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I. General

Risk management or risk avoidance is best accomplished through the development of strong safety-conscious attitudes in supervisors and employees. This should be complemented with continuous safety education and training programs, the utilization of safety equipment whenever necessary, insuring that all machinery is kept in proper working conditions and the following of safe on-the-job procedures at all times.

All observed and/or reported hazards to health and safety are to be corrected as soon as possible with the assistance of the Director of Health and Safety and/or Plant personnel as required. The Associate Vice President for Physical Plant is to give highest priority to work orders which are health/safety related. The Physical Plant Division is to adhere to the approved snow and ice removal procedures and continuance maintenance of a weather log.

In the event of a mishap, the Public Safety Office should be notified by telephone immediately (94480). The Dispatcher will direct a unit to the scene and call for emergency service if required. Adequate documentation of the incident is needed. Items to be addressed include: date, time, and location of the incident; weather and other physical conditions prior to the incident, whether or not adequate safety equipment was available and used (if applicable), names, addresses and telephone numbers of witnesses and actions taken immediately after the incident. In addition, a copy of the form "Injuries on Campus/Workers' Compensation Program - OSHA Form No. 101" or Exhibit 18.A "Supplementary Record of Illness/Injury" as appropriate should be completed that same work day if possible but not later than the next work day. A copy of all documentation should be sent to the Office of Human Resources (Box 70564, Johnson City, Tennessee 37614) or the Comptroller's Office (Box 70732, Johnson City, Tennessee 37614) as appropriate (see paragraph 3 below). Copies should also be sent to the Director of Health and Safety (Box 70426, Johnson City, Tennessee 37614), who will use it to enhance risk avoidance.

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II. The Board of Claims and Claims Commission

The Board of Claims and Claims Commission has sole jurisdiction to hear claims against the University and University employees acting within the scope of their employment for incidents occurring within the State of Tennessee. Generally if the University or its employees are found to be negligent, the claim will be honored. The University can protect itself by taking preventative actions to ensure that safety measures are documented and enforced.

Exhibit 18.B contains two "Release/Hold Harmless Agreements" adopted from a format provided by the TBR General Counsel. One of these forms, or a similar form approved by the University Comptroller, is required to be used for all student activities or field trips where potential risk of injury or property damage exists. The form should also be used in most Physical Education classes and laboratory classes where high risk is evident.

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III. Insurance

Liability coverage and worker's compensation are provided through the State Board of Claims and the Claims Commission on a "self-insured" basis. The University is required to make annual payments to the insurance pool. The University is prohibited from buying any type of insurance except as provided by the State Risk Management Division. There is a web site provided by the state at <http://treasury.tn.gov/Services/Claims-and-Risk-Management/> describing the procedures for workers compensation claims of employees. Workers compensation claims are handled by the Human Resources office (9-5364). Other

claims for loss or damage are handled by the University Comptroller's office (9-4414). Any questions by employees or third parties should be referred to these respective offices.

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IV. Liability of University Employees

Exhibit 18.C is a memorandum from the TBR General Counsel, dated August 16, 1989 concerning auto accidents while on University business. Protection is provided by the Board of Claims/Claims Commission under Tennessee Code Annotated (TCA) 9-8-307. A University employee is absolutely immune from suit in case of accidents occurring in the State of Tennessee while work related duties are being performed unless "...the act or omission of the employee was willful or malicious, constituted a criminal act or was committed for personal gain."

If an automobile accident occurs out of state while on University business generally, the employee will exchange name, drivers and automobile license numbers and insurance companies with the other parties. Names, addresses and other pertinent information should be obtained from witnesses. The employee should explain that East Tennessee State University is self-insured as a state institution through the State Board of Claims and other parties can contact Financial Services at (423) 439-4414 by phone or at Box 70732, Johnson City, Tennessee 37614 concerning specific procedures. The Comptroller should be notified in writing as soon as practical under the circumstances explaining the accident and providing the information obtained from the other parties. The Comptroller will obtain a copy of the police report and file claims on behalf of the University against third parties as appropriate.

Where the accident occurs out of state, the other party may choose to file suit against the employee under the laws of that state rather than filing with the Board of Claims. Exhibit C also explains the coverage in this case. See the section below regarding "Acceptance of Service in Lawsuits".

University employees may also be compensated for loss or damage to personal property under TCA 9-8-111. Motor vehicles are included under this protection if the employee is authorized to use his/her automobile on official business and is claiming mileage reimbursement, or is authorized to use a rental vehicle. The statute does limit reimbursement to the employee to the extent the employee is not compensated by his/her insurer.

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V. Acceptance of Service in Law Suits

(See the attached Exhibit 18.D, memorandum from the TBR General Counsel dated August 11, 1988). Normally, a law enforcement officer or an attorney will attempt to serve a summons and the complaint which sets out the allegations of the lawsuit. The individual attempting service should be directed to the University President's Office. The President's Office should be notified immediately by phone with a follow-up in writing explaining the circumstances surrounding the complaint.

Usually, the University, State of Tennessee or the Tennessee Board of Regents are named as defendants. In that case, no one at the University should accept service. The individual attempting service should be told that the University is prohibited by law from accepting service. The Attorney General of the State of Tennessee has to be served. The President's Office will notify the TBR General Counsel and coordinate the defense with that office.

If the summons names an individual in his/her official capacity, i.e., John Smith, Chairman, Department of Chemistry, the Attorney General should be served. Normally, when an individual is sued in his/her official capacity, no request for damages is requested, rather injunctive relief is sought, i.e., prevent an action from being taken.

The only time an employee should accept service is when the employee is named and money damages are sought from that employee for accidents allegedly caused by negligence or intentional actions taken allegedly with the intent of causing harm in abuse of the employee's authority. In these cases, the employee should accept service and then immediately take the

summons to the President's Office requesting representation through the Office of General Counsel, Tennessee Board of Regents. The University President's Office will coordinate all lawsuits with the TBR General Counsel and the State Attorney General.

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The following Exhibits provide additional details on the Risk Management and Liability Coverage Policy at East Tennessee State University.

[Exhibit 18.A Supplementary Record of Illness/Injury](#)

[Exhibit 18.B Release/Hold Harmless Agreements](#)

[Exhibit 18.C Memo from TBR General Counsel](#)

[Liability of State Employees Resulting from Auto Accidents](#)

[Exhibit 18.D Memo from TBR General Counsel](#)

[Acceptance of Service in Lawsuits](#)

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