

**LEGAL ISSUES AFFECTING EVENT MANAGEMENT  
AT COLLEGES AND UNIVERSITIES**

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The term "event management" encompasses a wide variety of activities associated with universities and colleges. This outline is designed to serve as a checklist for varied legal issues which arise from such activities. Given the breadth and depth of the issues involved in event management, it is imperative that policies and procedures receive careful review by legal counsel - preferably before implementation.

Events at colleges and universities occur in the context of 1) the institution's mission, 2) existing written and unwritten institutional policies and procedures, 3) institutional resources, 4) analysis of potential benefits balanced with potential risks. New situations often test the limits of an institution's policies and procedures.

**I. Areas of Potential Legal Duty and Liability**

A. Duties arising from relationships. The law recognizes certain duties, under tort law, which arise from the nature of the relationship between individuals and institutions. If the duty created by the relationship is breached, the injured party may be awarded damages in a lawsuit. For institutions of higher education (IHE), persons who use institutional facilities can be classified generally in the following groups:

1. Students
2. Employees
3. Volunteers
4. Tenants - including students, faculty and other employees, conference attenders or others who are tenants in the institution's premises.
5. Authorized visitors
6. Trespassers

B. Legal classifications of relationships and resulting liability

Of course, an individual's legal classification determines the risk which s/he presents to an IHE as the

institution and the individual interact with one another. Courts consider whether the relationship between the injured person and the owner and/or controller or proprietor of property is one in which: a) the injured party is allowed on the premises, but the sole benefit of his/her presence is to the injured person, who is thus a licensee and liability is for wilful or wanton injury; b) the relationship mutually benefits the parties, in which case the injured party is an invitee and the duty of the owner/proprietor is higher--to exercise ordinary care; c) the injured person is not invited to come onto the owner's or proprietor's property and his/her presence does not benefit the owner/proprietor, rather s/he is a trespasser, in which case the owner or proprietor owes no duty to the injured party except to refrain from wilful or wanton wrongdoing. Examples of these classifications as bases for legal responsibility follow:

1. Duty to protect.
  - a. From foreseeable acts of third parties on university and college property. Furek v. University of Delaware, 594 A.2d 506, (Del. S.Ct. 1991). The University owes a student as a business invitee a duty to protect by safeguarding him against foreseeable dangers occurring on University premises, including the duty to protect him from injuries which the student received during fraternity hazing which occurred despite university statements that it stop. But see, Nola v. University of Southern California, 20 Cal.Rptr.2d 97 (1993 Cal.App.) for a determination of no liability for the University in a case of a rape on campus by a random attacker.
  - b. And a duty to provide a safe environment. In Walker v. Daniels, 407 S.E.2d 70 (Ga.App. 1991) a student drowned while participating in a recreational swimming event at Fort Valley State College, a Georgia public institution. The court held that, absent sovereign immunity from tort liability, a college or university has a duty to exercise ordinary and reasonable care for a student's safety. In such a case, the student is an invitee. See Board of Regents v. Daniels, 430 S.E.2d 45 (Ga.App. 1993) for a brief discussion of sovereign immunity. (Reversed on other grounds)
2. Duty to provide adequate security. See Mullins v. Pine Manor College, 449 N.E.2d 331 (Mass. 1983); Delaney v. University of Houston, 835 S.W.2d 56 (S.Ct.Tex. 1992); Green v. Dormitory Authority of

