of the 10th anniversary of the Association.

A SAMPLING OF DR. GREGORY'S PRESENTATIONS

"An Update of the Family Educational Rights and Privacy Act: Current Legislation and Case Law", Keynote Address, 1998 SACSA Conference, Charlotte, NC, November 10, 1998

"Greek Life and Higher Education: Collaborating to Build a Culture of Learning", Panelist in a nationally broadcast teleconference presented by the University of Vermont Division of Continuing Education, October 6, 1998

"Recognizing and Funding Student Organizations: Pros and Cons", Co-presented with Mr. George Shur, Eighth Annual Legal Issues in Higher Education Conference presented by the University of Vermont, Burlington, Vermont, October 4-7, 1998.

"The State of Judicial Affairs Current Forces and Future Challenges", Panel of current and former ASJA presidents, Moderated by Mr. Gary Pavela, 1998 ASJA Conference, February 7, 1998.

"Protecting Your Campus from Crime: Challenges and Solutions", Panelist in a nationally broadcast Teleconference presented by the University of Vermont Division of Continuing Education, November 17, 1997.

CHAPTER FIVE:
RISK ASSESSMENT IN STUDENT AFFAIRS

BY BRETT A. SOKOLOW, JD

Every department of an educational institution encounters risk. Some more so than others. The webseminar that inspired this book was conceived out of a realization that many colleges, in tracking their own risks, are identifying student safety and student affairs/judicial issues as areas that are trending upward in the risk they represent, based on the actual, tangible liabilities they engender. In my experience as a consultant, precious few colleges have dedicated risk managers, and those that have them have very little liaison occurring between the risk management office and student affairs administration. The webseminar was designed to get those departments talking to each other, and brainstorming strategies for successful collaboration. This book can help too.

Greater risk from student affairs

If we accept the generalized reality that student affairs-related activities are giving rise to greater levels of dollar liability and potential reputational harm, then the relevance of risk assessment to student affairs become clear. To be acting proactively, we must be asking the questions:

- Is this trend toward greater liability inevitable?
- Are we in any way causing it or contributing to its exacerbation?
- Is there anything we can do to counter the trend?
- If not, can we minimize exposure risks through policies, practices and procedures?

- Can we minimize those risks without insufferable cost to other student affairs goals and objectives?
- Can we enhance student welfare and well-being to reduce risk? In what areas should we focus?

Answers through risk assessment

To answer these questions, proactive colleges and universities will implement a comprehensive risk assessment system within student affairs. The presenters at the webseminar, each of whom have authored a chapter in this book, address some of the areas of heightened risk. Study abroad is one of those areas that I will use as an example. In 2000, an instructive case lent us the notion that a university can be liable for assigning a student to an internship site that it knew to be dangerous, without first giving the student warning and the ability to opt out (*Nova Southeastern University v. Gross*, 758 So.2d 86 (2000)). Now, those who coordinate internships understand there is a duty of care owed to students they place off-campus. Those internship coordinators on campus who seek to reduce risk will ask questions about the safety of the area when selecting internship sites, and will ask interning students who have been warned of potentially dangerous sites, and who accept the risk involved, to sign a statement that they have been warned, and acknowledge and accept the risk. From cases like this, the prudent student affairs administrator will analogize the placement of interns to the placement of students in study abroad programs they might administer. What risks are present at study abroad sites? The proactive administrator will find out, choose sites accordingly, and provide students with warnings where necessary so that they can protect themselves. Think of the basic question of determining what risks are present at a site? How can you determine this? Risk assessment can help. Contact the Dean at

the study abroad site, and ask them to complete a safety survey or inventory. Contact the local police, and ask for information they might have. If there are campus police or security, ask them for a summary of incidents at the site. Research the local political climate, and State Department advisories. If this isn't leading anywhere, consider engaging a detective or security professional to conduct an on-site audit safety assessment—Pinkerton's Worldwide specializes in this type of work. Is this involved? Yes. Is it expensive? Yes. So is a dead student. So is an evacuation in the midst of a bloody revolution. This is a perfect example of the essence of risk management. Where the risk is too high, and we can't protect students, we can cross the site off the list for possible study abroad locations. Where the risk is calculated, and we feel students can make their own decisions, we reduce our risk by satisfying our duty to assess, warn, and provide alternative options.

Applying the risk management ethic

Bringing this ethic closer to home, ask yourselves some questions about student affairs practice on your campus:

- ❑ Do your policies comprehensively promote student safety and encourage aggrieved students to turn to the institution for redress? For example, is your policy on sexual assault folded into your sexual harassment policy, where it is harder for students to find, or do you have a separate policy? Does your institution offer limited immunity to victims of violent offenses who may have been engaged in policy violations themselves at the time (an alcohol-related date rape, for example)? If not, you are not encouraging victims to turn to the college for redress, and thereby limiting your own power to act to protect your students.
- ❑ Are you being sued? How often? Is the trend up, down or inconsistent from year to year?

- Have you established or even discussed how your institution will address coercive lawsuits? Students today are threatening to sue, and suing, on baseless grievances. They know that universities are image conscious, and many would often rather quietly settle a baseless claim than dispute it. Will you address this on a case-by-case basis, or will you follow the path of some colleges that have let it be known that they will not be coerced to settle suits, and are proactively managing risk with a few cases that show that they will not be intimidated.
- Are you being sued as a result of judicial hearing outcomes? If so, are you winning or losing (if you are settling, you are not winning!)? When you are being sued, or initiating settlement talks in lieu of suit, are the threats of litigation coming more often from campus victims or the students they accused? Do the victim's grievances come from their injuries/victimization, or from the college's handling of the complaint?
- Are you studying student safety every few years? If not, how can you program to enhance student safety? Do your students have drug problems? Alcohol issues? Both? Why spend on drug programming if alcohol is the drug of choice on your campus? Or, vice-versa? If you don't measure the risk, you're just guessing. Is hazing an issue? Anecdotally, or in fact? Committing the resources to survey your students is worth it. MIT set the precedent, with a \$6 million settlement to the family of Scott Kreuger, who died in a fraternity-related drinking incident. MIT's liability was not clear-cut, but with the threat of treble damages in Massachusetts, MIT decided not to risk it. What none of the newspapers cover is the true cost to MIT of this death, which is a lot more than \$6 million. The Krueger case was the straw that broke the camel's back on MIT's unusual residential system which did not require first-year students to live on campus, and which placed many of them in Greek housing. By 2002, all of MIT's first-year students will be living on campus. Add the cost of expanding

to furnish more housing to the \$6 million settlement, and you'll be getting closer to the real cost of Scott's death to MIT. Resources committed reactively simply cost more than committing the same resources proactively. Have you studied sexual assault on your campus? Are you like a number of Bible-Belt schools that are experiencing low levels of rape, but higher levels of forcible oral copulation? Think about why this trend might be happening. Study the problem so that you can adequately address it. One of things we have learned in the risk management profession is that education/research is a profoundly important ingredient for effective risk assessment. Anecdotal information and assumptions can lead to inefficient resource allocation. Don't just base your assessment on judicial cases; most of your most severe incidents will never be reported. But, a survey, over time, can give you much clearer indications on student safety issues and trends.

Here is a list of practices that can help puzzle together the pieces of an effective student affairs risk assessment:

- Include office support staff in your assessment practices. They see things you don't.
- Train staff to identify cases where the policy seems to under-serve the issue it addresses. Establish a schedule for revisiting and revising the weaknesses raised by these policies. Create the same system for judicial practices and procedures.
- Train staff to identify cases, especially a pattern, where hearing board members are nullifying policy or procedure to achieve a pre-determined outcome, or an outcome not dictated by policy. This is a key risk issue. Figure out why, and focus on training or policy/procedural modifications to address the problem.

