

Three Things Every College or University Must Know About **Duty of Care**

If you had students and university employees in Haiti during the 2010 earthquake or in Japan during the 2011 tsunami, would you have been able to quickly contact them and get them to safety? Are you sure?

Although most administrators inherently understand the dangers associated with overseas travel, many address it reactively with insurance rather than facing it proactively with a risk management strategy.¹

In 2010, the authors of, “A Global View of the University’s Duty of Care Obligations” elucidated the problem stating, “While universities provide insurance programs for the use of their students traveling abroad, they have shown far less understanding of their responsibilities for the duty of care of travelling faculty, staff and administrators. It often takes an incident and the management of a crisis to take a closer look at their legal duty of care obligations.”²

“A negligent failure to plan—and to implement a risk management plan—can make an employer liable for foreseeable harm inflicted on the employee.”

— From “A Global View of the University’s Duty of Care Obligations”

What is Duty of Care?

Duty of care is, quite simply: “The duty of a person or business to act toward others and the public with vigilance, caution, and prudence.” Those who fail to live up to that standard are considered negligent and may be sued for resulting damages.³

Unfortunately many universities unknowingly fall short in their duty of care obligations simply because they do not have a system in place that allows them to streamline and implement risk management systems.

That same article also states, “With the exception of international students who study at the home campuses of universities... there is almost no assistance available for students and university employees when they are traveling and residing abroad for their educational and work purposes.”⁴

Your university needs to educate and inform its employees – faculty, staff, and administrators – about duty of care and the need to better manage and mitigate risk.

This document is intended to highlight some of those issues so that you may help your university limit liability and keep students and employees safe when they are overseas.



Duty of Care applies to university employees as well as to students.

Your university not only has duty of care obligations to students traveling abroad, but to faculty members, staff and administrators as well, whether they are travelling with students or without. If a tsunami warning is issued, it is just as important to be able to contact the professor presenting at a conference as it is to reach a student travelling in the area. If your university fails to plan adequately for overseas emergencies and implement a risk management plan, it is exposing itself to undue liability and is not doing everything it can to keep employees safe when they travel.

Even though **faculty-led education programs** are smaller, they can pose a higher risk to your university than large study abroad programs.

Many universities have adequate risk management procedures in place for their large, study abroad programs but seem to ignore smaller, independently organized trips.

In this case, smaller doesn't mean less: it means more. As Julie Friend points out in International Educator's article titled "Danger Ahead," these smaller "one-off" faculty led trips pose a higher risk to universities because of their ad-hoc nature:

"Faculty-led education abroad programs generally pose higher risks to institutions—even though they tend to operate over shorter periods of time than direct enrollment programs—because program leaders are generally ill-equipped to prepare for, or respond to, emergencies."⁵

By managing your duty of care, you will save your university from potential lawsuits while keeping travelers safe. Your university cannot pretend smaller trips abroad don't have any risk. If it does, it exposes itself to huge amounts of liability, and it also puts students, faculty, staff, and administrators in unnecessary danger. Your university's duty of care obligations make it responsible for all these groups, whether the scope of the trip overseas is large or small.

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Your university must do everything in its power to be able to **maintain contact** with students and university employees **in case of an emergency**.

It is also important to remember that when a group from your university travels overseas, it is responsible for considerably more than arranging for transportation and lodging. It will need to account for a wide range of issues before and during the trip. Having a system in place that will allow your university to communicate and account for students and employees abroad in case of emergency is particularly important.

A NAFSA: Association of International Educators article titled, “Responsible Study Abroad: Good Practices for Health & Safety,” lays out 15 things the sponsor of a study abroad trip is responsible for. The issues range from considering students’ disciplinary records before admitting them to a study abroad program to making sure students understand which university services will be available when they are overseas. As alluded to above, one of the more important – and maybe surprising – is,

“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.”⁶

In today’s world we often take communication for granted, but this is not a luxury university officials can afford. It is imperative that you have policies, procedures, and lines of communication in place to help you account for students and university employees in times of crisis.

Quickly communicating with students, faculty, staff, and administrators overseas can be difficult. Make a communication plan so students and employees know to check in with administrators of the trip in case of emergency. Being able to communicate with these groups is an important first step in keeping them safe overseas or bringing them back to the United States.

NAFSA’s Recommendations for Study Abroad Programs

- » 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 the safety of the individual or the group.
- » Provide information concerning aspects of home campus services and conditions that cannot be replicated at overseas locations.
- » Consider health and safety issues in evaluating the appropriateness of an individual’s participation in a study abroad program.



Conclusion

When an emergency strikes overseas – whether it affects a continent or one student or university employee – you need to quickly be able to determine if any students or employees from your university are in danger and what you can do to get them to safety.

Terra Dotta's web-based software for risk management is designed to help you plan for these emergency situations.

In the chaotic aftermath of the 2011 tsunami in Japan, one Terra Dotta user was able to establish communication with 95% of its students overseas and then prioritize its efforts to contact the remaining 5%. Within one day, it was able to account for all of its students and employees in the country and communicate a plan to recover them. That university was able to act quickly during the emergency because of the planning it did before the students and employees left the campus to go overseas. Had they not planned things out beforehand, the result could have been much different.

Your university needs to be aware of its responsibilities to students, faculty, staff, and administrators overseas. When your university doesn't adequately plan for the risks associated with these trips – both large and small – it opens itself to unnecessary liability, and it leaves participants and organizers of these programs at unnecessary risk.

¹ Claus, Lisbeth, and Russell Yost. "A Global View of the University's Duty of Care Obligations." URMIA Journal (2010): 31-36. Web.
² Claus, Lisbeth, and Russell Yost. "A Global View of the University's Duty of Care Obligations." URMIA Journal (2010): 31-36. Web.
³ "Duty of Care." Legal Information Institute. Cornell University Law School, n.d. Web. 09 Aug. 2013.
⁴ Claus, Lisbeth, and Russell Yost. "A Global View of the University's Duty of Care Obligations." URMIA Journal (2010): 31-36. Web.
⁵ Friend, Julie. "Danger Ahead." NAFSA, 2012. Web. 9 Aug. 2013
⁶ "Responsible Study Abroad: Good Practices for Health & Safety." NAFSA, Nov. 2009. Web. 09 Aug. 2013.



About Terra Dotta: Terra Dotta is committed to effective process automation and the secure management of data. The flexibility and robust features have made our software essential to all types of organizations. Terra Dotta's international education roots and innovative software capabilities serve the complex needs of many educational and business offices.

Terra Dotta software simplifies your everyday processes from the way you access information to the way you gather data and create reports. Risk management capabilities are an integral aspect of the software, providing the ability to locate and communicate with your applicants and travelers worldwide. Simply put, Terra Dotta software allows you to realize the full potential of your data and use the software your way at your institution.

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