

**Symposium on International Programs**

**\*151 AN OUNCE OF PREVENTION IS WORTH ... THE LIFE OF A STUDENT: REDUCING  
RISK IN INTERNATIONAL PROGRAMS**

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I. INTRODUCTION

The visibility of serious accidents, injuries, and deaths occurring during international study abroad programs sponsored by higher education institutions based in the United States has increased dramatically in recent years. In fact, newspapers across the country have included stories of rape, drowning, robbery, murder, accidental death, and terrorism in which American college students and their professors have been victimized on foreign soil. To cite just a few recent examples:

. On March 13, 2000, two Antioch College students who were engaged in an academic project in Costa Rica were found shot to death in a remote area of the country. [FN1]

. One faculty member and one postgraduate researcher from the University of California, Davis, as well as three visiting researchers from Kyoto University, Japan died by drowning in Mexico after their boat capsized during a research expedition. Other students in the boat were able to hold onto it for three to four hours and then swim through rough seas to a nearby island and safety. [FN2]

. In December of 1999, a twenty-one year old Grinnell College student was murdered during an apparent robbery attempt in a rural part of Northern India. [FN3]

. In January of 1998, five St. Mary's College (Maryland) students were brutally raped, and all sixteen people in their group (which included \*152 three professors and thirteen students) were robbed, when a group of armed bandits flagged down their bus at gunpoint during an anthropological tour of Guatemala. [FN4]

. In 1997, Earlham College (Indiana) was sued by a student who alleged she was sexually assaulted by the host father of the family with whom she was assigned to live during a program in Japan. She alleged that she complained to the University about the host father's unwelcome sexual advances prior to the alleged sexual assault; but that the University did not remove her from the homestay family and took insufficient action in response to her complaint. The University denied the student's allegations and asserted that it did take appropriate action. The case was later settled for an undisclosed sum.

. In 1996, a serious bus accident in India claimed the lives of four American college students participating in the Semester-at-Sea program associated with the University of Pittsburgh. [FN5]

. In the fall of 1997, another issue arose concerning the Semester-at-Sea program when the Chair of the National Transportation Safety Board publicly criticized the safety of the ship used by the Semester-at-Sea program as a fire hazard. A fire aboard the ship, just four months after the bus accident, claimed the lives of several crew members. The lack of adequate on-board sprinkler systems made the danger of a fire a continuing one according to the NTSB Chair.

As these examples graphically illustrate, the dangers faced by U.S. college students who study abroad are as real and can be as grave as the legal liability risks faced by the institutions that sponsor and operate their programs. The proliferation of major catastrophic incidents in recent years would also seem to suggest that the danger may be mounting. Today, virtually every risk faced by academic institutions at home is at least potentially present abroad. Although some institutions have focused a significant amount of resources and support, others have not provided sufficient financial and personnel resources on these issues in an effort to improve policies and procedures in the area of health and safety and study abroad. Unfortunately, many institutions also lack appropriate policies, procedures, resources and staff abroad to adequately deal with these issues when they arise thousands of miles from the home campus.

In spite of the readily apparent anecdotal evidence of injury and death in study abroad, there is surprisingly little comprehensive data available on the health and safety experiences of U.S. college and university students taking part in study abroad programs. In the U.S., the Clery Act requires U.S. colleges and universities to collect and publish data on student safety. As a result, one can find comprehensive data on the experience of U.S. students in the U.S.--at least with respect to crime. At present, however, while some U.S. colleges and universities interpret the Clery Act as requiring them to \*153 keep crime data for study abroad venues, this is not being done consistently across the U.S. Without this important data, it is difficult to provide more than anecdotal examples of a few highly publicized cases. [FN6]

Many American educational institutions, faced with increased competition for fewer students, as well as increased student and parental demand for overseas programs, continue the rush to expand their international study abroad offerings. According to a recent study by the Institute of International Education (IIE), [FN7] in 1997-98 [FN8] 113,959 U.S. students participated in international study abroad programs--a record increase of 14.6% over the prior year [FN9] and an increase of 135% in just ten years. [FN10]

According to the IIE, in 1996-97 there were 2371 programs administered in eighty countries, more than double the number of just a decade earlier. Although sixty-four percent of all American students studying abroad still go to Western Europe, that number is down by sixteen percent from just a decade ago. [FN11] The flow of students to Africa, Asia, and Latin America has been increasing sharply in recent years, too, with many students now studying in developing countries where health and safety conditions may be very different than those in the U.S. [FN12] "The percentage of students going to Latin America has doubled since 1985 and in the last year an increasing number of students are studying in Africa (up 20 percent), South America (up 25 percent) and the Caribbean (up 31 percent)." [FN13] Moreover, "[t]he number of American students studying at universities in Tanzania, Nicaragua, Bolivia, Malta, Jordan, Haiti and Latvia doubled or tripled in the last year ...." [FN14] Of course, percentage increases can be deceptive, especially where, as here, the actual numbers are small and the addition of even a handful of participants can have a large impact on the overall percentages. Even allowing for this factor, however, the trend toward establishing programs in developing countries seems both significant and worth noting.

\*154 In the rush toward expansion and increased globalization of international program offerings, the dedication of institutional resources to the identification and reduction of risk incident to those programs has, in some cases, not been treated as a priority; and there have been inconsistent responses by some colleges and universities to requests to provide additional support services and resources.

This is a troubling response when viewed in light of the fact that study abroad programs are increasingly being offered in developing countries, the mere mention of which often brings to mind images of civil unrest, repression, terrorism, or war.

The goal of this article is to highlight these issues for college and university administrators and their counsel in the hope that the commitment of institutional

resources to help protect students, faculty, and staff members from reasonably foreseeable harm might expand along with the institution's global program offerings. First and foremost, the commitment of additional resources in this context will advance every educational institution's most basic interest: protecting the lives and safety of its students, faculty, and staff. As good fortune would have it, this interest is also completely aligned with other important institutional interests, such as preserving reputation, avoiding adverse publicity, protecting financial resources against third party claims, and reducing potential legal liability.

This article is organized into five parts, including this introduction and a conclusion. Part II defines four types of international study abroad programs from a legal liability and risk management perspective. Part III recommends specific steps university counsel and risk managers can take, at minimal expense, in order to protect students and mitigate the risks inherent in the operation of international study abroad programs. Part IV examines how college and university administrators can identify, assess, and reduce the potential legal liability risks their institutions face on a more comprehensive level with respect to university owned/operated programs through the use of "risk assessment audits."

The goal of this article is not to discourage educational institutions from operating international study abroad programs. On the contrary, the primary purpose is to provide colleges and universities with advice and suggestions that will permit them to operate international programs as smartly and safely as practicable. The focus is on eliminating unnecessary risks and managing effectively those risks that are inherently necessary to maintaining the academic integrity of international program offerings. The goal is not to disrupt the many obvious educational benefits that flow from the operation of international study abroad programs to students, faculty, host families, educational institutions, and others.

## **\*155 II. PROGRAM STRUCTURE**

### **A. The Level of Risk**

The level of legal liability risk facing U.S. higher education institutions operating international programs is largely dependent upon their relationship to each program. As the degree of ownership and control exercised over a particular program by the home campus increases, the potential liability exposure of the home campus also increases (in the absence of a contractual provision to the contrary). The relationship between most U.S. colleges and universities and each of their international programs can be defined in one of four ways: (1) university owned/operated programs; (2) contractual programs; (3) permissive programs; and (4) hybrid programs.

#### **1. University Owned/Operated Programs**

With respect to university owned/operated programs, the home campus typically operates the facilities and programs abroad as if they were extensions of the home campus. It employs some or all of the academic or administrative staff on-site and owns, leases, controls, or operates some or all of the program facilities and operations abroad. Here, the potential liability exposure of the home campus is greatest. Generally speaking, by sponsoring an international program, the home campus has the same legal duty to operate it in a reasonably safe manner that it has with respect to its programs and facilities on the home campus. Approximately seventy-four percent of U.S. students participate in programs sponsored by their own institution (i.e., university owned/operated programs), while approximately twenty-six percent participate in programs sponsored by other institutions. [FN15] Thus, three-fourths of students going abroad are participating in the type of program that presents the highest level of potential liability exposure to the home campus.

#### **2. Contractual Programs**

Contractual programs are those in which international program offerings result from a cooperative arrangement or an agreement (written or verbal) between the home campus and one or more educational institutions or organizations (e.g., a consortium). Typically, this type of arrangement allows the home campus to send its students on programs owned and operated by another American or foreign college, university, or study abroad program provider organization. In this scenario, the home campus is often involved in promoting or supporting (directly or indirectly) the international program. Moreover, the home campus typically gives participants academic credit or makes financial aid directly available to participants in the program. Promotional materials may or may not indicate that the program is actually owned or operated by someone other than the home campus, and the terms of the parties' contract, if any, largely dictate the legal obligations and the legal liability exposure of the home campus with respect to the program. Some programs operate with informal or loosely written agreements (e.g., by \*156 correspondence or even e-mail), and the "agreement" may or may not be consistent with U.S. law or the law of the venue.