- TRAIN JUDICIAL OFFICERS COMPREHENSIVELY. Establish a minimum training requirement per year or per semester, and establish a level of competency that must be achieved. I have worked with my clients to get them on a 2-day per semester training schedule. I think this is a minimum, but it depends on the institution, its caseload, and the sophistication of the cases that arise. Elements of competency might include policy familiarity, understanding of the standard of proof, evidentiary control issues, etc.
- Identify if you have a pattern of problems with appeals. Do a simple risk map. Are your litigious cases arising out of initial decisions by a judicial body, or as a result of actions taken on appeal. React accordingly.
- When a case goes south, leading to a settlement, lawsuit, or liability, that is an excellent learning opportunity. Figure out what went wrong: policy, people, procedures? Modify, retrain, and adjust accordingly. Ask your institution's risk manager or attorney to help assess what went wrong and why, and what changes might prevent similar occurrences in the future. Pride and defensiveness can get in the way of doing this type of assessment objectively. Learn to distinguish your defense in the case from the actual facts of the case, where necessary. Sometimes, a defense is a factual response to an allegation. But, sometimes, a defense is a concoction of the attorneys that has little if any relation to the true underlying facts.
- Use your case studies, student surveys and risk assessments to make decisions on how to direct your resources to the areas that represent the highest liability risk and/or greatest risk to student safety. Further, this information should be used to develop a comprehensive educational and intervention plan for the coming year, so that institutional resources can be channeled to problem areas. For example, if drug use spikes, a coordinated effort can be

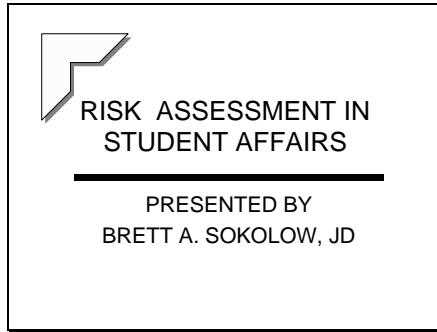
developed with student affairs making a policy push, campus law enforcement initiating a crackdown, substance abuse prevention services focusing its efforts, counseling enhancing intervention and referral services, student activities allocating budgetary resources to programming, and coordinating increased programming efforts with residence life.


In summary, I'd draw you back to Beverly Costello's opening chapter. She told us that information is key to successful risk management. Student affairs administrators need to become the risk managers for their own departments. The way you will do so most effectively is to become a superior harvester and processor of the information available to you. Based on the information you gather, you will have the ability to assess risks, prioritize risks, make cost-benefit determinations, and deploy the resources of your department to make your campus better insulated from risk and safer for the members of your community.

RISK ASSESSMENT IN STUDENT AFFAIRS

POWER POINT SLIDES FROM THE LIVE WEBSEMINAR PRESENTATION

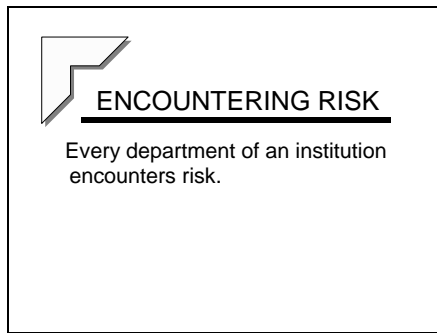
Slide 1




 **RISK ASSESSMENT IN
STUDENT AFFAIRS**

PRESENTED BY
BRETT A. SOKOLOW, JD


Slide 2



 **ENCOUNTERING RISK**

Every department of an institution
encounters risk.


Slide 3



STRATEGIZE

Get those departments talking to each other, and brainstorming strategies for successful collaboration.


Slide 4



STUDENT AFFAIRS IS A HIGH-RISK AREA

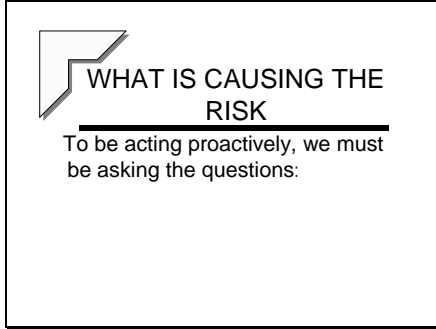
Student affairs-related activities are giving rise to greater levels of dollar liability and potential reputational harm.

Slide 5



In such an environment the relevance of risk assessment becomes clear.

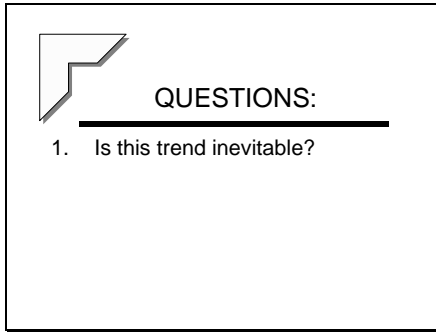
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WHAT IS CAUSING THE RISK

To be acting proactively, we must be asking the questions:

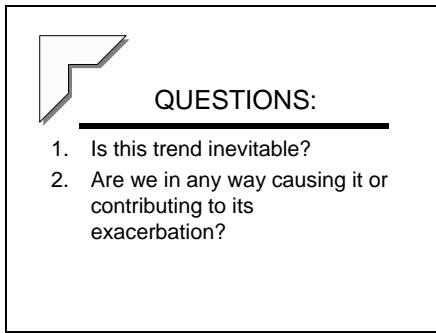
Slide 7



QUESTIONS:

1. Is this trend inevitable?

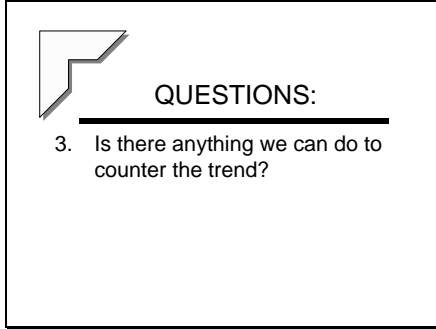
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QUESTIONS:

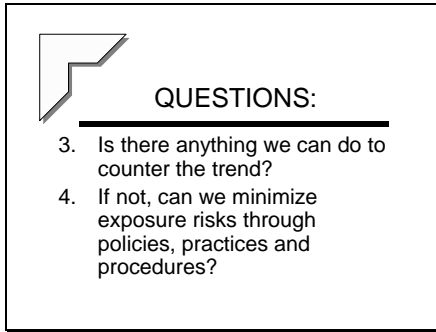
1. Is this trend inevitable?
2. Are we in any way causing it or contributing to its exacerbation?

Slide 9



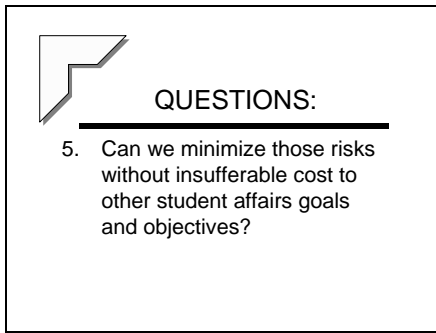
Slide 9 content box containing a graphic of a folded paper corner, the heading "QUESTIONS:", and a single question: "3. Is there anything we can do to counter the trend?"

Slide 10




Slide 10 content box containing a graphic of a folded paper corner, the heading "QUESTIONS:", and two questions: "3. Is there anything we can do to counter the trend?" and "4. If not, can we minimize exposure risks through policies, practices and procedures?"

Slide 11



Slide 11 content box containing a graphic of a folded paper corner, the heading "QUESTIONS:", and a single question: "5. Can we minimize those risks without insufferable cost to other student affairs goals and objectives?"


Slide 12



QUESTIONS:

6. Can we enhance student welfare and well-being to reduce risk? In what areas should we focus?


Slide 13



ASSESS THE RISK

To answer these questions, proactive colleges and universities will implement a comprehensive risk assessment system within student affairs.


Slide 14



LIABILITY EXAMPLE


Take the example of internship liability, and by analogy study abroad (Nova Southeastern University v. Gross, 758 So.2d 86 (2000)).

Slide 15



**KEY QUESTIONS FOR
STUDENT AFFAIRS RISK
ASSESSMENT**


Slide 16



KEY QUESTIONS

Bring this risk assessment ethic to other areas--Ask yourselves some questions about student affairs practice on your campus:


Slide 17



KEY QUESTIONS

Do your policies comprehensively promote student safety and encourage aggrieved students to turn to the institution for redress?


