

**Liability Statement for Faculty
BCAL - Engaged Learning**

What Faculty should know about Liability in their classes, whether engaged in class activities on or off of LMU's campus:

LMU Bylaws: Section 1. Right of Indemnity

To the fullest extent permitted by law, this Corporation shall indemnify its Trustees, officers, Employees and other persons, including persons formerly occupying any such position, against all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred by them in connection with any proceeding, as that term is used in this Section, and including an action by or in the right of the Corporation, by reason of the fact that the person is or was a person described in that Section (of the code).

Under California Law, Labor Code Section 2802, Employees (including faculty) are entitled to indemnification in connection to expenditures or losses arising out of the employee's performance of his/her employment duties or carrying out the employer's directions.

In almost every instance in which an employee is sued for job related exposure the employer, independently or through insurance, provides defense and indemnification to the employee. The employer's wrongful failure to provide such defense and indemnification is the predicate for Section 2802(c) which provides that the employee may also obtain the employee's attorney's fees and costs necessary to obtain the indemnification.

There is no indemnification for exposure arising out of the employee's actions outside the course and scope of his/her job duties or employer direction and the indemnification does not extend to knowingly unlawful actions for public policy reasons. The same public policy reasons that prevent obtaining insurance coverage for knowingly unlawful acts. For example, if a faculty member assaulted a student his/her right to indemnification would fail because, absent a legal justification, assault is not a consequence of the discharge of faculty duties; and, separately, it is likely knowingly unlawful conduct.

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Questions:

1. What does “Indemnity” mean? To protect against loss or damage claims.

- a. To compensate a third-party for harm or loss.
- b. To secure an employee against legal responsibility for their actions, e.g. "the newspaper indemnified the reporter for allegations of slander and defamation”

2. How does insurance work with indemnity?

Indemnity is the legal requirement an employer owes to an employee. Insurance is the financial wherewithal to back up the indemnity.

3. I understand that the university will pay for legal fees, but what if I am found liable. Does the university pay this claim?

Yes, the university will pay any and all settlements and judgments regardless of the amount.

4. If my students are doing work off campus as a requirement for my class, what is my liability?

Your obligation is to conduct your faculty responsibilities as you always do and help students obtain their education. “Liability” is a legal term that implies that some kind of negligence has been committed. Even if a court finds you negligent, the university insurance would pay your legal fees and judgments as long as you did not cause harm by doing activities that you knew were criminal.

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