### 3. Permissive Programs

Permissive programs are those in which colleges and universities merely allow their students to participate in programs that are owned and operated by other institutions with which the home campus has no formal legal relationship and no agreement. Students in permissive programs typically may withdraw from the home institution or take a leave of absence in order to participate in the program, often transferring some or all of the credits earned from the other institution back to the home campus. The home campus has little, if any, liability exposure with respect to these programs, which it does not own, operate, sponsor, or promote. [FN16]

### 4. Hybrid Programs

Many study abroad programs fall into a category that mixes aspects of the first three types of program structures. For example, a program may be offered through the home campus, but it may not employ all of the faculty and staff or own all of the facilities; or, along with home university faculty and courses, students may be able to take courses through direct enrollment at a foreign university or other study abroad program. Housing may be arranged by a contracted individual or third party. After the program ends, students may be able to take part in international internships independent of the home campus. In hybrid programs, the legal liability exposure of the home campus will depend upon the specific degree of ownership and control it exercises over the program. [FN17]

## B. Know Your Institution's Program Types

The most important first step for any risk manager, attorney or administrator attempting to assess the institutional risks arising out of international programs is to identify each of the institution's international program offerings and to understand the relationship the home campus enjoys with each \*157 program. It is not always easy to identify the number and kind of international programs sponsored by the home campus, or to determine and classify its specific relationship to each program. In addition to traditional semester-long and year-long programs, for example, there may be a number of short trips involving small groups of students studying a particular subject or country, traveling choirs, alumni trips, intercollegiate and club athletic teams, student service projects, and various other types of international programs. [FN18] Often, these programs are decentralized and operated by various departments or colleges throughout the university. Ideally, the institution should consider designating a single office or department to maintain records (e.g., waivers and health insurance forms), coordinate orientation programs, and disseminate information pertaining to all international study abroad programs sponsored by the institution. If this is not practicable, the requirements and forms used by each international program should be standardized to the degree practicable.

Typically, colleges and universities structure their relationships with their various international programs in different ways, owning and operating some programs, entering cooperative or contractual arrangements with respect to others, and merely permitting their students to participate in some programs. Moreover, some programs are elusive of definition and difficult to categorize because they represent a hybrid between two or more of the definitions set forth above. In order to adequately assess the potential legal liability created by each particular international program offering, however, college and university administrators first must know and understand the relationship between the home campus and each program.

### III. SPECIFIC, AFFORDABLE STEPS TO REDUCE RISK

There are a number of specific, affordable steps university administrators and their counsel can take, without leaving the home campus, in an effort to minimize the institution's potential legal liability arising out of its international program offerings. These steps are largely dependent upon the relationship the home campus enjoys with each program.

#### A. Contractual Relationships

When the home campus agrees with another institution to allow students of the former to participate in an international program owned or operated by the latter, there are a number of specific steps the home campus can take to help protect its students and attempt to limit institutional liability. The institution should consider taking the following steps, as it deems appropriate, which involve minimal cost:

**\*158** . Attempt to reduce cooperative arrangements or agreements with other institutions to written agreements on terms acceptable to the home campus (have counsel from the home campus review or draft each agreement).

. Where applicable, indicate in the contract and in all advertising, marketing, and promotional materials that the home campus does not own, operate, or sponsor the program.

. Include an indemnification provision in favor of the home campus in each agreement, especially with respect to any accidents, injuries, deaths, disease, or property damage not caused by the negligent acts or omissions of the home campus, its employees, or its agents.

. Require that the owner/operator of each contractual program demonstrate (preferably through the advanced provision of certificates of insurance) adequate insurance coverage for the program with acceptably rated companies, appropriate policy limits, and endorsements. Require that the home campus be made an additional insured on all policies.

. Ensure all participants are required to sign waivers and statements of responsibility that cover the home campus and which: (1) inform the participant of the unique risks associated with the program and venue; (2) require that the participant assume the risks of participation; and (3) release the home campus from all liability, except for that which arises out of its negligent acts or omissions. The host institution should disseminate appropriate security information (e.g., U.S. State Department consular information) [FN19] to program participants.

. Review the host institution's orientation programs, emergency plans, policies, procedures, and security measures in order to make sure they are appropriate for the venue.

. Have the host institution maintain and publish statistics on crimes taking place at the program site (i.e., on University owned or controlled premises). This will allow accurate statistics to be kept and published as required by law under the Clery Act. [FN20]

. Have the host institution provide any risk management or safety audit documents concerning the program and its facilities. In 1998, the Task Force on Safety and Responsibility in Study Abroad published a set of **\*159** health and safety guidelines [FN21] that have been supported by NAFSA, the Association of International Educators, and many college and university study abroad provider organizations. It is important to note that the normative language used in the guidelines is quite strong, indicating in numerous places that institutions "should"

follow a minimum set of standards or guidelines. We include for the reader's convenience the full text of the health and safety guidelines at Appendix A below.

In the final analysis, each agreement the home campus enters into for the establishment or operation of an international program should specify, in writing, everything that is expected of each party to the relationship. Each agreement also should clearly set forth the legal obligations and responsibilities being undertaken by each party.

## B. University Owned/Operated Programs

With respect to international programs that the home campus owns or operates, consider the following additional steps to protect students, faculty, and staff while minimizing the institution's potential liability exposure:

- . Where appropriate, have on-site personnel regularly perform and document safety inspections of all academic, residential, and other facilities that the university owns or operates in the venue. Have checklists and procedures in place for reporting and making necessary repairs and improvements.

- . Have safety equipment (e.g., fire extinguishers, fire alarms, smoke detectors) available in all facilities owned or operated by the university and make sure that they are regularly inspected and maintained.

- . Practice regular fire and emergency drills in all university owned/operated facilities, whether academic, residential, or other.

- . Have disaster and emergency preparedness plans in place and clearly posted and disseminated to students, faculty, and staff.

- . Have on-site staff maintain and provide to the home campus statistics on crimes occurring on university owned or controlled property and facilities. This will allow these statistics to be published by the home campus pursuant to the Clery Act and its implementing regulations. [\[FN22\]](#)

- . Warn program participants of abnormally dangerous or hidden defects or conditions on the premises or in the venue (e.g., provide each program participant, in advance, with copies of the State Department consular information and other relevant sources for the venue, especially in venues with unusually high crime rates, unique risks of disease, civil unrest, terrorism, etc.).

**\*160** . Personnel and student policies and procedures on the home campus should be reviewed to ensure they can reasonably be applied in a distant venue. Supplement, revise, or replace those policies that do not make sense abroad.

- . Consider retaining local legal counsel and insurance experts to assist with institutional compliance with applicable foreign statutes, regulations, court rulings, ordinances, and other legal requirements in the venue where the program is located, including foreign building codes, fire and safety codes, and zoning ordinances.

- . Review the quality and scope of insurance coverage for the program with risk managers on the home campus. Ensure the policies cover all program activities abroad, without exclusions, including items such as transportation, educator's legal liability, general liability, worker's compensation (or its foreign equivalent), emergency evacuation, repatriation of remains, accidental death and dismemberment, kidnap and ransom, and other issues.

- . All students should be required to sign a waiver, release, and indemnification agreement in favor of the university before going abroad. [\[FN23\]](#)

- . All students should be required to warrant in writing that they have health insurance that will cover them overseas (many policies do not provide such coverage). Also, consider giving students the opportunity to purchase insurance that will cover them while traveling and studying overseas. Some colleges and universities require or make available to their traveling students the International Student Identity Card, which provides some major medical coverage (including limited coverage for emergency evacuation and repatriation of remains) for traveling students. The cost for medical evacuation and repatriation of remains is enormously high in many circumstances. Without these coverages and adequate limits in place, the home institution may well find itself in the position of feeling compelled or pressured in the midst of a crisis to pay these costs for a student, which can exceed \$100,000 for medical evacuation in the worst cases. Institutions that require

the same insurance policy for all students going abroad, which includes major medical, evacuation, repatriation, and twenty-four hour assistance coverage, will be best able to respond to a crisis situation without hesitation due to financial concerns.

. All students should be required, in advance of traveling, to sign a statement of responsibility that outlines their obligations and the university's expectations concerning the international study abroad experience. Such a statement can provide vitally important legal protection for the university with respect to itinerary changes, refunds, travel arrangement \*161 or housing changes, lost or stolen items, medical expenses, and many other common problems. [FN24]

. If common carriers such as bus companies and other forms of non-public transportation will be utilized to transport program participants to and from program-related activities and field trips, verify that the contractor has appropriate insurance with adequate coverage and uses reasonably safe vehicles.