Slide 18



KEY QUESTIONS

- Are you being sued?
- How often?
- Is the trend up, down or inconsistent from year to year?


Slide 19



KEY QUESTIONS

- Have you established or even discussed how your institution will address coercive lawsuits?

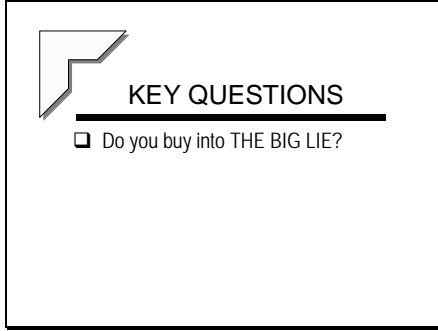
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KEY QUESTIONS

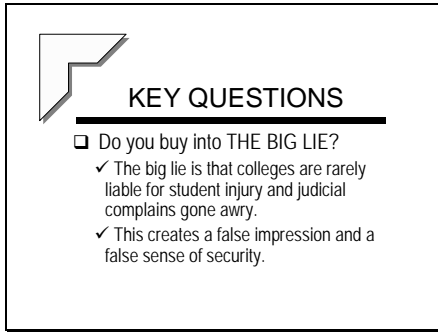
- Have you established or even discussed how your institution will address coercive lawsuits?
Students today are threatening to sue, and suing, on baseless grievances. Image conscious institutions and would often rather quietly settle a baseless claim than dispute it.

Slide 21



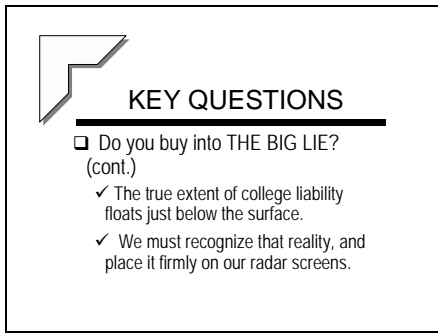
Slide 21 content box containing a graphic, the title 'KEY QUESTIONS', and a question: 'Do you buy into THE BIG LIE?'

Slide 22




Slide 22 content box containing a graphic, the title 'KEY QUESTIONS', and a question with two bullet points: 'Do you buy into THE BIG LIE?', 'The big lie is that colleges are rarely liable for student injury and judicial complains gone awry.', and 'This creates a false impression and a false sense of security.'

Slide 23



Slide 23 content box containing a graphic, the title 'KEY QUESTIONS', and a question with two bullet points: 'Do you buy into THE BIG LIE? (cont.)', 'The true extent of college liability floats just below the surface.', and 'We must recognize that reality, and place it firmly on our radar screens.'


Slide 24



KEY QUESTIONS

- Are you being sued as a result of judicial hearing outcomes?
- If so, are you winning or losing (If you are settling, you're not winning!)?
 - ✓ Do a risk assessment.


Slide 25



KEY QUESTIONS

- Are the threats of litigation coming more often from campus victims or the students they accused?
- Do the victim's grievances come from their injuries/victimization, or from the college's handling of the complaint?


Slide 26



KEY QUESTIONS

- Are you studying student safety every few years?
- If not, how can you program to enhance student safety?


Slide 27



KEY QUESTIONS

- Do your students have drug problems? Alcohol issues? Both?
- Why spend on drug programming if alcohol is the drug of choice?
- Is hazing an issue? Anecdotally, or in fact?


Slide 28



KEY QUESTIONS

- If you don't measure the risk, you're just guessing.
- Committing the resources to survey your students is worth it.


Slide 29



HAZING EXAMPLE

- MIT set the precedent last year, with a \$6 million settlement to the family of Scott Kreuger, who died in a fraternity-related drinking incident.


Slide 30



**SEXUAL ASSAULT
EXAMPLE**

- Have you studied sexual assault?
- Are you like a number of Bible-Belt schools that are experiencing low levels of rape, but high levels of forcible oral copulation?
- Study the problem so that you can adequately address it.


Slide 31



WHAT WE'VE LEARNED

- One of things we have learned in the risk management profession is that education/research is a profoundly important ingredient for effective risk assessment.

Slide 32



WHAT WE'VE LEARNED


- Anecdotal information and assumptions can lead to inefficient resource allocation.
- Don't just base your assessment on judicial cases; most of your most severe incidents will never be reported.

Slide 33



**PUTTING THE RISK
ASSESSMENT PUZZLE
TOGETHER**


Slide 34



LIST OF PRACTICES

Here are a list of practices that can help you put the puzzle pieces together for an effective student affairs risk assessment:


Slide 35



LIST OF PRACTICES

- Include office support staff in your assessment practices. They see things you don't.
- Train staff to identify cases where the policy seems to under-serve the issue it addresses. Establish a schedule for revisiting and revising the weaknesses raised by these policies. Create the same system for judicial practices and procedures.


Slide 36



LIST OF PRACTICES

- Train staff to identify cases, especially a pattern, where hearing board members are nullifying policy or procedure to achieve a pre-determined outcome, or an outcome not dictated by policy.
- This is a key risk issue. Figure out why, and focus on training or policy/procedural modifications to address the problem.


Slide 37



LIST OF PRACTICES

- TRAIN JUDICIAL OFFICERS COMPREHENSIVELY.
- Establish a minimum training requirement per year or per semester, and establish a level of competency that must be achieved. Elements of competency might include policy familiarity, understanding of the standard of proof, evidentiary control issues, etc.


Slide 38



LIST OF PRACTICES

- Identify if you have a pattern of problems with appeals.
- Do a simple risk map.
- Are your litigious cases arising out of initial decisions by a judicial body, or as a result of actions taken on appeal.
- React accordingly.

Slide 39



LIST OF PRACTICES


- ❑ When a case goes south, leading to a settlement, lawsuit, or liability, that is an excellent learning opportunity.
- ❑ Figure out what went wrong: policy, people, procedures? Modify, retrain, and adjust accordingly. Ask your institution's risk manager or attorney to help assess what went wrong and why, and what changes might prevent similar occurrences in the future.

Slide 40



USING YOUR RISK ASSESSMENT

Slide 41



USING YOUR RISK ASSESSMENT

- ❑ Use your case studies, student surveys and risk assessments to make decisions on how to direct your resources to the areas that represent the highest liability risk and/or greatest risk to student safety. Develop a comprehensive educational and intervention plan for the coming year, so that institutional resources can be channeled to problem areas.

**MEET THIS CHAPTER’S AUTHOR AND EDITOR OF THIS BOOK,
BRETT A. SOKOLOW, JD**

Brett Sokolow is a specialist in campus safety, security and sexual assault policy and law. He is the President of the National Center for Higher Education Risk Management (NCHERM), a national multidisciplinary risk management consulting firm.

Mr. Sokolow is a risk management consultant, author, editor, lobbyist, and higher education attorney admitted to the Pennsylvania and New Jersey bars, though he is not presently engaged in the active practice of law.

NCHERM provides specialized consulting, seminars, training and publications on:

- Sexual assault/harassment
- Judicial Affairs
- Campus Security
- Hazing
- Problem drinking/drugs

Mr. Sokolow has provided services to over 130 clients, including programs for campus administrators, sexual assault and Title IX case management, training and seminars. He has also provided awareness and education programs for students at over 450 colleges, high schools and military institutions. Through NCHERM, Mr. Sokolow has published numerous books and articles on campus sexual assault, provides expert witness services, and lobbying efforts for sexual assault-related legislation.

Mr. Sokolow holds memberships to the National Association of Student Personnel Administrators (NASPA), the University Risk Management and Insurance Association (URMIA), and the Council on Law in Higher Education (CLHE), where he also serves as a member of the Board of Directors and as Vice-President for Campus Security. He serves on the Advisory Board of the Communities Against Violence Network, and is Editor of the *Report on Campus Safety and Student Development*. Mr. Sokolow has presented on various campus safety and sexual assault-related topics at more than 25 conferences throughout the country.

