



ECSU Student Center and Student Activities Office *Co-curricular education for student organizational leadership*

← **ORGANIZATIONAL LIABILITY** →

"It will never happen to me." How many times have you said that? "That could never happen to us." How many times? "Don't worry about it. That won't happen." Nobody ever plans for something horrible to happen. Even thinking about it is difficult. "Will it jinx us?" We think the possibilities are too remote.

We don't think about drunk drivers, or a friend losing his legs, or even something as small as a \$2,000 debt for damages we did not do. It's true; these things don't happen often. But even in a small place like Eastern Connecticut State University, there are at least 2-3 potentially significant legal incidences a year.

As a student organization leader, you are not only responsible for yourself, but also for the people you lead. If someone drives away from your party and kills another, not only could your organization be held liable, so could Eastern Connecticut State University, and so could you as an individual. If a guest to your dinner dance gets out of hand and destroys the hotel lobby's chandelier, your organization may have to pay the \$1,250 bill. No, as an individual you cannot keep your eye on and control everyone, but you can drastically decrease your liability with awareness and careful planning.

Each recognized student organization at Eastern Connecticut State University is a separate legal organization whose legal rights and obligations are governed by Connecticut state laws. A contract or personal injury liability is the legal concern of your organization and its members. It is important for you as an organization officer to understand what possible liability exists for you and your fellow members individually or as part of that organizational entity.

Some laws allow suits against an organization for any cause of action which the plaintiff could maintain against an individual member of the organization arising directly or indirectly out of the affairs of the organization. Some provide that property of the individual members shall be liable for the satisfaction of a judgment against the organization as a whole. Therefore, members should be aware that judgment against the organization may, under certain circumstances, be levied against them individually.

CONTRACTUAL LIABILITY

Organizations are generally bound when an officer contracts in the name of the group. With rare exception, the officer who signs a contract will be personally liable for it whether or not the contract has been authorized by the organization. You don't want to pay \$8 each for 200 meals rather than the \$5 you had verbally agreed to. To protect your organization, always have a complete contract drawn up with the hosting establishment. Anyone signing a contract must be 21 years of age. Be aware that your signature also makes you personally liable for damages that may occur. Always know exactly what you are signing; i.e., read the contract first! Contract and Honorarium forms are available in the Student Activities Office.

TORT LIABILITY

Generally, your organization members are liable for any act injurious to a person or property of another (a "tort") when they are acting collectively in the function/event for which they are organized. The organization may be responsible for torts of individual members when committed in some endeavor by the organization. The organization is also liable for torts committed by the officers in the scope of their duties.

Courts of law do not care that only four of your organization's members were hosting the house party that resulted in an underage drinker breaking her leg. If it was generally known as your organization's party, you could be held liable.

LIABILITY WITH ALCOHOLIC BEVERAGES

There are three basic actions from which organization liability may accrue under state statutes:

- ◆ furnishing liquor to a minor,
- ◆ being responsible for a minor consuming alcohol in a public place, and/or
- ◆ serving alcohol to an individual, regardless of age, who is already intoxicated.

The purchase of alcoholic beverages by a social chairperson for an event at which a minor may consume alcohol is considered purchasing alcohol for a minor. To assure that this does not occur, alcohol should be purchased only on an individual basis by members of lawful age.

Unless the general public (open party) is invited to an organization party, the house or facility in which the party is held would probably not be considered a public place. For that reason, serving alcoholic beverages at such a function would not be considered doing so in a public place and in violation of the law. Safeguards should be made to insure that persons other than organization members and their invited guests will be barred from events in which alcohol is served.

Another large potential liability occurs when one serves alcohol to a person already intoxicated and that intoxicated person then injures himself/herself or a third party. The liability may be attached not only to the served, but also the organization and its members as well. Again, you cannot watch everyone, but you can make it clear that serving alcohol to minors and intoxicated persons is not tolerated no matter if it's at your dinner dance or your house.

PRE-PLAN AND DECREASE YOUR LIABILITY

You cannot eliminate your liability, but you can decrease it with careful and well thought out planning. As an officer of your organization, you should address the following questions for each activity or event your group sponsors or participates in:

- ◆ Is the entire organization aware of this activity? Is the advisor?
- ◆ How will this activity affect the neighborhood? Have you consulted with your neighbors that this activity is going to be taking place?
- ◆ What state laws and city ordinances must you be aware of and have the potential of being violated?
- ◆ What safeguards do we have to keep these laws from being violated?
- ◆ How will the officers maintain control over the activity? If alcohol is being served, will officers identify those under 21 years of age?
- ◆ What liability does the organization run the risk of incurring?
- ◆ What will the officers do if this activity gets out of hand?
- ◆ List the possible situations that could present themselves at your activity. Make the list long and let Murphy's Laws be your guide.
- ◆ List how you will solve each of the situations from the list you just created.
- ◆ Do you have an established procedure to follow in case of emergencies?
- ◆ Could you convince a prudent person that your event is not potentially dangerous?
- ◆ Is the potential liability for the organization worth the benefit to the organization?

If you plan ahead, and can prove you've been responsible and taken reasonable precautions, you can reduce your liability. Isn't your future and your organization's worth a little pre-planning?!

RELATED SAO RESOURCES

- ◆ Alcohol Management
- ◆ Risk Management

REFERENCE

Adapted from: St. Norbert College, Department of Leadership, Service & Involvement

*Additional resource handouts are available as well as consultation services.
For more information, contact the Student Activities Office in the Student Center at 465-4450.*