

SYRACUSE UNIVERSITY
RISK MANAGEMENT DEPARTMENT
VOLUNTEER LIABILITY GUIDANCE DOCUMENT A

The following information is provided for Deans, Directors and Department Heads as guidance where institutional and/or individual employee/volunteer liability or insurance issues may arise under the following circumstances:

- 1.) An SU employee volunteers his/her "personal" time to perform services to an outside agency; or
- 2.) An SU employee is asked to perform services to an outside agency within the scope of his/her employment.

Defining whether an employee is performing an activity as part of his/her job duties and within the scope of employment, or outside them, is not always easy. A "facts and circumstances" test needs to be applied where all of the relevant factors will be considered in this determination. Under situation #1, it is assumed that the employee is acting outside of his/her job duties and scope of employment at the University. This could be because he/she is performing the service for another organization (e.g. Red Cross) or because he/she, under all of the relevant facts and circumstances, was **not** asked or directed, explicitly or implicitly, to perform the service at issue for or on behalf of the University.

In such a situation, the University will not accept liability. Furthermore, the employee would not be entitled to any coverage under the University's liability insurance policies or employee indemnification policy. Those policies cover only things occurring within the scope of employment (including those things an employee is asked by the University to perform for another entity).

Of course, the SU employee may have protection under the liability insurance policy or employee/volunteer indemnification policy, or both, of the volunteer agency (e.g. Red Cross) for which he/she is performing the services as a volunteer. He/she may also have the benefit of either the New York or the federal volunteer protection or "good samaritan" acts or laws and, therefore, be exempt from liability except for gross negligence, intentional misconduct, criminal acts, etc. If none of those apply, then the employee may be responsible for the results of his/her acts or omissions and for providing any insurance coverage for claims and liability. The employee may have coverage under his/her homeowner's or renter's insurance and he/she should confirm this with his/her insurance agent or insurance company.

Under situation #2, the employee would be covered under the University's employee indemnification policy (see below) as well as applicable University liability insurance policies since he/she would be acting within the scope of his/her employment.

Given the extent of these liabilities and associated circumstances and the University's existing insurance coverages and employee indemnification policy, Risk Management does not recommend that any other "special insurance policies" are required for situation #2 where the employee is acting within the scope of his/her employment or job duties. As to the situation #1,

where the employee is acting outside the scope of this/her job duties and scope of employment, the University's position is that it should not be providing coverage for an employee's acts or omissions falling outside his/her job duties and scope of employment. For that reason, the University recommends that the employee consult with his/her insurance company, insurance agent or attorney about exposure to liability and appropriate insurance protection.

This guidance does not address:

- 1.) The liability or insurance issues under the circumstances where a person "performs volunteer service for the University". (e.g. SU Rape Crisis Center Volunteer Advocates).
- 2.) The "procedures" by which an employee requests to leave the University temporarily to volunteer his/her services as part of disaster relief or the war on terrorism. Refer to the University's Volunteer Leave Policy on the Human Resources web site at: <http://humanresources.syr.edu/>

Questions regarding employee or volunteer liability or insurance should be addressed to Michael DeHart at ext. 2804, or Linda Egerbrecht at ext. 5108.