

Phi Kappa Sigma International Fraternity

Equal to the Stars in Endurance



Risk Management & Insurance Program

Information, Questions, and Answers
For Undergraduates, Alumni and volunteers

****Disclaimer Notice****

This basic information has been prepared as *information only*. The actual insurance policies are subject to definitions, exclusions, limitations, and various other terms and conditions. This information does not amend, extend, or alter the coverage afforded by the actual insurance policies.

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Purpose and Principles

Phi Kappa Sigma International Fraternity was founded by Samuel Brown Wylie Mitchell at the University of Pennsylvania on August 16, 1850. Phi Kappa Sigma is more than an organization to be a part of during college; it is a valuable learning experience, a life-long commitment, and philosophy of life. Along with the Phi Kappa Sigma Ritual, the information below states who and what we are as a Fraternity and as members of that Fraternity. All members take an oath to uphold these ideals and it is up to all of us to make sure that we, and those who come after us, learn and understand what it is to be a true “Phi Kap” and “Man of Honor” and incorporate that into our Chapters and into our lives.

The Objects of Phi Kappa Sigma

The "Objects of Phi Kappa Sigma" are the ideals upon which Samuel Brown Wylie Mitchell founded Phi Kappa Sigma and serve as the Fraternity’s “Mission Statement.”

From Article II, Section 1 of the *Constitution and Acts* of the Phi Kappa Sigma Fraternity:

The objects of the Fraternity shall be the promotion of good fellowship and the cultivation of the social virtues among its members, the protection of the just rights and the advancement of the best interests, present and future, individual and collective, of all those who shall be associated together as members of the Fraternity; the encouragement of good scholarship and breadth of training for its members; and cooperation in the educational and cultural programs of institutions of higher education in which Chapters are located.

Membership Expectations

Membership in the Phi Kappa Sigma International Fraternity has many privileges. With these rewards come obligations and expectations that every Brother must fulfill. They are as follows:

1. I will strive for academic excellence and encourage it in my Brothers.
2. I will always respect other persons. I will refrain from and will not tolerate physical, mental, psychological, sexual, or hazing abuses to anyone, especially a fellow fraternity member.
3. I will respect my own property and the property of others, and I will not tolerate the abuse of property by others.
4. I will meet all financial obligations in a timely manner.
5. I will not abuse alcohol or support alcohol abuse, nor will I condone the use or possession of illegal substances of any kind.
6. I will abide by the laws and policies of the country, state, locality and my college or university at all times.
7. I will keep Chapter property safe, cleaned and maintained.
8. I will learn and understand the Ritual of Phi Kappa Sigma and incorporate the ideals expressed by the Ritual in every day life.
9. I will abide by the *Constitution and Acts* and policies of the Phi Kappa Sigma Fraternity and the By-laws and policies of the Chapter to which I am affiliated.
10. I will strive to keep my Chapter strong by actively participating in recruitment.
11. I recognize that my responsibility to Phi Kappa Sigma does not end upon graduation and I will always support the Fraternity to the best of my ability.
12. I will encourage and challenge other fraternity members to abide by these expectations and confront those who fail to do so.

Remember, your conduct not only affects your personal reputation, but the reputation of your Brothers, your Chapter, and the entire International Fraternity as well.

Objectives for a Phi Kap

As a Member, Phi Kappa Sigma expects you to assume responsibility in the areas of scholarship, fraternal affairs, financial obligations, personal conduct, and contribution to your college community.

SCHOLARSHIP

The first and foremost ideal of Phi Kappa Sigma is the pursuit of academic knowledge. The primary goal of each Brother is the attainment of a college education. Each member has an obligation to continually maintain a sound academic record. This is an obligation that he owes to his family, his Brothers, the Fraternity, and himself. Since its conception, Phi Kappa Sigma has emphasized scholarship and academic excellence. Initiation into, and participation in the Fraternity is dependent upon maintaining a respectful scholastic average. Therefore, throughout your college career, the pursuit of academic endeavors should be continued diligently.

FRATERNITY

Phi Kappa Sigma is not just another college club or organization, it is a lifelong commitment. Each member should be thoroughly acquainted with all aspects of the Fraternity, both internationally and locally. During the New Member education period, each future Brother should strive to obtain a comprehensive understanding of the operations of the Fraternity and should not hesitate to seek additional information on all aspects of the Fraternity.

Once initiated, each member must make a commitment to Phi Kappa Sigma, not just to their Chapter, but Internationally as well. The Chapters of the Fraternity are only as strong as its members. Each Brother is expected to participate actively in Chapter government, finance, recruitment, and New Member education, throughout his time as an undergraduate member.

PERSONAL CONDUCT

Phi Kappa Sigma is a Brotherhood of gentlemen. One of the basic tenets of the Fraternity is that Brothers conduct themselves in a respectful manner at all times. Members should be gentlemen at all times, particularly in conduct, manners, dress, morals, and speech. Ungentlemanly activity should be avoided, so as not to bring shame to oneself, one's Chapter, or the Fraternity. Keep in mind, you are a part of a large organization, therefore, everything you do reflects not only on you and your Chapter, but also on Phi Kappa Sigma as a whole.

FINANCIAL COMMITMENT

Each Chapter is a small business that is dependent on each member for existence. Each individual, from New Member to Chapter president, must meet his own financial obligation in a prompt and timely manner, or the success of the Chapter could be jeopardized. The *Constitution and Acts* of the Fraternity clearly state that any member who fails to honor his financial obligations promptly can be expelled from the Fraternity.

COLLEGE/UNIVERSITY

There has always been considerable discussion concerning the role of fraternities at institutions of higher learning. Phi Kappa Sigma has always maintained that fraternities are an integral component of higher education, one of immeasurable value. Chapters of the Fraternity, located throughout the United States and Canada, have always strived to maintain a cooperative atmosphere with the institution at which they are located. The Chapter and its members should strive to live up to the ideals of the institution. Mutual cooperation and participation in the educational and cultural programs are the foundation of good Fraternity-College relations.

The Core Values of Phi Kappa Sigma Fraternity

Adopted at the 90th Grand Chapter Convention, Philadelphia, PA 2000

We commit to the value of **Trust**, the foundation of a relationship based on a belief in oneself as well as others, which is earned and strengthened through experience. The value of trust is found in our reliance on each other and enables an open comfort in interacting with brothers.

We commit to the value of **Honor**, staying true to a set of higher standards and morals in the face of adversity. Membership in Phi Kappa Sigma means a commitment to leading an honorable life.

We commit to the value of **Respect**, which begins with yourself and the practice of the golden rule, “Do unto others as you would have them do unto you.” This statement is the acceptance of the ideals of others. In order to move forward as a brotherhood, we must continue to consider each other’s viewpoints.

We commit to the value of **Knowledge**, the acquisition of thought, theory and principles following in the footsteps of our founding fathers in accordance with our oath of brotherhood. With this knowledge we will come closer to self-discovery, the improvement of society and the translation of knowledge into power.

We commit to the value of **Wisdom**, a virtue gained through experiences of self and others. Wisdom is the application of knowledge and past experiences to make decisions regardless of the situation. Through sharing wisdom, a bond is formed between young and old, teacher and student; this bond is what brings us together.

We commit to the value of **Responsibility**, by being reliable in the fulfillment of the objectives of our fraternity and our personal obligations, enduring the consequences of our actions.

We commit to the value of **Integrity**, our inner foundation for holding true to our values of trust, honor, respect, knowledge, wisdom, and responsibility that guides us to make the best decisions.

As we have seen these values to be critical in the past, they will become even more important in the future!

Public Mottos

“Brotherhood is more than skin deep.”

In 1860 Phi Kappa Sigma Chapters unanimously voted against having an all-white membership and become the first Fraternity to be anti-discriminatory. Our Brothers choose men to become members based on the worth of their character, not superficialities like race, religion, or wealth.

“Once a Phi Kap, Always a Phi Kap.”

Phi Kappa Sigma is more than an organization to be a part of during college; it is a valuable learning experience, life-long commitment, and philosophy of life. Our members graduate to become more than just productive members of society, but leaders that possess a foundation built on steadfast values and a duty to help their fellow man.

Stellis Aequus Durando – “Equal to the Stars in Endurance.”

Our Fraternity has survived hardships, World Wars, and countless other obstacles, yet we still remain strong. Since 1850, Phi Kappa Sigma has been a durable and everlasting organization that will succeed for many years to come.

Introduction

Phi Kappa Sigma was among the *first* international fraternities to develop and establish a risk management and insurance program in the late 1970's.

Since 1979 James R. Favor & Company has been developing and providing effective risk management and insurance programs for Fraternities and Sororities.

This manual was developed by the Phi Kappa Sigma International Fraternity Headquarters in conjunction with James R. Favor & Company to help inform our undergraduates, alumni, and volunteers about the Phi Kappa Sigma Risk Management and Insurance Program. Some information contained herein was adapted from other risk management and fraternity resources including *Fraternal Law*, the Sigma Chi *RISKWATCH* and the Phi Delta Theta Risk Management Packet.

If you have any further questions or concerns please contact...

- **Phi Kappa Sigma International Fraternity Headquarters**
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TEL: 610-469-3282
FAX: 610-469-3286
E-Mail: Conrad@pks.org

-or-

- **James R. Favor & Company**
14466 East Evans Avenue, Aurora, Colorado 80014-1409
WATS: 800-344-7335
TEL: 303-750-1122
FAX: 303-745-8669

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Volunteer Protection Act

The Federal Volunteer Protection Act, 42 U.S.C. § 14501, took effect in late September, 1997. Its purpose is to protect volunteers from liability from their acts while performing services for nonprofit organizations without compensation. The nonprofit organization must be primarily for charitable, civic, educational, religious, welfare or health purposes.

Clearly, volunteers for fraternity-related educational foundations are protected by the Volunteer Protection Act. Similarly, people who volunteer on behalf of universities are protected by the new law. There may be circumstances where volunteers for fraternities are also protected.

The status of fraternity volunteers is more complicated than volunteers for the university or volunteers for the foundation. For example, a chapter advisor who is appointed by a college to carry out specified educational functions with a particular fraternity chapter is entitled to protection under the Volunteer Protection Act. The same volunteer appointed by the national fraternity is less likely to be protected. The probabilities of protection are enhanced if the general fraternity appoints the chapter advisor in order to comply with a request or regulation by the college. Similarly, the general fraternity can improve the chances of its chapter advisors being protected by the Volunteer Protection Act if it clearly defines the role of chapter advisors as educational rather than administrative or disciplinary.

While it is true that well-managed fraternities insure all of their volunteers against liability, it also should be true that a fraternity that is able to bring its volunteers under the Volunteer Protection Act may be able to negotiate lower insurance rates in the future.

Interesting aspects of the Volunteer Protection Act include the following:

- The federal law preempts state law to the extent that state law is in conflict with the federal law.
- There is a procedure whereby a state may opt out of the protection of the Volunteer Protection Act with regard to disputes involving only residents of the state.
- The protection is waived by criminal misconduct, gross negligence or reckless misconduct, or a flagrant indifference to the rights or safety of an individual. Thus, an advisor who passively or actively encourages unlawful behavior such as hazing or underage drinking is waiving protection under the Act.
- Injuries caused by a volunteer operating a vehicle are not covered by the Volunteer Protection Act if there is a state law requiring both licensing and insurance.
- There is no protection for harm caused through sexual misconduct.
- There is no protection for harm caused by violation of federal or state civil rights laws.
- There is no protection if the volunteer was under the influence of intoxicating alcohol or drugs at the time of the injury.

It remains to be seen what the practical effect of the Volunteer Protection Act will be. How it applies to fraternity volunteers can be influenced by the way in which the fraternity defines the role of the volunteer. Any volunteer can waive immunity through participating in or encouraging illegal conduct, through acting under the influence of alcohol or drugs, or through sexual misconduct.

Fraternities, universities and related foundations should examine the way in which they describe the activities of their volunteers. A clear statement of the educational role of the volunteer should help establish immunity. All organizations who hope to have immunity for their volunteers should consider a code of conduct for volunteers.

Source: Fraternal Law, September 1997

PHI KAPPA SIGMA FRATERNITY

RISK MANAGEMENT POLICY

ANY VIOLATION OF PHI KAPPA SIGMA RISK MANAGEMENT POLICY BY INDIVIDUAL MEMBERS OR CHAPTERS WILL LEAD TO DISCIPLINARY ACTION AND LOSS OF INSURANCE COVERAGE.

Phi Kappa Sigma New Members, Active Members and Alumnus Members are bound by all federal, state, and/or local laws, and by university regulations and policy. Furthermore, our members are bound by Phi Kappa Sigma standards of conduct.

Phi Kappa Sigma expects each member to obey all applicable laws, regulations, policies and standards regarding the consumption of alcoholic beverages and controlled substances. Failure to abide by law, regulation, policy, or Fraternity standards may be cause for suspension of membership or discipline of the Chapter.

Fraternity policies state that:

- *No alcohol may be present on Chapter property at any time.*
- No Chapter may dispense alcoholic beverages.
- No Chapter may purchase (or use Chapter funds directly or indirectly for) alcoholic beverages.
- No alcohol is permitted at any rush or new member function (including bid day), any Phi Kappa Sigma ceremony (pledging, initiation, installation of officers, senior recognition, etc.) or any official function at which attendance is required or expected.
- The possession, use or sale of illegal drugs is a felony and is completely incompatible with Phi Kappa Sigma standards and is a basis for disciplinary action. If a Chapter does not take immediate action in such case, the Executive Committee shall initiate action in accordance with the International Constitution & Bylaws.

The following policies apply to Phi Kappa Sigma functions:

- All Phi Kappa Sigma functions are by invitation only.
- Invitation lists shall be limited to the number of individual members of the Chapter and no more than two guests additional per member.
- Multi-group functions should include no more than four (4) individual Greek organizations and include no guests.
- Chapter functions on Chapter property will be alcohol-free.
- Off campus functions should be located as close to the Chapter as possible.
- All events with alcohol must comply with Third Party Vendor guidelines.
- If alcohol will be served, the Chapter must travel to the off campus facility either on a bus, rented at Chapter expense, or in automobiles using designated driver procedure.

Fraternity Insurance Purchasing Group (FIPG) Guidelines

The Risk Management Policy of FIPG, Inc. includes the provisions which follow and shall apply to all fraternity entities and all levels of fraternity membership.

ALCOHOL AND DRUGS

- The possession, sale, use, or consumption of ALCOHOLIC BEVERAGES, while on Chapter premises or during a fraternity event, in any situation sponsored or endorsed by the Chapter, or in any event an observer would associate with a fraternity, must be in compliance with any and all applicable laws of the state, province, county, city and institution of higher education, and must comply with either the BYOB or Third Party Vendor Guidelines. **(FKS NOTE: FKS policy supercedes FIPG regarding BYOB. BYOB functions are NOT permitted. All functions including alcohol must comply with Third Party Vendor Guidelines.)**
- No alcoholic beverages may be purchased through Chapter funds nor may the purchase of same for members or guests be undertaken or coordinated by any member in the name of, or on behalf of, the Chapter. The purchase or use of a bulk quantity of common sources of such alcoholic beverage, e.g. kegs or cases, is prohibited.
- OPEN PARTIES, meaning those with unrestricted access by non-members of the fraternity, without specific invitation, where alcohol is present, shall be forbidden.
- No members, collectively or individually, shall purchase for, serve to, or sell alcoholic beverages to any minor (i.e., those under legal "drinking age").
- The possession, sale or use of any ILLEGAL DRUGS or CONTROLLED SUBSTANCES while on Chapter premises or during a fraternity event or at any event that an observer would associate with the fraternity is strictly prohibited.
- No Chapter may co-sponsor an event with an alcohol distributor, charitable organization or tavern (tavern defined as an establishment generating more than half of annual gross sales from alcohol) where alcohol is given away, sold or otherwise provided to those present.
- No Chapter may co-sponsor or co-finance a function where alcohol is purchased by any of the host Chapters, groups or organizations.
- All recruitment activities associated with any Chapter will be a DRY recruitment function.
- No member shall permit, tolerate, encourage or participate in "drinking games."
- No alcohol shall be present at any new member/rush activity or ritual of the Chapter.

