

MEMORANDUM

TO: All University Employees

FROM: Amy S. Kelso
Senior Associate General Counsel

DATE: August 4, 2009

SUBJECT: **UPDATED** Excess Liability Coverage for University Employees, Officers, and Agents

Each year, I provide all employees with a memorandum about State-provided liability protections for claims against an employee arising from University work, including a description of an excess liability insurance policy that protects employees.

University employees, officers, and agents enjoy substantial protection against personal liability for acts or omissions that occur in the performance of their work. These protections are defined by statute as well as the terms of an excess liability insurance policy applicable to all State employees.

When a claim is made against a State employee, the Attorney General (or counsel authorized by the Attorney General) provides legal defense. The Attorney General may refuse to provide defense under certain very limited circumstances, as when the claim was not within the course and scope of the employee's State employment, or the act or omission resulted from the employee's fraud, corruption, or actual malice. There are several other statutory exclusions. When the Attorney General provides or approves legal defense of a State employee, the State agency for which the employee works is required by statute to pay up to **\$1,000,000** of any final judgment that may be rendered against the employee.

In addition, the State of North Carolina has for a number of years purchased an excess liability insurance policy that provides all State employees with supplementary coverage beyond the **\$1,000,000** paid directly by the employee's State agency. Under the renewed insurance contract negotiated by the North Carolina Department of Insurance, the coverage limits are as follows:

\$10,000,000 per employee
\$10,000,000 per occurrence
\$25,000,000 annual aggregate

Of course, the insurance policy described here, like all insurance policies, is subject to certain limitations and exclusions. However, any such limitations and exclusions apply only to the excess liability coverage and not to the **\$1,000,000** statutory protection provided to all State employees.

If you have questions about the State's excess liability coverage or would like to review a copy of the policy of excess liability insurance, please contact the Office of Legal Affairs at x5732.

ASK:pat