Publications

A Sampling of Mr. Sokolow’s Books

- The 1999 Clery Act (Clery Act) Compliance Manual. Brett A. Sokolow, JD. (© 2000, The National Center for Higher Education Risk Management).
- The Campus Sexual Misconduct Judicial Training Manual. Brett A. Sokolow, JD. (© 2000, The National Center for Higher Education Risk Management).

- The Right to Counsel in Campus Disciplinary Hearings: How Much Process Is Due? Brett A. Sokolow, JD. (© 2000, The National Center for Higher Education Risk Management).
- Rules of Evidence for the Campus Judicial Process. Brett A. Sokolow, JD. (© 2000, The National Center for Higher Education Risk Management).

Chapters

- "Sexual Violence: The Legal Front," a chapter in the anthology, Just Sex (Rowman and Littlefield, 2000);
- "Sexual Assault Risk Management Strategies for Colleges: A User's Guide To Fleshing Out the Clery Act" published as a chapter in Volume 3 of The Complete Workplace Violence Prevention Manual (James Publishing, 1998).

Articles

- "College Risk Management: Creating a Sexual Assault Response Network Protocol." Vol 3 Workplace Violence Prevention Reporter 12. James Publishing, Inc. Dec. 1997.
- "The Elements of College Judicial Jurisdiction" in The Report on Campus Community Safety, Vol. 1 #1. The Civic Research Institute.
- "Confidentiality and Mandatory Reporting of Sexual Assault Under Title IX" in The Report on Campus Community Safety, Vol. 1 #4. The Civic Research Institute
- "Eliminating Force From Campus Sexual Misconduct Policies: The Rise of The Consent Construct" in The Report on Campus Safety and Student Development, Vol. 2 #2. NY: The Civic Research Institute (co-author).
- "Disciplinary Appeals: Getting Stickier on Campus" in The Report on Campus Safety and Student Development, Vol. 2 #2. NY: The Civic Research Institute.
- Editor: The Report on Campus Safety and Student Development (formerly titled the Report on Campus Community Safety), published bimonthly by the Civic Research Institute, New York.

CHAPTER SIX:
A RISK MANAGEMENT CHECKLIST FOR STUDENT SAFETY ABROAD
BY: TROY HARRIS, C.P.M.

Original fonts chosen by the author have been maintained for presentation purposes

Ah, the stories you could tell...The midnight call informing parents that their son is in a foreign jail cell...The auto accident in a country where your students were expressly told not to drive...The email saying Sara's in the hospital with dengue fever she caught in the jungle...The misunderstanding at the border that led to the confiscated pickup...Your student's little cross-cultural gaffes that led to unexpectedly messy imbroglios. Maybe we should have titled this article "Bring 'em back *alive!*"

You're only reading this if you have something to do with the wide, wide world of student travel abroad. We hope that somewhere in this chapter you'll discover something fresh, something novel, something you've not yet encountered that will help your students to ready for one of life's richest experiences.

Three elements are crucial to that readiness.

- ✓ Collaboration
- ✓ Preparation
- ✓ Orientation

We'll address these in order, sharing what we've seen work well at Westmont College. Then we'll take you on a brief guided tour of the safety segment of Westmont's foreign travel orientation, a PowerPoint presentation designed to get our travelers

- ✓ "There & Back ... In One Piece"

Collaboration

Only by effective collaboration and coordination will students have any hope of digesting the massive amount of information they need to contemplate as they pack their bags. There is *so* much to tell them, and *so* little time. Working together helps to minimize duplication and to ensure that the prime priorities are emphasized. Here are some of the collaborators in safety planning, along with brief observations about their roles. The first three listed, and the last one, have important input to the mandatory-for-travelers semi-annual orientations (one each semester for next semester's travel) that are a key ingredient of a well-conceived safety strategy. The others are essential resources for you to work with as you develop and refine your own training methods.

✓ Off-Campus Programs Office

In addition to overall program management and oversight, this office has primary responsibility for planning and conducting the travel orientation.

✓ Campus Health Center

Our resident physician speaks from experience about the medical risks students may face. Take this quick quiz yourself to see if you'd be helped by listening to his presentation (answers in footnote²):

1.	What is the most common illness experienced by travelers? A. Diarrhea; B. Flu; C. Altitude sickness; D. Hepatitis; E. Giardia
2.	What is the leading cause of death in travelers? A. Heart attack; B. Accidents; C. Cancer; D. Stroke; E. Parasites
3.	What is the leading cause of traveler's diarrhea? A. Jetlag; B. Dehydration; C. Chemical imbalance; D. Malnutrition; E. Food
4.	If you could take one medication with you on your trip, what would it be? A. PeptoBismol tablets; B. Sunscreen; C. Analgesic; D. Immodium; E. Dramamine
5.	How is Hepatitis A transmitted? A. Kissing; B. Food and water; C. Sexual contact; D. Animal bite; E. Puncture
6.	What kinds of foods are safest to eat? A. Washed; B. Peeled; C. Cooked; D. Prayed over; E. Vegetarian

✓ Anthropology Department

A cultural anthropologist prepares the students for culture shock (forward and reverse), and covers the highlights of cultural sensitivity.

✓ Traveling Faculty

You have a priceless resource in the battle-scarred faculty who have led programs for you in the past. We hosted an upscale catered lunch that attracted them to an occasion for shoptalk with their colleagues. As they regaled us with accounts of students' harebrained antics (clambering up an armed embankment in the Middle East, dancing on the precipice at the White Cliffs of Dover), we took copious notes of the events and their impact on the faculty. These notes were then organized into an outline of the issues faculty face, forming the basis for what we then knew had to be built into our risk management plan. Thus, we were able to customize our plan and at the same time build a vital bridge with faculty by listening and attending to their felt needs.

Another useful tool for faculty is an orientation especially for them. Of course you'll want them to attend the student orientation—so they'll know what the students were told. But also get them together for a special time in advance to offer them support for their often unanticipated—and usually unappreciated—round-the-clock role as mother/father/teacher/guide/disciplinarian. This will open their eyes to the not-necessarily-glamorous reality ahead, and will also give them encouragement by helping them to see that they're not entirely alone in coping with the expectable unexpected.

² 1-A; 2-B; 3-E; 4-A; 5-B; 6-B

✓ Legal Counsel

We all know that waiver forms “ain’t worth the paper they’re printed on.” Still, they have their place—especially when seen as an educational opportunity, not just more rigmarole. The main thing here is to realize that your counsel is your counselor, not your mommy. You don’t *have* to say it in legalese. You can make the content readable (ie, plain English) and still cover the important points of acknowledgement and assumption of risk. One value of waivers: at least *some* of your students will have the ethical gumption to not sue you after they said right there on paper that they fully understood and voluntarily accepted the risks of foreign travel.

✓ Links with Other Departments

Student Life (prepping the Dean for the parent calls), the business office (collecting the fees that defray orientation and insurance program costs) ... many departments can have a role in helping you get word to your travelers that you care about them, that you’ve provided for them, that you’re committed to bringing them home safe.

✓ Risk Management

Finally, yet crucially, the Risk Manager’s task—beyond presenting the travel safety orientation segment—is to quietly and diplomatically see that all the parties do their part. Putting the resource network in place (see below) is just the beginning of the coordination role. Ongoing vigilance will help to ensure that gaps and overlaps in services are addressed and prevented. And the enlightened risk manager will see that common sense, and the frank acceptance of inevitable risk, permeate the overall plan.

Preparation

✓ Documentation

Each school will have its own forms related to the safety dimension of travel planning, but the titles of those we use may point to one or more you’ve not yet considered:

- Participation Agreement (aka Informed Consent aka Assumption of Risk, aka Waiver)
- Travel safety manual
- Medical/Health Information & Emergency Release

✓ Insurance

You already have the standard liability policies in place (general liability, employment practices and/or educators legal liability, domestic workers’ compensation, and others). Here are some additional insurance products that can help distribute your risk.

