



## Florida College System Risk Management Consortium

---

4500 NW 27<sup>th</sup> Avenue • Suite D2 • Gainesville, FL 32606  
(352) 955-2190 • Fax (352) 955-2069

To: Business Officers, HR Officers, Risk Management Coordinators, Risk Management Assistants

From: Justin W. Piazza

Date: October 16, 2012

Re: **Security/Public Safety**

Recently the FCSRMC was asked to review the risks and/or concerns with member colleges electing to allow college employed security staff to carry weapons. The attached opinion was drafted and presented at the October 2012 COBA meeting by the FCSRMC's legal counsel.

This opinion is presented to provide our member colleges with as much information as necessary to make informed decisions regarding risk assessment at their institutions. Since our member colleges are free to make their own decisions regarding college administration, we strongly recommend that this matter be discussed with each college's in-house counsel.

### **Risk Assessment:**

- In the absence of an FDLE approved police department, the college faces added risks when using college employees to perform duties similar to such police departments; such as:
  - The enforcement of laws,
  - The detection or arrest of persons violating or suspected of violating those laws, or
  - The restraint of persons suspected of violating those laws.
- College employees whose duties include the carrying and possible use of firearms or other weapons can create increased levels of risk for the college.
- The use and assignment of college employees to carry and use weapons requires training and oversight that would meet standards appropriate to those activities.
- The inappropriate (negligent) hiring, retention or supervision of such employees or the negligent or improper use of the firearms or weapons can be the basis for liability claims.
- The use of weapons can also create liability under federal civil rights law if they are used to take liberty or life.

### **Coverage Considerations:**

- The Plan Document (Endorsement No. 10) specifically excludes FDLE approved college police departments from coverage.
- Under “Casualty Exclusions” Section II.c, acts of assault and battery are excluded from coverage, with the exception of “liability for personal injury or Death, resulting from any act alleged to be assault and battery for the purpose of preventing injury to persons or damage to property.”
- Employees would be covered for their acts so long as their acts were not “outside the course and scope of her or his employment or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property,” in accordance with the language of Fl. Stat. Sec. 768.28.

### **Consortium Recommendations:**

1. Colleges should not use armed or unarmed employees to enforce laws, arrest, detain or otherwise restrain persons who are guilty or suspected of violating laws, unless such employees are appropriately certified law enforcement officers.
2. If armed security guards are determined to be necessary to a college’s operations, those services are better contracted, from third parties, through contracts requiring compliance with applicable laws and licensure requirements, appropriate supervision, promises of indemnity and sufficient insurance as determined by college counsel.
3. Unarmed security personnel of the college should be limited to observation and reporting. They should make use of local law enforcement to enforce laws and protect property, when force is required, and should not have physical confrontation as part of their assigned duties.
4. Written policies and procedures should detail the employees’ duties and limitations, especially with respect to limiting “use of force” to the prevention of injury to persons or damage to property.

Should you have any questions regarding the FCSRMC position on this matter, please feel free to Contact Justin Piazza at [jpiazza@fcsrmc.com](mailto:jpiazza@fcsrmc.com) or 352-955-2190 ext. 107.