. Consider whether and how U.S. and foreign faculty, staff, students, and host families are and should be screened (e.g., references and criminal background checks) and trained. Determine whether written job descriptions are or should be provided for overseas employees and host families. Issues of relevance for staff include driving records (e.g., driving under the influence, excessive speeding or other traffic violations, suspended license, etc.), and personnel records (especially records relating to any discipline or dismissal). Issues of importance for host families include screening for problems with other students in the past (including communication with other institutions which may have used the host family in the past).

. If required by local law, provide the requisite written employment agreements.

. Make sure on-site personnel are trained to immediately report complaints of sexual or discriminatory harassment and similar problems and emergencies to the home campus, and that there is regular communication between the home campus and those on-site.

. Have counsel review all orientation and promotional materials to ensure that they adequately warn participants of the known risks associated with the program and that they do not make inappropriate representations that might give rise to institutional liability.

Many of these steps can be taken without leaving the home campus and with a minimal commitment of time and expense by the university. [FN25] What is more, they often can be implemented in the short-term, while permission and funding are being sought from the university to implement more comprehensive, longer-term steps, such as a periodic risk assessment program. [FN26] None of these steps can, of course, guarantee that faculty, staff, or students will not be injured. Nor can they ensure that an institution will not be sued. They can, however, help make the institution's international programs safer and lawsuits that do arise more defensible, thereby protecting the institution's \*162 people and helping the home campus minimize its liability exposure arising out of the ownership and operation of international programs.

#### IV. THE RISK ASSESSMENT OR LEGAL AUDIT

Beyond the specific steps outlined above, which can provide important short-term benefits, the establishment of a comprehensive risk assessment or legal audit program, particularly for university owned and operated programs, provides an invaluable tool in the long-term for higher education institutions to identify, assess, reduce, and manage their potential legal liability arising out of each international program. Specifically, the risk assessment or legal audit provides higher education administrators with a privileged, [FN27] confidential, and detailed picture of conditions on the ground at each university owned/operated site before problems arise, as well as an opportunity to address those problems, proactively, before anyone is injured or killed, before adverse headlines are written, and before anyone files suit against the university.

Colleges and universities face a significant challenge in developing policies and procedures for study abroad programs based on U.S. higher education law.

As an understanding of the legal issues in study abroad programs [does] not come from clear guidelines based on legal precedent, the legal audit can become a guide to develop and review institutional policies and procedures. By using a risk assessment or legal audit guide or checklist, an institution can develop a clear review of policies and procedures in order to develop a priority list of areas that need immediate, short-term, and long-term action. [FN28]

Lack of comprehensive data on safety challenges for college and university students participating in study abroad programs does not allow an institution to develop policy and procedures based on the history and experience in the field. The risk assessment or legal audit is a tool for institutions to use to effectively review their study abroad policies and procedures.

A risk assessment audit is a confidential, comprehensive review of each university owned/operated program. It involves seven discrete steps:

1. A comprehensive review, by the institution's in-house counsel, [FN29] of relevant policies and procedures from the home campus with an eye toward whether they can be realistically applied in the overseas venue under \*163 study, [FN30] or whether they should be supplemented, clarified, or replaced with respect to the international program; [FN31]

2. A walk through of all on-site university owned, leased, recommended, and controlled academic, residential and other facilities affiliated with the program by the risk manager and counsel from the home campus, an on-site employee of the program, and a local insurance representative conversant with local fire, safety, and building codes in the venue, as well as applicable zoning laws and ordinances. The purpose of this visit is to examine the compliance of each facility with institutional housing policies, local code requirements, and health and safety protocols from the home campus (e.g., with respect to items such as fire extinguishers, regular inspections, smoke detectors, sprinkler systems, evacuation plans, emergency preparedness, and fire drills); [FN32]

3. Personal interviews of university employed faculty and staff on-site, conducted by counsel from the home campus, as well as interviews of students (randomly selected) participating in the program by the risk manager and counsel from the home campus;

4. A comprehensive review, by in-house counsel, of on-site policies and procedures for the particular program under study, with an eye toward their consistency with policies and procedures on the home campus, their compliance with applicable U.S. law, [FN33] and, if relevant, with those policies, procedures, and protocols in place at the institution's other university owned/operated international venues; [FN34]

5. A review by in-house counsel of the orientation, promotional, and marketing materials for the international program under study, as well as any agreements the program has entered and forms or materials provided to participants by the home campus or on-site (e.g., waiver forms, \*164 health insurance forms, etc.) to examine whether they make representations or warranties which could lead to potential legal liability or give participants unwarranted expectations.

6. The retention of counsel licensed to practice in the venue under study (preferably an attorney who represents higher education institutions based in the venue) to review the corporate structure, status, and governance structure of the program under the law of the venue, as well as any agreements relating to the program. Also, local counsel should examine and give advice concerning the program's compliance with the law of the venue in all of its operations. A meeting between counsel from the home campus and foreign counsel to discuss these issues is recommended during the site visit.

7. The preparation and presentation of a written report by the institution's in-house counsel to the administration on the home campus summarizing the site visit, findings, conclusions, and recommendations (including those made by in-house counsel, foreign counsel, risk management, and the local insurance expert) for the reduction of risk, compliance with applicable law, and the mitigation of potential legal liability for the home campus. The report should explicitly state that it is confidential and protected from disclosure by the attorney-client privilege. It should only be circulated to institutional employees of the home campus on a need-to-know basis. It should not be circulated to non-employees without the prior consent of in-house counsel. Finally, the report should include an action plan



identifying the specific steps that need to be undertaken, in both the short and long-term, to achieve identified objectives. When those objectives are achieved, the report and any documents connected with it can be destroyed, unless they are they judged by the institution's counsel to be relevant in pending or anticipated litigation against the institution.

Through the use of risk assessment or legal audits of university owned/operated programs, risk managers, attorneys, and other administrators can treat risk management issues abroad as they are typically treated on the home campus. Such an approach requires the full support, cooperation, and assistance of the senior administration on the home campus. Without the support of these individuals, funding for risk assessment audits and garnering the resources necessary to address seriously the problems identified in such audits may prove to be an impossible task. With the support of the senior administration, however, and a cooperative inter-departmental effort, a risk assessment audit can be an effective tool to help reduce an institution's potential liability exposure and enhance the continued safe operation of its international academic programs.

Appendix C is a sample of a legal audit checklist, developed by Gary Rhodes. [FN35] The legal audit document serves as a starting point as a list of \*165 issues and concerns with legal implications for an institution. U.S. law has significant implications for U.S. colleges and universities. Most colleges and universities have an institutional legal counsel. Some institutions maintain a comprehensive staff of lawyers. The legal audit concept comes out of the preventative law literature, where the focus is on limiting liability and avoiding legal action. The use of a legal audit of study abroad programs can be seen as a tool for individual institutions to review current policies and procedures to determine what parts of their programs are following a "reasonable and prudent" standard of care, and which need to be updated and improved to effectively support students and protect the institution from future liability. By using a legal audit guide (like that in Appendix C), "an institution can develop a clear review of policies and procedures in order to develop a priority list of areas that need immediate, short-term, and long-term action." [FN36]

Assessing the risks associated with the operation of international programs should include the development of a survey or audit instrument to be completed on-site at each venue. This instrument can be adapted to fit the unique requirements and needs of each program and each institution. At the end of this article is a form of audit guide and checklist that the authors recommend as a starting point. It is detailed, comprehensive, and designed to illustrate both the breadth and depth of investigation and analysis needed to explore fully the level of institutional risk presented by the operations of each international program. It is not, of course, intended to be exhaustive. Each institution, moreover, must develop its own personalized audit tools or questionnaires to be completed by its own personnel and reviewed by its counsel and risk manager. There is, however, no substitute for on-site investigation by counsel and an experienced risk manager from the home campus. To the extent it is feasible and practical, each university owned/operated program site should be inspected at least once by counsel and a risk management specialist (or similar university official) from the home campus who is conversant with these issues and the relevant policies and procedures in effect on the home campus. These individuals should personally inspect all of the program facilities on-site (including a sampling of student residences), meet with the students, faculty members, and program director(s) on-site, and report back to the senior administration on the home campus concerning each of the risks and areas of concern identified. The report of the visit also should include recommendations to help protect students, faculty, and staff from harm, and to minimize and manage necessary risks, eliminating unnecessary risk wherever possible and reducing the university's potential legal liability. A reasonable period of time after the visit, the home campus should followup with the international venue to ensure that each of the recommendations resulting from the on-site visit and report have been implemented. The process can then be repeated periodically, perhaps every five to seven years.