- **Student Health Coverage** – A study conducted by USC found, under close scrutiny, that of 32 students in the foreign travel program being investigated, only 2 of their

parents' health insurance policies would have provided meaningful coverage for their student in the event of an accident abroad. Consequently, at Westmont we now require all students to be rostered on our standard student health policy, which is expressly worldwide in scope. This is modest "safety-net" coverage; that is, it remains (like for our on-campus students) secondary to any parental coverage that may be available. But we, and the students, are assured by this arrangement that if a medical need arises, there *will* be some help ultimately.³

- **Foreign Auto** – If there's any possibility that a faculty member will be driving a vehicle in another country, this policy will cover important gaps that may arise between the insurance typically required in that country, and the level of limits typically carried at home. For instance, Mexican law requires basic insurance, but it is *very* basic. Remember, this coverage is strictly for employees driving on official business. It does not cover pleasure side trips by faculty, or *any* motor vehicle use by students.
- **Foreign Workers' Compensation** – Many domestic WC policies will extend to your employees abroad, and you'll want to verify with your broker that this is so. But what about the tour guide you engaged who, to your surprise, is deemed under the arcane laws of that country to have been your "employee" when he twisted his back unloading suitcases for you?
- **Kidnap & Ransom** – This coverage is very affordable, and can offer significant peace of mind. Some policies include a limited but helpful amount of consulting on prevention and crisis planning. The agency retained by the carrier to be on tap in event of emergency may offer ancillary services such as evacuation planning and assistance, included or for a fee. (Caveat: It's generally advisable to keep very short the list of those people who are privy to the existence of this coverage.)

✓ International Assistance Provider (IAP)

An absolute must-have is the firm that will immediately jump in to assist with any crisis that occurs. While the specific services and limits of each agency will be somewhat differentiated, they all typically provide:

- Pre-trip emergency planning services
- Round-the-clock communications support (emergency message-relay and translation)
- Medical services coordination, and payment or advances as necessary to secure such services
- Supervised medical evacuation (sometimes with family accompaniment)
- Repatriation of mortal remains
- Assistance with lost items (passports, luggage, etc)

Westmont has selected Worldwide Assistance, offered thru the United Educators program. This plan is inexpensive (\$20 per traveler per year), broad (\$100,000 medevac limit), and effective. We've

³ Explaining the complex relationship between parental health insurance, college health insurance, and international assistance provider coverages is very challenging. No matter how clearly or cleverly we've heretofore tried to describe it during the orientation, we've found that when a need arises our travelers have been completely clueless about who will pay for what. This is discussed further below.

appreciated their able assistance with medical situations in Honduras, Thailand and India in recent months.

Some IAP's offer medical insurance, legal insurance, baggage insurance, and other travel-related services.

✓ Advisor Network

Altogether, eight entities provide some part of the coordinated support of our off-campus programs.

- The Off Campus Programs office
- Risk Management office
- Insurance brokerage (preferably a worldwide firm)
- Liability insurance carrier
- Student accident and sickness coverage
- Kidnap/security/crisis management consultant
- International assistance provider
- Campus crisis management team

Your students, and their parents, should be comforted to realize that you've assembled this team of specialists who are ready to respond to any misfortune that may arise.

Orientation

A high-quality orientation program will include the elements identified here:

✓ Students & Faculty

Students and faculty both need to hear the same story—the former for the obvious reasons, and the latter so they'll know what the students were told.

✓ Focused Time

Ample time needs to be set aside for the orientation program. We've found that a Friday evening and most of Saturday works well.

✓ Careful Topic Selection

These key topics are essential parts of the program:

- **Cultural Adjustments & Sensitivity** – Many students have never experienced a cross-cultural immersion. Training on culture shock will help them to avoid being caught off-guard by the sensations and emotions they will predictably experience. Guidance on how to relate with people of other cultures will enable them to act and relate in more

appropriate ways. And a warning to expect reverse culture shock upon their return prepares them for typical responses they will have, including: a) being overwhelmed at seeing our malls and well-stocked supermarkets again; and b) realizing that what has been so profound for them may engender little more than idle curiosity among their friends and family, whose lives stayed pretty much the same during the time away.

- **Medical Factors** – The quiz you took earlier gives a good sense of what the students need to hear, and why. Some comment on eating disorders is also in order, as this has become one of the most common and vexing challenges on alien soil.
- **Safety Briefing** – The following pages will summarize what we've found good to tell travelers, as they pack, about how to increase the likelihood of their safe return.

✓ Engaging Presentation

We want our entertainment-glazed students to stay awake for this important material, so we use variety and pacing to make the program interesting for them. Video clips can capture their attention: *Baraka* (a spectacular music-only travelogue) can run in the background during Friday's dinner; excerpts from *Bamboo Palace* (two American girls jailed in Bangkok as unwitting accomplices to a drug smuggling operation) can serve as an object lesson in not being naïve.

The well-considered use of real-life stories, and of PowerPoint tools, can captivate and hold them. Crisply organized presentations will keep the precious time from dragging, or feeling wasted. Contests, games and quizzes—as long as they're not *too* corny—can keep the pace lively. Prizes and refreshments should be available as well.

✓ Follow-up

Two kinds of follow-up are recommended, one before departure and one after return. First, a checklist of who needs what information, when, from whom, and in what sequence, can ensure that no important steps were overlooked before they head up the boarding ramp. And then finally, an evening set aside for post-excursion debriefing allows them to process, in a safe and understanding environment, what they experienced both abroad and upon return. This is also an excellent occasion to inquire about which aspects of their orientation session were useful to them, and which should be enhanced for optimal effectiveness.

Credit Where Due

We're about to shift gears here, but before we do we'd like to pause and acknowledge the input and generosity of the following individuals and organizations, whose contributions were crucial to our designing a comprehensive program that, less than three years after inception, could be ranked as state-of-the-art in study abroad preparedness.

- ✓ Pam Rypkema, *United Educators*
- ✓ Debbie Russell, *Aon Risk Services*
- ✓ John Watson, *Pepperdine University*
- ✓ Michael Leming, *St. Olaf College*
- ✓ Bill Stevenson, *John Brown University*
- ✓ Dick Hildreth, *Corporate Risk International*
- ✓ Admin & Faculty, *Westmont College*

And now we'll go ...*There & Back*

(Sample Safety Briefing)

(Technical Aside)

Before we get started, let's talk about the why's and the wherefore's of the graphical elements used for the presentation's varying spectators. Basically, the student version is designed with an energetic, contained-wildness effect. The online version for professional program planners (similar to the following) is, on the other hand, rather emasculated in order to keep the download times short and avoid offending that audience; it is essentially a stripped-down demo. Obviously, the printed version forsakes all hope of being "dynamic."

✓ "Chiller" Font

The student generation seems to think us old windbags may be okay after all when they see us use a contemporary font like Chiller. In the real show it is used throughout, but in this presentation we've mostly used Tahoma because it's easier a bit on our tired old eyes.

✓ Graphics & Animation Effects

A number of the graphics and slide objects are animated for the student version, but bandwidth limitations led to their being pulled from the professional demo.

✓ Varying Background Colors

Both electronic versions use solid background colors that change with each section of the presentation. This is a subtle form of interest-maintenance, which of course cannot be replicated here.

Zoomin'

We've got to move lickety-split thru a lot of material, so we give the audience a clue about the range of things they'll be hearing about in the next hour or so.

- ✓ Intro
- ✓ Resources
- ✓ Health Fees
- ✓ Preparation
- ✓ En Route
- ✓ Upon Arrival
- ✓ On Site
- ✓ Emergency
- ✓ Forms & Documents
- ✓ Conclusion

Intro

✓ Not Scare — Prepare

We *want* our students to travel. We want them to experience the exhilaration and the mind-bending that can only be found outside the comfort zone. We don't want to scare them away from the program. However, we need them to know that they must assume the attendant risks deliberately and voluntarily. We want their consent to be informed, so that's how we frame what follows.

