

Emergencies & Ethics: Managing Critical Incidents Abroad

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Program Agenda

- Welcome and Introductions
- Session Goals and Learning Outcomes
- NAFSA's Statement of Ethical Principles, Forum's Standards of Good Practice and Code of Ethics, FERPA, HIPAA
- What is an Ethical Decision?
- Case Studies
- Best Practices
- General Q & A

Session Goals and Learning Outcomes

- Discuss policies and procedures for managing the ethical dimension of critical incidents abroad
- Identify skills to better utilize resources such as NAFSA's Statement of Ethical Principles, Forum's Standards of Good Practices and Code of Ethics, FERPA and HIPAA
- Share best practices in managing the ethical dimensions of critical incidents abroad
- Participants will acquire knowledge to develop and review policies and procedures of managing critical incidents abroad at their own institution

NAFSA: Association of International Educators

Statement of Ethical Principles

- The new Statement of Ethical Principles was developed to:
 - Align documents from the previous NAFSA structure to match the newly created Knowledge Communities
 - Facilitate a proactive approach to ethics rather than one that attempts to be an enforcement tool
- The Statement of Ethical Principles was approved by the NAFSA Board of Directors on March 28, 2009

NAFSA's Statement of Ethical Principles

The Role and Purpose of the Statement of Ethical Principles:

- Aid international educators in negotiating competing responsibilities, demands, and interests as they strive to make ethical decisions in complex and multicultural environments
- Inspire international educators to infuse all of their work with ethical principles and practices
- Advance the development of international education as a profession and strengthen the ethical dimensions of professional outreach, research, and training

NAFSA's Statement of Ethical Principles

The Role and Purpose of the Statement of Ethical Principles:

- Aid professionals and their institutions in decision-making in the management, support, and provision of programs and services
- Highlight the ethical obligations embedded in the relationships surrounding international education
- Broaden and deepen conversations on ethical and professional practices in international education

NAFSA's Statement of Ethical Principles

- Integrity
- Respect for the Law
- Quality
- Competence
- Diversity
- Transparency
- Access
- Responsiveness

Website - http://www.nafsa.org/about.sec/governance_leadership/ethics_standards/ethical_principles/

Forum on Education Abroad

- Formed by institutions & education abroad (EA) providers committed to academic excellence and superior professional program management
- Exclusive purpose is to serve field of EA
- Incorporated in 2001
- Holds 501(c)(3) status
- Recognized by the Department of Justice and Federal Trade Commission as the Standards Development Organization (SDO) for EA

Forum on Education Abroad Membership

- U.S. Colleges and universities (students from these 350 members constitute approximately 90% of U.S. students studying abroad)
- Overseas institution
- Consortia
- Agencies
- Education abroad provider organizations

What Does the Forum Do?

- Develops and implements standards of good practice
- Promotes and supports research initiatives
- Offers educational programs and resources to its members

Forum Resources

- Standards of Good Practice for Education Abroad (2008)
- Code of Ethics for Education Abroad (2008)
- Standards of Good Practice for Short-Term Education Abroad Programs (2008-2009)

Forum Standards of Good Practice

- Mission and Commitment
- Student Learning and Development
- Academic Framework
- Student preparation
- Student Selection and Code of Conduct
- Policies and Procedures
- Organizational and Program Resources
- Health, Safety and Security
- Ethics and Integrity*

Forum Standards on Ethics and Integrity

- Organization educates its employees in and adheres to its own code of ethics and/or the ethical principles of the Forum's "Code of Ethics for Education Abroad" in three areas:
 - Operations
 - Student Life
 - Intercultural Relations

Ethics with Respect to Operations

- Organization operates its programs in accordance with ethical principles. Does the organization:
 - Inform its faculty and staff about its own ethical standards and those of the EA field?
 - Have a policy for reconciling its ethical principles with host institution ethical principles, and for reconciling home and host country laws?
 - Apply ethical and legal standards in the marketing and operations of its programs?
 - Appraise its staff and faculty of and abide by home and host country laws, regulations, and guidelines that may affect programs?
 - Train personnel to recognize and enjoined to avoid conflicts of interest, and a protocol for addressing such conflicts?
 - Treat colleagues in the field in an ethical and civil manner?
 - Have a policy on the acceptance of gifts, gratuities and other compensation?
 - Promote integrity?

Ethics with Respect to Student Life

- Does the organization conduct its activities and advise students in an ethically responsible manner?
 - Have ethical guidelines in place for advising and interacting with students?
 - Protect students' rights to privacy and confidentiality?
 - Protect students' records?
 - Value, welcome, and provide a supportive environment for all students, regardless of gender, age, religion, disability, sexual orientation, and national or ethnic origin?

Ethics with Respect to Intercultural Relations

- Does the organization respect the cultures and values of the countries in which it operates and from which it draws students?
- Does the organization have sophisticated knowledge of the ethics, culture, society, values, and politics of the countries in which it operates?
- Does the organization consult specialists who are knowledgeable about the countries in which it operates?