HAZING

No Chapter, colony, student or alumnus shall conduct nor condone hazing activities. Hazing activities are defined as:

"Any action taken or situation created, intentionally, whether on or off fraternity premises, to produce mental or physical discomfort, embarrassment, harassment, or ridicule. Such activities may include but are not limited to the following: use of alcohol; paddling in any form; creation of excessive fatigue; physical and psychological shocks; quests, treasure hunts, scavenger hunts, road trips or any other such activities carried on outside or inside of the confines of the Chapter house; wearing of public apparel which is conspicuous and not normally in good taste; engaging in public stunts and buffoonery; morally degrading or humiliating games and activities; and any other activities which are not consistent with academic achievement, fraternal law, ritual or policy or the regulations and policies of the educational institution or applicable state law."

SEXUAL ABUSE AND HARASSMENT

The fraternity will not tolerate or condone any form of sexist or sexually abusive behavior on the part of its members, whether physical, mental or emotional. This is to include any actions, which are demeaning to women or men including but not limited to date rape, gang rape or verbal harassment.

FIRE, HEALTH AND SAFETY

- All Chapter houses should meet all local fire and health codes and standards.
- All Chapters should have posted by common phones emergency numbers for fire, police and ambulance and should have posted evacuation routes on the back of the door of each sleeping room.
- All Chapters should comply with engineering recommendations as reported by the insurance company.
- The possession and/or use of firearms or explosive devices of any kind within the confines and premises of the Chapter house is expressly forbidden.

EDUCATION

Each Chapter shall annually instruct its students and alumni in the Risk Management Policy of FIPG, Inc. Additionally all student members shall annually receive a copy of said Risk Management Policy.

ANY VIOLATION OF PHI KAPPA SIGMA RISK MANAGEMENT POLICY BY INDIVIDUAL MEMBERS OR CHAPTERS WILL LEAD TO DISCIPLINARY ACTION AND LOSS OF INSURANCE COVERAGE.

THIRD PARTY VENDOR GUIDELINES

The Phi Kappa Sigma Risk Management Policy requires that all events with alcohol must comply with Third Party Vendor Guidelines. **WARNING! YOUR PKS INSURANCE IS VOID IF YOU FAIL TO COMPLY WITH THE PKS THIRD PARTY VENDOR GUIDELINES.**

You must document the following for a 3rd party vendor function:

- The appropriate local and state authority must properly license the vendor. This might involve both a liquor license and a temporary license to sell on the premises where the function is held (if applicable). Attach copies of state and local licenses.
- The vendor must be properly insured with a minimum of \$1,000,000 General Liability and Liquor Legal Liability insurance. The vendor and their insurer shall name your Chapter and Phi Kappa Sigma Fraternity, Inc. as an Additional Insured. The vendor and their insurer shall agree that with respect to the interests of the Additional Insureds, their insurance will be Primary and that any other insurance coverage available to the Additional Insureds will be excess of and non-contributory as respects the vendors insurance.
- Insurance requirements compliance shall be evidenced by a properly completed “certificate of insurance” prepared by the insurance provider. You simply ask the establishment for this and it should be no problem, as many establishments are familiar with these requirements and can get the material from their insurance provider. If a temporary license to sell on the premises where the function is held is obtained, the certificate of insurance must note the dates (and times if applicable) that the coverage is applicable (do not forget the day after the event if it extends past midnight).
- The vendor must agree in writing to cash/credit sales only, collected by the vendor, during the function (sales can not be subsidized by the Chapter).
- The vendor must assume in writing all the responsibilities that any other purveyor of alcoholic beverages would assume in the normal course of business, including but not limited to:
 - Checking for proper identification upon entry
 - Not serving to minors
 - Not serving individuals who appear to be intoxicated or acting in a manner that could be detrimental to other persons
 - Providing safe transportation as appropriate
 - Maintaining absolute control of all alcoholic containers present
 - Collecting all remaining alcohol at the end of a function (no excess alcohol - opened or unopened - is to be given, sold or otherwise furnished to the Chapter)
 - Removing all alcohol from the premises
 - Complying with the Rules (as defined below)

Please refer to the following page for a sample contract that can be used. Sufficient time in advance of any event should be allowed as planning and documentation for these activities may take up to 2-3 weeks to procure. Parties away from the Chapter house where uncontrolled drinking occurs are NOT permissible under Phi Kappa Sigma or F.I.P.G. policy. **The Third Party Vendor Contract and required documentation must be sent to the International Headquarters at least 7 business days prior to the event.**

Phi Kappa Sigma Third Party Vendor Contract

The following agreement is between the _____ Chapter of Phi Kappa Sigma (“PKS”),
a non-profit association, at the _____ and
_____ *college/university*
_____ (“Vendor”) of _____
_____ *vendor name* _____ *city and state*

Duties

- Vendor is hereby engaged to provide the following bartending services during the PKS function described on Exhibit A to this agreement.
- Vendor assumes any and all responsibility for the following:
 - Checking for proper identification upon entry
 - Not serving to minors
 - Not serving individuals who appear to be intoxicated or acting in a manner that could be detrimental to other persons
 - Providing safe transportation as appropriate
 - Maintaining absolute control of all alcoholic containers present
 - Collecting all remaining alcohol at the end of a function (no excess alcohol - opened or unopened - is to be given, sold or otherwise furnished to the Chapter)
 - Removing all alcohol from the premises
 - Complying with the Rules (as defined below)
- Vendor agrees to cash/credit sales only, collected by the vendor, during the function.
- Vendor warrants and represents that they have all licenses required by the appropriate local and state authorities (A copy of the licenses must be attached) and all bartenders provided by Vendor (1) are TIPS certified; (2) are familiar with all federal, state, local, university and Phi Kappa Sigma Fraternity laws, regulations, policies and guidelines applicable to the serving of alcohol at the PKS function (“The Rules”); (3) will perform their duties in accordance with the rules; and (4) will not consume or use illegal substances or alcoholic beverages while performing their duties.
- Nothing contained in this Agreement or otherwise shall be construed to constitute Vendor as an employee or agent of PKS, it being intended that Vendor is an independent contractor solely responsible for the actions of Vendor and Vendor’s employees and agents.

Compensation

- Vendor will be paid upon a per-job basis in accordance with Exhibit A and will be solely responsible for paying Vendor’s employees and agents.

Indemnification/Insurance

- Vendor shall indemnify and hold harmless PKS, Phi Kappa Sigma Fraternity, Inc. and their members, officers, and agents from liability of any claim arising out of injuries or damages caused by any act or omission of the Vendor or Vendor’s employees or agents.
- Vendor will provide evidence of \$1,000,000 General Liability and Liquor Legal Liability insurance with above Chapter and Phi Kappa Sigma Fraternity, Inc. named as additional insured.
- Vendor agrees that its insurance shall be Primary on behalf of the Additional Insureds and any other insurance available to the Additional Insureds shall be excess and non-contributory. (Attach a copy of the vendor’s “certificate of insurance”).

Miscellaneous

- This agreement (including Exhibits) contains the entire agreement between the parties, and no amendments, changes, additions, or qualifications may be made or will be binding unless made in writing and signed by both parties.

This agreement was made on the _____ day of _____, _____. The agreement is for an event which will be on the _____ day of _____, _____. The event will be held from _____ to _____ at _____ which is located at the following address:

The undersigned agree that the above criteria have all been fulfilled and that all required documents have been attached to this agreement.

In witness thereof, PKS and Vendor have signed this agreement to be effective as of the date set forth above.

Vendor

Name of person completing form – Printed

Title

Street

City, State, Zip

Signature

Chapter

Chapter president's name – Printed

Title

Street

City, State, Zip

Signature

Note to Person signing: By signing, you agree that you have the legal authority and right to bind Vendor to this contract.

EXHIBIT A
Bartending Services

PKS Function

Date:

Place:

Hours:

Description:

Compensation

Number of Bartenders:

Hourly rate or other fee(s):

Payment terms:

Risk Management 101

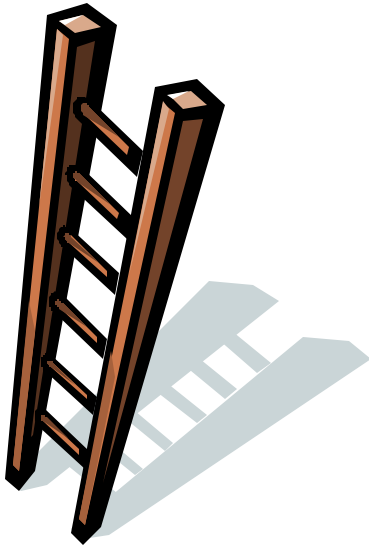
“Ladders Are Dangerous...Stay Off the Ladder!”

Times have changed. Over the past 15 years, the social climate of our organization and at institutions of higher education has gone through some major changes, and the days of “Animal House” are long behind us. The days of free-flowing beer in Chapter houses, open parties, and keg stands are gone. **Phi Kappa Sigma has never been about the party anyway.** We are a fraternity not a social club. Brotherhood is our substance of choice, our “Anti-Drug”. However, we still like to have fun and socialize.

In today’s fraternity, we need to carry a substantial amount of liability insurance in order to protect ourselves, our members, and the greater organization. Each active member now pays a liability insurance premium of over \$200 per year!

In 1987, an organization called FIPG, Inc. (Fraternal Information & Programming Group) was formed to establish basic guidelines for Chapters to follow in order to reduce risk. These guidelines outline the constitution of risk in the realm of alcohol/drugs, hazing, sexual abuse/harassment, fire/health/safety, and education. **We use these guidelines as our roadmap to reducing the risk we face as members of Phi Kappa Sigma.**

Here is a crash course of the FIPG policy in regards to alcohol and drugs and our risk:



“This is NOT a step”

Chapters that don’t follow the Risk Management and FIPG guidelines are in a very dangerous place on the “ladder”. If they “fall” because of an accident at a function, it’ll be a nasty spill for all of Phi Kappa Sigma. It is important that we all understand where the risk is, how we are liable, and ways we can take steps down and off the ladder to eliminate the blow.

At a glance, the FIPG Risk Management Policy can be a very intimidating and technical document. When boiled down, it is simply a way to stay low on the ladder of risk.

Each time we violate one of these guidelines, we climb up a rung on the ladder and increase the chance that a fall from the ladder will harm our organization.

We need to stay firm on the ground, so here’s the policy in layman’s terms:

RUNG #1: DON'T BREAK THE LAW

It's simple: the drinking age is 21, in all states, and anyone (brother or guest) who consumes alcoholic beverages underage runs the risk of trouble. In addition, Chapter functions (which can be any event an observer would associate with the Fraternity) with alcohol present must use a 3rd party vendor. Simply put, Chapters do not have liquor licenses, and therefore cannot provide alcohol. Anything else is a step up the ladder that puts the Chapter and members at risk.

RUNG #2: NO CHAPTER PURCHASE / NO BULK QUANTITY

No funds collected by the Chapter in any form, including dues or "passing the hat", can be used for the purchase of alcohol. Our fraternity is not a tavern, so we shouldn't be in the business of providing alcohol. When we do we take on a huge risk. Also, in today's college culture, a bulk quantity of alcohol translates to most observers as an opportunity to binge drink, which creates the risk for things like alcohol poisoning, falls, deaths, and other injuries. That means that kegs, cases, and other mass quantities of alcohol are a HUGE risk and liability.

RUNG #3: NO OPEN PARTIES WHERE ALCOHOL IS PRESENT

All parties with alcohol present must be at a 3rd party vendor and adhere to 3rd party vendor guidelines. Know who your guests are! FIPG Policy suggests attendance at social events with alcohol should not exceed two guests per member.

RUNG #4: DON'T GIVE ALCOHOL TO MINORS

It should go without saying that it is against the law to purchase for or give alcohol to someone who is under 21 years of age. Again, against the law = risk.

RUNG #5: NO ILLEGAL DRUGS IN OUR FRATERNITY

This one is cut-and-dry. There is zero tolerance for Chapters who have illegal drugs or controlled substances on Chapter premises or at Fraternity events.

RUNG #6: NO CO-SPONSORING WITH DISTRIBUTORS

The Chapter is equally liable if they co-sponsor an event with a vendor/tavern where alcohol is present, given away, or sold to those present.

RUNG #7: ALL OR NOTHING RULE

Any Chapter that co-sponsors or co-finances an event with other Chapters/organizations is equally liable for an incident if any of the other groups purchase alcohol. That means the Chapter shares the risk even if they are following every other FIPG guideline.

RUNG #8: "DRY" RUSH/RECRUITMENT

This is the way Phi Kappa Sigma looks at it: "If alcohol is needed to recruit someone, he is not a quality recruit and we do not want him. And it is pretty pathetic if alcohol is the only selling point the Chapter has to offer a prospective member. Therefore, absolutely no alcohol can be present at any recruitment event.

RUNG #9: NO "DRINKING GAMES"

Just like bulk quantity in Rung #2, "drinking games" encourage binge drinking that increases the risk of an accident. Chapters that don't permit, tolerate, encourage, or participate in such antics are taking a huge step down the risk ladder.

RUNG #10: "DRY" PLEDGING

Like "Dry" rush/recruitment in Rung #8, there cannot be any alcohol involved with the development of Phi Kappa Sigma associate members. Most associates are under the legal drinking age anyway, which means it's not only illegal, but makes the risk and liability especially high.

NOTE: ANY VIOLATION OF PHI KAPPA SIGMA RISK MANAGEMENT POLICY BY INDIVIDUAL MEMBERS OR CHAPTERS WILL LEAD TO DISCIPLINARY ACTION AND LOSS OF INSURANCE COVERAGE.

If You Want To LOSE YOUR INSURANCE COVERAGE... Just Do One of the Following:

1. Participate in “Hazing” or direct others to participate in “Hazing.”

“Hazing” is defined as "any action taken or situation created, intentionally, whether on or off fraternity premises, to produce mental or physical discomfort, embarrassment, harassment, or ridicule. Such activities may include but are not limited to the following: use of alcohol; paddling in any form; creation of excessive fatigue; physical and psychological shocks; quests, treasure hunts, scavenger hunts, road trips or any other such activities carried on outside or inside of the confines of the Chapter house; wearing of public apparel which is conspicuous and not normally in good taste; engaging in public stunts and buffoonery; morally degrading or humiliating games and activities; and any other activities which are not consistent with academic achievement, fraternal law, ritual or policy or the regulations and policies of the educational institution or applicable state law."

2. Participate in “Sexual Abuse or Misconduct” or direct others to participate in “Sexual Abuse or Misconduct.”

“Sexual Abuse or Misconduct” is defined as “any form of sexually abusive behavior whether physical, mental, or emotional.”

3. Participate in a “Criminal Act” or direct others to participate in a “Criminal Act.”

“Criminal Act” is defined as “violation of any law or ordinance (including but not limited to the possession by or the selling or furnishing of alcoholic beverages to a person under the legal drinking age or to an intoxicated person).”

4. Violate “Fraternity Risk Management Policy.”

“Fraternity Risk Management Policy” refers to “all written rules, regulations, or procedures regarding risk management which are established by Phi Kappa Sigma International Fraternity.”

All of the above are part of the coverage limitations and exclusions in the Phi Kappa Sigma International Fraternity Liability Insurance Policy. If you or someone in your Chapter does any one of the above, YOU and the Chapter will have NO insurance coverage and the Chapter will LOSE ITS CHARTER.

Please see the Phi Kappa Sigma International Fraternity Risk Management Policy, the Phi Kappa Sigma International Fraternity Insurance Policy or contact Phi Kappa Sigma International Headquarters for more information.

