

THINKING AHEAD...

INSURANCE MAY BE

# GREEK TO YOU

IT'S *not to us*

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## SORORITY INSIGHTS | FALL 2016

### ARE YOU WELCOMING STUDENTS WITH DISABILITIES? THINGS TO CONSIDER:

*Adapted with permission from "Limit liability related to students with disabilities in fraternity, sorority houses", originally published in the journal **Disability Compliance for Higher Education**, February 18, 2015*

*Claudine McCarthy is the co-editor of **Campus Legal Advisor**, a sister publication of **Disability Compliance for Higher Education**, published by Jossey-Bass, A Wiley Brand.*

When determining whether your institution is required to provide accommodations in fraternity/sorority housing, you must consider so many different factors, including state laws and whether your institution or a chapter owns the building and land, whether the house is on or off campus, and if your institution regulates recruitment or other aspects. So rather than trying to figure out what's required, and rather than risking costly litigation after the fact, just focus on doing the right thing. Here are some things to think about:

#### Check architectural barriers

- Move meetings to accessible areas
- Don't assume accommodations require retrofitting or significant alterations
- Consider safety
- Talk to the chapter president, facility manager, landlord and national/local organization to determine how you can all improve safety and accessibility

### Prepare for service, therapy animals

- Department of Justice says only dogs or miniature horses are permitted as service animals in public places
- You're legally permitted to only ask if the dog/horse has been trained for an accommodation but you can't ask for documentation
- You can remove the animal if it's disruptive, bites or makes a mess
- Fraternity and sorority housing can also be subject to the Fair Housing Act, which would allow you to legally require more documentation for emotional support animals in those settings
- Consider how you'll handle roommates who have legitimate allergies or phobias related to animals
- Don't assume it's unhealthy to have animals around food areas or charge up-front fees for animals in bedrooms You can probably charge members for repairing damage an animal caused

### Consider food, mental health

- With increases in food sensitivities and allergies, expect to have more members requesting ingredient lists and gluten-free or nut-free meals
- Also have plans for handling mental health issues. However, you can't treat an individual differently because she's a danger to herself — only if she's a danger to others

### Review membership requirements

- You do not have to excuse misconduct even if a student says, "I'm an alcoholic or addicted to drugs." Instead, consider whether the student meets membership requirements, which often include GPA, conduct and morals — all permitted for private organizations
- If members with learning disabilities request extended probation to meet a GPA requirement, that calls for individualized assessments. As long as that fraternity consistently applied the GPA requirement, they don't have to lower it for students with disabilities

Always consider consulting with your campus disability services office about the assistance you can provide. <http://www.disabilitycomplianceforhighereducation.com/Article-Detail/limit-liability-related-to-students-with-disabilities-in-fraternity-sorority-houses.aspx>



## WOMEN AND DRINKING: HERE ARE SOME FACTS

Heavy drinking among Americans rose 17.2 percent between 2005 and 2012, largely due to rising rates among women, according to a study by the [Institute for Health Metrics and Evaluation](#) at the University of Washington, published in the American Journal of Public Health.

Nationwide over the course of the past decade, the rate of binge drinking among women increased more than seven times the rate among men.

Alcohol presents yet another health challenge for women. Even in small amounts, alcohol affects women differently than men. In some ways, heavy drinking is much more risky for women than it is for men.

The CDC recently found that nearly 14 million women in the U.S. binge drink about three times a month, having on average six drinks per binge. The highest frequency and intensity of binge drinking (at 3.6 episodes per month and 6.4 drinks per occasion) was reported by women between 18 and 24 years of age.

[Kids who are given sips of alcohol in middle school are more likely to drink in high school. Those who don't drink alcohol in high school are less likely to binge drink in college.](#)

And here's what making a bad choice leads to, [according to the National Institutes of Health](#):

- About 1,825 college students between the ages of 18 and 24 die from alcohol-related unintentional injuries, including motor-vehicle crashes.
- About 696,000 students between the ages of 18 and 24 are assaulted each year by another student who has been drinking.
- About 97,000 students between the ages of 18 and 24 report experiencing alcohol-related sexual assault or date rape every year.
- About 1 in 4 college students report academic consequences from drinking, including missing class, falling behind in class, doing poorly on exams or papers, and receiving lower grades overall.
- Other consequences can include suicide attempts, health problems, injuries, unsafe sex, and driving under the influence of alcohol, as well as vandalism, property damage, and involvement with the police.

And the real message is this: No, not everyone is doing it — even if that's what it feels like sometimes.



## FLSA OVERTIME CHANGES: ARE YOU READY?

Changes to the Fair Labor Standards Act involving employee eligibility for overtime pay take effect on December 1, 2016. What does this mean for fraternal organizations?

