James A. (Jamo) Parrish
General Counsel

Mary E. Greene
Associate General Counsel

Michael Hostina
Associate General Counsel

Ardith Lynch
Associate General Counsel

UNIVERSITY OF ALASKA
Office of the General Counsel

203 Butrovich Building
P.O. Box 755160
Fairbanks, Alaska 99775-5160
Telephone: (907) 474-7259
Facsimile: (907) 474-5574
sylegal@alaska.edu

MEMORANDUM

TO: Julie Baecker, Director Risk Management

FROM: James A. Parrish

DATE: October 29, 2004

RE: Self Insurance

This memo is in response to a request for an explanation of the University's power to maintain its own self insurance program, a program that has functioned for many years, without any significant question as to its propriety.

As I view the field of self insurance relative to the university, the first question I address is the university's authority to institute a self insurance program. Of course, the University of Alaska is established by the Constitution. The University is by Constitution governed by the Board of Regents, not the Governor (Alaska Constitution Article VII, Section 3). In *University of Alaska v. National Aircraft Leasing, LTD.*, 536 P.2d 121, 128 (Alaska 1975) the court held that the University is, in some respects, a co-equal to the executive branch. This case held, in the context of a tort case, that the university fell within the meaning of the "state." Of course, since a big chunk of the university's budget is funded by general fund, and every dollar of the university's budget must be formally appropriated by the legislature, regardless of the source, that was an easy call.

Alaska Statute 14.40.040(a)(6) describes the authority of the university as follows:

> **General powers and duties of the university.** (a) There is created and established a corporation to be called the University of Alaska. It may in that name
>
> (1) sue and be sued. ...
>
> (6) do and have done all matters necessary for the purpose of any function set out in this chapter.

Alaska Statute 14.40.060 describes the general mission of the university as follows:

> The University of Alaska shall use the property and funds acquired for the purpose of conducting a college where the leading objects shall be, without excluding other scientific and classical studies and including military tactics, to teach branches of learning related to agriculture, the mechanic arts, and household economics in order to promote a liberal and practical education.

As a federal land grant university, like others of its nature, the university implements this mission by providing the full range of post secondary educational services, including teaching, research and service.

One "matter necessary for the purpose" of providing such services is enabling itself to respond to claims of liability by establishing a program of self insurance. This program accomplishes at least two necessary objects: First, it avoids the higher costs of managing risk through commercial insurers. Second, it avoids the unpredictable budget impacts that claims and judgments can have on other aspects of the university budget that would occur without this professionally managed internal risk management function.

Thus, in my opinion, there is clear statutory authority for the university to establish its program of self insurance.

On a more specific level, there are areas where insurance is mandatory within the state of Alaska. Two primary examples of mandatory insurance would apply to Elmendorf's concern: Workers' Compensation and Automobile Liability.

Proof of Automobile Liability insurance is mandatory pursuant to Alaska's Motor Vehicle Safety Responsibility Act, AS 28.20.060 and 070, after an accident. AS 28.20.300, however, states:

> AS 28.20.260 and 28.20.270 do not apply to an accident caused by the ownership or operation, with permission, of a vehicle owned or leased to the United States, this state, or a political subdivision or municipality of this state.

Thus, while the state has not issued the university a "certificate of self insurance," it has provided a letter that the university is in compliance. See attachment 1. Also, the university provides drivers of its vehicles with a statement relative to its self insurance program. See attachment 2.

Workers Compensation, on the other hand, requires either insurance or satisfactory proof of the employer's ability to pay in the event of a claim. In fact, because the university maintains a program of self insurance, the State of Alaska, Workers' Compensation Division, provides the university with a certificate of self insurance. See attachment 3.

In cases where insurance or self insurance is not mandatory, there is no mechanism for the state to issue a certificate of self insurance. That does not, however, detract from the university's right and power to protect itself from claims through its self insurance program.

