

EXPLANATION OF INSURANCE ISSUES SURROUNDING STUDY ABROAD

It is the policy of Pace University that all contracts must be reviewed and approved by University Counsel as to legal terms and reviewed for business terms and signed on behalf of the University by the Treasurer (Dr. Rick Whitfield) or Assistant Treasurer (Ronald Nahum). Assuring that agreements contain adequate indemnification and insurance provisions is part of University Counsel's review. Pace faculty tour leaders should not be negotiating legal terms of agreements. They should provide vendors with Pace's standard rider and advise the vendors to contact University Counsel if they have questions or concerns about rider provisions.

Pace has insurance that protects the University against claims by our students and third parties arising from the University's negligence in connection with University program related travel. The University's insurance does not provide coverage for claims by our students or third parties for personal injury or property damage arising from the negligence of tour operators or vendors retained to provide tour services (e.g., transportation, accommodations, meals). (We may however, be found liable if we negligently hire vendors that we knew or reasonably should know to be unlicensed or dangerous.) The University's insurance also does not provide refund protection in the event of cancellation of all or portions of tours.

Over the years, when tour contracts (for both domestic and international group tours) have been submitted to University Counsel for review, we have routinely sought to have the tour operators present evidence of their insurance coverage. Most of the major operators carry "Travel Agents Professional Liability Insurance" and trip cancellation coverage. Attached herewith is a copy of a fax from Pace's insurance agent describing a typical coverage package available to tour operators. Rick Myers of our insurance consultant, Blades, Macaulay, Crout and Myers, recommends that tour operators should carry between \$3-5 million of coverage. Council Travel, a tour company that has provided travel services for Pace-sponsored trips, maintains \$15 million in general liability insurance and \$5 million in Travel Agent's Professional Liability coverage.

University Counsel will only approve contracts with tour operators who: (i) provide evidence of the necessary insurance coverage and (ii) agree that they will only retain transportation, accommodations and services vendors that are in compliance with all applicable governmental regulations, including with respect to safety, licenses and permits. The goal is to maintain a list of pre-approved tour operators in order to streamline the process while protecting the University, its faculty, staff and students.

When faculty tour leaders plan to have students visit sites that are not open to the general public (to receive special training, perform volunteer or other services, or merely as visitors), they must obtain permission from relevant authorities and assurances that our students and faculty will not be exposed to hazardous conditions. At minimum, the tour leader should obtain a letter from an authorized representative of the site to be visited, confirming the invitation and the purpose of the visit and describing the activities that our students will engage in at the site. The invitation letter should also confirm that our students will not be exposed to hazardous conditions (see sample letter from foreign hospital for 2000 Argentina trip). For example, if we were sending students to paint a ward in a U.S. hospital, we would want to make sure that the hospital confirms in writing that our students and faculty will not be exposed to dangerous conditions

[e.g., lead paint, asbestos, ladders] or communicable diseases. We should require no less from a foreign hospital.

If we would require a United States entity to indemnify Pace in connection with a similar activity, whenever possible we will also seek to obtain a pledge of indemnification and a certificate of insurance from the foreign entity.

Even if the foreign site provides the requested written assurances, faculty tour leaders must still exercise due diligence to avoid hazardous conditions or practices that may only become apparent when they are at the site.

Stephen Brodsky
University Counsel