- the State of New York, 173 A.D.2d 1, 577 N.Y.S. 2d 675 (1991). University has a duty even when dormitory is leased from another entity. See Vangeli v. Schneider, 598 N.Y.S.2d 837 (1993) for adequate security measures.
3. Duty to warn. Peterson v. San Francisco Community College District, 685 P.2d 1193 (Cal. 1984). Finding of breach of duty to warn student. See also, Pitre v. Louisiana Tech University, 596 So.2d 1324 (La.App.2Cir. 1991) in which the court found a duty to warn and protect students against known specific danger represented by parking lot light poles when sledding in a particular location, particularly given the housing office's encouragement of sledding on campus. But see Nola M. v. University of Southern California, supra. See also, Chapman v. City of Houston and the University of Houston, 839 S.W.2d 95 (Tex.App.-Houston[14th Dist.] 1992) for a suit filed by a student who was injured in a fall from a bridge. The state university was immune from liability and there was no continuing obligation of state to post signs warning of alleged design defect in bridge.
  4. Employees. State Workers' Compensation Law provides for compensation to employees of their families when employees are injured or killed in the course of their employment. The definition of what falls within the course of one's employment can be varied and is dependent upon state law.
  5. Volunteers who are invited onto college and university campuses have a relationship of mutual benefit to the college and university. The standard of care, therefore, is higher than it could be for a visitor allowed on institutional property for the visitor's benefit.
  6. Tenants. For colleges and universities with residence halls, courts have recognized a duty and standard of care which is tantamount or similar to the duty owed by landlords to tenants.
  7. Authorized visitors. See Burch v. University of Kansas, 756 P.2d 431 (Kan.1988) University breached its duty to provide a safe environment because a grandmother fell in an unlighted stairway of a university residence hall while visiting her granddaughter, a resident. See also, Kline v. Ohio University, 610 N.E.2d 1205 (Ohio Ct.Cl. 1990) which arose from the electrocution death of a subcontractor's employee while working on asbestos removal for the University. The court determined

him to be an "invitee" and a "frequenter" (and Ohio statutory status) to whom was owed a duty to provide safe premises or to warn of known or should have known dangers--which was breached.

In Doelker v. Ohio State University, 573 N.E.2d 809 (Ohio Ct.Cl. 1990) the court ruled that a University consultant, with a relationship as an independent contractor, was a "licensee", rather than an invitee, because, at the time that he walked into a large pane of glass immediately to the right of a door to a campus building, he was not on campus because of his business relationship with the University. Rather, he was there to visit persons temporarily residing on the campus. The court held that he had not been expressly invited on the campus at that time and the University did not derive any benefit from his presence on the campus. The University's standard of care for the relationship with Dr. Doelker would have been higher if he had been there as a business "invitee." And a higher standard of care presents the opportunity for a plaintiff to have a more persuasive argument for a breach of duty and recompense for injury suffered. In this case the court determined that the facts were such that a higher standard of care would not have been helpful because of the plaintiff's negligence.

8. Trespassers. See Kline above for discussion of standard of care for trespassers.

C. Contractual Relationships

1. Groups activities, e.g. summer camps, symposia, workshops
2. Activities for individuals, e.g. music and art lessons
3. Relationships with adults and minors
  - a. Minors as college students and as non-student participants in various, approved activities.
4. **CAVEAT.** Any written document between representatives of the institution and other institutions, groups or individuals which describes promised services are contracts, irrespective of the form or the terminology used to describe the documents, e.g. memorandum of agreement, reservation form, agreement, letter of reservation. See **Appendix A** to this outline for a list of considerations for contract documents.

- D. Illegal Discrimination--Federal and State Laws
1. Whether it is your institutions event or another individual's or organization's event using university facilities, it is wise to explicitly (preferably in writing) remind everyone of the responsibility to adhere to applicable federal and state laws which prohibit illegal discrimination.
  2. Americans with Disabilities Act (ADA), 42 U.S.C. sec. 12101 et seq. and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. sec. 794. Relative to ADA requirements, review events critically from the perspective of regulatory requirements. For example, see 34 C.F.R. sec. 104.42, et seq. for regulations pertaining to programs and activities which receive federal financial assistance. There are, of course, other ADA regulations which may be applicable to university/college events.
  3. **CAVEAT.** If you are sponsoring international educational programs, there are ADA implications for disabled students and other participants, e.g. the admission and recruitment and general treatment sections of 34 C.F.R. secs. 104.42 and 104.43. Likewise, determine and remember the implications of other civil rights statutes.

II. What is a college or university sponsored event?

- A. College or university sponsored or authorized events. Which institutional policies and/or procedures give definitions for sponsored events? They may be found in several unrelated policies or procedures. Examples of sponsored or authorized activities follow:
1. Course-related activities
    - a. required for credit
    - b. recommended, but not required for credit
  2. Sports
    - a. Athletics department
    - b. Intramural sports
  3. Authorized Student Organizations
  4. Other events, e.g. speakers, symposia, workshops.
  5. Unauthorized events. What is the institutions's duty to participants in unauthorized activities which are held on the institutions's campus?
- B. Off-campus events
1. Institutionally sponsored or authorized events:
    - a. Off-campus programs for minors, e.g. Advanced Placement classes held in local high schools

or at other off-campus sites, especially if the sites are under university or college control.