Insurance Policy Endorsements

On the following pages are copies of policy endorsements that are included in the 2002-2003 insurance policy with Lloyd's of London. **A policy endorsement is an extension that limits coverage for the named insureds.** Named insureds include undergraduate members, new members, Chapters, Colonies, advisors, house corporations, alumni associations, Executive Board members, International Headquarters Staff, the Foundation, and the General Fraternity. This list is not complete, however, it serves as a general guideline of who is covered under our insurance policy.

These policy endorsements extensively limit any named insured's ability to be covered for a claim that is proven to be a criminal act and/or in violation of Fraternity policy. In addition, the insurance policy is a secondary policy to provide coverage only after any other applicable insurance coverage has been utilized by the Chapter or colony. The combination of these endorsements will greatly reduce the amount of claims, decrease insurance costs for individual members, while still providing excellent coverage for all named insureds. For more specific information regarding our insurance policy and coverage, contact the International Headquarters or James R. Favor & Company. Please also consult the additional information provided in this manual including the section on Frequently Asked Questions (FAQs).

Endorsement #A

Limited Hazing Coverage

It is agreed that Commercial General Liability Form CG 0001, General Definitions 3. Bodily Injury and 9. Occurrence, and other conditions are hereby amended as follows:

I. HAZING LIABILITY COVERAGE:

The definitions of “Bodily Injury” & Occurrence” included in Form CG 0001 are extended to include the term hazing, and this policy is understood and agreed to afford coverage therefore.

II. SPECIAL ADDITIONAL HAZING EXCLUSION:

This coverage does not apply to any insured who directs others to participate, and/or participates in hazing

III. DEFINITION:

As used in this policy “Hazing” means without limitation:

Any act or situation created by any insured, with or without the consent of another party, including punishment, harassment, disturbance, embarrassment, intimidation, ill-treatment, discomfort, personal abuse, persistent torment, criticism, or ridicule, of a physical or mental nature, which is imposed upon any person via the execution upon them, their subjection to, or the extraction from them of any unnecessary, needless, unpleasant, disagreeable, difficult, absurd, abusive, offensive, or ridiculous, tricks or tasks, including those of a foolish, deceptive, or fraudulent nature.

ACCEPTED ON BEHALF OF THE INSUREDS:

AUTHORIZED SIGNATURE / DATE

TITLE (CHAIRMAN, PRESIDENT, OR EXECUTIVE DIRECTOR)

Endorsement #B

Limited Sexual Abuse or Misconduct Coverage

It is agreed that Commercial General Liability Form CG 0001, General Definitions 3. Bodily Injury and 9. Occurrence, and other conditions are hereby amended as follows:

I. SEXUAL ABUSE OR MISCONDUCT LIABILITY COVERAGE:

The definitions of “Bodily Injury” & Occurrence” included in Form CG 0001 are extended to include the term Sexual Abuse or Misconduct, and this policy is understood and agreed to afford coverage therefore.

II. SPECIAL ADDITIONAL SEXUAL ABUSE OR MISCONDUCT EXCLUSION:

This coverage does not apply to any insured who directs others to participate, and/or participates in Sexual Abuse or Misconduct.

III. DEFINITION:

As used in this policy “Sexual Abuse or Misconduct” means any form of sexually abusive behavior whether physical, mental, or emotional.

ACCEPTED ON BEHALF OF THE INSUREDS:

AUTHORIZED SIGNATURE / DATE

TITLE (CHAIRMAN, PRESIDENT, OR EXECUTIVE DIRECTOR)

Endorsement #D
Coverage Limitation
Other Coverage Primary for Specified Parties

It is agreed that Commercial General Liability Form CG 0001, Section IV-Commercial General Liability Conditions 4. Other Insurance is hereby amended by the addition of condition d. and additional definitions as follows:

d. Excess Insurance – Chapters / Colonies / Individuals

If any other insurance with any other insurer is available to any “Chapter” or “Colony” covering any loss which may also be covered hereunder, this insurance shall specifically be in excess of, and shall not contribute with such other insurance.

If any other insurance with any other insurer is available to any “Individually Insured” covering any loss which may also be covered hereunder, this insurance shall be specifically in excess of, and shall not contribute with such other insurance.

ADDITIONAL DEFINITIONS

“Chapter or “Colony.” Those collegiate undergraduate organizations or entities which are chartered or officially recognized to exist as such by the National Fraternal organization at the time of loss.

“Individual Insured.” Persons who are collegiate members, pledges, or undergraduate students otherwise affiliated with a “Chapter” or “Colony” and whose status is officially recognized as such by the National Fraternal Organization at the time of loss.

ACCEPTED ON BEHALF OF THE INSURED:

AUTHORIZED SIGNATURE / DATE

TITLE (CHAIRMAN, PRESIDENT, OR EXECUTIVE DIRECTOR)

Endorsement #E
Special Additional Exclusion
Criminal Acts

It is agreed that Commercial General Liability Coverage afforded by this policy is amended as follows:

Any Duty to Defend or any insurance coverage afforded by this policy to any "Chapter" or "Colony", or any "Individual Insured" is subject to the following Special Additional Exclusion.

SPECIAL ADDITIONAL EXCLUSION – "CRIMINAL ACTS"

No Duty to Defend or any insurance coverage shall be afforded under this policy to a "Chapter", a "Colony", or an "Individual Insured" which has been charged with a "Criminal Act", for any claim arising out of or in any way resulting from a "Criminal Act." The Duty to Defend and insurance coverage, including reimbursement of covered costs, will apply if charges are dismissed or there is a finding of not guilty.

ADDITIONAL DEFINITIONS

"Chapter or "Colony." Those collegiate undergraduate organizations or entities which are chartered or officially recognized to exist as such by the National Fraternal organization at the time of loss.

"Individual Insured." Persons who are collegiate members, pledges, or undergraduate students otherwise affiliated with a "Chapter" or "Colony" and whose status is officially recognized as such by the National Fraternal Organization at the time of loss.

"Criminal Acts." Violation of any law or ordinance (including but not limited to the possession by or the selling or furnishing of alcoholic beverages to a person under the legal drinking age or to an intoxicated person), the penalty for violation of which may include incarceration, and which has resulted in the filing of criminal charges against a "Chapter" or "Colony" or any "Individual Insured" by a legally and duly authorized prosecuting authority.

ACCEPTED ON BEHALF OF THE INSUREDS:

AUTHORIZED SIGNATURE / DATE

TITLE (CHAIRMAN, PRESIDENT, OR EXECUTIVE DIRECTOR)

Endorsement #F
Special Additional Exclusion
Violations of Fraternity Alcohol Policy

It is agreed that Commercial General Liability Coverage afforded by this policy is amended as follows:

Any Duty to Defend or any insurance coverage afforded by this policy to any “Chapter” or “Colony”, or any “Individual Insured” is subject to the following Special Additional Exclusion.

SPECIAL ADDITIONAL EXCLUSION – “VIOLATIONS OF FRATERNITY ALCOHOL POLICY”

No Duty to Defend, nor any insurance coverage shall be afforded by this policy, shall apply to any claim arising out of or in any way resulting from any “Violation” of “Fraternity Alcohol Policy.”

ADDITIONAL DEFINITIONS

“Chapter or “Colony.” Those collegiate undergraduate organizations or entities which are chartered or officially recognized to exist as such by the National Fraternal organization at the time of loss.

“Individual Insured.” Persons who are collegiate members, pledges, or undergraduate students otherwise affiliated with a “Chapter” or “Colony” and whose status is officially recognized as such by the National Fraternal Organization at the time of loss.

“Fraternity Alcohol Policy.” The written rules, regulations, or procedures regarding alcohol which are established by the National Fraternal Organization or its Local Chapter at the time of loss.

“Violation.” Determination by the Executive Board of the National Fraternal Organization, or legal authority that some breaking, infraction, or breach of “Fraternity Alcohol Policy” occurred.

ACCEPTED ON BEHALF OF THE INSUREDS:

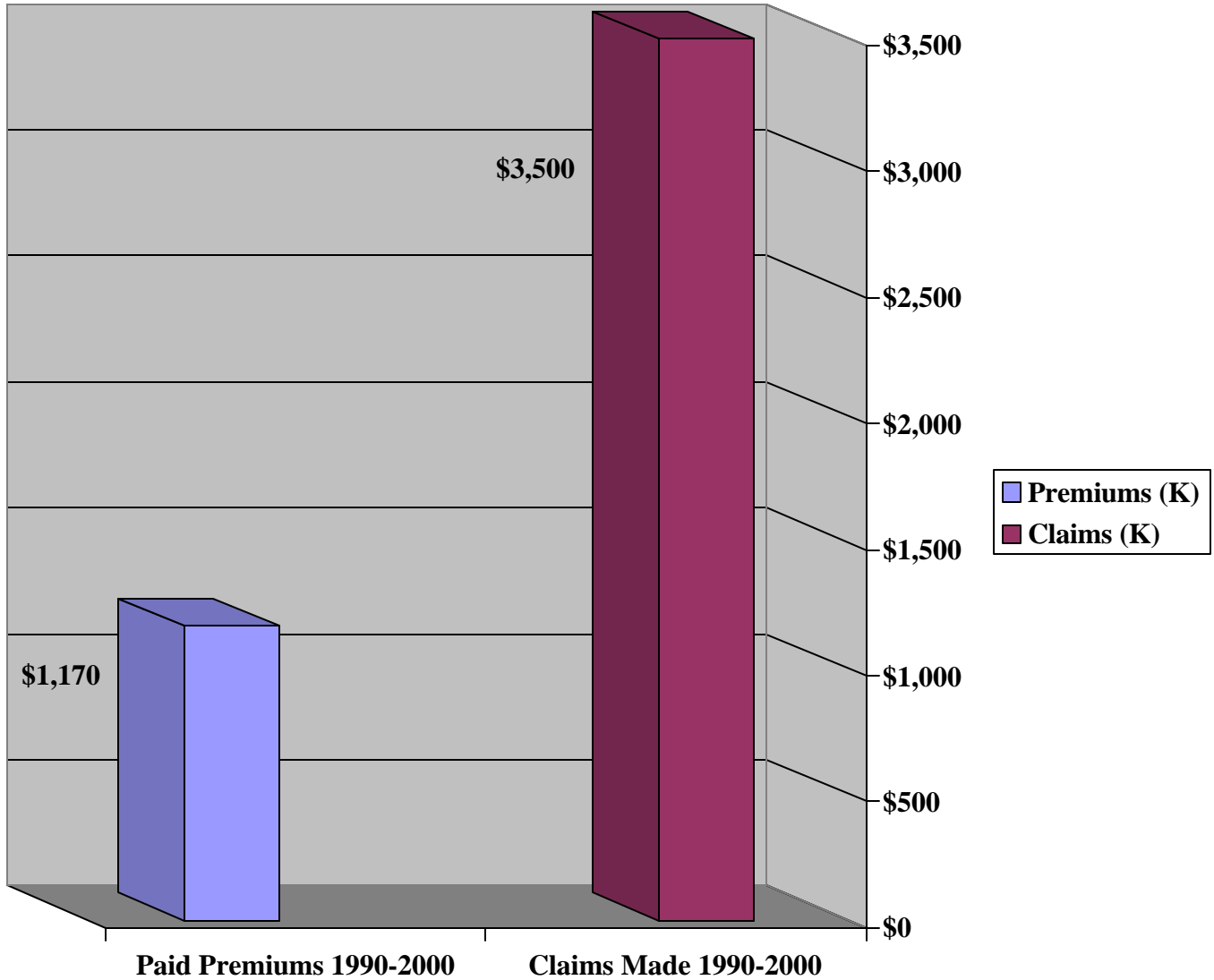
AUTHORIZED SIGNATURE / DATE

TITLE (CHAIRMAN, PRESIDENT, OR EXECUTIVE DIRECTOR)

Liability Insurance History

Everyone wants to know...Why are our insurance premiums so high?
Take a look at our claims/loss history below...It's horrible!
Would YOU insure us?

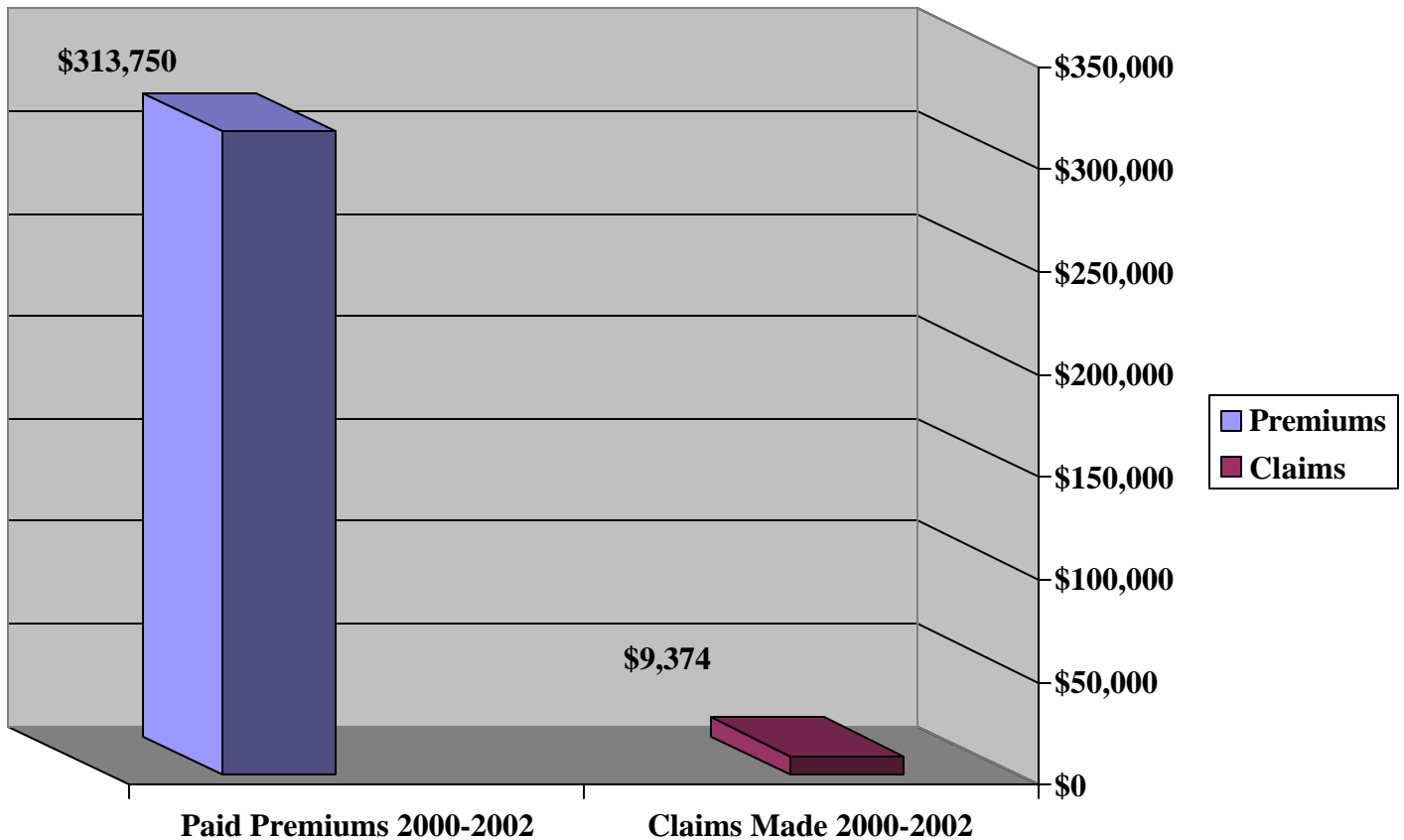
Insurance History 1990-2000 **Four Insurance Companies in 10 Years**



Claim Examples
1990 House Fire at Alpha Lambda Chapter (UC-Berkeley) 3 Deaths \$1+ Million

Insurance History 2000-2002

James R. Favor Insurance (Underwritten by Lloyd's of London)



In summary, Phi Kappa Sigma had a total of 41 claims from 1990-2000 resulting in losses of \$3.5 Million. During that time we paid \$1.17 Million in premiums giving us a loss ratio of almost 300%. With those horrible statistics we had a very difficult time acquiring and retaining insurance companies and went through four during the 1990s.

