



POLICY & PROCEDURE DOCUMENT

NUMBER: 1.4180

DIVISION: Academic Affairs

TITLE: Course-Related Field Trips

DATE: September 26, 2013

REVISED: February 24, 2015

Authorized by: A. Gordon Emslie, Provost and Vice President for Academic Affairs

I. Purpose and Scope

- A. Western Kentucky University employees request approval for course-related field trips that often involve transportation of students to various destinations within the continental United States. The mode of transportation may be personal vehicle(s), auto rentals, or chartered vehicles. The purpose of this policy is to create a process that provides necessary information to pertinent parties on destination, purpose, attendee information, emergency contact information, and other relevant information.

B. Definition

A course-related field trip is any short-term activity involving two or more students which serves educational purposes, is organized and/or sponsored by an operating unit of the university, faculty member, or other authorized employee of the university, and occurs outside of the classroom at a location other than the campus on which the course is regularly taught. Course-related field trips that are deemed by the instructor to be a required component of the course should be clearly identified in the course syllabus to include, whenever possible, information such as date/time, location, and means of transportation.

Study Abroad Programs and Study Away Programs as well as internships, practicums, student teaching, and clinical experiences that are on-going required components of courses and programs are not covered under this policy. This information should be requested from each respective unit/college.

II. Policy

- A. The Dean of the college must approve all WKU sponsored field trips. Request for approval should normally be submitted at least fourteen (14) days prior to the departure date indicated on Request for Field Trip Approval form (see II.C. for exceptions).
- B. Blanket approvals for defined activities throughout the academic term (e.g. students assigned to off-campus locations for **learning experiences**, journalism and broadcasting students conducting research/interview(s), etc.) may be requested for course-related field trips that are a routine part of instruction.
- C. Field trips that result from an unanticipated event which may provide a unique educational opportunity may also be approved by the Dean of the college. Request for approval must be submitted to the Dean in writing and include documentation in support of/justification for the request.

III. Procedure

A. Request for Course-Related Field Trip Approval Form

- 1. The course instructor should complete all fields on the form to include name(s) and emergency contact information for each traveler indicated.
 - a. The Field Trip Approval form is located at:
<https://asaweb.wku.edu/php/prod/wkuforms/source/WKUFormsCreateInst.php?form=FieldTripAuth>
- 2. The instructor should submit the completed Course-Related Field Trip Approval form to the Department Head for review and approval.
- 3. After approval by the Department Head, a copy should be retained for the department file and the original forwarded to the Dean of the college.
- 4. After approval by the Dean of the college, the original document should be retained in the Dean's office file(s).

B. Notification of emergency contact(s)

- 1. In the case of a catastrophic event or other emergency situation, the Office of the Dean in each respective college will work with the Provost and other WKU leadership to follow protocol for notification of emergency contact(s).

C. Insurance and Liability

- 1. Information on insurance and liability issues may be found by referring to the Faculty Handbook, II.Q.3, **Insurance**, or under the **Information Handbook** located on the **Division of Finance and Administration website**.

2. General information regarding student insurance coverage available through WKU can be found at: <https://wku.myahpcare.com/>.
3. General information regarding faculty and staff Workers' Compensation coverage may be found at: <http://www.wku.edu/hr/workcomp.php>.
4. A statement of Individual Liability for Employees of Sovereign Entities and the Commonwealth of Kentucky Legislative Intent can be found in the Appendix section to this policy.

IV. Related Policies

4.1013 – Travel Policy

4.7801 – Worker's Compensation Program

3.7011 – Policy for use of Vehicles Insured by the University

V. Reason for Revision

Appendix

Individual Liability for Employees of Sovereign Entities

Individual employees of sovereign entities 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.

Yanero v. Davis, Ky., 65 S.W.3d 510 (2001), is the Kentucky Supreme Court's most recent and authoritative statement on this topic. In that case, the court defined official or employee immunity as "immunity from tort liability afforded to public officers and employees for acts performed in the exercise of their discretionary functions. It rests not on the status or title of the officer or employee, but on the function performed."

As a result, employees of sovereign entities enjoy qualified immunity in certain situations. Qualified immunity only applies 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) in good faith; and (3) within the scope of the employee's authority." *Id.* at 522.

If the employee's act is ministerial, "one that requires only obedience to the orders of others, or when the officer's duty is absolute, certain, and imperative, involving merely execution of a specific act arising from fixed and designated facts," the employee will not be protected by qualified immunity. *Id.* (citing *Franklin Co. v. Malone*, Ky., 957 S.W.2d 195 (1997)).

However, the act must not only be discretionary to be afforded qualified immunity, the discretionary act must also have been performed in good faith. 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." *Id.* at 523 (citing *Harlow v. Fitzgerald*, 457 U.S. 800, 815 (1982)). In other words, 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." *Id.* at 523. After the act has been proven discretionary by the defendant, good faith is presumed, and it is the plaintiff's burden to prove otherwise. *Id.*

The difficulty in these types of cases is in determining which acts are discretionary and which are ministerial. Examples of discretionary acts include rulemaking and hiring employees. Examples of ministerial functions are enforcing rules that have already been promulgated, as in *Yanero*, and the maintenance of traffic control devices. See *Lexington Fayette Urban Co. Government v. Smolic v. Jurdana v. Rogers*, Ky., 142 S.W.3d 128 (2004).
-Deborah T. Wilkins, WKU General Counsel (June, 2008)

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 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.