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# Study Abroad Health and Safety Regulation

## Report to the 2015 Legislature



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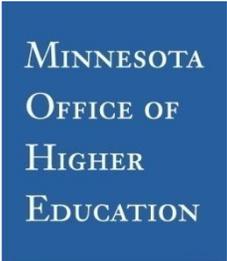
## About the Minnesota Office of Higher Education

The Minnesota Office of Higher Education is a cabinet-level state agency providing students with financial aid programs and information to help them gain access to postsecondary education. The agency also serves as the state's clearinghouse for data, research and analysis on postsecondary enrollment, financial aid, finance and trends.

The Minnesota State Grant Program is the largest financial aid program administered by the Office of Higher Education, awarding up to \$150 million in need-based grants to Minnesota residents attending eligible colleges, universities and career schools in Minnesota. The agency oversees other state scholarship programs, tuition reciprocity programs, a student loan program, Minnesota's 529 College Savings Plan, licensing and early college awareness programs and initiatives for youth.

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## Introduction

In 2014, the Minnesota Legislature passed legislation requiring postsecondary institutions to report on the health and safety of study abroad participants and directing the Minnesota Office of Higher Education (OHE) to assess the appropriate state regulation of postsecondary study abroad programs (2014 *Minnesota Session Laws* Chapter 312, Section 5; 2014 *Minnesota Session Laws* Chapter 312, Section 14). Full text of the law is included in Appendix A.

This report begins with an overview of study abroad in higher education, provides a summary of OHE's establishment of the new data collection process, and concludes with possible regulatory steps the Legislature may want to consider moving forward.

## An Overview of Study Abroad

### *National Trends*

The world is increasingly interconnected, and international study is seen as a way to bridge cultural divides between the United States and other nations, as well as strengthen economic and strategic relationships between countries. Higher education across the globe has responded with dramatic increases in the rates of both American students studying abroad and international students studying in the United States.

According to the Institute of International Education, 289,408 American students studied abroad in the 2012-2013 academic year, an all-time high and a two percent increase from 2011-2012 participation.<sup>1</sup> President Obama and First Lady Obama have both advocated for increasing the number of American students who study abroad, particularly in growing nations such as China. Launched by the U.S. Department of State, the 100,000 Strong Initiative was founded to expand and diversify the number of Americans studying Mandarin and studying abroad in China.<sup>2</sup> The Department of State launched a similar initiative the following year with a focus on increasing international study and relationship building across the Americas to 100,000 students studying in the region per year by 2020. Additionally, growing efforts across the country aim to increase the number of traditionally underrepresented students studying abroad.

### *Health & Safety Reporting*

As the U.S. Department of State and postsecondary institutions work to increase participation in international study, advocacy groups are concerned about the lack of transparency and accountability of institutions and programs sending students overseas for educational experiences. As such, members of Congress are calling for increased oversight of study abroad programs to ensure students' health and safety.

In 2014, Congressman Maloney (D-NY) introduced the Ravi Thackurdeen Safe Students Study Abroad Act, which had it passed, would have required additional reporting on crime and harm

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<sup>1</sup> Institute of International Education. (2013). *Open doors report on international educational exchange*. Retrieved from <http://www.iie.org/Research-and-Publications/Open-Doors/Data/US-Study-Abroad>.

<sup>2</sup> U.S. Department of State. (n.d.). *100,000 strong educational exchange initiatives*. Retrieved from <http://www.state.gov/100k/#>.

that occurs during student participation in programs of study abroad.<sup>3</sup> Senators Gillibrand (D-NY), Franken (D-MN), and Casey (D-PA) wrote an open letter to U.S. Secretary of Education Duncan recommending the U.S. Department of Education take action to better inform students and their families about safety concerns when studying abroad. The Senators also recommended creating guidelines for institutions that ensure their international programs follow the same or more stringent requirements to programs sponsored by the Department of State, as well as incentivizing student and institutional participation in the Department of State's Smart Traveler Enrollment Program.<sup>4</sup>

### *Legal Challenges*

Legal issues surrounding international study programs have also increased in recent years. A high school student who contracted a life-altering illness while studying abroad filed a lawsuit against the school leading the international program. The court originally found in the student's favor and awarded \$41.7 million in damages; however, the decision is under appeal.<sup>5</sup> As part of the appeal, the American Council on Education filed an amicus brief signed by 27 education organizations that documented the challenges to international education providers that would emerge if the decision were upheld. The coalition of education organizations argued upholding the ruling would create a lofty liability for institutions that would stifle international education.<sup>6</sup> While this legal case involves a high school student, the case's legal precedent would also impact postsecondary study abroad. This case highlights questions of responsibility and liability for all institutions that host and/or offer credit for educational programs abroad.