In 2000, Phi Kappa Sigma started a new insurance program with James R. Favor & Company, underwritten by Lloyd's of London. In order to get insurance coverage we had to enforce existing risk management policies like FIPG and implement new risk management policies such as substance-free housing. Even then we were forced to pay very high premiums due to our past history. In comparison, the past two years have seen only 3 claims, incurring \$9,374 in losses and paying \$313,750 in premiums, resulting in a loss ratio of only 3%. Considering the Fraternity industry average loss ratio of 60%, we are steadily improving. We must sustain this if we are to expect lower premiums in the future. Unfortunately, we can expect our rates to increase over the next few years.

The only way to reduce the cost of our premiums is if all Chapters abide by our current risk management policies, and limit the number of claims and resulting losses.

Crisis Management

Keep your Chapter members safe and preserve your brotherhood. In times of crisis be equipped with the tools to maintain order.

Pre-Crisis

BE PREPARED! The biggest factor in managing a crisis is being prepared prior to the crisis occurring. The Chapter should always be familiar with what its crisis management plan is. This can be done by reviewing the plan at Chapter meetings or holding special seminars for the Chapter to discuss risk management as a whole. Once this is done, handling an unfortunate circumstance will go much more smoothly.

- Form a crisis management team consisting of the Alpha, Beta, and if applicable, the Risk Management and Public Relations Chairmen.
- Compile THE LIST and have contact information for all parties who can assist the Chapter if a crisis occurs. These should include your:
 - Chapter Advisor
 - Grand Delta
 - Headquarters Staff (610-469-3282 or 888-PKS-INTL)
 - College or University Administrator / Greek Advisor
 - Local Police, Fire Department, and Paramedics
 - Local Alumni Attorney
 - Insurance Company (James R. Favor & Company, 303-750-1122 or 800-344-7335)
- Know Phi Kappa Sigma International Fraternity and your college or university's rules, regulations, and recommendations regarding all aspects of risk management. With this information, provide educational programming for the Chapter regarding managing alcohol, Chapter house safety guidelines, and all other pertinent issues.
- Be sure to follow the Phi Kappa Sigma International Fraternity Risk Management Policy and have First Aid and fire prevention supplies available in a known place.

During Crisis

BE CALM! Things will get out of hand, but the active Chapter, especially the officers, must take control of the scene. The most important thing is to care for the injured person(s) regardless of anything else.

- In the event of a serious situation, contact the proper authorities (police, fire, paramedics) immediately.
- If someone on site is properly trained and able, have him or her administer treatment to anyone injured until professional help arrives.
- Safely remove all unnecessary parties from the location to avoid confusion and distraction. While doing this, be sure to maintain control and order. The Alpha is in charge and must remain calm as people turn to him for answers.
- When all those injured are properly cared for, gather all Chapter members and inform them of the situation. Make sure they know what has been done and what the Chapter is planning to do to remedy the situation.
- Gather facts and record all accounts of what happened. At a later time contact all witnesses and record their accounts as well as their names, addresses, phone numbers and emails. Also remember to take down the names of the police officers who responded to the call.

- Contact THE LIST. The Chapter Advisor, Grand Delta, the appropriate Headquarters Staff, Greek Advisors, and the Insurance Company should all receive a proper and truthful account of what happened. Do not be hesitant to do this. An honest explanation will only help. These people are aides and only want what is best for the Chapter.
- Consult a local alumnus who is an attorney as to how to deal with the situation from a legal standpoint. Along with THE LIST, an attorney can help explain liability concerns and how to proceed with the plan.
- Appoint a spokesperson, usually the Alpha or Public Relations Chairman, to be the one and only brother dealing with the media and other outside parties. When interacting with the media, answer their questions to the extent you can, being mindful of your legal advice.
- Inform anyone who might need counseling where they can receive it at your college or university or in the local community.

Post Crisis

LEARN FROM THE SITUATION! These unfortunate occurrences are something you might want to forget once they are resolved. But learning from them will help avoid similar circumstances in the future and better deal with them if they do happen.

- Visit with the injured people. It is important to show care and compassion for the victims. Let them know that the Chapter is willing to help and recognizes that the situation is a problem as well.
- Check in with the police officers involved with the case. It is important to develop a professional and respectful relationship with the authorities. Offer your support and cooperation. Ensure them that you are willing to comply with anything they need and that you are taking the proper steps in managing the crisis. Obtain a copy of the police report to add to your records. Give them a list of your witnesses and use them as a resource for any contact information you might need.
- Provide follow-up news releases to the media outlining what the Chapter has done and how the situation is improving.
- Document, study and learn from the situation. Have a Chapter meeting discussing the crisis and what was proper (and/or improper) about how the Chapter handled it. Although you will hopefully not have to use the plan anytime soon after, it is vital to always know how to properly deal with a crisis.

Basic Insurance Program Information

Types of Insurance Coverage

- 1) **Commercial General Liability:** This coverage, often referred to as General or Public Liability insurance, provides insurance protection against bodily injury and property damage claims brought against the insureds by third parties or members of the public. **The basis for such claims is an allegation of negligence against one or more of the insureds which has resulted in damages to the third party.** If a claim or lawsuit is filed against the insureds, the insurance company has both the right to settle and a duty to defend the insureds against the claim or suit.
- 2) **Hired & Non-Owned Automobile Liability:** This coverage provides insurance protection against bodily injury and property damage claims brought against the insureds by third parties or members of the public. **The basis for such claims is an allegation of negligence with respect to the ownership or use of a covered automobile, which has resulted in damages to the third party.** If a claim or lawsuit is filed against the insureds, the insurance company has the right to settle and a duty to defend the insureds against the claim or suit. **This coverage does not provide or replace anyone's personal automobile insurance. In most states the insurance of the automobile operator or owner will be primary.**
- 3) **Directors & Officers Liability:** **This coverage provides insurance protection for directors, officers, volunteers, employees, and for the organization.** The basis for such claims is an allegation of "Wrongful Acts" against the insureds individually or the organization. **"Wrongful Acts" means any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by the directors, officers, or the organization in the discharge of their duties.** If a claim or lawsuit is filed against the insureds, the insurance company has the right to settle and provides coverage to defend the insureds against the claim or suit.
- 4) **Property:** **This coverage provides insurance protection against direct physical loss or damage to property owned by the Fraternity.** Coverage extends to buildings, contents including EDP equipment and Fine Arts, Loss of Income, and Extra Expense. **Replacement Cost** protection is provided for buildings and contents. **Actual Loss Sustained** protection is provided for Loss of Income and Extra Expense. Fine arts such as silver, jewelry, paintings and items of rarity or historical nature are protected for **Market Value**, without requirements for schedules or specific valuations. **Building Codes or Law & Ordinance Coverage** provides insurance protection for the costs of compliance with such areas as A.D.A., Life Safety Codes or Sprinkler Ordinances, when they are triggered by insured losses.
- 5) **Equipment Breakdown:** **For Fraternity owned property,** this coverage provides insurance protection for the types of property and against the kinds of losses not covered by property insurance. **Boilers, heating, refrigeration or air conditioning systems, computers, and virtually all other forms of electrical or mechanical equipment breakdown are protected.** Common causes of losses are explosion, burning or cracking, motor burnouts, electrical damage, power overloads, food spoilage, and mechanical breakdowns from centrifugal force or metal fatigue. **80% of all claims are from electrical or air conditioning equipment.** As with the property coverage, **Replacement Cost, including Building Codes or Law & Ordinance Coverage, Loss of Income and Extra Expense protection are also provided.**
- 6) **Difference In Conditions:** **For Fraternity owned property, this coverage provides insurance protection against specific types of potentially large or catastrophic losses such as Earthquake and Flood.** Coverage is subject to separate Annual Aggregate Limits for Earthquake and Flood. For its specific perils, this insurance coverage provides the same type of protection as the Property and Equipment Breakdown insurance coverages.

Certificates Of Insurance

Certificates of Insurance are available upon request (but may require approval from your National Headquarters). They provide additional information such as, the policy numbers, underwriters, policy periods, limits of coverage and deductibles.

Certificate Basics and Additional Interests

1) **Certificate Basics:** Certificates of Insurance and other Evidence of Insurance forms are the basic information communication tools of the insurance industry. **Whenever one party requires another party to secure and maintain some form of insurance, they should also require satisfactory evidence that this has, in fact, been done. This circumstance usually arises from various forms of contracts that are related to fraternity operations and activities.**

Examples include: Relationship Statements or School Recognition Requirements, Equipment Leases, Leasing Facilities owned by Others for Social Functions or Fundraising Activities, Chapter House Leases or Housing Agreements, Remodeling or New Construction Projects, and especially with any Employment or Independent Contractor Agreements.

2) **Certificates are Information Only:** The principal function of any certificate or evidence of insurance is just to provide evidence of and convey basic information about the insurance coverage carried by another party. **Insurance certificates are not intended to provide insurance for the party to whom they are furnished. Certificates are not intended to amend, extend or alter the coverage afforded by the insurance policies.**

3) **Additional Interest Definitions:**

Mortgagee: Added to a property insurance policy. Intended to protect the mortgagee's interest against physical loss or damage to the property.

Loss Payee: Added to a property insurance policy. Directs the insurance company to pay any loss or damage to specified property insured to a designated party other than the insured.

Additional Insured: Added to a liability insurance policy. Intended to provide limited coverage to a party other than the insured for liability arising out of the insured's premises or operations.

4) **Who Needs Certificates? Everyone needs certificates!** Certificates of insurance are the principal method used to provide evidence of your insurance coverage to the fraternity's various organizational components (Chapters, House Corporations, Alumni Groups and Volunteers). **They are also used to provide evidence of your insurance to third parties such as (Schools, Lenders or Landlords).**

Certificates are normally issued annually or as required. They may be copied as repeated use may be needed during the policy year. For chapters we suggest they be retained with a specific officer or with the chapter's important records. For others we suggest retention with the corporate records or other important documents.

From the fraternity's perspective, there are numerous situations in which you will want to know that the parties you are dealing with have insurance to meet their obligations to your organization. Examples include: Payment of workers' compensation benefits to injured employees, payment for any damage to your property, payment for liability assumed under contract, or proper insurance coverage for responsibilities assumed by others such as bartenders or security guards.

5) Added Attention For Special Exposures: We continue to recommend lead time, documentation and added attention for special fraternity exposures. Special exposures include: **1) For "Independent Contractors", Workers' Compensation, General Liability and Automobile insurance. 2) For Security Guards, coverage for Personal Injury exposures (False Arrest, Invasion of Privacy, etc.) 3) For Alcohol related service providers, coverage for both Host Liquor and true Liquor Legal Liability. 4) For Transportation Services, adequate Automobile Liability limits. 5) Have you been protected as an Additional Insured under the other party's insurance coverage where appropriate?**

6) The "Last Stand" for Risk Management: While likely not your first Risk Management opportunity, **providing a certificate or evidence of your insurance to others or obtaining a certificate or evidence of insurance from others** will almost certainly be the "Last Stand" for Risk Management. **This may be the last chance you will have to apply risk management techniques to a given exposure or potential loss situation.**

When providing certificates to others you should again review your exposures. More importantly, review the limitations of your own insurance. **Every attempt should be made to** avoid the unknowing assumption of risk, **and to the greatest extent possible,** contain your risks within the scope of your insurance. Not all risks that you may assume are insured.

When you obtain certificates of insurance from others we will be pleased to assist you by reviewing the insurance they maintain to support their obligations. Some frequently found errors include: 1) Incorrect Coverage or Insureds, 2) Inadequate Limits, 3) Missing Additional Insureds.

Proposed contracts or agreements should be subjected to a joint review by your legal counsel and insurance representatives. As your insurance representatives we will work with you and your legal counsel to review the agreement's exposures and insurance obligations. **This review process often reveals increased or previously overlooked exposures that can be significantly reduced or totally avoided by revising the related plans and contractual or insurance obligations.**

Your legal and insurance advisors need complete information, documentation and adequate time to perform these functions well. This is particularly true if alcohol or other hazardous exposures exist. **Especially if Risk Management issues have been given little prior consideration, we urge you to use the providing or obtaining of insurance certificates as the "Last Stand" for Risk Management.**

Hold Harmless Agreements / Additional Insureds / Whose Insurance is Primary

1) Hold Harmless & Indemnity Clauses: Risk transfer to others is a fundamental risk management technique. This is best done under a written agreement containing Hold Harmless and Indemnity Clauses. **Effective use of this Risk Management technique requires that your legal counsel drafts or reviews the legal agreement. We will assist by reviewing Risk Management considerations with your legal counsel.**

A Hold Harmless clause attempts to relieve one party from claims for damages or liabilities that might arise via their relationship with the second party. **An Indemnity clause usually accompanies the Hold Harmless clause.** The Indemnity clause requires the party providing the indemnity to defend and pay any claims or damages the party being Held Harmless may become legally obligated to pay to a third party.

The opportunity for fraternities and sororities to apply or be faced with this basic Risk Management technique is almost endless. **Some examples include: 1) Leases, 2) Social Functions or Events, 3) School Recognition or Relationship Statements, 4) Independent Contractors.** Properly executed, this has been proven to be a very effective risk transfer and loss control technique for fraternities and sororities and we recommend its use whenever possible. **Don't forget to require, ask us to review, and retain in your records the certificates or evidence of insurance materials provided by others to support agreements in your favor.**

The respective bargaining positions of the parties will usually, to a large degree, determine how risks are transferred. **While they remain an effective Risk Management technique for fraternities and sororities, overly broad Hold Harmless and Indemnity Clauses may be overturned and declared invalid by some courts as being unfair or contrary to public policy.** If a Hold Harmless agreement is ruled invalid by a court, the contractual liability insurance carried by the indemnitor may be worthless.

2) Additional Insured: Additional Insured status is another basic risk management technique. **Hold Harmless and Indemnity clauses are of greatest value only when supported by insurance or significant assets.** When one party transfers risk or is promised indemnity by another, **evidence of insurance to support the promised indemnity should also be required.**

Being added as an Additional Insured under another party's insurance, **establishes for the Additional Insured a limited but valuable added measure of protection.** An Additional Insured can tender suits or submit claims directly to the other party's insurer for handling. **Being an Additional Insured can be an effective basic Risk Management technique to insulate your insurance program from potential losses.**

Insurance companies commonly attempt to restrict coverage for an Additional Insured **to claims for damage or liability that arise out of the premises or operations of their policy's Named Insured.** In order to secure coverage as an Additional Insured you often must allow the insurer to choose defense counsel and control the defense. **Becoming an Additional Insured is not intended to increase the limits or otherwise change the coverage that a policy affords.**

Factors such as insurer solvency, legal decisions, and insurance regulatory actions can set aside even the best risk management plans. **If, as an Additional Insured, your claims are denied or go beyond the scope of the insurance, you must rely on other sources of indemnity or face an uninsured loss.** The most important source of protection for you against losses or claims remains your own insurance program.

3) Whose Insurance is Primary? The Additional Insured Risk Management technique can give rise to other difficulties. When two insurance policies potentially apply to the same claim, the question of which policy is primary or first to pay usually arises. **Failure to anticipate and address this topic can result in unexpected losses.** Your insurer may have to respond to a claim against you for risks that you thought had been transferred to others.

This can result in defense costs or claims costs ultimately being charged against your insurance program. If the potential for loss is significant, insurers attempting to determine the payment priority obligations of their policies may be reluctant to clearly confirm coverage or provide defense for claims that have been presented.

To avoid unexpected losses and potential problems in this area we recommend that your Hold Harmless or Indemnity clauses, Additional Insured arrangements, and the related insurance coverage specifically address the following additional points:

- 1) If a claim is presented, the other party's insurer will be primary (Pay First). Your own insurance will be excess and non-contributory (Pay Only After the Other Party's Insurance).
- 2) The other party's insurer will provide and pay for your defense if a claim is presented.
- 3) The other party's insurer will provide and pay for separate counsel on your behalf if considered necessary by your legal counsel.

