

OFF-CAMPUS ACADEMIC ACTIVITIES INFORMATION SUMMARY

*This information contained herein is provided in summary form and for illustrative purposes only. **Reference should be made to all appropriate University policies and applicable state and federal laws currently in effect.***

The following information is offered as a general guideline for University employees.

- With the exception of those full-time employees who have opted out, all full-time faculty and staff are covered by a University sponsored health insurance plan. Based on the terms of specific plans, health insurance coverage is provided locally, regionally, nationally and internationally. Faculty, staff or students may contact the Department of Human Resources at 270-745-5360 for assistance with University sponsored health coverage.
 - Specific Information regarding WKU Sponsored domestic health insurance coverage for eligible faculty and staff is available at: <http://www.wku.edu/benefits/>. Information regarding WKU Sponsored international health insurance coverage as well as international traveler's assistance is available at: <http://www.wku.edu/hr/workcomp.php>. Information regarding WKU Sponsored domestic and international health insurance coverage for students is available at: <https://wku.myahpcare.com/>.
- Faculty, staff and students wishing to participate in a **Study Abroad Program** should contact their office directly at 270-745-5335 or visit their website at: <http://www.wku.edu/studyabroad/index.php> for specific insurance and program requirements.
- Faculty, staff and students wishing to participate in a Study Away Program should contact their office directly at 270-745-4512 or visit their website at: <http://www.wku.edu/studyaway/contact.php> for specific insurance and program requirements.
- University employees who are injured while participating in University sponsored off-campus assignments as part of their job duties or academic assignment are covered by the University's workman's compensation insurance. Information regarding the WKU Worker's Compensation Program is available at: <http://www.wku.edu/hr/workcomp.php>. Specific questions may be directed to the [Worker's Compensation Program Manager](#).
- Students and participants, other than the employee assigned to the activity, should sign *Release and Waiver of Liability* Form(s) prior to traveling and an acknowledgment of their obligations to follow University policies and procedures while engaged in these activities. The **single event** Release and Waiver of Liability Form is available at: <http://www.wku.edu/finadmin/forms/documents/singleevent.pdf>. The **multiple event** Release and Waiver of Liability Form is available at: http://www.wku.edu/finadmin/forms/documents/multiple_events.pdf.
- Additional information regarding personal liability, campus emergency numbers, vehicle rentals, and other *Risk Management* related matters may be viewed at: <http://www.wku.edu/finadmin/insurance/>.
- There are SEVERAL insurance policies that cover different exposures at the University. Below is a GENERAL OVERVIEW of these various insurance policies and is intended ONLY as an example. It is the RESPONSIBILITY of the faculty, staff or student to both review the information contained in the Information Handbook located at: <http://www.wku.edu/finadmin/insurance/>, and to contact the Division of Finance and Administration at 270-745-5859 with questions and concerns regarding specific coverage.

Faculty/Staff Life Trip Accident Insurance

- \$100,000 (Aggregate Limit \$500,000) Accidental Death and Dismemberment Benefit – All regular and part time employees under the age of 70 while “on assignment or at the direction of the University for the purpose of furthering the business of the University.”

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- **Coverage:** This Hazard covers injury resulting from:
 - A) an accident, and
 - B) an accident while the Insured Person is a passenger on , boarding, or alighting from a Civil Aircraft or MAC (Military Airlift Command) Aircraft; or
 - C) being struck by an aircraft which occurs anywhere in the world during a Business Trip.
- **Exclusions:** This Hazard does not cover injury resulting from an accident which occurs while the Insured is on, boarding, or alighting from:
 - A) an aircraft engaged in an Extra-Hazardous Aviation Activity; or
 - B) a Policyholder Aircraft.