These legal and congressional cases, along with the public's interest, highlight a growing expectation for reliable safety information to inform consumers about international study and travel, as well as the potential liability incurred by international study programs. As the number of students abroad grow, and the needs of these students change, attempts to improve transparency and accountability of study abroad programs will likely continue.

### *Types of Study Abroad Programs*

Study abroad programs are organized by postsecondary institutions and third party providers. In addition, several organizations help postsecondary institutions and study abroad providers implement best practices in the field of education abroad.

Students have numerous options in types and structures of study abroad programs. These program types can be generalized into one or more of the following categories:

- Programs taught by the student's home institution's faculty/staff or those contracted specifically for the institution's program abroad;
- Direct enrollment in coursework at an overseas university or institution/language school;

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<sup>3</sup> Popvox. (2014). *H.R. 5485 Ravi's law*. Retrieved from <https://www.popvox.com/bills/us/113/hr5485#nation>.

<sup>4</sup> Gillibrand, K., Franken, A. and Casey, R.P. Jr. (2014). [Letter to Secretary of Education Duncan]. *United States Senate*. Retrieved from <http://www.forumea.org/wp-content/uploads/2014/10/safety-letter.pdf>.

<sup>5</sup> Educational Travel Community. (2015). *Hotchkiss decision*. Retrieved from <http://travelearning.com/Hotchkiss%20Decision>.

<sup>6</sup> United States Court of Appeals for the Second Circuit. (2014). *Brief amici curiae of National Association of Independent Schools, American Council on Education, and 27 other education associations in support of Hotchkiss School and reversal*. Retrieved from <http://www.acenet.edu/news-room/Documents/Amicus-Munn-Hotchkiss.pdf>.

- Temporary enrollment in another American institution for the term abroad to participate in that institution's study abroad program;
- Consortia programs with institution membership;
- Third party program (non-U.S. University), such as American Institute for Foreign Study (AIFS), Council on International Education Exchange (CIEE), Institute for the International Education of Students (IES), and Minnesota's Higher Education Consortium for Urban Affairs (HECUA); and,
- Independently identified and scheduled student study, research or internship programs.

In addition to these educational programs, many students also travel abroad with their institution for coeducational purposes, such as choir or band, an international service effort, or athletic team training or competition.

### *National Professional Organizations*

The Forum on Education Abroad (the Forum) is a nonprofit membership organization that provides guidance on study abroad best practices and was recognized by the U.S. Department of Justice as a Standards Development Organization for the education abroad field.<sup>7</sup> The Forum publishes the *Standards of Good Practices for Education Abroad*, which are highly regarded by professionals in the field.<sup>8</sup> Postsecondary institutions and third party providers can join the Forum to access workshops and guidance on the implementation of the Forum's best practices. Study abroad professionals can also enroll in and receive the Forum's Professional Certification in Education Abroad. In addition, the Forum oversees the Quality Improvement Program (QUIP)—an evaluation tool for institution and third party abroad programs that aligns the evaluation process with the *Standards of Good Practices*.

The Forum also oversees the Critical Incident Database, a tool provided for Forum members to track incidents in alignment with the Clery Act.<sup>9 10</sup> At present, this tool is voluntary for all institutions. Only a small number of institutions share their data, limiting its usefulness to inform policy decisions. It could be used, however, as a model for data collection or reporting on the state or federal level in the future.

The Association of International Educators, commonly known as NAFSA, is a professional network of over 10,000 international educators. The group shares best practices and research in the field of international education, and advocates for policy changes that support study abroad and international students in the United States.<sup>11</sup>

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<sup>7</sup> The Forum on Education Abroad. (2014). *About us*. Retrieved from <http://www.forumea.org/about-us>.

<sup>8</sup> The Forum on Education Abroad. (2014). *Standards of good practice*. Retrieved from <http://www.forumea.org/resources/standards-of-good-practice>.

<sup>9</sup> The Forum on Education Abroad. (2014). *Critical incident database*. Retrieved from <http://www.forumea.org/resources/member-resources/critical-incident-database>.