Requesting “Certificates of Insurance” & Risk Management Services

Providing a Certificate of your Insurance to another party may be the last chance you will have to apply Risk Management techniques to a given exposure or potential loss situation. To provide Risk Management Services, our staff and your legal advisors need complete information, documentation and adequate lead-time. Your cooperation in following the procedures outlined below will enable our staff and your legal advisors to provide you with effective, and prompt Risk Management Services in response to your Certificate of Insurance Request.

- 1) Written requests from the party requesting a certificate of your insurance will speed Risk Management evaluation, response, and minimize errors by providing details of the requirements and communications information.
- 2) To accurately issue certificates of insurance the following information is needed: Fraternity Name, Chapter Name, School, Mailing Address, The Parties Concerned, Insurable Interests, The Reason for Providing a Certificate, Contact Information, Date Required, and Cancellation Requirements. For lenders the Customer or Loan Number and Required Property Values may be necessary.
- 3) Requests and supporting documentation should be received in our office 30 days before the certificate is needed. This permits the time needed for gathering added information, review by your legal counsel or the insurance company, and accomplishing adjustments as necessary.
- 4) Review all contracts with your legal counsel before execution. We do not offer legal advice or draft contractual agreements. We will be pleased to assist your legal counsel in reviewing the risk management considerations of contracts.
- 5) Functions, Special Events and any Additional Insureds deserve special attention in order to review and attempt to minimize your exposures. Certificate requests for these types of activities should include a complete function planning form including all the appropriate attachments.
- 6) Risk Management Services and Certificates of Insurance are provided at no charge. Extra charges may apply for Additional Insureds, and for any extra expenses incurred for priority handling. (Express Mail, Federal Express).
- 7) Certificates of Insurance will provide the policy numbers, underwriters, policy period, coverages, limits and deductibles.

Direct requests to James R. Favor & Company, 14466 East Evans Avenue, Aurora, Colorado, 80014-1409. WATS (800) 344-7335 • TEL. (303) 750-1122 • FAX (303) 745-8669.

Reporting of Claims or Accidents

Any loss or claim that may involve the protection afforded by your insurance program should be reported promptly to James R. Favor & Company. Prompt reporting often prevents minor claims from becoming major problems. **Failure to report claims promptly violates one of the conditions of your insurance policy and could relieve the insurance company from the responsibility for payment of an otherwise valid claim.**

A telephone call will begin the claim service process. If written reports are necessary, they should be forwarded as soon as possible. Once the initial report is received, claims adjusters from the nearest office of the insurance company or independent adjusters from your local community will be assigned as necessary. **Please make everyone concerned aware of the following important duties regarding claims.**

Your General Claims Duties

PROPERTY / LIABILITY / WORKER'S COMPENSATION

- **REPORT CLAIMS PROMPTLY.** Contact James R. Favor & Company @ 14466 East Evans Avenue, Aurora, Colorado, 80014. Toll Free (800) 344-7335 – Fax (303) 745-8669.
- **EMERGENCY MEDICAL TREATMENT FOR INJURED PERSONS.** As necessary, secure appropriate emergency medical attention for any and all injured persons.
- **IF SUIT IS FILED OR LEGAL PROCESS SERVED.** If suit, legal process, or claim notice is served upon anyone, IMMEDIATELY NOTIFY, and forward copies of the suit materials to: James R. Favor & Company, your organization, and the insurance company claims adjustor.
- **DO NOT ADMIT LIABILITY, ACCEPT RESPONSIBILITY OR MAKE PUBLIC STATEMENTS.** Your insurance policy requires that no one shall, except at their own expense, make any payment, assume obligations, or incur any expense other than for First Aid. **Only the insurance company has the authority to accept responsibility, make payments, repair damages, defend or otherwise settle a claim under the policy.**
- **COOPERATE WITH INSURANCE COMPANY.** Authorize the insurance company to obtain and inspect necessary records and other information. Respond promptly and cooperate fully with the insurance company in the investigation, defense and settlement of all claims.
- **ASSIST WITH THE INSURANCE COMPANY'S RIGHTS.** As requested, assist the insurance company in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which your insurance applies.

What To Expect From An Insurance Adjustor

While a telephone call will begin the claim service process, written reports are also necessary and should be forwarded as soon as possible. Once the initial report is received, claims adjustors from the nearest office of the insurance company or independent adjustors from your local community will be assigned as necessary. Once assigned, the following are some of the steps that adjustors will generally take in the handling and settlement of your property claim.

- **PROPERTY PROTECTION & CLEAN-UP.** The Adjustor should be able to offer you help securing temporary repairs to prevent further damage, and with initial loss clean-up.
- **ASSISTANCE IN OBTAINING ESTIMATES & CLAIM DOCUMENTATION. You are responsible for preparing the claim documentation.** The adjustor should be able to offer you help in obtaining repair estimates, or establishing the value of damaged property.
- **ADJUSTORS OFTEN OBTAIN THEIR OWN CLAIM ESTIMATES.** Adjustors will often obtain their own estimates for necessary repairs of the value of damaged property.
- **EVALUATION OF ESTIMATES AND SUPPLIERS.** Adjustors should be able to offer you help evaluating the estimates/values, and the potential service/product suppliers.
- **SETTLEMENT DISCUSSION AND AGREEMENT.** Once both you and the adjustor receive, compare, and agree upon the repair estimates or damaged property values, the loss adjustment process is almost complete. **Having agreed upon the amount of the claim, you may use any contractor, or other supplier you choose to complete your claim recovery.**
- **ASSISTANCE WITH AGREEMENT & UNDERSTANDING.** If you and the adjustor do not agree on the amount of the claim or you do not understand something, please contact our office @ 14466 East Evans Avenue, Aurora, Colorado 80014. Toll Free (800) 344-7335 – Fax (303) 745-8669. We will be pleased to offer our assistance in accomplishing mutual understanding and agreement.
- **APPRAISAL & ARBITRATION RIGHTS. On rare occasions, if agreement on your claim amount cannot be reached, your policy provides for a process of third party appraisal and arbitration.**

Property Losses / Claims Procedures

- **REPORT CLAIMS PROMPTLY.** Contact James R. Favor & Company @ 14466 East Evans Avenue, Aurora, Colorado 80014. Toll Free (800) 344-7335 – Fax (303) 745-8669.
- **PROTECT THE PROPERTY FROM FURTHER DAMAGE.** Take all reasonable steps to protect the property from further damage. Board up windows and roof holes to protect property from the weather. Remove furniture, carpets, and other items from wet areas. Remove any standing water, either manually or with water extraction equipment. Keep complete accurate records of your expenses for emergency or temporary repairs, for consideration in the settlement of the claim.
- **CONTACT THE PROPER AUTHORITIES.** If the loss is a criminal act (i.e. burglary or theft), contact the local authorities and request a copy of their report. If utilities (gas or electric power lines) are involved, immediately contact the appropriate utility companies.
- **OBTAIN REPAIR ESTIMATES.** Begin to secure damage repair estimates. **Do not begin any repairs, except those protecting the property from further damage, until the insurance company adjuster has inspected the damaged property, or until authorized to begin repairs by the adjuster or James R. Favor & Company.**
- **SEPARATE DAMAGED AND UNDAMAGED PROPERTY.** Do not discard damaged property without authorization from the insurance company adjuster or James R. Favor & Company.
- **INVENTORY DAMAGES AND DOCUMENT YOUR CLAIM.** Prepare your claim documentation. Provide the most complete information possible of claim damages and/or property values, (model numbers, serial numbers, receipts or estimates which document property costs or values). Pre-loss inventories with pictures & descriptions can be very helpful.
- **PREPARE A COMPLETE RECORD OF LOSS EXPENSES.** Begin and maintain a complete record of all claim related expenses, particularly those extra and unusual or extraordinary expenses sustained or incurred as a result of the loss or claim.

Special Water Damage Claims Procedures

- **REPORT CLAIMS PROMPTLY.** Contact James R. Favor & Company @ 14466 East Evans Avenue, Aurora, Colorado 80014. Toll Free (800) 344-7335 – Fax (303) 745-8669.
- **PROTECT THE PROPERTY FROM FURTHER DAMAGE.** Take all reasonable steps to protect the property from further damage. Board up damage to protect property and remove furniture, carpets, and other items from wet areas. Keep complete accurate records of your expenses for emergency or temporary repairs, for consideration in the settlement of the claim.
- **BEWARE FALLING CEILINGS.** Sagging ceilings may collapse due to weakness or weight of collected water. Be careful if you attempt to drain the water. Puncture a small hole in the ceiling. Be sure to have adequate containers available to collect the drainage.
- **CHECK ELECTRICAL SYSTEM.** If water has damaged or contacted your electrical system, turn off the power. Have an expert check for electrical hazards **before** restoring power.
- **PROMPT ATTENTION FOR WATER DAMAGED CARPETS.** Promptly contact **professionals** for water extraction/cleaning assistance. Carpeting can usually be restored or repaired if promptly dried and cleaned.
- **OBTAIN REPAIR ESTIMATES.** Begin to secure damage repair estimates. **Do not begin any repairs, except those protecting the property from further damage, until the insurance company adjuster has inspected the damaged property, or until authorized to begin repairs by the adjuster or James R. Favor & Company.**
- **SEPARATE DAMAGED AND UNDAMAGED PROPERTY.** Do not discard damaged property without authorization from the insurance company adjuster or James R. Favor & Company.
- **INVENTORY DAMAGES AND DOCUMENT YOUR CLAIM.** Prepare your claim documentation. Provide complete information (receipts or estimates) that documents property values and/or claim damages. Pre-loss inventories with pictures & descriptions can be very helpful.
- **PREPARE A COMPLETE RECORD OF LOSS EXPENSES.** Begin and maintain a complete record of all claim related expenses, particularly those extra and unusual or extraordinary expenses sustained or incurred as a result of the loss or claim.

Liability Losses / Claims Procedures

- **EMERGENCY MEDICAL TREATMENT FOR INJURED PERSONS.** As necessary, secure appropriate emergency medical attention for any/all injured persons.
- **DO NOT ADMIT LIABILITY, ACCEPT RESPONSIBILITY, OR MAKE PUBLIC STATEMENTS.** Your insurance policy requires/provides that no one shall, except at their own expense, make any payment, assume obligations, or incur any expense other than First Aid. **Only the insurance company has the authority to accept responsibility, make payments, repair damages, defend or otherwise settle a claim under the policy.**
- **IMPORTANT! RECORD FIRST IMPRESSIONS AND WITNESS INFORMATION PROMPTLY.** As soon as practical, record first impressions or reports of what happened. Make careful note of Names, and Current/Permanent Contacts for all persons involved and witnesses.
- **REPORT CLAIMS PROMPTLY.** Contact James R. Favor & Company, 14466 East Evans Avenue, Aurora, Colorado, 80014-1409. WATS (800) 344-7335 • TEL. (303) 750-1122 • FAX (303) 745-8669.
- **NOTIFY FRATERNITY OFFICERS & PREPARE WRITTEN REPORT.** Notify your officers and Phi Kappa Sigma International Fraternity Headquarters in accordance with your internal procedures. Prepare and submit a written claim/fraternity report as soon as possible. For completeness, accuracy, speed, and convenience in reporting both your own and information available from others, you may wish to consider using the services of a public stenographer. Adjustors may request you provide recorded statements. Your claim/fraternity report should at minimum provide the following information:
 - Date, Time, Location, and Circumstances of Accident;
 - Names, Addresses, Phone Numbers, Emails, of Persons Involved and Witnesses;
 - Description of Claim or Event;
 - Follow-up Information or Actions, (i.e. Medical Treatment or Condition of Persons Injured, Police Report Filed);
 - Persons Responsible for Further Coordination / Handling of This Claim
- **IF SUIT IS FILED OR LEGAL PROCESS SERVED.** If suit, legal process or claim notice is served upon anyone, **IMMEDIATELY NOTIFY and forward copies of the suit materials to: James R. Favor & Company, Phi Kappa Sigma International Fraternity Headquarters, and the insurance company claims adjustor.**
- **COOPERATE WITH THE INSURANCE COMPANY:** As requested, authorize the insurance company to obtain and inspect necessary records and other information. Cooperate with the insurance company in the investigation, defense and settlement of all claims.
- **ASSIST WITH THE INSURANCE COMPANY'S RIGHTS:** As requested, assist the insurance company in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which your insurance applies.

Inspection and Life Safety

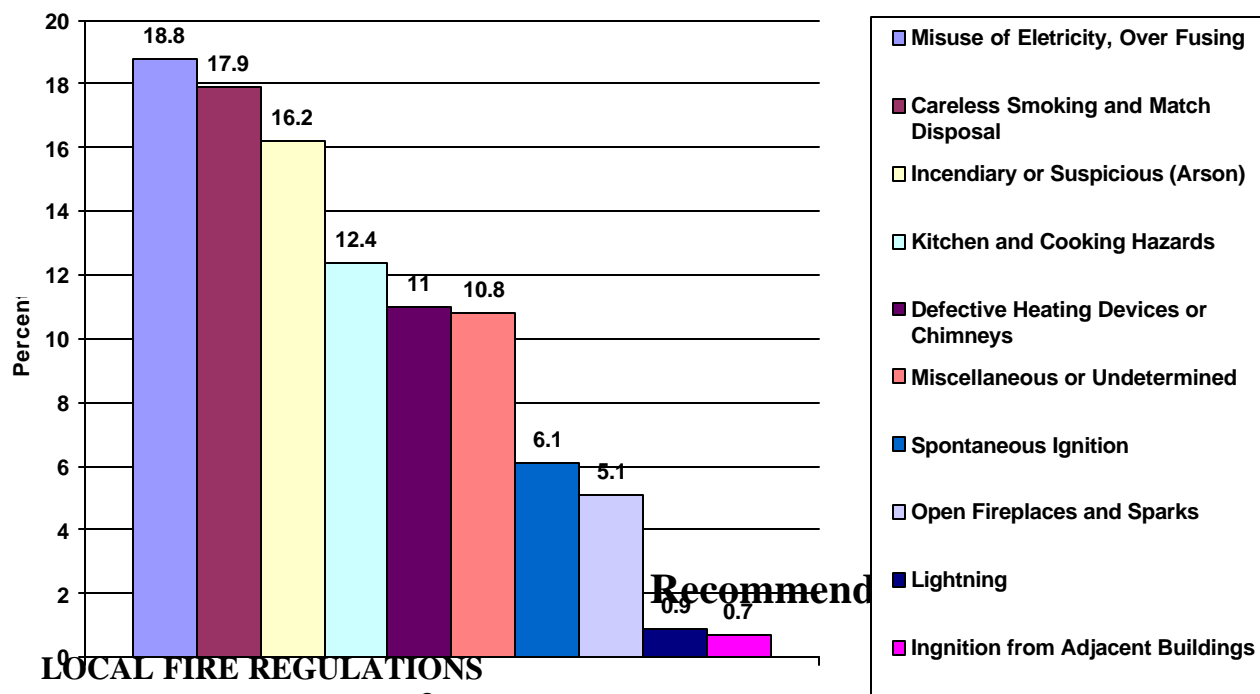
Responding to an Inspection Report

This Outline has been prepared to address the questions most commonly asked by Fraternities, House Corporations, Chapters and volunteers about responding to an inspection report.