Determining if an employee is exempt from overtime is based on the **type and frequency of performed duties and responsibilities.**

### 3 Tests are used to determine eligibility:

- Salary Basis
- Salary Level
- Duties Test

For employees who qualify for overtime pay by working more than 40 hours in a given week, the updated rule **more than doubles the salary level.**

The previous limit was \$455 per week/\$23,660 annually. This threshold has been increased to \$913 per week/\$47,476 annually.

**Conduct an audit** to identify which current exempt/salary employees will be affected.

**Conduct a job analysis** and ensure the job descriptions for these positions and ideally all jobs in the organization are accurate and up-to date.

### What are your options?

- Keep employee exempt and at the same salary level and add overtime compensation
- Raise the salary for exempt positions to \$47,476 annually/\$913 weekly
- Reclassify positions to non-exempt/hourly, track their time and pay them overtime
- Reclassify positions to non-exempt/hourly, reduce their hourly equivalent rate to offset the addition of overtime pay
- Restructure or eliminate positions, or change operational processes

### Things to remember:

- Record-keeping will become very important for non-exempt employees
- Job descriptions must clearly state expectations of work hours
- Mobile device management (taking phone calls and emails) cannot be ignored

For an overview and summary of the final rule, visit <https://www.dol.gov/sites/default/files/overtime-overview.pdf> or watch our webinar [DOL Updated FLSA Wage and Hour Rules](#)

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## PREVENTING FRAUD: IT'S MORE THAN ADEQUATE FINANCIAL CONTROLS

BY JOHN T. MURDOCK, PRESIDENT, GREEK RESOURCE SERVICES, INC.

There has been a good bit of press recently concerning financial fraud committed by alumni volunteers of fraternities and sororities. Two high profile cases involve volunteers of Chi Omega and Gamma Phi Beta who have pled guilty to stealing more than \$1.5 Million from their organizations. Both perpetrators are currently awaiting sentencing.

These cases have resulted in new requirements for clients of at least one insurance broker covering the claims. The new requirements include: 1) House Corporation Boards must have at least two board members. 2) Dual control over bank and vendor accounts. 3) Appropriate oversight of budgets and spending plans. 4) Adequate documentation of decision making during financial management. All of these new requirements are good advice for every non-profit board, but is it enough?

My firm worked with Gamma Phi Beta House Corporation since its inception in 1988. The board president had been in her office for 6 years. We talked with her several times a month, sometimes almost daily. In the planning for their new \$14 Million building on the campus of The University of Alabama, we met countless times to review business plans, construction plans and budgets and even assisted with the oversight of the construction of the new building. We knew our client or so we thought.

On the morning of April 1, 2015 I received a call from a bank security officer from an obscure bank in Raleigh, NC. We didn't have clients or bank accounts in Raleigh at the time and her phone call made no sense to me. She said they had some money that belonged to our client and she was returning it. Bank security officers are extraordinarily secretive and she offered virtually no information. However on a subsequent call she said "we can't bank this customer any longer". I serve on the board of a local community bank and I knew immediately what that meant – either someone had committed fraud or was suspected of doing so.

GRS is a financial management firm. We have 'adequate internal controls' in place. There are many people who touch each transaction and we keep good separation of duties between the staff. Essentially all of the fraudulent invoices were approved by two members of the local HCB. Even our internal controls did not detect the elaborate scheme, perpetrated by a determined criminal who had gained the trust of her local organization.

So what can you do to avoid this situation? The sad truth is you can't fully protect yourself against criminal activity. This person went to great lengths to defraud her sorority. Someone who is determined to steal from your organization will find a way to do so.

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First, the recommendations mentioned above are a good first start and I would suggest these as basic requirements. Dual signatures on bank accounts are not enough. Many people will simply pre-sign checks to meet the requirement or get around it in another way. Additionally, most banks don't offer dual signatures or don't check signatures closely anyway.

We suggest your organization adopt very strict guidelines for reimbursement of expenses incurred by members of your board or organization. Under no circumstances should the organization allow board members to charge items on their personal credit cards simply to take advantage of credit card loyalty programs or 'points'. Original credit card receipts should be submitted for reimbursement along with a copy of the credit card statement to check for accuracy.

We also recommend creating detailed travel policies including the amount of reimbursement allowed for flights, rental cars, hotels, mileage, meals, alcohol, etc. Be sure to include the reimbursable service level allowed where choices are available. i.e. economy vs. first class.

Detailed spending plans should be voted on by the board of directors in advance of each year. Material changes to the plan should also be voted on based on requirements of your organizational by-laws and policies. Reputable vendors should be used when purchasing furniture, equipment and performing maintenance.