College and university study abroad programs include certain inherent risks, including some that can result in severe student, faculty, or staff injury or death. Assessing and managing the many and varied risks associated with the operation of international study abroad programs requires a comprehensive approach to preventative law and risk management. The success of such an effort is almost wholly dependent upon the level of inter-departmental cooperation within the university in identifying, analyzing, auditing, and managing the various risks posed by the operation of overseas programs. Such an approach should bring together the university's legal counsel, risk manager, director of international studies, student affairs administrators, counseling center staff, health center staff, students with disabilities office support staff, academic administrators, students, program directors, affected faculty members, facilities managers, and others in a common effort to minimize the risk of harm to students, faculty, and staff, as well as the institution's potential legal liability. It is critical that all partner institutions and organizations, both domestic and international, are included in this process. Institutional compliance with applicable U.S. and foreign law, regulations, ordinances, and university policies should be the starting point, not the ultimate goal of this process. The overarching goal must be the protection of the institution's most valuable resource, its students, faculty, and staff, from reasonably foreseeable harm and danger. In the final analysis, avoiding an accident, injury, or death in the first instance is the best and most efficient means of reducing an institution's potential liability exposure. The risk assessment audit can be a critically important and affordable tool for every educational institution in its quest to meet that all-important goal.

As most university attorneys know, it is not necessarily the number of cases or claims that poses the greatest threat to our institutions. It is the high cost of defending even a single lawsuit involving a major catastrophic loss (e.g., a transportation accident involving a group of students or a serious injury or death arising out of the university's alleged negligence) that looms largest on the horizon. The cost to the institution, in terms of human life and health, damages, court costs, and attorneys fees, not to mention the resulting harm to the university's reputation and that of its international programs, would be tremendous if even one major case were filed against it.

Many colleges and universities have increased the number of study abroad programs available to students in both developed and developing countries. The risks associated with programs are significant. At the same time, the study abroad field has published health and safety guidelines on study abroad, [FN37] and additional resources are now available to review institutional policies and procedures through a risk assessment or legal audit [FN38] to improve services and limit liability. Many colleges and universities have improved the quality of their support services over the past five years. Institutions that \*167 provide study abroad programs without equivalent resources and support services may be placing both students and themselves at risk. Colleges and universities that view study abroad programs as an integral extension of their academic offerings and mission should take the time and extend the resources necessary to ensure that their program policies and procedures are legally sound and reasonably safe, in order to best support their students, faculty, and staff while reducing their potential liability. An "ounce of prevention" in this regard could well save the life of a student.

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[FN1]. See Bill Hewitt et al., *Their Paradise Lost: Two U.S. College Students Die Brutally in the Costa Rica They Had Both Come to Love*, PEOPLE MAGAZINE, April 3, 2000, at 173, [available at 2000 WL 4137798](#).

[FN2]. See University of California, Davis News and Information Website: *Research Expedition Survivors' Return to Sacramento Airport News Conference*, available at (March 30, 2000).

[FN3]. See id.

[FN4]. See Wink Dulles, *Inform Yourself Before Studying Abroad*, TORONTO SUN, Feb. 27, 2000, at T4.

[FN5]. See id.

[FN6]. Note: The US Department of Education is currently reviewing Clery Act requirements to clarify how they apply to study abroad programs, but as of this writing, no clarification has been forthcoming.

[FN7]. See TODD DAVIS, *OPEN DOORS 98/99: REPORT ON INTERNATIONAL EDUCATIONAL EXCHANGE* (1999); see also Paul Desruisseaux, *15% Rise in American Students Abroad Shows Popularity of Non-European Destinations*, CHRON. HIGHER EDUC., Dec. 10, 1999, at A60, [available at 1999 WL 10223293](#).

[FN8]. 1997-98 is the most recent year for which statistics are available.

[FN9]. See Desruisseaux, *supra* note 7, at A60.

[FN10]. See Tanya Schevitz, *U.S. Students Studying Abroad in Record Numbers, Study Finds/Many Venturing Outside Europe*, SAN FRANCISCO CHRON., Dec. 6, 1999, at D12, [available at 1999 WL 2702213](#).

[FN11]. See id.

[FN12]. See Amy Saltzman & Anna Mulrine, *Roads Less Traveled: Developing Countries are new magnets for Collegians Studying Abroad*, U.S. NEWS & WORLD REPORT, April 8, 1996, at 57, 57.

[FN13]. Kelly Heyboer, *More Students Taking on the World as Their Classroom*, STAR-LEDGER, Dec. 7, 1999, at 059, [available at 1999 WL 30212842](#).

[FN14]. Id. Nevertheless, about two-thirds of all students studying abroad still go to Western Europe-as opposed to eighty percent a decade ago--with Great Britain receiving the most students (approximately 25,900) in 1997-98. See Schevitz, *supra* note 10.

[FN15]. See DAVIS, *supra* note 7, at 63.

[FN16]. Where, however, the home campus advertises or promotes participation in a permissive program without making it clear in postings, mailings, and other promotional materials that the program is not owned, operated, or affiliated with the home campus, its potential legal liability increases. Institutions should also be concerned about the way that staff present information about these programs to students, being clear that there is no relationship between the program and the institution.

[FN17]. Perhaps the most interesting form of hybrid program on the horizon today is a new type that is marketed almost exclusively on the Internet, directly to students. Many of these program providers have limited experience. Their health and safety practices are, in many instances, unknown and untested. Consumers must be wary of any inexperienced program provider and always should demand detailed and accurate information concerning its safety record, preventative mechanisms, health and safety policies and procedures in advance. Moreover, as in all e-business areas, consumers must be mindful of the anonymity the Internet can provide and must avoid making any legal or financial commitments without first verifying any promises or representations made by the program provider.

[FN18]. Notably, the largest number of students study abroad for a semester (38.4% in 1997-98), with a somewhat lesser number (33.8% in 1997-98) studying abroad for the summer, and the smallest number (9.5% in 1997-98) for an entire academic year, according to Open Doors, 98/99. See DAVIS, *supra* note 7, at 62.

[FN19]. Although some lawyers fear that their institution might assume a duty to warn by disseminating consular information, we believe such a duty already might well be found to exist by a court in the wake of a foreseeable accident. Moreover, if it does not provide consular information, the failure to warn students of dangers the institution knew or should have known about the host country creates its own potential cause of action. The authors also believe an institution has a moral obligation to its students (and their parents) to communicate this information to them. With consular information now widely available on the Internet at (<http://www.state.gov/>), providing this information should not create an administrative burden.

[FN20]. According to Paula Husselmann, Program Specialist, Office of Student Financial Assistance, United States Department of Education, "Property abroad that meets the definition of campus and/or non-campus building or property in section 668.46(a) and is owned, rented, or leased by an institution falls under the campus security regulations." E-mail from Paula Husselmann to co-author Rhodes (Oct. 17, 2000) (on file with author).

[FN21]. Interorganizational Task Force on Safety and Responsibility in Study Abroad: A Joint Venture of AIEA, SECUSSA, Council, NAPSA, other professional organizations and a number of study abroad providers: Responsible Study Abroad: Health and Safety Guidelines, available at (June 5, 1998); reprinted *infra* Appendix A.

[FN22]. See *supra* note 20.

[FN23]. See *infra* Appendix B, which includes a waiver, release, and indemnification agreement form (with consular information attached) and a statement of responsibility form. These forms should be personalized to the venue where the international program is located, and the current consular information for the venue from the U.S. Department of State should be attached.

[FN24]. See *infra* Appendix B.

[FN25]. Of course, there will be ongoing costs to reduce risk and remedy issues identified in legal audits. In order to justify such expenditures, it is critical for institutions and consumers to select programs on the basis, *inter alia*, of health and safety concerns. Otherwise, institutions which invest resources in student safety will be placed at a competitive disadvantage and effectively punished for doing the right thing. A system of independent accreditation or evaluation and ranking of international programs also would be of assistance in this regard.

[FN26]. See *infra*, Part IV.

[FN27]. We recommend the involvement of counsel in the legal audit process in order to seek the protections afforded by the attorney-client privilege.

[FN28]. Gary Rhodes, *Institutional Vulnerability to Liability for Student Injury and Death During Study Abroad*, in 18TH ANNUAL NATIONAL CONFERENCE ON LAW AND HIGHER EDUCATION 11 (Stetson Univ. College of Law Feb. 13-14, 1997).

[FN29]. We suggest the involvement of the institution's counsel throughout this process as a way to utilize the attorney-client privilege to attempt to protect from disclosure, even in the event of future litigation, any reports, memoranda, or other documents created in the course of the risk assessment audit process.

[FN30]. The key is whether the policies and procedures from the home campus can be reasonably and realistically applied or implemented abroad by the skeleton staff of university personnel typically on-site at international program venues. If, for example, the institution's sexual or discriminatory harassment policy requires reporting to, and investigation by, particular administrators (e.g., the university ombudsperson) who are physically located on the home campus, not on-site, with no provision for the reporting or investigation of cases arising during international programs, the policy may need to be amended to address complaints arising abroad during international programs. Alternatively, the institution may choose to adopt a unique policy specially designed for off-campus venues. The adoption or adaptation of policies that can be realistically applied overseas may mean the difference between institutional liability and exoneration in the event of litigation.