Forum Code of Ethics, Section I: Preamble

- Guidelines are aspirational
- Reflect best practices as developed by the Forum in its role as a Standards Development Organization
- Adopted voluntarily by the field of education abroad
- Members encouraged to combine Forum's Code of Ethics with their own codes of ethical practices

Forum Code of Ethics, Section I: Preamble

- Purpose is to serve as a guide for making ethical decisions to ensure that those in the EA field provide services in accord with the highest ethical standards
- Ultimate goal of ensuring students' international education experiences area as rich and meaningful as possible

Forum Code of Ethics, Section II: Ethical Principles for EA

1. Truthfulness and Transparency:

Fundamental premise that EA practices be open and clear, and decision-making principles appropriately disclosed and reviewed periodically.

- a. Transparency of policies and procedures
- b. Disclosure of decision-making processes that guide practices, policies, and EA operations
- c. Clear and consistent communication appropriate to relevant constituencies
- d. Complete and accurate marketing, advertising, and promotional materials that avoid unfair and misleading statements

Forum Code of Ethics, Section II: Ethical Principles for EA

2. Responsibility to Students:

As an educational endeavor, EA should keep students' academic objectives, personal growth, and best interests foremost in mind.

- a. Helping make well-informed decisions
- b. Thorough pre-departure preparation
- c. Appropriate support throughout
- d. Focus on quality, rigor, and health & safety
- e. Protecting student's rights & privacy as required by law and ethical considerations

Forum Code of Ethics, Section II: Ethical Principles for EA

3. Relationship with Host Societies should demonstrate:
 - a. Sensitivity to and respect for differences between cultural norms
 - b. Awareness of program's impact and commitment to creating sustainable, mutually beneficial local relationships and to minimizing negative effects on host society
 - c. Effective orientation of students, faculty and staff so they are aware of applicable host and home country ethical/legal practices, and can avoid actions that negatively impact host society or image of home country

Forum Code of Ethics, Section II: Ethical Principles for EA

4. Observance of Law and Good Practice – in administrative, business, and financial arrangements all applicable U.S. and international laws should be observed and principles of good practice followed:
Employee rights & privacy, free & fair competition, intellectual property rights, wages, training, anti-discrimination employment practices, adequate support to ensure competent level of service to students, safe working/living conditions, and risk & security information

Forum Code of Ethics, Section II: Ethical Principles for EA

5. Conflicts of Interest:

- a. Potential conflict of interest exists when the financial or non-financial interests of an institution or organization (or employee) may be seen as competing with the interests of the student
- b. Potential conflicts of interest reviewed by appropriate 3rd party to determine if conflict exists
- c. Conflicts that cannot be waived or appropriately managed after full disclosure to all concerned parties are eliminated

Forum Code of Ethics, Section II: Ethical Principles for EA

6. Gifts, Gratuities, Discounts:

Providers and institutions should neither accept nor offer compensations (honoraria/consulting fees), gifts, gratuities, discounts, and rebates if it could be reasonably inferred that they would impact either party's ability to make objective and fair decisions about any aspect of the EA operations, including but not limited to affiliation, approval of EA programs, and student enrollment in such programs

Forum Code of Ethics, Section III: Examples of Ethical Best Practices



Forum Code of Ethics, Section IV: “The Forum Compass”

Four Questions to guide ethical decision making in Education Abroad:

1. Is it true, fair, and transparent?
2. Does it put the interests of the students first and contribute to their intellectual and personal growth?
3. Does it reflect the best practices of the field?
4. Does it foster international understanding?

Family Educational Rights and Privacy Act (FERPA)

- Overview: The Family Educational Rights and Privacy Act protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. Disclosure of educational records requires permission from a student [or parent, if under 18], except under certain conditions. For study abroad students, this means that information pertained to their application (eligibility, intended program of study, coursework, costs, etc.) is likely subject to FERPA, and cannot be discussed with a parent without the student's permission. However, records may be shared among "school officials with legitimate educational interest" or "appropriate officials in cases of a health and safety emergency." Medical records may also be considered part of the "educational records" and should be afforded extra protections.

FERPA Resources

- An excellent brochure on balancing student rights, privacy and school safety has been developed by the Family Policy Compliance office. It can be downloaded and distributed to staff and faculty from

<http://www.ed.gov/policy/gen/guid/fpc/brochures/postsec.pdf> or you can order copies directly from FPCO at 202-260-3887.

Health Insurance Portability and Accountability Act (HIPAA)

- Overview: The Health Insurance Portability and Accountability Act intends to protect the privacy of medical records “while allowing the flow of health information needed to provide and promote high quality health care and to protect the public's health and well being.” One section of HIPAA addresses the security and privacy of health data. The most relevant part states that all information regarding a patient's condition or treatment can only be disclosed if/when the patient provides written authorization for other specified individuals to receive the same information. As written, HIPAA applies to 'health care providers,' which includes a provider of services (as defined in section 1861(u)), a provider of medical or other health services (as defined in section 1861(s)), and any other person furnishing health care services or supplies.