In addition to continuity, financial service firms such as ours provide a valuable service in protecting the assets of our clients. We went the extra mile in managing the situation when it was discovered. We contacted Federal authorities, engaged the services of a local CPA firm to perform a special audit of the books and records, and notified all the pertinent parties. As far as we know, our client recovered all of the funds that were misappropriated which isn't normally the case. However, you cannot simply drop off the checkbooks and hope for the best. You must remain involved in the management of your organization to ensure its success and protect the assets of your organization for future generations.

## COVERAGE CORNER

*Mick McGill, VP Client Services/Shareholder | Holmes Murphy*

The Commercial Property coverage provided as part of the Fraternal Property Management Association (FPMA) includes numerous manuscript changes to ensure that the unique loss exposures related to collegiate student housing are effectively addressed. Two of the most recent coverage enhancements include coverage for **Bed Bug Remediation** and **Loss Prevention Expenses**.

The FPMA Property Program now offers the option to purchase coverage for Bed Bug Remediation with available policy limits of either \$15,000 or \$25,000. This policy provision extends coverage for reasonable and necessary remediation, decontamination, cleaning and exterminating expenses of the Building and



Business Personal Property at the insured premise when completed by a remediation vendor pre-approved by the property insurance carrier. Coverage also applies for the actual Loss of Business Income and Extra Expenses incurred during the remediation process. This coverage is subject to a policy deductible of \$2,500.

In addition, the FPMA Property Program now provides coverage for Loss Prevention Expenses incurred up to the policy limit of \$25,000 to protect covered property at the described premises from imminent direct physical loss or damage caused by or resulting from a covered cause of loss. An insured is obligated to put the property insurance carrier on notice of the need to incur the Loss Prevention Expenses within 24 hours of the known need by contacting our office at [fraternityclaims@holmesmurphy.com](mailto:fraternityclaims@holmesmurphy.com) or at (800) 736.4327. There is no policy deductible that applies to this policy provision.



## PREVENTING WATER DAMAGE: WHAT YOU CAN DO

Water damage is the most frequently reported claim in the FPMA Property Program.

The total amount paid on water loss claims during winter break of the 2013-14 academic year: \$27 million

- **Turn the heat down to no less than 60 degrees, don't turn the heat off!**
- Have a house corporation officer or undergraduate member stop by the house daily to make certain the house is secure, there has not been a loss and the heat is working
- If a local undergraduate or alumnus can't be counted on to check on the house, hire someone to do it for you over the break
- Call your heating contractor immediately if there is a problem with the furnace and take immediate action to prevent further damage
- It is important to also be aware of your outside property. To help reduce the risk of injuries of members, guests, or other people just passing by your house, make sure that snow is removed and ice is treated in a timely fashion.
- Consider installing a water detection system like PipeBurst Pro. The system monitors your pressurized water lines for unintended water flow of your plumbing system and fixtures. The device may be set with flow restrictions for automatic water shut off or alert an authorized user allowing water shut off from a remote location. The system also monitors water temperature to provide freeze warnings. If you are interested in the significant property premium discount you would receive for installing this system, contact Bob Hearn at [bhearn@totalleak.com](mailto:bhearn@totalleak.com).

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## WHEN DO WE NEED SPECIAL EVENT INSURANCE (AND HOW DO WE EVEN GET IT)?

The National Insurance Program of a fraternity/sorority will cover every event an undergraduate chapter could think up and host, subject to any sub-limit.

Unfortunately, chapters come up with functions they wish to host that create material risk for the participants (e.g. waterslide, slip in slide, mechanical bull etc.), violate good judgement, good taste and/or are in significant violation of the organization's Risk Management policies. These functions should not be allowed regardless of insurance protection availability whether from a national program or special event coverage. Just say NO!

Many functions of a less risky nature that fall within the scope of what the organization considers to be usual and customary for an undergraduate chapter should be allowed to be hosted with protection provided by the organization's insurance program.

Functions that may "push" the boundaries of a fraternity's/sorority's Risk Management policies without creating a significant violation (e.g. a guest to member ratio violation) or a situation where the event venue requires proof of insurance greater than the sub-limit are perfect to address via special event protection.

The following must be kept in mind; the fraternal organization is to act as underwriter in determining what route a chapter should take in obtaining event protection. It is up to the organization to determine when special event coverage is required.

Holmes Murphy can help if special event insurance is warranted. Contact Cynde Glantz ([cglantz@holmesmurphy.com](mailto:cglantz@holmesmurphy.com)) or Lauren Owens ([lowens@holmesmurphy.com](mailto:lowens@holmesmurphy.com)) for more information.

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