- b. International Programs--remember, if you publicize and represent a program as your program or an a shared program abroad, then it is your program for the purpose of determining liability.
2. Events sponsored by or affiliated with university or college recognized groups, e.g. the mountaineering group climbs Mount Everest.

### III. Institutional Policies

A. What are your policies and are they easily accessible to institutional representative so that they can be given to members of the university/college community and to contracting parties prior to the scheduling of events?

B. Facilities use and events policies.  
Has your institution focused on facilities usage policies, on specific on-campus and off-campus events or both types of policies?

1. Public College/University.
  - a. What statutory requirement must be met for rangier of state facilities by non-state entities? Must your institution promulgate state regulations for usage of its facilities?
  - b. What constraints exist on the usage of taxpayer's funds to contract for use of non-state facilities?
2. Private Institutions. Events held on campus may inadvertently endanger tax exempt status, e.g. fundraising political campaign activities.
3. Institutional mission. Is the event compatible with the institution's mission?
4. Who may sponsor events? Many institutions require that institutional departments or college/university recognized organizations must sponsor events; individuals may not sponsor events. Also there should be a formal sign-off process so that the sponsorship is documented with a written statement of commitment to the responsibility of sponsorship.
5. First amendment issues. Consider the free speech implications of a controversial event before the event occurs, if possible.
6. Potential limits on use of buildings, e.g. residence halls and other buildings may have unexpected limits on rangier pursuant to the

provisions of their construction financing documents. This is a particularly important issue as more and more colleges and universities allow conferences and similar activities to occur on their campuses.

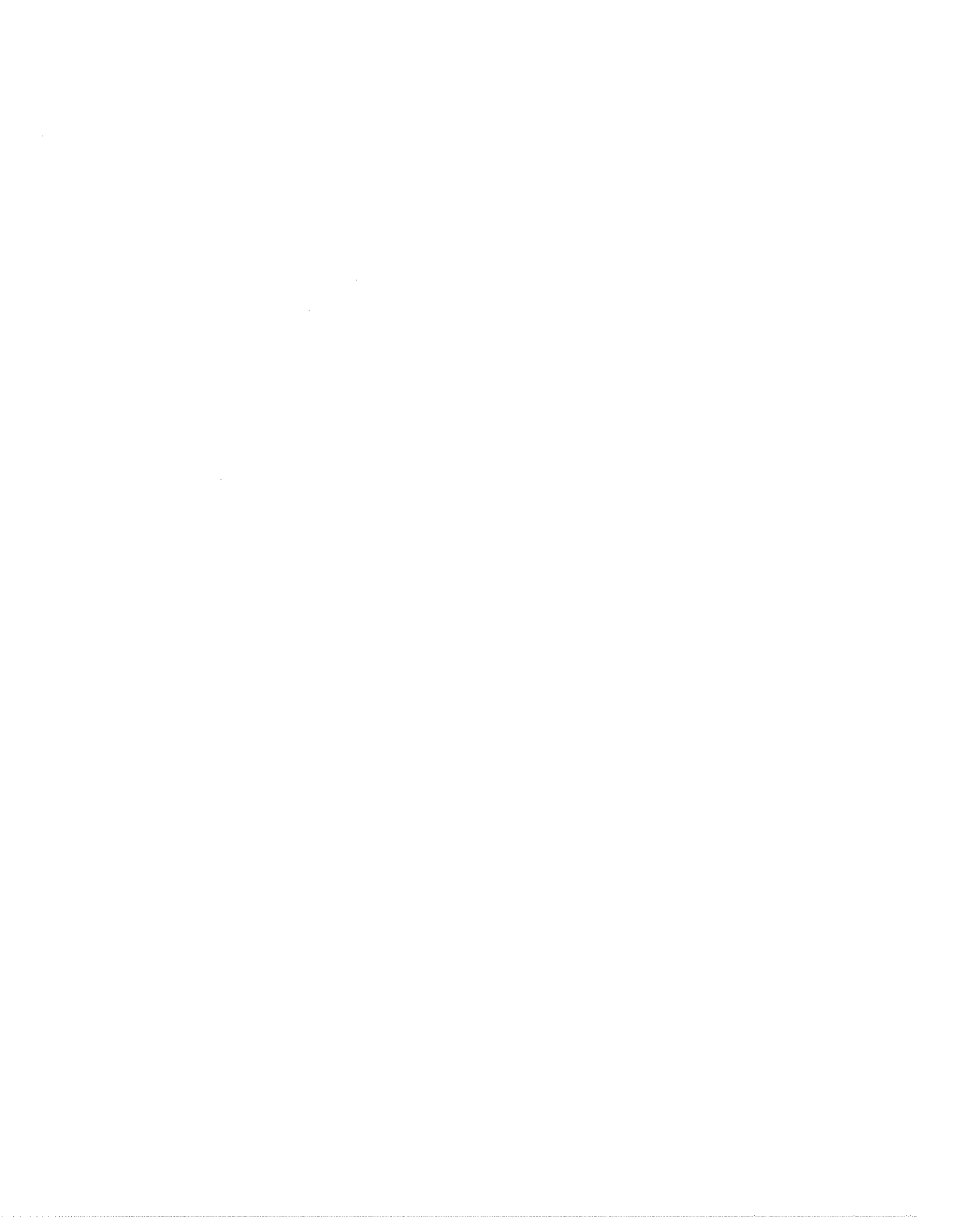
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# **APPENDIX A**



