

Contractual Requirements for Performance Contracts

It is understood that regional campuses are not set up the same way as the West Lafayette campus. Outside of the differences in departments that may come into play, regional campuses are expected to comply with the same contractual requirements regards indemnity and insurance stipulate below.

Purpose: To assure that all areas are aware of and are operating under a uniform set of insurance and indemnification standards when contracting with performing artists who will appear on campus.

Responsible Areas:

Convocations-Contracts with performing artists who appear on campus or hosted at an off-campus venue through Convocations and Lectures or Student Concert Committee. These artists are typically nationally or internationally known and range from lectures to jazz/folk concerts to Broadway productions to major rock/country music performances.

Business Office for Student Organizations (BOSO)-Contracts with performing artists who appear on campus or hosted at an off-campus venue through the invitation of a student organization. These artists are typically smaller, local or regional musical groups or comedians, magicians, hypnotists, lecturers, etc.

Departments and Regional Campuses-Contract with any of the above types of performing artists for events on campus or hosted at an off-site location. Contract review for these areas must go through the Procurement Contracting Group at the WL campus, or by the designated contracting authority at the regional campuses.

Procurement Contracting Group (PCG)-Provides contract review services for departments. Available to provide assistance to contract analysts at the regional campuses, Convocations, and BOSO upon request.

Office of Risk Management-Establishes insurance and indemnification requirements and reviews requests for exception to the standard requirements.

Standard Insurance Requirements

The following standard insurance language should be included in all performance contracts. We should always initially request that performers provide their own insurance. There may be times when the insurance requirements can be waived. These situations are specified in the "Categories of Performances" section below.

Purdue University does not name others as additional insured on our policies. Artist is to be paid for performing on our premises and is expected to maintain their own insurance coverage. Artist agrees to provide to University, at least ten (10) days prior to the engagement, a Certificate of Insurance (COI) which provides evidence of the following coverages, which apply to acts arising out of this engagement, including rehearsal periods and post-production periods. Such coverage shall be with companies which hold a Best's rating of not less than "A" and shall be in amounts not less than the following:

General Liability of at least \$1M per occurrence for bodily injury, property damage, or personal injury

Auto Liability of at least \$1M per occurrence

Worker's Compensation per Indiana State statute

Standard Indemnification Language

The following standard indemnification language must be included in all performance contracts.

Indemnification language cannot be waived.

Artist/Producer agrees to indemnify and hold harmless Purdue University, its affiliates, trustees, officers, employees, and representatives from and against any losses, costs, damages and expenses resulting from claims for bodily injury or property damage or personal injury arising out of our engagement (including set-up, rehearsals, performance, and tear-down) at Purdue University, unless such bodily injury, property damage, or personal injury is determined to be the result of the sole negligence of Purdue University, its affiliates, trustees, officers, employees or representatives.

Purdue University agrees to indemnify and hold harmless Artist/Producer, their affiliates, officers, employees, and representatives from and against any losses, costs, damages and expenses resulting from claims for bodily injury or property damage or personal injury arising out of their engagement (including set-up, rehearsals, performance, and tear-down) at Purdue University, unless such bodily injury, property damage, or personal injury is determined to be the result of the negligence of Artist/Producer, their affiliates, officers, employees or representatives. Purdue University's obligation to hold Artist/Producer, their affiliates, officers, employees, or representatives harmless shall be limited in substance by statutes and constitutional provisions designed to protect the exposure and liability of the University as an instrumentality of the State of Indiana (e.g., actions and conditions as to which the University is immunized by the Indiana Tort Claims Act, dollar limits stated in such Act, exemption from punitive damages, the continued ability to defeat a claim by reason of contributory negligence or fault of claimant), so that its liability to indemnify, defend and hold harmless shall not exceed what might have been its liability to a claimant if sued directly by the claimant in Indiana and all appropriate defenses had been raised by the University.

Categories of Performances:

Low Risk Events

Includes chamber/classical music, jazz, folk, roots, world music, dance, family attractions, academic lectures, local bands or musicians, local or regional comedians, magicians, hypnotists, etc.

Insurance requirements for Low Risk Events

The standard insurance requirements and indemnification language shown above are required. If the performer is unable to meet the insurance requirements, contact the Office of Risk Management to assess the risks involved with the performance. The ORM may grant a waiver of the insurance requirements if deemed appropriate. Convocations and BOSO have authorization to waive the insurance requirements on their sponsored low risk events as they deem appropriate based on the risks involved with the performance.

Moderate Risk Events

Includes theatrical productions, dance groups, family attractions, well-known lecturers/speakers (non-controversial), regional bands or musicians.

Insurance requirements for Moderate Risk Events

The standard insurance requirements and indemnification language shown above are required. If the performer is unable to meet the insurance requirements, contact the Office of Risk Management to

assess the risks involved with the performance. The ORM may grant a waiver of the insurance requirements if deemed appropriate.

High Risk Events

Includes commercial, nationally and internationally recognized performers (rock, pop, country, comedy), controversial lecturers/speakers, events involving pyrotechnics, and other large-scale events.

Insurance requirements for High Risk Events

General Liability insurance requirement will be increased to \$5M for these events and standard indemnification language is required. Events involving pyrotechnics will require that the pyrotechnics vendor name Purdue University and The Trustees of Purdue University as additional insureds. Requests for exception to this increased General Liability limit will only be considered for events that do not involve pyrotechnics. Requests for exception to the increased limit will be thoroughly reviewed by ORM before an exception is granted.

Special Risk Events

Includes visiting dignitaries/lecturers/speakers where secret service and/or large-scale, multi-jurisdictional security will be involved.

Insurance requirements for Special Risk Events

Standard insurance requirements and indemnification language are required and cannot be waived for most of these events. If insurance requirements are an issue for a particular performer, the sponsoring department or organization may make a request to the Office of Risk Management to waive the insurance requirements. Risks will be thoroughly reviewed by ORM before a waiver is granted.

Timing of Contracts

Contract negotiations should allow sufficient time prior to the engagement to work out all the necessary details. Purdue University's insurance and indemnification requirements should be shared with artists early in the contract negotiation process. Establishing contract deadlines is recommended to eliminate last minute changes prior to the performance.

Contract Follow-up

The sponsoring department is responsible for securing the appropriate Certificates of Insurance (COI) from performing artists PRIOR TO the performance. It is important that we receive the COI to verify that the performing artist is actually meeting the insurance requirements in the contract.