- 1) **Respond Promptly To The Report:** Respond in writing to James R. Favor & Company with a copy to your headquarters. **Acknowledge receipt of the report and address your planned response to each “Requirement For Change”.**
- 2) **Implement Changes Where Possible:** We understand that the “Requirements For Change” cannot always be accomplished immediately. However, **those requirements which involve only minimal or nominal costs, should be promptly addressed and implemented.** Your response should clearly state which items have been addressed.
- 3) **A Risk Management Plan For Changes:**
In responding to the inspection report, develop and **outline your proposed plan and timetable** for accomplishing those items which cannot be addressed immediately. Your underwriters are reasonable and they understand that some requirements may involve greater costs and will take time to complete.
- 4) **Assistance In Developing Your Risk Management Plan For Changes:** James R. Favor & Company and your headquarters will be pleased to assist you in developing a written plan for accomplishing the “Requirements For Change”.
- 5) **Obtain Estimated Costs:** Secure estimated costs from qualified contractors for the necessary changes. Once approximate costs are known, determine if costs can be budgeted for or if special funding will be needed. **Do not forget that the Fraternity supports your efforts. Some even have special Life Safety Loan Programs available to provide assistance for your efforts.**
- 6) **Submit Your Final Plan & Timetable:** Once costs and funding have been addressed, establish a timetable for accomplishing the needed changes. Prepare your written plan, including estimated costs and timetable, and submit it to James R. Favor & Company and your headquarters.
- 7) **Keep Communications Open:** Neither your underwriters or headquarters are unreasonable. We recognize that with any plan, situations may arise which require revisions. If this becomes necessary, please advise us accordingly and provide a revised timetable for the completion of your plan.
- 8) **Confirm Requirements Are Completed:** Advise James R. Favor & Company and your headquarters in writing as the various requirements are accomplished and completed. **This will assure that you receive the best possible insurance rates.**

Causes of Chapter House Fires

The Leading Causes of Chapter House Fires
National Fire Protection Association of 685 Chapter House Fi



LOCAL FIRE REGULATIONS

- Familiarize yourself with current local fire codes
- Seek fire department/insurance inspector's assistance
- Meet all fire safety recommendations without delay

FIRE / SAFETY INSPECTIONS

- Establish regular fire department inspections
- Perform monthly fire/safety inspection
- Familiarize yourself with safety systems each school term

FIRE DETECTION / ALARM SYSTEMS

- Install automatic "hard-wired" fire detection systems
- Install "central station monitored" fire systems
- Regularly test and maintain all safety systems

FIRE DOORS / FLAMMABLES

- Install approved fire doors as recommended
- Prohibit "wedging open" of any fire doors
- Prohibit abuse of fire protection equipment
- Store flammables outside in well-ventilated areas

LIGHTING / EXITS

- Install automatic battery powered emergency lighting
- Install automatic battery powered lighted exit signs
- Equip all exits with emergency "crash bar openers"
- Keep all exit ways clear of any storage and clutter

REGULAR FIRE DRILL PROCEDURES

- Conduct fire drills each school term
- Post emergency evacuation plans in each room
- Post emergency phone numbers on each phone
- Designate specific/safe outside meeting places

- Immediately account for all house occupants/visitors

HEATING / ELECTRICAL INSPECTIONS

- Schedule professional inspections each year
- Have repairs promptly performed by professionals
- Establish regular maintenance of service contracts

ELECTRICAL

- Do not overload circuits / use grounded (GFIC) outlets
- Do not use multi-outlet or frayed extension cords
- Prohibit the use of halogen light fixtures

CHAPTER HOUSE SECURITY

- Improve chapter house locks/ install exterior lighting
- Provide supervision and security during vacant periods
- Establish fire / security inspection each night

KITCHEN / COOKING PROTECTION

- Regular professional cleaning of cooking areas
- Install / regularly service automatic fire suppression systems
- Regularly service / maintain portable fire extinguishers

CONTROL SMOKING

- Establish “NO SMOKING” rules in sleeping areas
- Designated smoking areas / provide proper receptacles
- Clean / inspect for hazards immediately after functions

SOCIAL EVENT CLEAN-UP / INSPECTIONS

- Use non-flammable party decorations
- Clean up immediately following all social events
- Check trash disposal areas / furniture for fire hazards

INSTALL SPRINKLER SYSTEMS

- Sprinkler systems greatly reduce the risks of death / injury
- Sprinkler systems reduce property damage by 50-66%
- Sprinkler systems save lives and reduce insurance costs

Establishing Your Property Insurance Values

Important Insurance Terms

- 1) **Buildings:** Structures owned by the Fraternity or its house corporations, including completed alterations and repairs or additions to the structure and additions under construction. **Buildings do not include land, water, foundations or supports below the surface of the lowest floor/basement, outdoor trees, shrubs, plants or lawns.**
- 2) **Building Codes / Law or Ordinance:** A Building Code, Law or Ordinance, in effect at the time of loss or damage, that regulates the zoning, land use, or construction of a building, which affects the reconstruction, repair or replacement of a damaged building. **Usually these laws or ordinances operate to impose added costs for upgrading various areas to current required standards (i.e., electrical wiring, plumbing, heating, fire alarms or sprinkler systems, emergency lighting, or other life safety codes).**
- 3) **Contents or Personal Property:** All contents or personal property owned by the Fraternity, its house corporations or chapters. Any property of others at your premises (except members and tenants property). If you are a tenant, your interest in any tenant's improvements and betterments are included. **This does not include the personal property of the undergraduate chapter members or any other tenants, or a building, land or water.**
- 4) **Fine Arts:** Personal property owned by the Fraternity, its house corporations or chapters. Fine Arts items may include: Paintings, rare books, manuscripts, pictures, etchings, drawings, bronzes, statues, porcelains, and other **bona fide works of art, or other unique items of rarity or historical value such as fraternity memorabilia.**
- 5) **Replacement Cost:** The cost to repair, replace, or restore the damaged property with materials of comparable kind and quality to the condition which existed prior to the damage. **Claim payments are made without any deduction for depreciation if the damaged property is repaired or replaced.**
- 6) **Market Value:** The price for which Fine Arts property would sell if sold on the date it is lost, damaged or destroyed.
- 7) **Business Income:** The business's net income including rental income, before the physical loss or damage, the continuing expenses after the loss or damage, and the business's likely net income if no loss or damage had occurred.
- 8) **Extra Expenses:** All expenses paid to reduce a business income loss. **Any reasonable additional expenses necessary to continue, as nearly as practical, your normal operations,** which exceed the normal expenses that would have been incurred during the period of restoration if no physical loss or damage had occurred.
- 9) **Actual Loss Sustained:** The total amount of business income lost, including the necessary continuing expenses, and any reasonable extra expenses incurred to continue, as nearly as practical, your normal operations during the period of restoration.
- 10) **Period of Restoration:** The period of time that begins with the date the property is physically damaged or destroyed and ends when damages are repaired and operations are restored **to the condition that would have existed if no physical loss or damage had occurred.**

Establishing Your Property Insurance Values

Buildings

Building Values will be prepared or updated by our office. They will be based on 100% of the current estimated “Replacement Cost”. These are prepared using a customized computer program and the detailed information obtained from our Risk Management Survey & Inspection Report.

These estimated values should be reviewed and adjusted to reflect any recently completed remodeling, improvements or renovations about which we may be unaware. **Be sure to include any recent building additions, or Life Safety and Loss Control improvements such as fire doors, improved fire alarms or sprinkler systems, emergency lighting, or other life safety codes.**

Building Codes / Law or Ordinance

The estimated building values prepared by our office will include estimated building code/law or ordinance costs. **They will be based on 100% of the potential building codes/law or ordinance upgrade costs. The older the building, the greater the potential for significantly added costs.** Recent building codes/law or ordinance claims have ranged between 15% and 30% of the current insured building value often exceeding \$200,000.

Fine Arts

Fine Arts Values should be based on 100% of the current estimated “Market Value”. **As market values can fluctuate rapidly and widely,** this type of property should be appraised regularly. **These values should be reviewed at least annually and the updated information provided to our office.**

Contents

Contents/Personal Property Values should be based on 100% of the current estimated “Replacement Cost”. **A current video tape record, combined with a detailed contents/personal property inventory, including current replacement cost estimates, provides the most accurate information and the best resource for claims handling when a loss occurs.** Members/Tenants property should not be included. **These values should be reviewed at least annually and the updated information provided to our office.**

Your input is very important! **Fraternity losses show that contents/personal property claim costs vary widely.** Recent claims for contents/personal property have ranged between \$1,500 and \$3,000 per chapter house resident. **Items which are often overlooked when estimating your contents/personal property values include: Ritual equipment, composites, smaller purchases or donated property.** Update your contents/personal property values to 100% of current estimated “Replacement Cost”.

Business Income

Business Income Values should be based on 100% of the current estimated annual business income. **These estimates should reflect the most current circumstances and projections. Be sure to include all sources of income.** The most common sources of income include: 1) Rental income, 2) House Corporation fees, 3) Maintenance fees, 4) Summer income, 5) Income from fund drives, 6) Interest income. **These values should be reviewed at least annually and the updated information provided to our office.**

Extra Expense

Extra Expense Values should be based on 100% of the current estimated annual costs for extra expenses. **Estimates should reflect the house corporation/chapter's most current circumstances and projections. Extra expense costs will likely arise from: Temporary living expenses, chapter house resident relocation costs, alternate housing and meal services, property storage costs, or rental of alternate meeting facilities. These values should be reviewed at least annually and the updated information provided to our office.**

Your input is very important! **Fraternity losses show that extra expense claim costs vary widely. The longer the period of restoration, the greater the extra expense costs. Several claims have exceeded \$100,000.** Recent claims for extra expenses have ranged between \$1,000 and \$3,000 per chapter house resident. Total extra expense claims were between \$25,000 and \$50,000.

Leases / Housing Agreements

Written Lease Agreements **should always exist between the house corporation (landlord) and the chapter, its members or others (tenants).** They should hold the house corporation (landlord) harmless against any liability for any actions of the chapter, its members or others (tenants), or for any loss or damage to their personal property. **If available, always use the lease or housing agreements approved by your National Fraternity. We will be pleased to work with your legal counsel in developing or updating your lease or housing agreement.**

Members / Tenants Property

Members/Tenants Property is not covered by the Fraternity's insurance program. **Your lease/housing agreement should clearly make members and tenants responsible for insuring themselves against loss or damage to their own property or for any legal liabilities which may be imposed on them.** The most common sources of protection are the individual's parent's homeowners policies or renters policies.

Chapter Housing Information

The Basic Risk Management Relationships

- 1) **House Corporation:** Usually a “Not For Profit” corporation operating under the laws of the state in which the chapter is located. Their primary purpose is to facilitate the ownership and operation of a chapter house for a collegiate or undergraduate Fraternity chapter. (**The Property Owner/Landlord/Lessor**)
- 2) **The Chapter:** Commonly exists as an unincorporated association of individuals. They are established or “chartered” by a National Fraternity organization and are usually formally “recognized” as a student organization by a school or “Host Institution” where they operate. (**The Tenant/Lessee**)
- 3) **Members / Residents:** This refers to either **individual members** of a collegiate or undergraduate Fraternity chapter, **or non-members** wishing to live in the chapter house. (**The Members/Residents/Sub-Lessees**)
- 4) **Non-Resident Members:** All chapter members do not always reside in the chapter house. This refers to **an individual member** of a collegiate or undergraduate Fraternity chapter **who resides elsewhere**, yet desires access and use of the Fraternity chapter house. (**The Non-Resident Members / Sub-Lessees**)
- 5) **National Fraternity:** A “chartering” National Fraternity organization which establishes undergraduate or collegiate chapters at “Host Institutions” or schools. (**The National Fraternity**)
- 6) **The School:** A college, university or other “Host Institution” at which the collegiate or undergraduate Fraternity chapter is organized, “chartered” and operates.

Risk Management Recommendations for Chapter House Leases / Housing Agreements

Consult With Your Legal Counsel

The responsibility for construction of lease agreements falls to the legal profession. We and your National Fraternity recommend that you consult with your legal counsel on this and all other legal matters, especially those involving contractual or “hold harmless” agreements. Your legal counsel and our office, as your insurance brokerage representatives, should work together to develop and review agreements prior to their execution. Our Toll Free Wats Line, (800) 344-7335, is available should your legal counsel wish to review this topic with us further by phone.

- 1) **Written Agreements Only:** The **House Corporation** commonly acts as a **Landlord**. This should always be done via a **written legal agreement or Lease** with the **Chapter** as the **Tenant**. It should be reviewed and signed each year by the appropriate officers for both parties.
- 2) **No Agency:** The **written** agreement or **Lease** should provide that **the Chapter is not a subordinate or agent of the House Corporation**.
- 3) **Sub-Leases or Housing Agreements:** The agreement or **Lease** should also provide for **written Sub-Leases or Housing Agreements which are enforceable by the House Corporation (Landlord)**. Often as a lease addendum, these may address various topics, but should incorporate all basic provisions of the Lease between the House Corporation (**Landlord**) and the Chapter (**Tenant**). **A written Sub-Lease or Housing Agreement should exist between each individual member, resident or non-resident member (Sub-Lessees) and the House Corporation (Landlord)**.
- 4) **Use & Occupancy:** The **Lease and Sub-Leases or Housing Agreements should formalize, explain and govern the relationships between** the House Corporation (**Landlord**), the Chapter (**Tenant**), and each individual member, resident and non-resident member (**Sub-Lessees**) **regarding the use and occupancy of the chapter house**.
- 5) **Responsibility & Guarantees:** The **Lease and Sub-Leases or Housing Agreements should provide for broad individual and collective responsibility**. The Chapter (**Tenant**) and each individual member, resident, or non-resident member (**Sub-Lessees**), including their parents or any other co-signers or guarantors, should be fully responsible **for the performance of all financial and other obligations**.
- 6) **Legal and Other Requirements:** The **Lease and Sub-Lease** agreements should provide that the Chapter (**Tenant**), the chapter officers, and each member, resident and non-resident member individually (**Sub-Lessees**) **will not allow the property to be used for any unlawful purpose**. They should also provide that the Chapter (**Tenant**) and each individual (**Sub-Lessee**) agree to be responsible for **compliance with any school or insuror requirements and the regulations or laws of the state, province, city, or county**.
- 7) **Fraternity Policies:** The **Lease and Sub-Lease** agreements should provide that the Chapter (**Tenant**) and each member, resident, and non-resident member individually (**Sub-Lessees**) **will adopt, comply with, and enforce any policies, rules or regulations established by the Chapter (Tenant), House Corporation (Landlord), insuror, school or the “chartering” National Fraternity**.
- 8) **Termination Of The Agreements:** The **Lease and Sub-Lease** agreements should provide that the House Corporation (**Landlord**) has the right to terminate the agreement **for any breach of the agreement, if they learn that violation of any laws has occurred on the property**, or if the Chapter (**Tenant**) or any individual (**Sub-Lessee**) is **no longer in good standing with the school or the “chartering” National Fraternity**.

9) **Responsibility For Insurance:** The Lease and Sub-Lease agreements should provide that the Chapter (Tenant) and each member, resident, or non-resident member individually (Sub-Lessee), **are responsible for obtaining their own insurance protection. They should be advised to secure insurance for themselves against sickness, accidents, injury or death, loss or damage to their property, or for any legal liabilities which may be imposed on them for damage to persons or property.**

10) **Whose Insurance is Primary:** The Lease and Sub-Lease agreements should provide that **the Chapter's (Tenant's) and each individual's (Sub-Lessee's) own insurance will always be primary** with respect to any sickness, accident, injury or death to themselves, or for loss or damage to their property, and **for any legal liabilities which might be imposed on them for damage to persons or property.**

11) **Whose Insurance is Excess:** The Lease and Sub-Lease agreements should provide that **any insurance coverage maintained by the House Corporation (Landlord) or the "chartering" National Fraternity will always be excess of and shall not contribute with any other insurance** which may be available to the Chapter (Tenant) or any individual (Sub-Lessee).