[FN31]. Policies must not only be clear in content, but should also be published or adequately distributed to faculty, staff, and students going overseas. The institution also should follow and consistently apply the policies and procedures it adopts with respect to all students, faculty members, and staff.

[FN32]. The institution's local insurance company representative in the venue may provide this service free of charge, since the insurer and the university have a shared interest in the compliance of all university owned/operated facilities with local codes and in following appropriate safety protocols.

[FN33]. See generally John Robinson, *The Extraterritorial Application of American Anti-Discrimination Law*, 27 J.C. & U.L. \_\_\_\_ (2000).

[FN34]. Whether policies and procedures comport with the law of the venue where the program is located also should be examined by local counsel in the venue.

[FN35]. For additional background information, see Gary Rhodes, *Legal Issues and Higher Education Implications for Study Abroad: Key Issues for Institutions and Administrators* (1994) (unpublished Ph.D. dissertation) (on file with University of Southern California library).

[FN36]. See Rhodes, *supra* note 28, at 11.

[FN37]. See *infra* Appendix A.

[FN38]. See *infra* Appendix C.

### **\*168 Appendix A**

#### RESPONSIBLE STUDY ABROAD: HEALTH AND SAFETY GUIDELINES, JUNE 5, 1998 STATEMENT OF PURPOSE

Because the health and safety of study abroad participants are primary concerns, these guidelines have been developed to provide useful practical guidance to institutions, participants, and parents/guardians/families. The guidelines are intended to be aspirational in nature. Although no set of guidelines can guarantee the health and safety needs of each individual involved in a study abroad program, these guidelines address issues that merit attention and thoughtful judgment. Although they address general considerations, they cannot possibly account for all the inevitable variations in actual cases that arise. Therefore, as specific situations arise, those involved must also rely upon their collective experience and judgment while considering the unique circumstances of each situation.

#### A. Guidelines for Program Sponsors

To the extent reasonably possible, all program sponsors should endeavor to implement these guidelines as applicable. At the same time, it must be noted that the structure of study abroad programs varies widely and that study abroad is usually a cooperative venture that can involve multiple sponsors. The term "sponsors" refers to all the entities that together develop, offer, and administer study abroad programs. Sponsors include sending institutions, host institutions, program administrators, and placement organizations. The role of an organization in a study abroad program varies considerably from case to case, and it is not possible to specify a division of efforts that will be applicable to all cases. All entities should apply the guidelines in ways consistent with their respective roles.

In general, guidelines that relate to obtaining information and assessing circumstances apply to all parties involved. Much of the information called for by these guidelines is readily available and can be conveyed to participants by distributing it and referring them to, or utilizing materials from recognized central sources. Guidelines that refer to the provision of information and the preparation of participants refer to parties that advise, refer, nominate, admit, enroll, or place students. Guidelines that suggest operating procedures on-site apply to the entities that are directly involved in the operation of the overseas program.

In addition, program sponsors that rely heavily on the collaboration of overseas institutions may exercise less direct control over specific program components. In such cases, sponsors are urged to work with their overseas partners to develop plans and procedures for operating consistently with these guidelines.

Program sponsors should:

**\*169** . Conduct periodic assessments of health and safety conditions for the program, and develop and maintain emergency preparedness processes and a crisis response plan.

. Provide health and safety information for prospective participants so that they and their parents/guardians/families can make informed decisions concerning preparation, participation, and behavior while on the program.

. Provide clear information concerning aspects of home campus services and conditions that cannot be replicated at overseas locations.

. Provide orientation to participants prior to the program and as needed on-site, which includes information on safety, health, legal, environmental, political, cultural, and religious conditions in the host country, dealing with health and safety issues, potential health and safety risks, and appropriate emergency response measures.

. Consider health and safety issues in evaluating the appropriateness of an individual's participation in a study abroad program.

. Either provide appropriate health and travel accident (emergency evacuation, repatriation) insurance to participants, or provide information about how to obtain appropriate coverage. Require participants to show evidence of appropriate coverage.

. Conduct appropriate inquiry regarding the potential health and safety risks of the local environment of the program, including program-sponsored accommodation, events, excursions and other activities, on an ongoing basis and provide information and assistance to participants and their parents/guardians/families as needed.

. Conduct appropriate inquiry regarding available medical and professional services, provide information for participants and their parents/guardians/families, and help participants obtain the services they may need.

. Provide appropriate and ongoing health and safety training for program directors and staff, including guidelines with respect to intervention and referral, and working within the limitations of their own competencies.

. Communicate applicable codes of conduct and the consequences of noncompliance to participants. Take appropriate action when aware that participants are in violation.

. Obtain current and reliable information concerning health and safety risks, and provide that information to program administrators and participants.

. In cases of serious health problems, injury, or other significant health and safety circumstances, maintain good communication among all program sponsors and others who need to know. In the participant screening process, consider factors, such as disciplinary history, that may impact on the safety of the individual or the group.

. Provide information for participants and their parents/guardians/families regarding when and where the sponsor's responsibility ends, and the **\*170** range of aspects of participants' overseas experiences that are beyond the sponsor's control. In particular, program sponsors generally:

. Cannot guarantee or assure the safety of participants or eliminate all risks from the study abroad environment.

. Cannot monitor or control all of the daily personal decisions, choices, and activities of individual participants.

. Cannot prevent participants from engaging in illegal, dangerous, or unwise activities.

. Cannot assure that U.S. standards of due process apply in overseas legal proceedings or provide or pay for legal representation for participants.

. Cannot assume responsibility for the actions of persons not employed or otherwise engaged by the program sponsor, for events that are not part of the program, or that are beyond the control of the sponsor and its subcontractors, or for situations that may arise due to the failure of a participant to disclose pertinent information.

. Cannot assure that home-country cultural values and norms will apply in the host country.

## B. Responsibilities of Participants

In Study Abroad, as in other settings, participants can have a major impact on their own health and safety abroad through the decisions they make before and during

the program and by their day-to-day choices and behaviors.

Participants should:

- . Read and carefully consider all materials issued by the sponsor that relate to safety, health, legal, environmental, political, cultural, and religious conditions in host countries.
- . Consider their health and other personal circumstances when applying for or accepting a place in a program.
- . Make available to the sponsor accurate and complete physical and mental health information and any other personal data that is necessary in planning for a safe and healthy study abroad experience.
- . Assume responsibility for all the elements necessary for their personal preparation for the program and participate fully in orientations.
- . Obtain and maintain appropriate insurance coverage and abide by any conditions imposed by the carriers.
- . Inform parents/guardians/families, and any others who may need to know, about their participation in the study abroad program, provide them with emergency contact information, and keep them informed on an ongoing basis.
- . Understand and comply with the terms of participation, codes of conduct, and emergency procedures of the program, and obey host-country laws.
- . Be aware of local conditions and customs that may present health or safety risks when making daily choices and decisions. Promptly express \*171 any health or safety concerns to the program staff or other appropriate individuals.
- . Behave in a manner that is respectful of the rights and well being of others, and encourage others to behave in a similar manner.
- . Accept responsibility for their own decisions and actions.
- . Become familiar with the procedures for obtaining emergency health and law enforcement services in the host country.
- . Follow the program policies for keeping program staff informed of their whereabouts and well being.

C. Recommendations to Parents/Guardians/Families.

- . In Study Abroad as in other settings, parents, guardians, and families can play an important role in the health and safety of participants by helping them make decisions and by influencing their behavior overseas.
- . When appropriate, parents/guardians/families should:
  - . Obtain and carefully evaluate health and safety information related to the program, as provided by the sponsor and other sources.
  - . Be involved in the decision of the participant to enroll in a particular program.
  - . Engage the participant in a thorough discussion of safety and behavior issues, insurance needs, and emergency procedures related to living abroad.
  - . Be responsive to requests from the program sponsor for information regarding the participant.
  - . Keep in touch with the participant.
  - . Be aware that some information may most appropriately be provided by the participant rather than the program.

#### **\*172 Appendix B**

##### SAMPLE STATEMENT OF RESPONSIBILITY, RELEASE AND AUTHORIZATION FORM TO PARTICIPATE IN A NOTRE DAME INTERNATIONAL STUDIES PROGRAM

I, \_\_\_\_\_, am a student at the University of Notre Dame ("the University"). I have agreed to participate in an International Program sponsored by the University, in collaboration with international host organizations, in Chile from \_\_\_\_\_ to \_\_\_\_\_ ("the Program"). I understand and hereby acknowledge that my participation in the Program is wholly voluntary. In consideration of being allowed to participate in the Program, I hereby agree as follows:

1) I hereby represent and warrant that I am and will be covered throughout the Program by a policy of comprehensive health and accident insurance which provides



coverage for injuries and illnesses I sustain or experience overseas, and, more specifically, in the country in which I will be living and/or traveling while on the Program (Chile). By my signature below, I certify that my health insurance policy will adequately cover me while outside the United States; and, I absolve the University of all responsibility and liability for any injuries (including death), illnesses, claims, damages, charges, bills and/or expenses I may incur while I am abroad. I agree to report to the University any physical or mental condition I have which may require special medical attention or accommodation during the Program at least thirty (30) days prior to departure.

