

THE UNIVERSITY OF ALABAMA IN HUNTSVILLE
GENERAL LIABILITY PROTECTION PLAN
ADMINISTRATIVE PROCEDURES

I. **BACKGROUND.** On September 15, 1980, The Board of Trustees of The University of Alabama formally adopted a Comprehensive General Liability Plan. This Plan provides protection for University employees against liability arising out of their employment. The Resolution of the Board states the purpose and means of implementing the Plan at the campus and Systems levels, and it requires the establishment and use of certain procedures. It is reprinted in full as Exhibit A attached hereto.

II. **PROCEDURE.** In order to implement the Comprehensive General Liability (CGL) Plan at this campus, the procedures set forth below shall be in effect.

A. *Claims Management Program*

1. Incident/Accident Reporting.

a. A report shall be made of all incidents/accidents involving actual or potential injury to person or property and the possibility of a claim for damages against the University and/or an employee. To that end, any University employee who is involved in or who observes or otherwise becomes aware of such an incident/accident, whether involving personal injury or property damage, or both, shall immediately notify the Office of Public Safety and any other cognizant University office. The employee shall preserve any evidence pertaining to the incident/accident and deliver it to the Office of Public Safety, and he/she shall further assist and cooperate with institutional personnel in all subsequent investigative activities.

b. The Office of Public Safety shall, when notified about an incident/accident, promptly investigate the same to the extent necessary to prepare a complete report reciting the relevant facts and circumstances, names of witnesses, etc. Forms jointly approved by such Office and the University Counsel shall be used for this purpose. Any pertinent evidence shall be collected and retained, if possible, for future use. As soon as the report is completed, a copy shall be forwarded to the University Counsel and any other appropriate addressees.

2. Incident/Accident Investigation. When the University Counsel receives a report or other notice of an incident/accident, he/she shall, if necessary or appropriate, further investigate the pertinent facts and circumstances. The Office of Public Safety and/or any other office involved shall be available to assist in this investigation. All information, documents, and other such evidence collected shall be maintained in a case file in the Office of University Counsel. After the investigation is completed, the University Counsel shall determine whether there exists a potential of loss to the University or any employee. If none is found, no further claims management action need be taken in regard to the matter. If the loss potential is insubstantial in terms of either amount or likelihood of liability, the matter may be handled by the University Counsel without the necessity for further claims processing under these procedures. If the loss potential is more than insubstantial, the University Counsel shall prepare a legal assessment of the incident/accident, including an estimation of the level of potential loss and the anticipated cost of defending against any resulting claim; shall determine whether or not the claim would be within the coverage of the CGL Plan; and shall develop recommendations concerning the handling thereof.

3. Claims Processing. Upon a determination that an incident/accident presents a more than insubstantial loss potential, the University Counsel shall notify the vice president or other institutional officer whose area of responsibility is most pertinent to the incident/accident and the University personnel involved. The Vice President for Finance and Administration, as the institution's chief financial officer, shall also be notified. The University Counsel shall at the same time prepare and submit to the Chancellor or his designee a claims report that shall include a brief description of the incident/accident and other relevant information, a legal assessment of the potential claim, and a request for reservation of an amount in the Trust Fund to cover the claim and associated costs. If the loss potential exceeds the CGL Plan coverage limits, the University Counsel shall assure that any excess insurance carrier is also notified. The subsequent discovery of new facts, the running of the applicable statute of limitations, or the occurrence of any other developments significantly affecting the claims and the fund reservation shall be brought to the attention of the foregoing officials.

4. Claims Settlement/Defense.

a. When there is an indication that a claimant intends to assert his or her claim against the University, management of the response shall be the responsibility of the University Counsel. The particular response to a claim, whether in the form of informal adjustment and settlement efforts or defense against a lawsuit, shall be determined at the outset and thereafter by consultation between the University Counsel and the responsible vice president. The University Counsel's claims settlement/defense responsibility may be carried out personally or through employment of outside counsel, subject to any policies of the Board of Trustees or the President.

b. Receipt by any employee of a summons and complaint involving the University or the employee in his/her role as employee shall be immediately reported to the University Counsel.

c. If a claim that is the basis of a lawsuit has not already been investigated and processed, as provided above, the University Counsel shall proceed with these tasks immediately upon initiation of the litigation. Except in rare cases, it will be assumed that such a claim does involve a more than insubstantial loss potential, and accordingly a claims report shall be prepared and forwarded to the Chancellor or designee. In the event a fund reservation has already been made, it should be reviewed for adequacy at the time a lawsuit is filed and at appropriate times thereafter.

d. If payments are required from the Trust Fund as the result of a settlement achieved with the claimant or the rendering of a judgment in favor of the claimant and the exhaustion of any appeals, the University Counsel shall notify the Chancellor and request that certification be made to the Trust Fund Trustee for payment. All checks for payment of a claim or judgment, attorneys' fees, court costs, etc. shall be sent to the University Counsel for delivery to the appropriate party. The University Counsel shall obtain releases at the time of payment, where appropriate.

5. Confidentiality of Information. All reports, documents, photographs, and other evidence shall be delivered to the University Counsel to be a part of his/her work product in connection with the defense against the anticipated claim. All of these materials and the information therein shall be regarded as confidential by University personnel, and none of it shall

be released to third parties except upon the specific written authorization of the University Counsel.

6. Students. Though the focus of these administrative procedures is on employee duties and benefits, to the extent that a student becomes aware of an incident/accident as described in II.A.1.a above, he/she shall be encouraged to report and cooperate in the investigation of such incident/accident in the same manner as is stated above with respect to employees.

B. *Risk Management Program*

1. General. As an essential part of the comprehensive general liability protection plan for this campus, a program for risk management shall be developed and implemented. This program shall involve a preventive approach to claims and losses and shall require that risks of liability facing the University and its employees be identified, evaluated, and then managed through minimization, elimination, avoidance, transferal, or some other satisfactory means of resolution. To that end, the following activities are recognized as appropriate elements of a risk management program:

- Analysis of reported incidents, through maintenance and use of a historical and statistical data base, and survey of campus operations activities, facilities, etc. so as to identify significant risks of liability exposure for the University and its employees.
- Monitoring and tracking claims generated by incidents and the resolution thereof.
- Development of safety and accident-prevention programs, employee training programs, improved policies and procedures, etc. as a means of reducing the likelihood and severity of loss from known risks.
- Development of recommendations concerning feasible ways of minimizing the financial impact of such risks.
- Provision of information and advice to all levels of management within the University concerning the objectives and operation of the institution's comprehensive general liability protection program.

2. Risk Management Committee. A Risk Management Committee shall be created with the following membership: the Assistant Vice President, Finance and Business Services (as

chair); the Assistant Vice President, Facilities and Operations; the Associate Vice President, Human Resources; the Director, Environmental Safety and Health; the University Counsel/Risk Manager; and one appointee each of the Vice President for Student Affairs, the Provost and Executive Vice President for Academic Affairs, and the Vice President for Research. The Committee shall carry out the risk management functions identified above and any others required by the Board of Trustees, and it shall report to the President through the Vice President for Finance and Administration.

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