12) **Waiver of Subrogation:** The Lease and Sub-Lease agreements should provide that **if their property is damaged or destroyed and covered by their insurance, the Chapter (Tenant) and each individual (Sub-Lessee) waive any rights of recovery or subrogation which may exist against the House Corporation (Landlord) or the "chartering" National Fraternity.**

13) **Responsibility For Negligence:** The Lease and Sub-Lease agreements should provide that the Chapter (Tenant) and each member, resident, or non-resident member individually (Sub-Lessee), **agree that they will be responsible for their own activities and liable for their negligent acts, errors or omissions.**

14) **Damage Or Destruction:** The Lease and Sub-Lease agreements should provide for fair **Rent Abatement, Termination, and prompt Repair or Restoration of the chapter house**, in the event the property is **damaged or destroyed by fire or other perils insured against.**

15) **Hold Harmless & Indemnification:** The Lease and Sub-Lease agreements should provide that the Chapter (Tenant) and each member, resident, and non-resident member individually (Sub-Lessee) **will hold harmless, indemnify, and defend the House Corporation (Landlord) and the National Fraternity organization against any claims, damages, costs or expenses which may arise out of the Chapter's (Tenant's) or any individual's (Sub-Lessee's) activities**, including but not limited to their own negligent acts, breach of the agreement, liabilities for financial loss, damage to property, or for injury or death to any person.

16) **Insurance Program Provisions:** The Lease and Sub-Lease agreements should provide for securing and maintaining insurance protection for the House Corporation (Landlord) and Chapter (Tenant) and for the fair allocation of the insurance costs between them. (Except insurance coverage which may be secured by a member, resident, or non-resident member (Sub-Lessee) individually for their own protection), **all insurance coverage should be afforded under the insurance program which is required or recommended by the "chartering" National Fraternity.**

HELPFUL “HOUSE RULES”

PROMOTING LOSS CONTROL

- ❖ **Prohibit tampering with life safety systems and provide for payment of any service charges incurred.**
- ❖ **Prohibit inside storage of flammables, bicycles and motorcycles.**
- ❖ **Prohibit any firearms or weapons in the house or on the property.**
- ❖ **Prohibit access to the house roof.**
- ❖ **Prohibit chapter or individual pets.**
- ❖ **Require participation in scheduled fire drills each school term.**
- ❖ **Require that monthly life safety inspections be conducted with prompt correction of noted deficiencies.**
- ❖ **Require that the heat be maintained and property checked during vacations or extreme weather periods.**
- ❖ **Require areas, rooms and contents, which are assigned to the chapter or its members, be kept in good condition.**
- ❖ **Require that the premises be maintained in a safe and sanitary condition.**
- ❖ **Require that the chapter house be locked and secured at all times.**

Independent Contractors

Independent Contractor Basic Information

1) Independent Contractor Basics: Are Independent Contractors what they may first appear to be or are they really employees? What exposures exist related to their status? **Written Agreements are essential in defining and controlling Independent Contractor exposures. In reality, Independent Contractors create a variety of risks for Fraternities and Sororities.**

In at least one way, the 1986 Tax Reform Act made Independent Contractor status more attractive. It established that self-employed persons could deduct 25% of their medical insurance premiums from gross income rather than as an itemized deduction. The Independent Contractor status may be appealing to some persons for other reasons. They may have medical insurance available through a spouse. **Usually, it's the thought of getting paid without "all those deductions" that the Independent Contractor finds most appealing.**

2) Management's Interests: Management's interest in utilizing Independent Contractors is usually, primarily driven by an employer attempting to avoid ever-increasing employee costs. The costs of insuring employees and providing competitive benefits are significant. In recent years, these costs have been driven most by increased employee benefits and the related costs of Worker's Compensation and Medical Insurance. **Employee benefit costs today are estimated to represent between 30%-40% of payroll. When every payroll dollar means up to \$1.40 in total expense, the incentive to cut costs is strong.**

If these people are not classified as employees and that position is sustained if later challenged, a Fraternity may be spared these costs. **Under typical Independent Contractor agreements, the Fraternity does not withhold income taxes, FICA, or unemployment taxes. The agreement should also provide that the Independent Contractor is not entitled to Worker's Compensation or other Employee Benefits that are normally provided to employees by the Fraternity.**

3) Identifying Hidden Risks: A Fraternity considering the use of Independent Contractors should look at a broad range of issues. If ignored, these issues can expose the Fraternity to potentially huge financial and legal penalties. **Improperly undertaken, Independent Contractor relationships with prior or potential employees can create employer liabilities that greatly exceed potential savings. Some of the key issues to be considered by Fraternities and Sororities include:**

- a) **Enforcement agencies or the courts can look beyond the Independent Contractor agreements. A 20-Factor Test is commonly used to determine whether the substance matches the form of the relationship described in the agreement and if the contractor is truly "independent".**
- b) **If enforcement agencies or the courts determine that an Independent Contractor is actually an employee, not only the corporation, but top management and others may all be liable for back wages, payroll taxes, and/or penalties.**
- c) **Workers' Compensation savings may well be offset by increased liability exposures. Statutory Limits under Workers' Compensation are lost when an individual is no longer an employee.**
- d) **If injured, an Independent Contractor can sue the Fraternity on the same basis as any other member of public.**
- e) **If the Independent Contractor proves to be an employee, the exposure exists for additional premium costs being charged to the Fraternity for Workers' Compensation.**
- f) **While costly, Employee Benefits do provide a powerful incentive to remain with an employer. Independent Contractors are usually considered to be less loyal than employees.**
- g) **Clearly the use of Independent Contractors must be approached with care and caution.**

4) Independent Contractor Exposures: For Fraternities and Sororities today, **perhaps the most frequent Independent Contractor exposure is the use of “outside” bartenders and/or security personnel** commonly required for Fraternity sponsored events involving alcohol. Other examples include cooks, housekeepers, party planners, entertainment, catering or food services, and transportation providers. **Based on past experience, we urge you to be especially cautious of Independent Contractors who provide “handyman” maintenance or repair services to your chapters and housing corporations.**

5) Contractor Claim Examples: The frequent and informal use of so called Independent Contractors presents especially difficult exposures for Fraternities and Sororities. **Several Fraternities and Sororities have been without insurance coverage or have sustained significant losses when Independent Contractors were injured or caused injuries to others.**

In the largest suit known to us (\$10,000,000), two Independent Contractor students were hired as “cheap summer help” to repaint a chapter house. They were killed when their aluminum ladder came in contact with the electrical power lines servicing the chapter house. In another serious claim, overcrowding at a function led to the loss of three fingers by a security guard when a heavy chapter house door was slammed closed on his hand.

6) Workers’ Compensation Exposures: State Workers’ Compensation statutes impose a great and ever increasing burden on Fraternity employers for injuries to Independent Contractors. **In almost every case, the Fraternity employer will be held responsible for Workers’ Compensation benefits unless the Independent Contractor is properly insured.**

The failure to maintain Workers’ Compensation coverage at every House Corporation, chapter or location exposes the Fraternity to potentially serious uninsured losses.

7) Using Written Contracts Is Essential: Effective Risk Management procedures for your Independent Contractor exposures begin with written agreements. Some groups have even developed standard agreements for use with the most common exposures such as Bartenders, Security Guards, or the Rental of Facilities for functions or events. We will be pleased to assist by reviewing Risk Management considerations. **Your legal counsel should draft or review all Independent Contractor Agreements.**

Your Independent Contractor agreements should include Hold Harmless and Indemnity Clauses in your favor. They should make the Independent Contractor responsible for any losses that may arise out of their acts or omissions. **Hold Harmless and Indemnity Clauses are of greatest value only when supported by insurance or significant assets.** Don’t forget to require, ask us to review, and retain the evidence of insurance materials provided by your Independent Contractors to support their agreements. **Properly developed, written agreements have been proven very effective in accomplishing risk reduction and transfer for Fraternities and Sororities.**

8) Should You Be An Additional Insured? Being an Additional Insured under the Independent Contractors insurance establishes a limited but valuable measure of protection. **Being an Additional Insured can be of particular value if your Hold Harmless or Indemnity Clauses are challenged or invalidated by the courts.** In order to secure defense and coverage as an Additional Insured, **it may be necessary to allow the Independent Contractor’s insurer to choose defense counsel and control your defense.**

Additional Insureds have other important benefits. They have direct rights under the Independent Contractor’s insurance to submit suits or claims directly to the insurer for handling. If you are an Additional Insured, the contractor’s insurer may not be able to subrogate against you if a claim payment arises out of your acts or omissions.

9) Whose Insurance Is Primary? The Additional Insured Risk Management technique can give rise to other difficulties. When two insurance policies potentially apply to the same claim, the question of which policy is primary or first to pay usually arises. **Failure to anticipate and address this topic can result in unexpected losses.** Your insurer may have to respond to a claim against you for risks that you thought had been transferred to others.

To avoid unexpected losses and potential problems in this area we recommend that your Hold Harmless or Indemnity Clauses, Additional Insured arrangements, and the related insurance coverage address the following points:

- a) If a claim is presented, the Independent Contractor's insurance will be Primary (Pay First). Your own insurance will be excess and non-contributory (Pay claims only after the Independent Contractor's Insurance).
- b) If a claim is presented, the Independent Contractor's insurer will defend you and provide coverage on your behalf.
- c) If your legal advisors feel that legal conflicts exist, then the Independent Contractor's insurer will arrange to provide or pay for separate counsel to protect your interests.

10) Final Thoughts: Independent Contractors are a frequent source of exposure and potentially significant losses for Fraternities and Sororities. **When carefully approached and planned, however, they can also be an effective method of risk reduction and transfer.** The Independent Contractor topic increases the importance of employment practices as a source of potential losses for Fraternities and Sororities. **Fraternities and Sororities should devote increased Risk Management attention to this area to review the various issues and exposures, analyze and address the associated risks, and monitor the ongoing effectiveness of their programs.**

Risk Management Recommendations

For

Independent Contractors

To minimize your Independent Contractor exposures and reduce the potential for uninsured losses, we recommend that Fraternities and Sororities implement the following risk management actions:

- 1) As employers may be held responsible for Workers' Compensation benefits if an injured Independent Contractor is not properly insured. Workers' Compensation should be maintained by the National Organization and every Chapter, House Corporation, or other potential employer.
- 2) Independent Contractors should only be used subject to the terms of a written contract that has been reviewed by both your legal counsel and insurance advisors.
- 3) Hold Harmless and Indemnification Clauses that make the Independent Contractor pay for any losses that may arise out of their acts or omissions should be included in your contracts.
- 4) To further insulate yourself, require that the Independent Contractors provide you with Additional Insured status under their insurance.
- 5) Require that the Independent Contractor and their insurer specifically agree that their insurance will be primary while your insurance will be only excess and non-contributory.
- 6) Before any work is performed, require written evidence of insurance to support the indemnification agreement and verify that your insurance requirements are being met.
- 7) Require that the Independent Contractor's insurance may not be cancelled or non-renewed without providing you with at least (30) thirty days prior written notice via certified mail.

Minimum Insurance Requirements For Independent Contractors

Before Independent Contractor agreements are finalized and any work is performed, Written Evidence of Insurance should be obtained from all Independent Contractors.

Independent Contractors are a frequent source of problems and potentially significant losses for Fraternities and Sororities. When their use is carefully planned, they have also been proven to be a very effective method of risk reduction and transfer.

ADDITIONAL RISK MANAGEMENT TIPS

- 1) Independent Contractors should only be used subject to a written contract that has been reviewed by both your legal counsel and insurance advisors.**
- 2) Hold Harmless and Indemnification Clauses that make the Independent Contractor responsible for any claims or losses that may arise out of their acts or omissions should be included in your contracts.**
- 3) To further protect yourself, require that the Independent Contractor provide you with Additional Insured status under their insurance.**
- 4) As an Additional Insured, require that the Independent Contractor and their insurer agree that for your benefit, their insurance will be primary and your insurance will be excess and non-contributory.**
- 5) Require that the Independent Contractor's insurance may not be cancelled or non-renewed without providing you with at least (30) thirty days prior written notice via certified mail.**
- 6) Independent Contractors providing or serving alcohol should be properly licensed and provide proof of both Host Liquor and Liquor Legal Liability at limits of not less than \$1,000,000 per occurrence.**
- 7) Independent Contractors providing legal age identification checks, security or crowd control services for events should provide proof of Personal Injury Liability coverage for Assault and Battery, False Arrest, and Invasion of Privacy with limits of not less than \$1,000,000 per occurrence.**
- 8) Higher limits and other coverages, such as Property, Builders Risk or Performance Bonds, may be needed based on the work to be performed.**
- 9) For more information regarding Independent Contractors exposures, request our brochures: 1) "Workers' Compensation", 2) "Independent Contractors", both of these provide a Review of Exposures & Risk Management Recommendations.**

INDEPENDENT CONTRACTORS OR EMPLOYEES? THE I.R.S. 20 FACTOR TEST

The Internal Revenue Service (coordinating closely with the respective state agencies charged with payroll tax compliance enforcement in each state) applies a 1987 Revenue Ruling (87-4) known as the “20 Factor Test” to determine if workers are employees or Independent Contractors. A “yes” answer to any of the 20 questions would indicate that the person is an employee and not an Independent Contractor. The detailed discussion of each of these factors clearly demonstrates the rigorous standards that must be met in order to lawfully classify a worker as an Independent Contractor.

The message that runs throughout the 20 Factor Test is that the right to control is critically important in determining whether an individual is an employee or an Independent Contractor. If control by the Fraternity can be demonstrated in any of these 20 areas, then the governing authority will possibly find an Employer/Employee relationship exists. While the 20 Factor Test is a measure of Independent Contractor status, many states have the definition of Employee or Independent Contractor written into the Worker’s Compensation statutes or other separate laws dealing with employment.

- 1) **Instructions** – Is the person required to comply with instructions about when, where and how the work is to be done? If a person is required to comply with instructions as to when and how to perform the work, that person is likely an employee.
- 2) **Training** – Is the person provided training? Is the individual receiving training by an experienced employee working with him or her? Training points to employee status, since it indicates that the employer wants the services to be performed in a particular manner and is exerting control.
- 3) **Integration** – Are the services for the operations of the company? The more integrated the individual’s task is, the more likely the company has control – making the individual an employee.
- 4) **Service Rendered Personally** – Are the services provided personally by the individual? If the service must be rendered by a particular individual, then the employer likely has control, meaning the individual is likely an employee.
- 5) **Hiring, Supervising and Paying Assistants** – Does the company hire, supervise or pay assistants to help the person? If the company controls these activities, employee status is indicated.
- 6) **Continuing Relationship** – Is there a continuing relationship between the person and the company? An ongoing relationship with an individual in a company tends to indicate the existence of an employer/employee relationship.
- 7) **Set Hours of Work** – Does the company set work schedules? If the company can set specific hours as to when the individual must be on the job, the person will likely be considered an employee.
- 8) **Full Time Required** – Does the person devote his or her full work time to the company? If the company requires an individual to devote full time to the business, the individual is likely an employee.
- 9) **Location Of Work** – Is the work performed at the company’s place of business or at specific places designated by the company? Control is the key word. Control over the place of work, on company premises or a site determined by the company, indicates an employee relationship.
- 10) **Order Or Sequence Of Work** – Does the company direct the sequence of the work performed? If the employer can set the sequence in which services are to be performed, then control is being exercised, and the individual providing services is an employee.
- 11) **Oral Or Written Reports** – Are reports regularly given to the company? If oral or written reports are required by the company, then control and an employer/employee relationship is indicated.

- 12) Payment By Hour, Week or Month** – Is the person paid hourly, weekly or monthly (as opposed to “by the job”)? An Independent Contractor is normally paid by the job or on a commission basis, rather than on a schedule or by a guaranteed amount.
- 13) Payment Of Business or Travel Expense** – Does the company reimburse the person for business or travel expense? The fact that the employer will pay for an individual’s work-related expenses is indicative of control and employee status.
- 14) Tools And Materials** – Does the company supply materials or tools to the person? Providing tools and materials to an individual suggests that a company is exercising control, which means that the individual is an employee.
- 15) Significant Investment** – Does the person have equipment or facilities to perform services? If a person has investment in facilities or equipment, that person is likely an Independent Contractor.
- 16) Profit Or Loss Potential** – Is there an exposure to loss, or the potential of profit for the individual? A person who is in a position to realize a profit or suffer a loss as a result of the service provided is likely an Independent Contractor.
- 17) Working For More Than One Firm** – Does the person work exclusively for the company? If the person works for more than one company at the same time, he can be an Independent Contractor.
- 18) Making Service Available To The General Public** – Does the individual make his services available to the public? Advertising to the general public the availability to perform a particular service indicates an Independent Contractor.
- 19) Right To Discharge** – Can the worker be dismissed for reasons other than non-performance of contract specifications? The right to discharge an individual is clearly an act of control and is indicative of an employer/employee relationship.
- 20) Right To Terminate** – Can the person terminate his relationship with the company without liability for failure to complete the job? Employees can usually terminate the relationship with the employer at any time without incurring any liability.