This policy does not cover any loss resulting from:

1. Intentional self-inflicted injury, suicide or attempted suicide, whether sane or insane;
2. War or act of war, whether declared or undeclared;
3. injury sustained while in the armed forces of any country or international authority;
4. injury sustained while on any aircraft, unless, and only to the extent, a Hazard specifically describes such coverage;
5. injury sustained while voluntarily taking drugs, including sedatives, narcotics, barbiturates, amphetamines, or hallucinogens, unless the drug is taken as prescribed for or administered by a licensed physician;
6. injury sustained as a result of being legally intoxicated from the use of alcohol;
7. injury sustained while committing or attempting to commit a felony.

Student Accidental Death Insurance – Secondary Medical Expenses

- **Benefits:**

Accidental Death & Specific Loss (United States)

Loss of Life Principal Sum	\$10,000
Single Dismemberment Principal Sum	\$5,000
Double Dismemberment Principal Sum	\$10,000
Loss Period	Loss within 180 days of Injury

Accident Medical Expense – Full Excess (United States)

Maximum Benefit	\$5,000
Accident Medical Deductible Corridor	\$100
Loss Period: Initial treatment received within 30 days of Injury	
Benefit Period: Benefits payable for 52 weeks from accident date	

- **Coverage**

The insured is covered for Injuries received while insured under this provision. Such Injuries must be received while:

- a) participating in activities sponsored and supervised by the Policyholder;
- b) traveling to, during or after such activities as a member of a group in transportation furnished or arranged by the Policyholder.

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- **Full Excess Coverage**

Benefits for Medical Expense will be paid only for such expense which is not recoverable from any other insurance policy, service contract or workers' compensation.

- **Exclusions and Limitations**

No coverage is provided for:

- A) suicide, attempted suicide or intentionally self-inflicted injury while sane or insane;
- B) Injuries caused by an act of declared or undeclared war;
- C) Injuries received while in the armed services
- D) Injuries received while acting as a pilot or crew member;
- E) Injuries resulting from air travel, except while as a passenger for transportation only;
- F) Injuries resulting from the Insured's engagement in or attempt to commit a felony or being engaged in an illegal occupation;
- G) Injuries received while under the influence of any controlled substance, unless administered on the advice of a Legally Qualified Physician;
- H) Injuries received while Intoxicated as specifically defined in this provision; or
- I) Injuries sustained while traveling other than as specifically stated in this provision;
- J) The cost of eyeglasses, contact lenses or examinations for either;
- K) The cost of dental treatment, except as specifically provided for Injuries to sound, natural teeth;
- L) Injuries covered by workers' compensation or employer's liability laws; or
- M) Prescription drugs.

Directors & Officers Liability/ Employment Practices Liability

- **Exclusions and Coverage**

An insured person is defined as "any past, present or future member of the faculty, student teacher, teaching assistant, representative to an education association of which WKU is a member, and any president, chancellor, provost, treasurer, vice president, dean, personnel director, executive director, risk manager, university counsel or other comparable senior administrator of WKU, regardless of whether they are considered as an Employee of WKU or an independent contractor". The following are also insured persons "any past, present or future director, officer, trustee, employee, volunteer, or any committee member of a duly constituted committee of WKU, solely **when acting in his or her capacity as such**".

The coverage territory is world-wide.

A covered claim would be an employment practices wrongful act, as defined by the policy terms.

This policy **EXCLUDES** coverage for any of the following whether alleging, arising out of, based upon, attributable to, or in any way involving, directly or indirectly:

- A) Bodily injury, sickness, disease or death of any person.
- B) Damage to or destruction of any tangible property, including loss of use thereof.

