

GUIDELINES FOR MINIMIZING RISKS FOR POTENTIALLY HAZARDOUS STUDENT PROGRAMS AND ACTIVITIES FAM 859.45

Purpose

The purpose of this document is to provide background and general guidance for faculty and staff in relation to potentially hazardous student activities. Such activities are not limited to, but generally fall into six broad categories:

- Intramural sports
- Extramural sports
- Leisure recreation programs
- Field trips
- On-campus laboratories, instructional workshops and studios
- Physical Education courses and the Activities portion of the Extension Program such as horseback riding

Summary tables of information applicable to each of these categories are on pages 8 through 10.

Safety

It is the practice at CSUSB to make every reasonable effort to provide safe equipment, conditions, and supervision of all potentially hazardous student activities. Safety precautions should be issued to participants by responsible persons in each potentially hazardous situation. On a continuing basis, the campus Environmental Health and Safety Officer (Building Coordinator) monitors campus facilities in order to recognize hazards to be eliminated. Additionally, every member of the campus community is requested to report any potentially hazardous condition to the appropriate administrator or the campus Environmental Health and Safety Officer.

Review of Potentially Hazardous Student Activities: Prior to the conduct of an activity that falls within the purview of this document, the university official designated in the attached tables as "reviewing official," or his or her designated representative, will insure, inter alia, that

- the appropriate waiver forms have been submitted
- transportation has been arranged pursuant to University procedures
- safety requirements have been met and insurance coverage for the participants is adequate
- health and accident insurance for the participant is adequate
- the participants have been fully informed of all hazardous aspects of the activity

Accident Reporting (for all categories of persons associated with CSUSB programs)

On Campus (normal working hours)

1. Report the accident to the faculty, staff, responsible persons concerned or, in their absence, to the Dean of Students (ext. 7524).
2. In the event of serious injury, notify the Student Health Center (ext. 7218).
3. File an accident report (form E) with the Student Health Center.

On Campus (other than normal working hours)

1. Report the accident to the faculty, staff, or responsible persons concerned.
2. In the event of serious injury, notify the Campus Police (ext. 7557). They will summon medical assistance.
3. File an accident report (form E) with the Student Health Center within 48 hours.

Off Campus

1. Report the accident to the faculty, staff, or responsible persons concerned.
2. In the event of serious injury, seek immediate medical assistance. Notify Campus Police by collect telephone call (909) 880-5165, as soon as practical.
3. File an accident report (form E) with the Student Health Center within 48 hours; and if in a traffic accident, file accident and injury reports with the California Highway Patrol.

Availability of Medical Care, Health and Accident Insurance

Other than individually purchased personal policies, such as the Supplemental Student Health Plan available through the Student Health Center, the following medical care and insurance coverages are in effect depending upon the type and place of campus sponsored activity:

Student Health Center: Services available to the campus community at no charge during posted hours of operation. Service includes routine and emergency medical treatment of the type normally performed in a Physician's office. Additionally, ambulance service to the San Bernardino Community Hospital can be provided if authorized by the Health Center personnel, or after working hours if authorized by the Campus Police. Emergency Room fee is included for matriculated students only. The Student Health Center will also provide minimal emergency care to persons seriously injured on campus but not associated with the university.

Student Travel Insurance: Accident insurance in the amount of \$5,000 automatically covers students enroute and during a university sponsored, scheduled, off-campus event (Extramural sports are excepted). If a state or private vehicle is used for transportation, it must be driven by a college employee for the insurance to be effective. Air travel must be via an airline whose name appears on the Chancellor's approved list (available in the Activities Office).

Trip Insurance: A mandatory \$5,000 accidental death and injury policy must be purchased by the Associated Students (AS) or a sponsoring club, organization, or individual for students engaged in off-campus extramural sports or activities on a trip-by-trip basis, if they do NOT have evidence of a personal policy in that amount.

Worker's Compensation Insurance: Automatically applies to CSUSB employees while performing their duties (student and graduate assistants are included).

Liability and Negligence

Except for "discretionary acts" (responsibility for basic policy decisions), public employees are liable for injury caused by their act or omission in the same way as is a private person. However, a public employee is privileged to request his or her public entity to defend him or her against a claim or action for any injury arising out of an act or omission occurring within the scope of his or her employment. Upon request, the public entity is also obliged to defend the action brought against its employees. The state, however, will pay judgments against an individual, but not pay punitive damages awarded. The only exceptions to this obligation arise in cases where the public entity determines that the act or omission involved was not within the employee's scope of employment, or that it was based upon actual fraud, corruption, or malice, or that the providing of such defense would involve a conflict of interest.

Hazardous activities create special risks for both the college employee (s) who prepare and conduct them and the institution which sponsors them. The potential risk of liability is substantially greater in areas which involve hazardous activities than in normal academic courses. Generally, liability to university employee (s) and the university will be decreased when a written authorization for an activity of a hazardous nature is approved in advance by an individual with authority to approve such activity. This simple practice can be of benefit to both college employee (s) and the institution. It will largely remove any argument that the employee is acting beyond the scope of his or her employment for purposes of receiving workers' compensation pursuant to Labor Code Section 3600 in case of injury to the employee occurring in the course of the activity or of receiving the benefits of defense by the Office of the Attorney General and indemnification by the State under Government Code Sections 995 et seq. And 825 et seq. For any claims or causes of action which arise in the course of the activity. An approval procedure can also serve to alert the employee to matters which should be addressed in structuring an activity which will be as well planned and safe as possible.

