

BUFFALO STATE COLLEGE

DIRECTORY OF POLICY STATEMENTS

Policy Number: IX:11:00

Date: March 1984

SUBJECT: **Liability**

The question of faculty liability in instances of student injury in the classroom, laboratories, or studies of this college are covered under Section 17 of the Public Officers Law as amended by the Legislature of the State of New York May 15, 1978. Citations to this particular law can be found in Chapter 466 of the Law of the State of New York for 1978.

There are two choices that a litigant may make with respect to a question of damages and compensation for injuries incurred at the college. The individual may, in fact, file a claim against the State of New York in a New York State Court of Appeals. In this instance, the faculty members are not named as defendants. The defendant is the State of New York. Faculty members will be asked to cooperate in the investigation and the trial, but the State is liable for any judgment that might be brought as a result of the litigation. If, in fact, the claimant chooses, he/she may seek to recover damage by bringing suit against a college employee. In such a case, the employee is protected by the Public Officers Law cited above. The law provides for the defense of the employee by the Attorney General of the State of New York and the indemnification on the payment of any judgment against the defendant when sued as a result of an act or omission that occurs "while the employee is acting within the scope of his public employment or duties." Former employees and certain volunteers are also covered where appropriate.

There are restrictions to this. Those restrictions involve provable negligence. Intentional injuries or those caused by reckless disregard of foreseeable consequences would not be included. However, the claimant must prove negligence, and this is difficult to do if reasonable precautionary measures are taken in the classroom, laboratory, or studio. All that is necessary is that we take reasonable steps to prevent injuries and to document the precautions provided to all students in the prevention of injuries. These precautions should include adequate planning of activities, training in the use of equipment, proper safety procedures, and instructing the students of the risks involved.

Source of Information: Memo from Vice President for Academic Affairs to Fine Arts Faculty, March 5, 1984.