2) I understand that the University reserves the right to make changes to the Program itinerary at any time and for any reason, with or without notice, and the University shall not be liable for any loss whatsoever to me by reason of any such cancellation or change. The University is not responsible for penalties assessed by air carriers that may result due to operational and/or itinerary changes, regardless of whether the University makes a flight arrangement. Any additional expense resulting from the above will be paid by me. The University reserves the right to substitute hotels or accommodations or housing of a similar category at any time. Specific room and housing assignments are within the sole discretion of the University.

3) I understand and acknowledge that the University assumes no responsibility or liability, in whole or in part, for any delays, delayed or changed departure or arrival times, fare changes, dishonors of hotel, airline or vehicle rental reservations, missed carrier connections, sickness, disease, injuries (including death), losses, damages, weather, strikes, acts of God, circumstances beyond the control of the University, force majeure, war, quarantine, civil unrest, public health risks, criminal activity, terrorism, expense, accident, injuries, damage to property, bankruptcies of airlines or other service providers, inconveniences, cessation of operations, mechanical defects, failure or negligence of any nature howsoever caused in connection with any accommodations, \*173 restaurant, transportation, or other service or for any substitution of hotels or of common carriers beyond the University's control, with or without notice, or for any additional expense occasioned by any of the foregoing. If due to weather, flight schedules, or other uncontrollable factors I am required to spend additional nights, the University will not be responsible for my hotel, transfers, meal costs, or other expenses. My baggage and personal property are transported at my risk entirely. The University reserves the right to decline to accept or retain me in the Program at any time should my actions or general behavior impede the operation of the Program or the rights or welfare of any person. Similarly, if my conduct violates any policy or procedure of the University, I understand that I may be required to leave the Program in the sole discretion of the University's employees, agents, and representatives, and I may be referred to the appropriate University officials for further disciplinary or other action. In such an event, no refund will be made for any unused portion of the Program. The right is reserved by the University, in its sole discretion, to cancel the Program or any aspect thereof prior to departure; and, in the University's sole discretion to cancel the Program or any aspect thereof after departure, requiring that all participants return to the United States if the University determines or believes that any person is or will be in danger if the Program or any aspect thereof is continued.

4) I understand and hereby acknowledge that I have received and reviewed the U.S. Consular Information, as well as the Centers for Disease Control information, on travel to, in and around Chile; that I am aware of and understand the risks and dangers of travel to, in, and around Chile, including but not limited to the dangers to my own health and personal safety posed by the use of public transportation in Chile, and by civil unrest, political instability, terrorism, crime, violence, and disease in Chile. I hereby assume, knowingly and voluntarily, each of these risks and all of the other risks that could arise out of or occur during my travel to, from, in, or around Chile.

5) I hereby acknowledge that I have read, understand and will abide by each of the terms and conditions of this Agreement.

Dated: \_\_\_\_\_

(Signature)

\_\_\_\_\_  
Name (Printed)

**\*174 WAIVER, RELEASE AND INDEMNIFICATION AGREEMENT**

I am a student at the University of Notre Dame du Lac ("the University") and have agreed to participate in an International Program in Chile ("the Program") from \_\_\_\_\_ through \_\_\_\_\_. I am not required to participate in the Program. My participation is wholly voluntary. In consideration of the University's agreement to permit me to participate in the Program, the receipt and sufficiency of which is hereby acknowledged, I agree as follows:

1) I represent and warrant that I will be covered throughout the Program and throughout my absence from the United States by a policy of comprehensive health and accident insurance which provides coverage for illnesses or injuries I sustain or experience while abroad; and specifically in the countries where I will be living and traveling. By my signature below, I certify that I have confirmed that my health insurance policy will adequately cover me while I am outside of the United States; and, I hereby release and discharge the University from all responsibility and liability for any injuries, illnesses, medical bills, charges or similar expenses I incur while I am abroad.

2) I, individually, and on behalf of my heirs, successors, assigns, and personal representatives, hereby release and forever discharge the University and its employees, agents, officers, trustees, and representatives (in their official and individual capacities) from any and all liability whatsoever for any and all damages, losses or injuries (including death) I sustain to my person or property or both, including but not limited to any claims, demands, actions, causes of action, judgements, damages, expenses, and costs, including attorneys fees, which arise out of, result from, occur during or are connected in any manner with my participation in the Program and/or any travel incident thereto.

3) I, individually, and on behalf of my heirs, successors, assigns, and personal representatives, hereby agree to indemnify, defend, and hold harmless the University and its employees, agents, officers, trustees, and representatives (in their official and individual capacities) from any and all liability, loss, damage, or expense, including attorneys fees, which arise out of, occur during, or are in any way connected with my participation in the Program or any travel incident thereto.

4) I agree that this Waiver, Release and Indemnification Agreement is to be construed under the laws of the State of Indiana, U.S.A.; and that if any portion hereof is held invalid, the balance hereof shall, notwithstanding, continue in full legal force and effect. In signing this document I hereby acknowledge that I have read this entire document, that I understand its terms, **\*175** that by signing it I am giving up substantial legal rights I might otherwise have, and that I have signed it knowingly and voluntarily.

Dated: \_\_\_\_\_

(Signature)

\_\_\_\_\_  
Name (Printed)

**\*176 CONSULAR INFORMATION [FN39]**

**COUNTRY DESCRIPTION:** Chile has a stable government and a strong economy. Civil disorder is rare. Facilities for tourism vary according to price and area.

**ENTRY REQUIREMENTS:** A passport is required. U.S. citizens do not need a visa for a stay of up to three months. At the international port-of-entry, a "processing fee collected under reciprocity" of 45 U.S. dollars is levied on U.S. citizen visitors. The fee is payable in dollars only upon arrival in Chile, and the receipt is valid for multiple entries during the validity of the traveler's passport. Dependent children under age 18 (including the children of divorced parents) arriving in Chile alone, with one parent, or in someone else's custody, are required by the Chilean International Police to present a notarized document certifying that both parents agree to their travel. This document must be notarized before a Chilean consular officer in the United States. To exit Chile, children traveling under one of these scenarios require this same type of document. The one used for entry may be presented or one can be signed before a Chilean notary if executed in Chile. In either case, the document presented must be executed not more than three months prior to entry or departure.

Travelers considering scientific, technical, or mountaineering activities in areas classified as frontier areas are required to obtain authorization from the Chilean Government at least 90 days prior to the beginning of the expedition. The portions of Antarctica claimed by Chile are exempt from these pre-approval requirements. Officials at the Torres del Paine National Park require mountain climbers to present an authorization granted by the Frontiers and Border Department, obtainable at the Chilean Embassy or Chilean consulates throughout the United States.

For current information concerning entry and customs requirements, travelers may contact the Chilean Embassy at 1732 Massachusetts Avenue, N.W., Washington, DC 20036, tel. (202) 785-1746. Internet: <http://www.embassy.org/embassies/cl.html>. Travelers may also contact the Chilean consulates in Los Angeles, San Diego, San Francisco, Santa Clara, Miami, Honolulu, Chicago, New Orleans, Boston, New York, Philadelphia, San Juan (Puerto Rico), Charleston, Dallas, Houston, and Salt Lake City.

**SAFETY/SECURITY:** There are no known threats directed specifically against U.S. citizens visiting or residing in Chile. Traditionally, September 11-18 is an active period for public demonstrations. Violent political, labor, or student protests can occur at other times also, often near government buildings in Santiago and Valparaiso or in the vicinity of major universities. No matter when such assemblies occur, American citizens traveling or residing in Chile are advised to take common-sense precautions and avoid any large gatherings or any other event where crowds have congregated to \*177 demonstrate or protest. Additional advice about demonstrations, particularly during the September period, may be obtained from the U.S. Embassy at the telephone numbers listed below.

There are credible reports that land mines may pose a danger to hikers in remote sections of several popular national reserves and parks near northern border areas, including Lauca and Llullaillaco National Parks, Salar de Surire National Monument, and Los Flamencos National Reserve. Visitors should check with park authorities before entering less-traveled areas and observe all warning signs.