JAP:cjm
Attachments

STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

Mike Miller, Commissioner

DEPARTMENT OF ADMINISTRATION
DIVISION OF MOTOR VEHICLES

2760 Sherwood Lane, Ste. B
Juneau, AK 99801
(907) 465-4361 Fax (907) 465-5509

University of Alaska
Attn: Mary E. Greene
P.O. Box 755160
Fairbanks, AK 99775-5160

June 12, 2003

Dear Mary E. Greene:

This is in reference to your letter dated June 12, 2003 requesting verification of self-insurance by the Division of Motor Vehicles.

The University of Alaska is a recognized self-insurer and is in compliance with the Mandatory Insurance Law AS 28.20.011.

As a recognized self-insurer the University of Alaska is authorized to issue it's own certificates of self-insurance which may be carried in University owned vehicles in compliance with AS 28.22.019.

If I can be of further assistance I can be reached at (907) 465-4361.

Sincerely,

J. Kevin Burchfield
Driver Services Supervisor

OFFICE OF GENERAL COUNSEL
UNIVERSITY OF ALASKA

JUN 12 2003

JAP AAL MEG MPH DJB

System Office of Risk Services
Fairbanks (907) 450-8150
Anchorage (907) 786-7755

Web Address:
http://www.alaska.edu/risksafety/

KEEP IN VEHICLE AT ALL TIMES
AS 28.22.019 – PROOF OF AUTO LIABILILITY INSURANCE

July 1, 2006

The University of Alaska maintains auto liability coverage for vehicles owned, leased or rented by the University of Alaska through a combination of self-insurance and excess insurance. This coverage extends to travel throughout Canada.

The State of Alaska's insurance requirements fall within the deductible levels of the University's excess insurance program and are covered through the University's self-insured claims program. This coverage is continuous and does not expire.

Questions regarding this coverage should be directed to the System Office of Risk Services in Fairbanks at (907) 450-8150. Additional information can be found at our website.

Accidents must be reported immediately to the System Office of Risk Services.

Julie C. Baecker, Director
System Office of Risk Services

- **This coverage is continuous and does not expire.**

EMPLOYERS' CERTIFICATE OF SELF INSURANCE

THE ALASKA WORKERS' COMPENSATION BOARD

Has issued this certificate of self-insurance to

UNIVERSITY OF ALASKA
PO BOX 755240
FAIRBANKS, AK 99775-5240

Certificate effective from **February 1, 2012** through **February 1, 2013**

ALASKA WORKERS' COMPENSATION BOARD

Designated Chairman
Michael P. Monagle

Member
Brad Austin

Member
Chuck Collins

TO THE EMPLOYEES OF THE ABOVE:

Your employer is authorized to directly pay benefits for job-connected injuries, illnesses, or death as provided by the Alaska Workers' Compensation Act.

Immediately (not later than 30 days from injury or fatality) give your employer and the Alaska Workers' Compensation Board written notice of a job related injury, illness or death. Get the "Report of Occupational Injury or Illness" form from your employer for this purpose.

If you have questions about an injury or claim, contact the employer's claims adjuster **University of Alaska, Risk Services, PO Box 755240, Fairbanks, AK 99775** or call **(907) 450-8150.**

If you have questions about your rights or benefits under the Alaska Workers' Compensation Act, contact the Alaska Workers' Compensation Board at the nearest office listed below:

ANCHORAGE	FAIRBANKS	JUNEAU
P.O. Box 107019	675 Seventh Ave., Sta. K	P.O. Box 115512
Anchorage, Alaska 99510-7019	Fairbanks, Alaska 99701-4593	Juneau, Alaska 99811-5512
(907) 269-4980	(907) 451-2889	(907) 465-2790

NOTICE TO EMPLOYER: AS 23.30.060 REQUIRES THAT YOU POST THIS NOTICE IN THREE PLACES ON THE EMPLOYER'S PREMISES.

Form 07-6123 (Rev 10/94) Formerly ADL 213