HIPAA and How it Relates to Study Abroad

- In the study abroad context, HIPAA protections arise when your medical care provider or international insurance company, on campus or abroad, is asked for information regarding a student's condition abroad. For example, parents seeking copies of test or medical records from their student's automobile accident in Mexico condition from university health officials or the insurance provider may be denied access to information unless previously authorized by the student. Including an opportunity for a HIPAA waiver on your health form will allow for such disclosures.

The Health Insurance Portability and Accountability Act (HIPAA)

<http://aspe.hhs.gov/admnsimp/pl104191.htm>

<http://www.hhs.gov/ocr/privacysummary.pdf>

American Disabilities Act

Overview: The ADA prohibits discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. The Rehab Act states that no otherwise qualified individual with a disability in the United States, as defined in section 7(20), shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. To be protected by the ADA, one must have a disability, or have a relationship or association with an individual with a disability. An individual with a disability is defined by the ADA as a person who 1) has a *physical or mental impairment that substantially limits one or more major life activities*, 2) a person who *has a history or record of such an impairment*, or 3) a person who is perceived by others as having such an impairment. The ADA does not specifically name all of the impairments that are covered, and it's important to recognize that many disabilities are "invisible."

<http://www.section508.gov/index.cfm?FuseAction=Content&ID=15>

American Disabilities Act

The main issues of debate at institutions of higher education are about who is entitled to coverage and the extent to which the accommodation of a disability is required. Of course, U.S.-based institutions cannot require that host institutions or countries construct curb cuts or demand that students with learning disabilities receive more time to take tests in Russia, but as accommodations laws are passed around the world, more and more places will be accessible for individuals with a variety of disabilities. As a result, there may be an expectation that faculty-led programs will attempt to make reasonable accommodations abroad for students with disabilities.

Although many public institutions have concluded that they are not required to provide accommodation to a student with disabilities enrolled in a study abroad program, many elect to accommodate such students as much as possible. Private schools, in some cases, may fall under different legal requirements. Remember too, that requiring a study abroad experience as a part of a degree program will likely require accommodation.

What is an Ethical Decision?

- Would the world be a better place if this decision is taken? If more people made this decision?*
- Does it feel right? Would it bring more self-respect?*
- Considering my personal feelings toward the person or group that would be affected by my proposed decision, would I make the same decision if it affected someone I liked or disliked?

What is an Ethical Decision?

- Is the proposed decision in harmony with the letter of relevant laws, regulations, and institutional policies?
- Is it in harmony with the spirit of pertinent laws, regulations, and policies?
- Is it consistent with NAFSA's Statement of Ethical Principles and/or The Forum's Code of Ethics?
- Is it in accord with cultural norms?
- Does it avoid duplicity?

What is an Ethical Decision?

- Is it consistent with decisions previously made in comparable cases, and/or distinguishable from previous cases in which a different decision was reached?
- Does it establish a desirable precedent?
- Does it avoid lines of thought that can easily lead off the correct path?
- Will it help in the long run?

What is an Ethical Decision?

- Would I want my mother to know I made this decision?
- Could I credibly defend this decision in public?
- If I were the one affected by the proposed decision, would I consider it fair and reasonable?

* Jimmy Calano and Jeff Salzman suggest these questions in Career Tracking (New York: Simon & Schuster, p. 106).
"What is an Ethical Decision?" written by Gary Althen of the University of Iowa.

Issues Involving Ethical Dilemmas

- Academic Honesty Concerns
- Disciplinary Concerns
- Regulatory Compliance Issues
- Social Issues
- Religious Issues
- Insurance/Liability Issues
- Family Conflicts
- Financial Concerns
- Privacy Issues (Ex. The Family Educational Rights and Privacy Act)

Case Study 1

Where's Professor Harris?



Case Study

- What steps would you take (if possible, in chronological order you would take them)
- Why? What was the ethical principle involved in your decision?
- Who would take each particular step?

Case Study 2

Double Trouble



Case Study 3

It All Looks Good on Paper, But...



Best Practices

Resources to Guide You in Making Ethical Decisions

- Office of the General Counsel
- Campus Attorney
- Risk Management Personnel
- Student Conduct Handbooks
- Ombudsman/Student Judicial Board
- NAFSA Staff Liaison to Subcommittee on Ethical Practice
- NAFSA Education Abroad Subcommittee on Health and Safety
- Forum on Education Abroad
- Cultural Informants - Local Residents and Social Service Agencies
- Mental Health Professionals
- Mobility International USA (MIUSA)
- Local Law Enforcement Agencies
- EEO/Affirmative Action
- Other Professional Organizations

Questions/Wrap Up



Thank you for participating in our session!
Please complete the session evaluation.