**CRIME INFORMATION:** Street crime is a problem in metropolitan Santiago in general and specifically in the city center. One should be particularly alert while walking in the downtown area, especially in the late afternoon, after dark, or on weekends, even in well-traveled areas. In Santiago and other large Chilean cities, thieves thrive on rush hour crowding on the street and aboard public transportation.

Crime is also prevalent at crowded tourist locations, at Metro (subway) stations, on trains and buses, and occasionally in taxis. Persons wearing expensive-looking jewelry or carrying luggage or cameras are favorite targets for pickpockets and purse-snatchers. Bags and briefcases are stolen from chairs in restaurants and outdoor cafes. Outside Santiago, robberies and assaults have occurred most

frequently in the Vina del Mar and Valparaiso area, which becomes increasingly crowded during the height of the Chilean summer season (December through February).

The loss or theft abroad of a U.S. passport should be reported immediately to the local police and the nearest U.S. embassy or consulate. U.S. citizens can refer to the Department of State's pamphlet, A Safe Trip Abroad, for ways to promote a more trouble-free journey. This publication and others, such as Tips for Travelers to Central and South America are available by mail from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; via the Internet at [http://www.access.gpo.gov/su\\_docs](http://www.access.gpo.gov/su_docs); or via the Bureau of Consular Affairs home page at <http://travel.state.gov>.

**MEDICAL FACILITIES:** Medical care is generally good, but it may not meet U.S. standards. Doctors and hospitals often expect immediate cash payment for health services. Costs for international medical evacuations begin at about 10,000 U.S. dollars and can be as high as 90,000 U.S. dollars, depending on the remoteness of the area in question.

**MEDICAL INSURANCE:** U.S. medical insurance is not always valid outside the United States. U.S. Medicare and Medicaid programs do not provide payment for medical services outside the United States. Supplemental medical insurance, which includes specific overseas coverage, including provisions for medical evacuation, is highly recommended, as in-country medical evacuations from outlying areas to Santiago cost 2,000 U.S. dollars or more. For travelers to the Antarctic and/or Easter Island, additional insurance \*178 to cover the cost of air evacuation specifically from those remote regions is strongly recommended. In the event of illness, injury, or even death, the cost of evacuation from the Antarctic region to Santiago alone can exceed 50,000 U.S. dollars. Uninsured travelers who require medical care overseas may face extreme difficulties. Please check with your own insurance company to confirm whether your policy applies overseas, including provisions for medical evacuation. Please ascertain whether payment will be made to the overseas hospital or doctor or whether you will be reimbursed later for expenses that you incur. Some insurance policies also include coverage for psychiatric treatment and for disposition of remains in the event of death. Useful information on medical emergencies abroad, including overseas insurance programs, is provided in the Department of State's Bureau of Consular Affairs brochure, Medical Information for Americans Traveling Abroad, available via the Bureau of Consular Affairs home page or autofax: (202) 647-3000.

**OTHER HEALTH INFORMATION:** All of Santiago is affected by a high index of pollution, which appears as heavy smog in the winter and dust in the summer. The most severe pollution occurs from May to October. Information on vaccinations and other health precautions may be obtained from the Centers for Disease Control and Prevention's hotline for international travelers at 1-877- FYI-TRIP (1-877-394-8747); fax 1-888-CDC-FAXX (1-888-232-3299), or via their Internet site at <http://www.cdc.gov>.

**TRAFFIC SAFETY AND ROAD CONDITIONS:** While in a foreign country, U.S. citizens may encounter road conditions that differ significantly from those in the United States. The information below concerning Chile is provided for general reference only, and may not be totally accurate in a particular location or circumstance.

Safety of Public Transportation: Fair  
Urban Road Conditions/Maintenance: Good  
Rural Road Conditions/Maintenance: Fair  
Availability of Roadside Assistance: Fair

Although major roads in Chile are generally in good condition, secondary roads are sometimes poorly maintained and/or lighted. At night, heavy fog conditions in rural areas have led to multiple-vehicle accidents with occasional deaths and injuries. Traffic jams during peak hours in downtown Santiago and other neighboring areas are common. Taxis are plentiful and inexpensive. Driving under the influence of alcohol in Chile is severely penalized and can lead to incarceration if the driver is involved in an accident. Additional road condition and safety information may be obtained from the Chilean Automobile Association, Avenida Vitacura 8620, Santiago,

tel.(56-2) 212-5702. The National Tourist Bureau, SERNATUR, is located at Avenida Providencia 1550, Santiago, tel. (56-2) 236-1420 or 1416 or via their Internet site at <http://www.sernatur.cl>.

**\*179** The U.S. Embassy also advises visitors to Chile that, according to local law, they must have an international driver's license in order to drive. Although car rental firms rent to clients with no international driver's license, several persons driving with only a U.S. license have been detained by the police for prolonged periods.

**AVIATION SAFETY OVERSIGHT:** The U.S. Federal Aviation Administration (FAA) has assessed the Government of Chile's Civil Aviation Authority as Category 1--in compliance with international aviation safety standards for oversight of Chile's air carrier operations. For further information, travelers may contact the Department of Transportation within the U.S. at tel. 1-800-322-7873, or visit the FAA's Internet web site at <http://www.faa.gov/avr/iasa/index.htm>. The U.S. Department of Defense (DOD) separately assesses some foreign air carriers for suitability as official providers of air services. For information regarding the DOD policy on specific carriers, travelers may contact the DOD at tel. 1-618-256-4801.

**CRIMINAL PENALTIES:** While in a foreign country, a U.S. citizen is subject to that country's laws and regulations, which sometimes differ significantly from those in the United States and may not afford the protections available to the individual under U.S. law. Penalties for breaking the law can be more severe than in the United States for similar offenses. Persons violating Chile's laws, even unknowingly, may be expelled, arrested or imprisoned. Penalties for possession, use, or trafficking in illegal drugs in Chile are strict, and convicted offenders can expect jail sentences and heavy fines.

**CHILDREN'S ISSUES:** For information on international adoption of children, international parental child abduction, and international child support enforcement issues, please refer to our Internet site at [http://travel.state.gov/children's\\_issues.html](http://travel.state.gov/children's_issues.html), or telephone (202) 736-7000.

**EMBASSY LOCATION/REGISTRATION:** Americans living in or visiting Chile are encouraged to register at the Consular Section of the U.S. Embassy in Santiago and obtain updated information on travel and security in Chile. The U.S. Embassy is located at Avenida Andres Bello 2800, Santiago; tel. (56-2) 232- 2600; after hours tel. (56-2) 330-3321. The Embassy's mailing address is Casilla 27-D, Santiago; the Consular fax number is (56-2) 330-3005. The Embassy home page is: <http://www.usembassy.cl>.

### **\*180 Appendix C**

#### LEGAL AUDIT CHECKLIST OF STUDY ABROAD PROGRAMS

GARY RHODES, PH.D. [FNal]

##### I. MISSION

- Suggestion 1: Development of mission for institutional study abroad
- Suggestion 2: Provide leadership for regional accreditation guidelines
- Suggestion 3: Integrate study abroad into curriculum

##### II. ADMINISTRATION OF PROGRAMS

- Suggestion 4: Limited or full centralization of program administration
- Suggestion 5: Approve programs only where students are able to act as adult consumers abroad

### III. LINKAGE OF ALL STUDY ABROAD PROGRAM ADMINISTRATORS

\_\_\_ Suggestion 6: Working group of study abroad administrators

\_\_\_ Suggestion 7: International and domestic personnel policy

### IV. NEW PROGRAM DEVELOPMENT AND EVALUATION

\_\_\_ Suggestion 8: New program academic and student services review

\_\_\_ Suggestion 9: Development of evaluation forms

\_\_\_ Suggestion 10: Development of evaluation procedures

\_\_\_ Suggestion 11: Have independent review of programs for academics and service support

\_\_\_ Suggestion 12: Confirm accessibility for students with special needs

### V. LANGUAGE LEVEL EVALUATION

\_\_\_ Suggestion 13: Review programs to confirm appropriate language level for student to be able to act as adult consumer abroad

\_\_\_ Suggestion 14: Develop foreign language pre-test and post-test evaluation form

\_\_\_ Suggestion 15: Evaluate foreign language knowledge and learning

### VI. PROGRAM SUSPENSION AND CANCELLATION

\_\_\_ Suggestion 16: Develop program suspension and cancellation policy

### VII. RESIDENT DIRECTOR AND FACULTY TRAINING

\_\_\_ Suggestion 17: Develop resident director, staff, and faculty training manual

\*181 \_\_\_ Suggestion 18: Provide reasonable, prudent, and clear policies and procedures

\_\_\_ Suggestion 19: Provide forms for immediate documentation and reporting special situations (crime, violence, harassment complaints, etc.)