Employees responsible for planning an activity of a potentially hazardous nature should fully advise students that participation in any such activity is purely voluntary. If a student is required to take a particular course involving an activity or field trip of a hazardous nature, that student should be advised that participation in the activity or field trip is not a requirement for successful completion of the course. Students should be further advised of the potential hazards which may be encountered during the activity. This will enable students to make an informed choice as to whether they want to participate in the activity.

Any significant liability which might result from directing potentially hazardous student activities would in all probability be based upon the legal concept of "negligence." The several elements which constitute negligent conduct are a duty of due care, a breach of the duty by acting "unreasonably" and resulting injury or financial loss. Thus, in basic terms negligence is explained as unreasonableness.

In all probability the due care required of a state university employee stems in some way from the duty to properly supervise the conduct of the students and to prevent these students from engaging in conduct which exposes them to unreasonable risks.

Any opinion concerning "negligent" conduct must be based upon an estimate of the particular facts of each case. It is not possible prior to the occurrence of a specific situation to accurately formulate guidelines for state college employees to assure that they will avoid "negligent" conduct.

Required Forms

Because of the limited medical care that can be made available by the university, and because some programs are strictly voluntary and involve non-student participants, the university finds it necessary to limit its legal liability in certain instances. Since the

responsibilities of the university vary with regard to students and non-students, separate forms for each classification are appended hereto. These forms are to be executed by each participant in a potentially hazardous activity and maintained on file for one year.

Definitions

In order to clarify, as much as possible, the various circumstances in which potentially hazardous activities might occur, the following definitions as used herein, are included for use with the accompanying summary tables of potentially hazardous student activity.

AS - Associated Students of California State University, San Bernardino

Campus Community - CSUSB students, faculty, and staff. Includes summer session and extension programs

Club Sport - Any group of individuals from CSUSB who have common recreational and/or athletic interests who are chartered by the University. A club sport can be either intramural or extramural. If the club is composed of or competes with persons other than CSUSB students, faculty, and staff, it is extramural and subject to Education Code Sect. 32221.

Damages - Compensation in money imposed by law for loss or injury.

Education Code, Sect. 32221 - A regulation requiring the University to provide accidental death and injury insurance of at least \$5,000 for extramural student athletic competition participants, providing the participants do not have a person policy in that amount. AS pays the premium. Non-students must provide evidence of their own comparable insurance.

Employee - A volunteer or a person on the CSUSB payroll. Includes student and graduate assistants while on an hourly pay status.

Extramural - On or off campus competitive athletic groups or classes involving a person or persons other than CSUSB students, faculty, and staff.

Field Trip - An off-campus trip recommended or required of students as a regularly scheduled part of course work or assignments.

Health Center Services - Generally equivalent to the care a private physician can provide in his office during normal working hours.

Intramural - On campus competitive athletic groups involving only CSUSB students, faculty, and staff.

Liable - Responsible - subject to appropriation or attachment.

Leisure Recreational Programs - On and off campus scheduled non-credit activities sponsored by the University solely for recreational purposes, such as the "Escape" program or a non-credit recreational class in welding.

Matriculated Student - A person who has filed an application, paid the application fee, been admitted, and is enrolled at CSUSB.

Negligence - Conduct which involves an unreasonably great risk of causing injury or financial loss.

Students - Individuals currently enrolled at CSUSB in full, part-time, summer session, or continuing education programs.

Student Travel Insurance - A group accident policy automatically insuring CSUSB students up to a principal sum of \$5,000 while being transported by a college or authorized representative of the college to or from a college address or other place of instruction to the place of a school sponsored activity, and while participating in college sponsored (scheduled) activities that are conducted away from campus. Extramural sports are excluded.

Supplemental Student Health Plan - An optional reimbursement insurance plan available to CSUSB students at a nominal fee.

Tort - A wrongful act for which a civil action will lie, except one involving a breach of contract.

Trip Insurance - A mandatory \$5,000 accidental death and injury policy purchased by the AS or a sponsoring club, organization, or individual on a trip-by-trip basis to satisfy the requirements of the Education Code, Sect. 32221.

Tables of Potentially Hazardous Student Activities

The following data are presented in tabular form, by category of activity, as a ready reference for college employees involved in the direction and supervision of potentially hazardous student activities.

The attached forms are effective and should be used as directed herein.

Forms:	Completed By:
A - Notice of Agreement and Understanding	(students)
B - Notice of Agreement and Understanding And Waiver of	(Non-students)

All Claims

- C - Field Trip Request Form (Instructor File)
- D - Authorization to Consent to Medical Treatment (Minor Students)
- E - Accident Report (All)