Source: Resources, Fall 1998 (National Alliance for Insurance Education & Research)

Worker's Compensation Basic Information

The Phi Kappa Sigma Insurance Program DOES NOT provide Worker's Compensation Coverage. This coverage must be maintained locally. This information is provided only to assist our Chapters and House Corporations in understanding this important area.

1) **Workers' Compensation Insurance:** This coverage insures employers against the liabilities imposed upon them by the Workers' Compensation Laws of each state. The coverage complies with each state's law and for work related injuries, provides the statutory benefits payable to injured employees. Generally, employees receive medical benefits and compensation for lost wages. The coverage also insures employers against their potential liabilities from common law suits that might be brought by employees allegedly injured in the course of their employment.

Practically speaking, coverage is compulsory in every state. By securing Workers' Compensation insurance coverage, the employer is generally shielded from suits by employees for damages. Failure to maintain coverage results in the employer's loss of the common law defenses (contributory negligence, assumption of risk and negligence of fellow employees). **Failure to maintain coverage can also lead to significant additional uninsured losses via multiple damage awards, fines and penalties.**

Common fraternity employers include: The National Fraternity entities, Local Housing Organizations and Collegiate chapters. Fraternities also face serious exposures via "Independent Contractors". **Unless "Independent Contractors" are properly insured for Workers' Compensation, a fraternity employer will likely be held responsible for any benefits due to their injured workers.** Even alumni groups and volunteer activities can create unique exposures and potentially significant losses.

2) **Monopolistic States:** With one unique variation, these states generally impose the same types of Workers' Compensation obligations upon employers. **The unique variation is that private insurance is not permitted.** Current monopolistic states include Nevada, North Dakota, Ohio, Washington, West Virginia and Wyoming. **The only source from which employers can secure the required Workers' Compensation insurance in these states is via the Monopolistic State Fund.**

3) **Workers' Compensation Costs:** Costs are highly regulated. Costs for each employer or location are based on the benefits of each state's law and their employee exposures. The business classification and premium rates are developed by rating bureaus and approved by state insurance regulatory authorities. The rates are generally applied per \$100 of total remuneration. **Remuneration includes payroll and all other amounts payable to employees during the policy period including: any commissions or bonuses, pay for overtime, holidays, vacations, or sickness, and (if provided by the fraternity employer) the fair value of room and board.**

The premium basis includes all compensation for services of the following persons: 1) All your officers and employees who engage in work covered by your State Workers' Compensation Law, 2) All other persons engaged in work or who provide services that could make the insurance company liable for benefits under your State Workers' Compensation Law. Premiums are based on your estimated exposures and subject to adjustment by audit. Premiums are not charged for "Independent Contractors" if you provide proof (normally a certificate of insurance) that the employers of those persons have secured Workers' Compensation as required by your state law. If you do not have evidence of Workers' Compensation coverage from "Independent Contractors" and accurate payroll records for these persons, the full contract price may and will likely be used as the premium basis. **We urge you to require in advance and retain records of proof of insurance from any "Independent Contractors".**

4) **Individual State Exceptions:** Because Workers' Compensation coverage is directly related to the various individual state laws, individual states may at times present difficult exposures which require special attention. **This typically results from overall adverse state claims experience usually caused by a combination of factors such as broad statutory benefits, inadequate rate levels, and quite often a difficult insurance regulatory or legal environment. When this occurs, underwriters often withdraw from writing coverage in that state and those who remain active become very restrictive.** When these circumstances arise, coverage may only be available in these states through state funds or assigned risk programs.

5) Canadian Exposures: Employee exposures do exist in Canada. **Like the individual state laws in the U.S., in Canada each province and territory administers its own act or ordinance.** Coverage is compulsory in all provinces and territories. As with the monopolistic states in the United States, coverage must be secured via specific funds in the respective province or territory. Failure to maintain coverage can result in various fines and penalties. **U.S. Workers' Compensation policies do not provide any coverage in Canada.**

6) Monopolistic States: **Monopolistic States (Nevada, North Dakota, Ohio, Washington, West Virginia and Wyoming) require that coverage be secured from the Monopolistic State Fund.** To minimize the potential for uninsured losses, if you have potential exposures in any of these states, we recommend the following additional actions:

- 1) Review exposures and coverage for every potential employer or location in these states.**
- 2) Require every employer or location in these states to annually provide either evidence of a Workers' Compensation exemption, or a valid certificate of Workers' Compensation insurance to your National Headquarters.**
- 3) Require the certificates to illustrate and verify that the State Fund insurer will not cancel or non-renew coverage without providing at least thirty days written notice to your National Headquarters as the certificate holder.**

7) The New York Disability Benefits Law: A special reminder to Fraternities with exposures in New York. **Workers' Compensation does not fulfill your obligations under New York's Disability Benefits Law. Specific separate coverage must be maintained.**

Employers in New York State who employ one or more people on each of 30 days in any calendar year must provide this coverage at the end of four consecutive weeks following the 30th day of employment. Part-time employees are eligible on the 25th day of regular employment. If you have exposures that subject you to the New York Disability Benefits Law, we recommend the following additional actions:

- 1) Review exposures and coverage for every potential employer or location in New York.**
- 2) Require every New York location to annually provide a DBA 20 Certificate of Insurance to your National Headquarters.**
- 3) Require the New York DBA 20 Certificates to illustrate and verify that the insurer will not cancel or non-renew coverage without providing at least thirty days written notice to your National Headquarters as the certificate holder.**

Frequently Asked Questions (FAQs)

****Disclaimer Notice****

This basic information has been prepared as *information only*. The actual insurance policies are subject to definitions, exclusions, limitations, and various other terms and conditions. This information does not amend, extend, or alter the coverage afforded by the actual insurance policies.

The most commonly asked questions about the Phi Kappa Sigma insurance program are identified below.

1) What insurance coverages does Phi Kappa Sigma secure?

Phi Kappa Sigma – via the International Headquarters – secures the following **mandatory** insurance coverages:

- 1) General Liability
- 2) Directors and Officers Liability

Phi Kappa Sigma – via the International Headquarters – makes the following **voluntary*** insurance coverages available:

- 1) Property
- 2) Boiler and Machinery

**Based on their broad coverage, attractive and stable rates, and long history of success, these voluntary coverages may become mandatory in the very near future.*

All Chapters and house corporations are reminded to comply locally with their state Worker's Compensation laws.

2) Does the Liability policy provide coverage for undergraduates, alumni, and volunteers?

Yes. All undergraduate Chapters are required to participate in the **mandatory** Liability Insurance program. The insurance also extends coverage to alumni officials and other volunteers while they are acting on behalf of Phi Kappa Sigma.

3) Does the Liability policy exclude, restrict, or eliminate coverage?

Yes. The Fraternity's insurance contains several important exclusions or coverage restrictions. The Fraternity's insurance **does not** provide or replace anyone's personal insurance protection.

Insureds are only covered by the Fraternity's insurance under the following conditions:

- 1) While acting on behalf of Phi Kappa Sigma
- 2) While acting in accordance with Phi Kappa Sigma's policies.

Coverage is also specifically *restricted or eliminated* when the other types of conduct are involved. These include, but are not limited to:

- 1) Hazing
- 2) Criminal acts
- 3) Intentional acts
- 4) Sexual abuse or misconduct
- 5) Violations of Fraternity policy

4) Do the Phi Kappa Sigma insurance policies cover injuries sustained during Phi Kappa Sigma athletic (i.e. intramural) events?

No. Participation in the Phi Kappa Sigma athletic activities is **voluntary**. Members and Guests assume the risk of injury or participate “at their own risk.” Claims in this area are normally covered by your personal medical insurance.

5) Does Phi Kappa Sigma insurance cover members’ medical costs for accidental injuries?

No. The Phi Kappa Sigma insurance coverage is not an Accident & Health policy. Claims in this area are normally covered by your personal medical insurance.

6) Could undergraduates or alumni volunteers be named in a lawsuit?

Yes. While not often, undergraduates (Chapter officers) and alumni volunteers have been individually named in legal actions. Subject to the terms, conditions, and limitations of the insurance those persons are *insured* under Phi Kappa Sigma policies.

7) As an undergraduate, how is my personal insurance or parent’s insurance affected?

You should always report any potential insurance claim to your personal insurance agent or carrier. The insurance provided for undergraduate members (new and active) under the Phi Kappa Sigma policy is **excess** of any other (personal or parents’ automobile or homeowners) insurance available to you.

8) As a volunteer, how is my personal insurance affected?

You should always report any potential insurance claim to your personal agent or carrier. Where permitted by law, the insurance provided for volunteers under the Phi Kappa Sigma policy is **primary** and will stand ahead of your personal insurance.

9) Does the Phi Kappa Sigma insurance provide auto liability coverage for undergraduates, alumni officials, or other volunteers if their automobiles are being used on Phi Kappa Sigma business?

Yes. However, because of State “Automobile Financial Responsibility” Statutes, (state laws which generally require that you as the owner or operator of an automobile maintain primary auto insurance), the *Phi Kappa Sigma insurance is limited to being excess of your personal auto liability insurance.*

10) Does the Phi Kappa Sigma insurance cover an undergraduate's or volunteer's personal property?

No. Loss or damage to personal property (i.e. computers, bikes, books, clothing or other personal items) is not covered by the Phi Kappa Sigma insurance program. Usually loss or damage to your personal property can be easily insured under "renter's insurance" or your personal or parent's homeowners policy.

11) Does the Phi Kappa Sigma insurance cover damage to my automobile if it is damaged on Phi Kappa Sigma property or while being used on Phi Kappa Sigma business?

No. As with loss or damage to other personal property, your automobile is not covered by the Phi Kappa Sigma insurance program.

12) How are the total liability premiums determined?

Total liability premiums are determined by the Fraternity's underwriters.

Some of the more important factors include:

- 1) Phi Kappa Sigma Fraternity's history of premiums vs. losses
- 2) Status and development of open claims
- 3) Deductibles and coverage limits
- 4) Exposures in number of Chapters and members
- 5) Overall loss control response and compliance efforts

13) How are Chapter liability premiums determined?

Chapter liability premiums are reviewed and determined in accordance with the Premium Allocation Formula. Some of the more important factors include:

- 1) Chapter claims history
- 2) Substance free housing
- 3) Participation in the Mitchell Chapter Standards Program
- 4) Chapter loss control response and compliance efforts
- 5) Other risk management actions and programming
- 6) Chapter status factor (awards, probation, reporting, etc.)

14) How can we decrease Chapter liability premiums?

Reduce your exposures by strictly following the law and Phi Kappa Sigma policies. Respond and comply promptly with Loss Control requirements. Confirm in writing that you made the necessary improvements. Implement the risk management program and risk management committee into your Chapter's executive structure. Chapters who win awards can earn a reduction in their liability premium.

15) How can we decrease Chapter property premiums?

Reduce your exposure by stressing *life safety* and improving security at the Chapter. Be sure that *fire protection and alarm systems* are always operating properly and are serviced professionally each year. Respond in writing and promptly confirm your compliance with Loss Control requirements. Develop and implement a short-term plan to install a complete sprinkler system.

16) Do claims by other fraternities and sororities affect Phi Kappa Sigma and our Chapter's rates?

Yes. Although the most important is always your own Chapter's loss record, the loss record of the whole fraternity world does have an effect as well. Because the insurance marketplace for fraternities is very limited, any significant catastrophe or precedent-setting legal claims can have broad adverse effect in a limited market.

17) What are the benefits of a "group" policy?

Group policies have been proven to offer the broadest coverage at the most affordable costs. They provide continuity and often offer valuable additional services such as Chapter house inspections, and other educational and Loss Control assistance.

18) When is Phi Kappa Sigma insurance billed and payable?

Estimated billings are usually provided in early August. The actual billings are mailed directly to Chapter treasurers in September. *Payment in full is due annually by Nov. 1.*

Insurance coverage is terminated and the Chapter charter is *suspended* if premiums are not paid by the due date. Without insurance, individual Chapters and their members may become personally liable for any claims which might arise.

19) How often does Phi Kappa Sigma review its insurance program?

Various aspects of the Fraternity's risk management and insurance program are reviewed annually by the Phi Kappa Sigma International Fraternity Executive Committee.

20) Who is the International Headquarters insurance contact?

The Director of Chapter Services or the Executive Director

Contact: Director of Chapter Services
Address: 2 Timber Drive
Chester Springs, Pa 19425
Telephone: 1-888-PKS-INTL
E-Mail: staff@pks.org

21) Who is the Phi Kappa Sigma insurance broker?

James R. Favor and Company has served Phi Kappa Sigma in this area since the late 1990's.

Contact: James R. Favor
Address: 14466 East Evans Avenue
Aurora, Colorado 80014-1409
Telephone: 1-800-344-7335 or 303-750-1122
Fax: 303-745-8669

More Frequently Asked Questions (FAQs)

****Disclaimer Notice****

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Other questions Chapters often ask regarding event hosting and Chapter housing are below.

1) What is a “Chapter Event?”

Phi Kappa Sigma does not have a set definition of a “Chapter Event,” leaving the jurisdiction up to your school or IFC alcohol/event guidelines and ultimately up to a judge in a court of law if it happens to get that far. Remember, a judge has the privilege of making up his mind after the facts are told.

In order to assist you in understanding what could be considered a Chapter event by a court of law, please consider the following questions:

- Was it pre-planned or pre-meditated?
- Was it discussed during a Chapter meeting?
- Did the majority of the Chapter know about the event?
- Were a significant number of members present at the event?
- Were a significant portion of those who attended the event, invited by members?
- Were Chapter funds used in any way (e.g. entertainment, food, beverages, decorations, etc.)?
- Did the Chapter officers help plan the event?
- Did it occur in concert with a fraternity function (e.g. big-brother night celebration, post-initiation party, etc.)?

More Frequently Asked Questions (FAQs)

2) What could be considered a Chapter annex?

Webster's Dictionary defines an annex as "a subsidiary or supplementary structure." Often Chapter brothers use the term "annex" or "Chapter house" very loosely in conversations. Several brothers renting an apartment or house off campus does not automatically mean it is an annex of the Phi Kappa Sigma Chapter house and should not be referred to as such.

Common test questions a court may look at in considering imposing liability on Phi Kappa Sigma could include:

- Is the property owned, rented, or leased by your Chapter or house corporation?
- Do you permit the location to have Phi Kappa Sigma Greek letters displayed on the property if it is not leased by the Chapter or house corporation?
 - **No letters should be allowed to be displayed unless the facility is owned, rented, or leased by your Chapter or house corporation.**
- Does the Chapter hold Chapter meetings or other Chapter events on the property?

If one or more of the above questions could be answered "yes" then this property may fall under the scope of the substance-free policy. This means the "annex" property would need to be substance-free immediately.

Remember the risk management policy of Phi Kappa Sigma International Fraternity must be followed at all times, including the substance-free policy. **Your insurance coverage is void if violations of risk management policy occur.**

3) Can brothers living outside the Chapter facility be held liable for hosting an event?

Yes. Those brothers living outside the Chapter facility need to be aware of the potential liability they face by hosting any type of social event whether it is fraternity related or not. This is called "social host liability" which requires the host of an event to provide a safe atmosphere for his guests. This would include following local, state and federal laws (not serving minors, etc.) and providing your guests safe transportation home after the event. By ignoring these duties the host may be found negligent and could be held liable in a court of law.