Appendix A

**CONTRACT PROVISIONS FOR USAGE OF UNIVERSITY OR COLLEGE FACILITIES**

As you review your standard facilities use agreement, consider the following issues as they pertain to your circumstances. This is also a helpful checklist of considerations when you are presented with a agreement for your institution's use of a facility which is not owned by your institution:

- **Parties.** Which organizations or individuals are entering into the agreement? This seems to be a straightforward issue, but sometimes the entity which is the contracting party is different from the party with whom your institution has been negotiating. Full names and addresses of parties and the authorized signatories are essential.
- **Term.** How long does the relationship last and what is the schedule for functions?
- **Use.** What are the limits of use--from the perspectives of location and activities?
- **Consideration/Use fee.** How much are you charging, if anything, for use of the facility. What are the payment arrangements, e.g. is there a security fee and what does it encompass?
- **Applicable institutional policies and procedures.** Clearly state policies and procedures. Give them copies of required policies and procedures and require adherence under the provisions of the agreement.
- **Broadcasts.** If the event is to be broadcast, articulate the limits. How may the institution's name be used in any such broadcast?
- **User's Staff.** State who may do what on the institution's property. Raise the issue of volunteers and state the limit of their role during the event.
- **Concessions.** If this is an issue, take care to comply with any territorial limits in existing contract with vendors, which may have exclusive rights (under an existing contract) to be the exclusive provider of a particular service, e.g. food service.
- **Food and Liquor.** If the institution is providing these services, proceed with appropriate care--including a reminder of state requirements concerning the serving of liquor.
- **Advertising.** Protect the institution's name with clearly articulated restrictions on use by entities other than your institution.

- **Box Office.** Minimize creative accounting with an appropriate procedure for tallying and reporting revenues.
- **Alterations, decorations, and construction damage.** Some people forget that what is thine is not theirs. Require prior approval for everything involving physical changes to institutional facilities, e.g. be certain what those filmmakers mean when they say that they are going to change the administration building "a little bit."
- **Use of institutional personal property equipment.** What, if anything, may the contracting party use?
- **Use of services of institutional personnel,** e.g. security services. Who decides what is needed?
- **Other simultaneous users.** You may have multiple simultaneous events; the contracting parties should be told that they may be sharing the facility with others.
- **Assignment of the agreement.** Do not allow assignment of the agreement without your consent.
- **Parking.** Where, when, how much space, and how much does it cost?
- **Insurance.** List limits of required coverage and the certification required.
- **Emergency medical services.** Who provides what to whom?
- **Access by institutional representatives to events for inspection or to otherwise operate and maintain facilities.**
- **Legal nature of the relationship.** Check your state law.
- **Choice of law.** Select the law of the state in which the primary institutional office (for business purposes) is located.
- **Termination and remedies for breach of the agreement.** What is an incident of default, as determined by the institution?
- **Force Majeure/Acts of God.**
- **Indemnification of the institution by the contracting party.**
- **No waiver of contract provisions without prior written consent from the parties.**
- **Nondiscrimination Provision.** General nondiscrimination provisions and the contractor's obligations under the Americans with Disabilities Act need to be clarified, e.g. the contractor provides interpreters for its programs.