✓ Westmont Stories

The vignettes you read at the beginning of this article are taken from our own crucible. We speak first-hand of the current-era Westmont students whose lives have been touched by trouble along their itineraries. Bad things *do* happen to good people—we tell them—people we know and love.

Resources

✓ Resource Network

We point to the network described earlier, the eight entities ready and waiting to help them in time of need.

✓ Embassies & Consulates

Yet another resource available to them is the U.S. State Department. But just as the two female students in *Bamboo Palace* discovered, the local embassy is not armed with magic bullets. A very helpful summary of what one can and cannot expect from the State Department is included in their information packet and called to their attention at this point in the program.

Health Fees

✓ On Campus = Ins + Svcs; Off Campus = Ins + Svcs

At Westmont, all students studying abroad are charged a fee similar to the health fee charged to those who remain on campus. The latter pays for accident and sickness insurance, and helps defray the cost of operating the campus health center. The former pays for accident and sickness insurance too, but for academic travelers the balance of the fee contributes to covering these off-campus-program costs:

- Insurances – as identified earlier.

- Orientation – program materials and other expenses
- Pouches & Kwikpoints – All students are provided a passport pouch designed to be worn under clothing and around the waist or neck. It is suitable for keeping cash hidden from the bad guys. It also contains the Kwikpoint card, a multi-paneled plasticized compendium of graphic images representing the most common kinds of situations and transactions one may encounter abroad (emergency, medical, dining, transportation, currency, numbers and so on)—pictures worth a thousand words in any language you can't speak. (Check out www.kwikpoint.com). The pouch and Kwikpoint card cost roughly \$5 each.
- Program Admin – Some of the funding is available to partially defray other costs involved in helping create the opportunity for students to have this experience.

✓ The USC Study

To help them understand our mandatory health insurance plan, we tell them what USC learned in their 2-of-32 analysis cited earlier.

As indicated in an earlier footnote, we've learned the hard way that the complexities of who-will-pay-for-what, if a student is injured abroad, are very difficult to effectively communicate. We're going to try something new in our next orientation and you, dear reader, get to be our guinea pig. See if you think students could follow this...

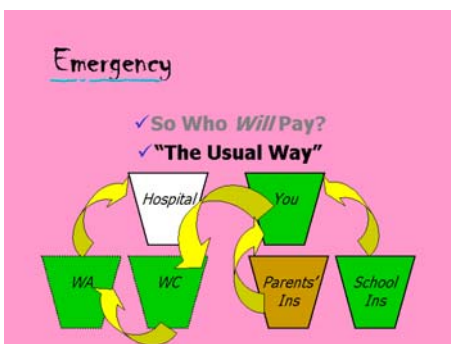
[For most of the rest of the chapter, our voice will be addressed to the student audience as if actually giving the presentation.]

✓ Health vs IAP vs Parental Coverage?

There are two main ways to pay medical costs accrued abroad: the easy way and the usual way. Let's look first at Figure 1.



See why it's easy? You pay the hospital, and it's all taken care of. Now look at Figure 2.



In order to perform medical services, the hospital requires money up front and you and your friends can't scramble up enough, so Worldwide Assistance *advances* the money. WA charges the bill to Westmont College, whereupon we add the charges to your student account. You then pay us back and seek insurance reimbursement, first from your parental health insurance. If they won't pay (which they probably won't—but the school's policy won't pay until the parental insurance says *in writing* that they won't pay), you do all the paperwork a second time, alas, to collect from the school insurance. Not efficient; not easy; not quick; simply the way things go in this adult world we're welcoming you to. (Maybe we should have used upside-down walnut shells to illustrate this sequence.)

The one saving grace is that medical services in many other countries are drop-jaw inexpensive. An overnight stay in Bangkok, tests and all, was out the door for \$130.

✓ NOT Your Property!

We hasten to add that we currently have no coverage for your “stuff”. And usually the airlines won't cover some of your most valuable things—even if the airline lost them. WA can *advance* money to replace some things, but they've got to be reimbursed—triggering something like the “usual” payment process just described. Caramba!

Preparation

Even before you depart, there are things you can do to help you return home safe and well.

✓ Wallet: Sanitize It; Fake It

Take the things that really matter out of your wallet and put them in your hidden passport pouch. Then put an expired driver's license, a cancelled credit card, some color copies of your favorite photos, and a little cash in the wallet that you'll offer the robbers to make them go away.

✓ Luggage: Distinguish It

Make sure that as everybody's baggage meanders around the carousel, you can immediately spot *your* black roller bag among the thousands of virtually identical others that just came off the same plane.

✓ Documentation: Copy It

Put a copy of your itinerary in each piece of luggage so that when it gets left behind in Greece, the airline knows where to ship it to you in Italy.

✓ Prescription?: Pack It

Take with you a copy of prescriptions for any medicines you need, in both brand-name and generic form. And don't overlook your corrective lens prescription (pack an extra set of these).

En Route

Here are a few of the hazards to be alert to as you head for your destination.

✓ The Scams

- **Airport Shuttle** – You get on at parking lot and toss your flight bag on the luggage rack. Big group gets on at Terminal A, pushing you to the back. Well-dressed woman with child gets on at Terminal B. It doesn't dawn on you until the shuttle is heading for Terminal D that the nice-looking lady and her kid hopped off at Terminal C—with *your* flight bag. *Protection:* We think you can figure this one out.

- **Fanny Pack** – Young track star comes up behind you and uses his exacto knife to slice the strap on your fanny pack. Are you gonna chase him? And leave the rest of your valuable gear unattended on the floor of the waiting room?? *Protection:* At the very least, the fanny-pack model with a metal-cabled strap. In any event, keep your essentials in your hidden passport pouch instead.
- **Hooks in the Head** – One airport removed the convenient hooks on the back of the restroom doors in the ladies room, to prevent purse-snatchers. They were surprised to find them re-installed a week later—by the purse-snatchers, of course, for whom the cost of a few purse pegs was only a fraction of their weekly net revenue. *Protection:* Keep it on your lap.
- **Late Boarders** – You don't like sitting crowded on board any longer than you must, so wait for the last call. Unfortunately, the only space they can find for your carry-on is near the front of the cabin, and you're seated near the rear. Hmmm, a ripe situation for the observant and opportunistic thief seated in row 4C. *Protection:* Be ready to train an eagle eye on your bag, and be ready to scream bloody murder.

✓ They're Professionals

Sad but true, a *few* of the smiling, well-groomed people in business attire can afford to dress well because of the good money they pull in roaming the airports. No wonder they're smiling! These crooks wake up in the morning thinking about which terminal they'll go for today, and hopping in their car to join the rest of the commuting public on their way to work.

En Gard

Here are a few more ways you can guard against unpleasant surprises along the way.

- **Scanner Buddy** – Have your friend go thru the body scanner first, waiting on the other side for you to send the luggage thru the parcel scanner. That will foil the other team that works like this: after you lay your luggage the x-ray conveyor, Bad Guy One butts in front of you as you step toward the body scanner. The metal in his pocket is there on purpose—so you'll get stuck behind his feigned confusion while Bad Guy Two heads down the concourse with your treasures.
- **Baggage Claim Race** – Hot-foot it to the carousel. Given the context here, we shouldn't need to explain why.
- **Farthest Stall** – Take a stall next to a wall so there are only two sides instead of three for the thief to reach under.

✓ Don't Risk Your Life

Remember, in some countries what's pocket change for you could be a year's wages for the locals. Money is not worth fighting over.

Upon Arrival

Once you arrive in your destination city, here are other tips to remember.

- **Taxis** – If possible, settle on the cost of trip in advance. Then, pay up while you're still in the car so the milling crowd doesn't see the wad of cash you're peeling from.

- **“Watch Out For Pickpockets”** – In Rome, the cops took down this sign, but the pickpockets kept putting it back up. Why? Because when people see the sign they slap the pocket containing their wallet—just to be sure it’s still secure—and the surveilling pickpockets can see right where to aim for maximum effectiveness.
 - Remember, pickpockets often work in pairs or teams, using distraction as their basic ploy. Carry your valuables in a concealed and inaccessible location, having within ready reach only what you may need for expected transactions—and being ready to let go of that for the sake of your personal safety.