### VIII. HEALTH AND SAFETY ISSUES AND EMERGENCY POLICIES AND PROCEDURES

\_\_\_ Suggestion 20: Develop health and safety guidelines and resources

\_\_\_ Suggestion 21: Develop a study abroad emergency response team

\_\_\_ Suggestion 22: Collect and distribute statistics about crime, sexual harassment, assault, and violence abroad

\_\_\_ Suggestion 23: Inform students, parents, and administrators about health and safety risks

\_\_\_ Suggestion 24: Where risks arise abroad, clarify risks and give students choices/options

\_\_\_ Suggestion 25: Obtain student signature agreeing to cancellation policy

### IX. INSURANCE REQUIREMENTS FOR RISK MANAGEMENT

\_\_\_ Suggestion 26: Major medical insurance requirement with limitations and options

\_\_\_ Suggestion 27: Provide for 24-hour assistance, emergency evacuation, and repatriation of remains

\_\_\_ Suggestion 28: Additional insurance options and information for students

\_\_\_ Suggestion 29: Liability insurance for institution

\_\_\_ Suggestion 30: Personal liability insurance for administrators

\_\_\_ Suggestion 31: Tuition insurance

#### X. PROGRAM PRE-DEPARTURE, ON-SITE AND RE-ENTRY MEETINGS

\_\_\_ Suggestion 32: Develop policy on necessary support programming

#### XI. RELEASE, HOLD-HARMLESS, OR INDEMNIFICATION AGREEMENT

\_\_\_ Suggestion 33: Release Form reviewed by legal counsel and risk manager

\_\_\_ Suggestion 34: Choice of law and choice of forum clauses

\_\_\_ Suggestion 35: Signature by parent and/or guardian

#### XII. CONTRACTS WITH CONSORTIA, COLLEGES, UNIVERSITIES, TRAVEL PROVIDERS, ETC.

\_\_\_ Suggestion 36: Centralized records of contracts and linkage agreements

\_\_\_ Suggestion 37: Contracts for linkage agreements and travel providers (including appropriate consortium agreements for financial aid)

\_\_\_ Suggestion 38: Accurate and consistent publications and advertising

#### \*182 XIII. CONDITIONS OF PARTICIPATION

\_\_\_ Suggestion 39: Develop conditions of participation form

\_\_\_ Suggestion 40: Clarify and have students sign-off that they understand and will take responsibility for risks abroad, including medical and health and that their participation confirms their ability to make adult decisions in participation in the program and actions abroad.

#### XIV. APPLICATION PROCEDURES

\_\_\_ Suggestion 41: Comprehensive application form

\_\_\_ Suggestion 42: Appropriate and consistent application standards

\_\_\_ Suggestion 43: Clarify approval to access documents

\_\_\_ Suggestion 44: Clarify student privacy rights, including information releasable to parents and guardians

\_\_\_ Suggestion 45: Obtain approval to review conduct records and/or support from appropriate judicial affairs or student affairs professional

#### XV. PARTICIPANT ACCEPTANCE, DENIAL AND APPEAL

\_\_\_ Suggestion 46: Develop acceptance and screening guidelines

- \_\_\_ Suggestion 47: Special considerations: consistent policies and procedures
- \_\_\_ Suggestion 48: Provide participation support for students with special needs

#### XVI. STUDENT CONDUCT

- \_\_\_ Suggestion 49: Development of study abroad student conduct policy
- \_\_\_ Suggestion 50: Require applicant to release student conduct records or obtain approval by dean of students

#### XVII. MAINTENANCE OF APPROPRIATE RECORDS AND TRANSFER CREDIT ARTICULATION

- \_\_\_ Suggestion 51: Maintain appropriate records
- \_\_\_ Suggestion 52: Clarify what information may be released to parents or guardians
- \_\_\_ Suggestion 53: Document articulation process
- \_\_\_ Suggestion 54: Require academic advisement form signed by advisers
- \_\_\_ Suggestion 55: Consider letter grades on transcript for non-accredited programs
- \_\_\_ Suggestion 56: Develop policy for non-approved program participation

#### XVIII. ELECTRONIC MAIL COMMUNICATION

- \_\_\_ Suggestion 57: Develop electronic mail form
- \*183** \_\_\_ Suggestion 58: Disseminate rules for appropriate communication by E-mail

#### XIX. MEDICAL AND PSYCHOLOGICAL EVALUATION AND INFORMATION

- \_\_\_ Suggestion 59: Have students complete medical conditions form, including clear and detailed request for assistance with special needs
- \_\_\_ Suggestion 60: Use of medical review and approval form
- \_\_\_ Suggestion 61: Develop guidelines for psychological review and approval
- \_\_\_ Suggestion 62: Give students before departure and on-site centers for disease control and prevention and other medical and health risks and information documents
- \_\_\_ Suggestion 63: Give students instructions for 24-hour contact abroad and in the us for obtaining medical and health assistance
- \_\_\_ Suggestion 64: Give students instructions on how to obtain medical and health assistance if separated from the group
- \_\_\_ Suggestion 65: Develop emergency medical and health emergency response procedures and team in U.S. and abroad
- \_\_\_ Suggestion 66: Have students and administrators complete approval consent form for emergency medical care

#### XX. PARENTAL INFORMATION AND APPROVAL

- \_\_\_ Suggestion 67: Develop clear guidelines for parental involvement in process



\_\_\_ Suggestion 68: Disseminate information about program details, health and safety risks to parents with approval to release information from student

\_\_\_ Suggestion 69: Develop parental approval of participation policy

#### XXI. BUDGET PREPARATION AND RECORD KEEPING

\_\_\_ Suggestion 70: Develop appropriate budget procedures

#### XXII. FINANCIAL SUPPORT AND ADVISEMENT

\_\_\_ Suggestion 71: Develop cost sheet including all relevant program costs

\_\_\_ Suggestion 72: Students should sign program-related charges and financial aid responsibilities form

\_\_\_ Suggestion 73: Require financial aid meeting for all students

\_\_\_ Suggestion 74: Enter into appropriate consortium agreements for financial aid

#### XXIII. IMMIGRATION REQUIREMENTS AND INTERNATIONAL LAW

\_\_\_ Suggestion 75: Provide information about passports and visas

\_\_\_ Suggestion 76: Require registration at U.S. Embassy or Consulate

\_\_\_ Suggestion 77: Confirm that program complies with international law

**\*184** \_\_\_ Suggestion 78: Provide information to students about similarities and differences between U.S. and international law

\_\_\_ Suggestion 79: Clarify program limits in supporting students following violation of international law (imprisonment, etc.)

#### XXIV. INTERNATIONAL AIR TRANSPORTATION AND IN-COUNTRY TRAVEL ARRANGEMENTS

\_\_\_ Suggestion 80: Develop basic travel policies, including closing a program if transportation is unsafe

\_\_\_ Suggestion 81: Possibility for charging tickets to credit cards

\_\_\_ Suggestion 82: Appropriate air and ground carriers

\_\_\_ Suggestion 83: Provide information about transportation risks

\_\_\_ Suggestion 84: Complete comprehensive background checks about travel providers

\_\_\_ Suggestion 85: Confirm institutional policy on use of personal and rental cars

\_\_\_ Suggestion 86: Develop policy on whether students or staff can drive. If they can, complete appropriate background checks (dui, speeding, etc.)

\_\_\_ Suggestion 87: Give students choices in their travel arrangements

\_\_\_ Suggestion 88: Develop policy on risk-limited activities (trekking, mountain climbing, bungi, SCUBA diving, etc.)

\_\_\_ Suggestion 89: Have travel professionals support travel arrangements

\_\_\_ Suggestion 90: Make provisions for consultation about last-minute changes in transportation arrangements

\_\_\_ Suggestion 91: Have provisions for student and staff evacuation (war,

kidnapping, terrorism, etc.)

XXV. DRUG AND ALCOHOL POLICY

- \_\_\_ Suggestion 92: Educate students about use and abuse of drugs and alcohol
- \_\_\_ Suggestion 93: Document drug and alcohol policy violation
- \_\_\_ Suggestion 94: Develop policy on program payment for alcohol
- \_\_\_ Suggestion 95: Develop policy on use of alcohol at university events

XXVI. SEXUAL HARASSMENT AND ASSAULT POLICY

\_\_\_ Suggestion 96: Collect statistics regarding sexual harassment and assault abroad and disseminate to students and parents

\_\_\_ Suggestion 97: Develop written policy regarding response to complaints of sexual harassment and assault complaints and disseminate to students and parents

\_\_\_ Suggestion 98: Educate students about differences in other countries: women's rights, gay and lesbian rights, and other gender issues and laws

**\*185** \_\_\_ Suggestion 99: Review evaluations with particular attention to issues raised by students about sexual harassment

\_\_\_ Suggestion 100: Respond to evaluations and allegations of sexual harassment and assault in the U.S. and abroad immediately

XXVII. SPECIAL/OTHER POLICIES

- \_\_\_ Suggestion 101: Review special issues for your institution (religion, etc.)

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