- **Foreign Property Coverage**

\$100,000 limit, (various smaller limits for other than property) with \$1,000 deductible

Foreign Employee Crime Coverage

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Kidnap/Ransom & Extortion	\$100,000 limit, \$500 deductible
Theft & Depositors Forgery	\$5,000 limit, \$1,000 deductible

International G/L

\$1 million limit / \$2 million aggregate limit
\$10,000 Medical expense

International Automobile Coverage

Bodily Injury	\$1,000,000
Medical	\$10,000
Physical Damage	\$2,500 per vehicle, \$10,000 aggregate

International WC Compensation

International Exec Employees – State of Hire Benefits	
Other International employees – Country of Origin Benefits	
Bodily Injury	\$1,000,000

- Individual employees of Western Kentucky University may, in limited circumstances, be found personally liable for their actions, regardless of whether or not that action was completed in the scope of their employment. Faculty and staff leading off-campus learning experiences should always exercise prudence and good judgment to avoid exposing students and other participants to undue risk when traveling regionally, nationally, or internationally. A broad statement concerning Sovereign Immunity is as follows:

When Employees of Sovereign Entities May Be Subject to Individual Liability

The Kentucky Supreme Court has defined official or employee immunity as Immunity from tort liability for acts performed in the exercise of the employee's **discretionary functions** (i.e., job duties.) [W]hen an officer or employee of the state or county (or one of its agencies) is sued in his or her individual capacity, that officer or employee enjoys qualified official immunity, which affords protections from damages liability for good faith judgment calls made in a legally uncertain environment. Application of the defense, therefore, rests not on the status or the title of the officer or employee, but on the [act or] function performed. (Citation Omitted.)

Employees of WKU enjoy qualified immunity under a certain set of criteria.

Qualified immunity will only apply to the negligent performance by a public officer or employee of:

- (1) **Discretionary acts or functions** (i.e., those involving the exercise of discretion and **judgment**, or **personal deliberation, decision and judgment**);
- (2) Made or performed in **good faith**; and
- (3) Within the **scope of the employee's authority**.

It is important to note that the act must not only be discretionary to be afforded qualified immunity, **the discretionary act must also have been performed in good faith.**

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Good faith is defined as having two elements:

- The **objective** element involves a presumptive knowledge of and respect for basic, unquestioned, **constitutional rights**...[and]
- The **subjective** component refers to **permissible intentions**.

Qualified immunity will **not** apply if “an official knew or reasonably should have known that the action he took within his sphere of official responsibility would violate the constitutional rights of the plaintiff, or if he took the action with the malicious intention to cause a deprivation of constitutional rights or other injury.”

Discretionary vs. Ministerial

For comparison, negligent performance of a **ministerial act** will **not** be protected by qualified immunity.

A ministerial is defined as an act that requires:

- **Only obedience to the orders of other officials (including officials policies / procedures),**
or
- **When the employee’s duty is absolute, certain, and imperative, involving only a specific act arising from fixed and designated facts.**

Examples of discretionary acts include adopting rules or policies and hiring employees. Examples of ministerial acts would be where there is an established policy requiring an official to take a specific action in a specific situation.

-Deborah T. Wilkins, WKU General Counsel (March 2015)

44.072 Legislative intent as to sovereign immunity in negligence claims.

It is the intention of the General Assembly to provide the means to enable a person negligently injured by the Commonwealth, any of its cabinets, departments, bureaus or agencies, or any of its officers, agents or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus or agencies to be able to assert their just claims as herein provided. The Commonwealth thereby waives the sovereign immunity defense only in the limited situations as herein set forth. It is further the intention of the General Assembly to otherwise expressly preserve the sovereign immunity of the Commonwealth, any of its cabinets, departments, bureaus or agencies or any of its officers, agents or employees

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while acting in the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus or agencies in all other situations except where sovereign immunity is specifically and expressly waived as set forth by statute. The Board of Claims shall have exclusive jurisdiction to hear claims for damages, except as otherwise specifically set forth by statute, against the Commonwealth, its cabinets, departments, bureaus, agencies or any of its officers, agents or employees while acting within the scope of their employment by the Commonwealth, its cabinets, departments, bureaus or agencies.

Effective: July 15, 1986

History: Created 1986 Ky. Acts ch.499, sec.1, effective July 15, 1986.