✓ Register at Consulate

Let the State Department know you’re in the country. Despite their limitations, there are a number of ways they can be extremely valuable to you in a tough situation.

✓ Phone Home ... Collect

Work it out with your folks that they’ll accept one collect call from you in each country where you alight. That will give you a chance, primarily, to be sure you can use the phones successfully, and secondarily, to reassure your anxious parents that you’re still safe and well. In addition, have your phone card (with your PIN memorized) and some local coins with you at all times, so that you have backup means for making calls.

On Site

Now that you’ve safely arrived at your destination, stay safe by remembering the following measures.

✓ Attire

- **Dress as a Safety Issue** – Yes, how you dress can affect your safety in various ways. Here are a couple of them:
- **American Identity** – In some countries an American flag t-shirt might not be the wisest wardrobe choice.
- **Modesty** – Some cultures take deep offense at, or attribute inaccurate meaning to, the amount of skin customarily visible in America. “When in Rome ...” is a good guideline here. (Well, except perhaps in certain south Pacific islands where a loincloth suffices for both men and women.)

✓ Where Are You?

- **Avoid American Icons** – Recent developments have made obvious the dangers abroad of hanging out a McDonalds or the Hard Rock Café—or around U.S. military installations.
- **Buddy System** – Do your window-shopping and museum hopping in pairs.

✓ Sexual Harassment

Please don’t wait till three months after your return to finally confide to your best friend that you were approached inappropriately. It is important, for the safety of your successors on such programs, that you come forward discretely but immediately to your faculty sponsor, so the matter can be handled as delicately as possible while it is still fresh and while the sponsor is still in-country to deal with it. Remember, they have access to resources back at home by phone to help them carefully weigh how best to respond for your protection and for the sake of future students.

✓ Vehicles

You do *not*, under any circumstances, have Westmont's official blessing to drive a motor vehicle in any foreign country. Your faculty advisors do not have the authority to override this rule. If you rent or borrow a motor vehicle, you do so absolutely, entirely, at your own risk. Don't expect Westmont to come bail you out of this kind of trouble, and don't look to us to pay any part of any resulting damages or liability.

✓ Rules, Rules, Rules!

We know you've heard it all before, but ... the rules *are* for your own good and the good of the whole group, and we have as few of them as possible. Remember, your absence, injury, or undue delay can wreak havoc on the hopes and dreams of your whole cadre of traveling companions.

Emergency

✓ The US is a Dangerous Place?

Murder, rape, riots, earthquakes, tornadoes—these get top billing on World News Tonight, which the whole world watches. As far as the foreigner knows—viewing TV from the comfort of his straw hut or igloo—mayhem is rampant in everyday American life.

Just as we know that is not entirely true, the same holds for the countries we'd typically be afraid to travel in. Most everybody in most countries lives a quiet, peaceful, *normal* life. There are places in the U.S. generally regarded as unsafe; likewise in other countries. But a little common sense and paying attention can reduce one's risk of harm many-fold.

✓ Increased Risk & Severity

What *is* significantly different abroad, though, is the range of challenges confronting the victim of misfortune. The distractions and unfamiliarity of the traveler throw him/her off balance, increasing the likelihood of problems in the first place. Then, language barriers, varying laws and customs, different standards of care—all of these come into play, compounding the impact of any problem faced in a foreign land. As a result, even small problems can quickly become big problems.

✓ One Worldwide Number

Your Kwikpoint card has on it the one phone number for you to call (collect) from anywhere in the world, at any time, day or night. Also on that card, right next to the phone number is a list of the things you'll need to be ready to tell the emergency operator.

Whatever your need—medical, legal, lost or stolen property, or any other bona fide emergency—these are the people who are trained and ready to assist you. They are not magicians, and we can't guarantee that you'll be spared all pain or inconvenience if something bad happens. But we know from experience that they—and we!—will actively and diligently seek to help you in whatever way is possible.

✓ Basic Crime Survival Training

It's possible you may not be able to score 100 if we quizzed you on this tomorrow. But it's our hope that you will be listening well enough for the next few minutes so that *if*, heaven forbid, you become a victim of crime, your psyche will have this session to draw from and you will be able to minimize any consequences.

- **General guidelines**

- Do not try to intimidate or be aggressive. Instead, maintain a polite, open, and confident demeanor.

- Keep your hands visible; move slowly with precise gestures.
- Respond to requests, but do not offer more than what is requested.
- Keep your emotions in check.
- **Robbery and Armed Assault** – If you are directly threatened by an armed person:
 - Never take physical risks for property or money
 - Remain calm and maintain personal composure.
 - Do not be aggressive. Do not try to escape.
 - Do what you are told within reason.
- **Shootings and Crossfire** – If you hear gunfire when on foot:
 - Take immediate cover on the ground
 - Determine the direction of the firing. Are you and/or your companions a target of the firing?
 - If possible, improve your protection by crawling into a ditch/hole, behind a wall, or inside a building.
 - Leave the scene only after the firing has ceased.
- If you hear gunfire while in a building:
 - Keep clear of windows and doors.
 - Take shelter in the best-protected areas such as the bathroom, basement, etc.
- **Bombings** – If you are caught in the midst of a shelling:
 - Take immediate cover on the ground. Lie flat, face down.
 - Protect your eardrums by covering your ears with your hands and keeping your mouth open slightly to balance the pressure from the blasts.
 - If possible, improve your protection from fragmentation of the shells by taking cover in a ditch/hole or the ground floor of a building with solid concrete walls. Never take shelter under a vehicle.
 - Leave the area only after the shelling has ceased.
- **Civil Disturbances and Natural Disasters** – If you hear sirens, explosions, or gunfire:
 - Stay where you are if at all possible
 - Immediately take cover under a heavy object such as a table or stand in an interior doorway.
 - Keep curtains closed and stay away from windows or open areas.
 - Use good judgment in determining when it is safe again to move.

- **Kidnapping and Hostage Situations – Basic Rules for Survival:**
 - Be cautious of heroics. This may lead to death at the hands of a nervous or inexperienced member of the kidnapping group.
 - Remain calm, composed, and cooperative.
 - Focus on pleasant scenes. Recall favorite Psalms, other Bible passages, or prayers. You might try to recollect the plots of books or movies. Mental activity is extremely important.
 - Build rapport by drawing attention to your own and others' human needs like hunger and thirst.
 - Be reluctant to give up your identification or clothes. Loss of such personal belongings is demoralizing. Hostage takers can use them for bargaining. Try not to accept an exchange of clothes with hostage takers. This could put you in greater danger in case of an attempted rescue.
 - Be conscious of your body language as well as your speech. Do not say or do anything to arouse the hostility or suspicion of your captors.
 - Encourage your captors to let authorities know of your whereabouts and condition.
 - If several people are kidnapped together, consider appointing one person to speak on behalf of the group with the captors.

✓ We'll *Never* Forget You!

If you do get into a bind, you'll need to be patient. You may want to pray. And you'll need to remember that we're doing everything we can to get you taken care of.

When Joe Lubisich was in the Tijuana jail after the accident that took him there, he began to assume, during some long and lonely hours, that we'd just headed back to the states without him. He had no way of knowing we spent every moment of those nine long hours seeking his freedom, chasing all over town in the wee hours looking for ATM's, withdrawing cash to tap the limit of all the cards we could find, trying to raise the "bail" needed for his release.

There may be times when your rescuers seem slow in arriving, but if we know you're in trouble, we'll stop at nothing to get you home safe!

Forms & Docs

[In the live presentation] We'll spend a few minutes introducing the documents listed here, helping you to understand why they're important and how to properly complete them. We don't want you to turn them in now, though. You need to take them with you, read them carefully, call if you have any questions, and *then* turn them in.

- ✓ Participation Agreement
- ✓ Health Care Agent Designation
- ✓ Travel Safety Manual

Conclusion

At the beginning of this session [that is, in the live presentation, though not in the print version] we asked how many of you remember reading the exploits of Paddington Bear with your parents. Those who know Paddington will recall that in every chapter he precipitates a crisis, and by the end of the chapter he has miraculously escaped. That is our wish for you as you travel...

May all your disasters
turn out like Paddington's!

Post Script to the Professional

This chapter is titled “A Risk Management Checklist for Student Safety Abroad,” even though you’ve not seen checkboxes to tick off along the way. But we trust you’ve seen an idea, or a few, that can help make your comprehensive student travel program even more robust.

What you’ve just read is a work in progress, constantly being shaped, honed, refined. Please use it as a springboard to collaborate with your colleagues. Invest in the kind of preparation suggested above. And give your students an orientation experience that will seal in their minds two things:

- How much they can do to keep themselves safe; and
- How very much we will try to do to assist them in need.

We’ll never prevent all calamity, but certainly our advance efforts can lean luck in their favor. And by growing in our readiness to respond to the needs that do arise, we *can* enhance our ability to “Bring ‘em Home Safe.”

**STUDY ABROAD, A CHECKLIST FOR STUDENT SAFETY—
POWER POINT SLIDES FROM THE LIVE WEBSEMINAR PRESENTATION**

Slide 1

Bring 'em Home Safe
A Checklist for Student Safety

NCHERM Presentation
April 19, 2001
Troy Harris
*Director of Risk Management
Westmont College, Santa Barbara CA*

Slide 2

What it Takes

- ✓ Collaboration
- ✓ Preparation
- ✓ Orientation

- ✓ "There & Back"

Slide 3

Collaboration

- ✓ Off-Campus Programs Office
- ✓ Campus Health Center
- ✓ Anthropology Department
 - ✓ Traveling Faculty
 - Lunch to Listen
- ✓ Legal Counsel
- ✓ Risk Management

Slide 4

Preparation

- ✓ Documentation
 - *Waiver, Medical*
- ✓ Insurance
 - *Health, Auto, Comp, K&R*
- ✓ International Assistance Provider
- ✓ Advisor Network

Slide 5

Orientation

- ✓ Students & Faculty
 - ✓ Focused Time
- ✓ Careful Topic Selection
 - *Cultural, Medical, Safety*
- ✓ Engaging Presentation
 - *Variety, Pacing, Interest*
- ✓ Follow-up

Slide 6

Credit Where Due

- ✓ Pam Rypkema, *United Educators*
- ✓ Debbie Russell, *Aon Risk Services*
- ✓ John Watson, *Pepperdine University*
 - ✓ Dick Hildreth, *Corporate Risk International*
- ✓ Admin & Faculty, *Westmont College*

Slide 7

Now we'll go ...

There & Back

(Sample Safety Briefing)

Slide 8

There and Back
In One Piece



Slide 9

(Technical Aside)

- ✓ "Chiller" Font
- ✓ Animation Effects
- ✓ Graphics
- ✓ Varying Background Colors

Slide 10

Zoomin'

- ✓ Intro
- ✓ Resources
- ✓ Health Fees
- ✓ Preparation
- ✓ En Route
- ✓ Upon Arrival
- ✓ On Site
- ✓ Emergency
- ✓ Forms & Documents
- ✓ Conclusion

Slide 11


Intro

- ✓ Not Scare — Prepare
- ✓ Westmont Stories

Slide 12

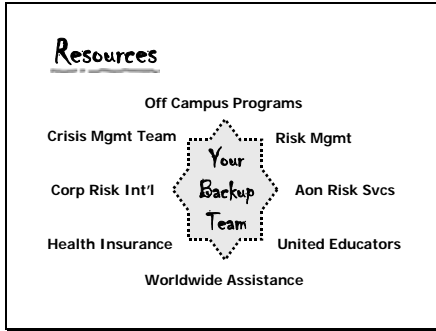
Intro

Westmont Stories



The slide contains four icons arranged in a 2x2 grid. Top-left: A person hugging another person. Top-right: A perspective view of a hallway with a door at the end. Bottom-left: A house with a roof and a chimney. Bottom-right: A car crash with flames and debris.

Slide 13



Slide 14

Resources

- ✓ Embassies & Consulates
 - *No Magic Bullets*
 - *Handout: What They Can & Can't Do For You*

Slide 15

Health Fee

- ✓ Insurances
- ✓ Orientation
- ✓ Pouches & Kwikpoints
 - www.kwikpoint.com
- ✓ Program Admin
- ✓ NOT Your Property!

Slide 16

Health Fee

- ✓ On Campus = Ins + Svcs
- ✓ Off Campus = Ins + Svcs
 - ✓ Parental Coverage?
 - USC Study: 2 of 32

Slide 17

Preparation

- ✓ Wallet: Sanitize It; Fake It
- ✓ Luggage: Distinguish It
- ✓ Documentation: Copy It
- ✓ Prescription?: Pack It

Slide 18

En Route

- ✓ The Scams
 - Airport Shuttle
 - Fanny Pack
 - Hooks in the Head
 - Late Boarders
- ✓ They're Professionals

Slide 19

En Gard

- ✓ Scanner Buddy
- ✓ Baggage Claim Race
- ✓ Farthest Stall

- ✓ Don't Risk Your Life
- *Your pocket change could be a year's wages!*

Slide 20

Upon Arrival

- ✓ Taxis
- *eg, prep payment while in car*
- ✓ Register at Consulate
- ✓ Phone Home ... Collect
- ✓ "Watch Out For Pickpockets"

Slide 21

On Site

- ✓ Attire
- *Dress as a Safety Issue*
- *American Identity*
- *Modesty*
- ✓ Where Are You?
- *Avoid American Icons*
- *Buddy System*

Slide 22

On Site

- ✓ Sexual Harassment
 - *Report Immediately*
 - ✓ Vehicles
 - *No Can Do*
- ✓ Rules, Rules, Rules!
 - *Your absence or injury can wreak havoc on your whole group*

Slide 23

Emergency

- ✓ The US is a Dangerous Place
- ✓ Increased Risk & Severity
- ✓ Explain "Insurance"

Slide 24

Emergency

- ✓ One Worldwide Number for
 - *Medical*
 - *Legal*
 - *Stolen Property*
- ✓ We'll *Never* Forget You!

Slide 25

Forms & Docs

- ✓ Participation Agreement
- ✓ Health Care Agent
- ✓ Travel Safety Manual
- ✓ Others...

Slide 26

Conclusion

✓ May all your disasters
turn out like Paddington's!

Slide 27

There & Back

PS ...
Imitate Freely!
(Acknowledgment Appreciated)

MEET THIS CHAPTER'S AUTHOR

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Brief Bio

Assignment

Troy Harris, C.P.M., is Director of Procurement, Auxiliary Services & Risk Management. He also serves as the college's Contract Administrator. Reporting to Ron Cronk, VP for Admin & Finance, Troy provides direction and resource support for the managers of the Bookstore and the Document Services department (Post Office and Reprographics). Although listed last in his title, risk management has consumed most of Troy's time and attention for the last three years, particularly in the area of student travel programs

The User-Friendly Bid

Troy is the author of *The User-Friendly Bid*, a treatise presented at the Washington DC International Conference of the National Association of Purchasing Management, and subsequently at seminars and institutes of CAPPO, NIGP and WACUBO in Oregon, Colorado and California. Its theme is that bids can, and must, be well-organized, attractively presented and, especially, made as easy as possible -- for both the bidder and the buyer.

Resume

Troy is a Westmont alum, Class of '74, with a BA in Sociology. He started a legal support services business in 1974 and sold it off in 1985, then served in county government for another eleven years. He worked in the Superior Court Clerk's office as a Records Management Supervisor, then in the County Administrator's office as the County's Information Systems Strategic Plan Coordinator, and finally in the General Services department as Purchasing Manager, where he was recognized as the County's 1996 Manager of the Year. While there he also earned the Certified Purchasing Manager credential from the National Association of Purchasing Management. He came to his current role at Westmont in 1997.