<sup>10</sup> The Clery Act requires all postsecondary institutions participating in federal student financial aid programs to report crimes that occur on or near their campuses. Clery Center for Security on Campus. (2012). *Summary of the Jeanne Clery Act*. Retrieved from <http://clerycenter.org/summary-jeanne-clery-act>.

<sup>11</sup> NAFSA: Association of International Educators. (2015). *Learn about NAFSA*. Retrieved from [http://www.nafsa.org/Learn\\_About\\_NAFSA/](http://www.nafsa.org/Learn_About_NAFSA/).

The Institute of International Education (IIE) advocates for policies that support global education, provides scholarships for low-income students to participate in education abroad programs, and is the primary organization collecting data on study abroad and international students through their annual Open Doors survey. Twenty-five Minnesota institutions participated in the Open Doors survey in the 2012-2013 academic year. The data primarily measures participation and does not include information related to health and safety.<sup>12</sup> While this is the most comprehensive source of data on international education at present, IIE does not have institutional reporting.

## Minnesota Students Studying Abroad

According to the IIE's *Open Doors 2014* report, 25 Minnesota postsecondary institutions reported a total of 9,022 students studied abroad for academic credit during the 2012-2013 academic year, compared to 289,408 students nationally.<sup>13</sup> Minnesota-specific data on student destinations is not currently available, but will be included in the public report following the first year of study abroad data collection in Minnesota. Nationally, the United Kingdom remains the most popular destination for American students, followed by Italy, Spain, France and China. In 2012-2013, student participation in programs located in Denmark, Peru, South Korea, South Africa and Thailand all increased by more than 10 percent.

Seven Minnesota institutions – the University of Minnesota - Twin Cities, St. Olaf College, University of St. Thomas, Hamline University, College of St. Benedict/St. John's University, Carleton College, and Bethel University—accounted for 66 percent of Minnesota's study abroad participants. Figure 1 shows the breakdown of Minnesota students' study abroad participation by home institution. All of the private colleges on this chart are ranked in the top 20 nationally in the percent of the institution's undergraduate enrollment studying abroad.

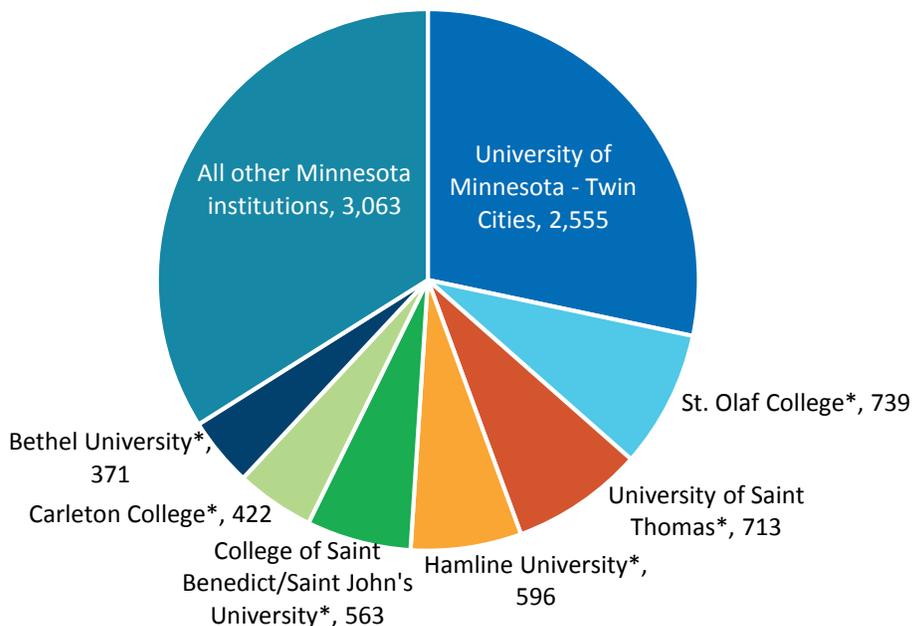
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<sup>12</sup> Institute of International Education. (2014). *Open doors report on international educational exchange*. Retrieved from <http://www.iie.org/Research-and-Publications/Open-Doors>.

<sup>13</sup> Institute of International Education. (2014). *Open doors data fact sheets by U.S. state: 2014*. Retrieved from <http://www.iie.org/Research-and-Publications/Open-Doors/Data/Fact-Sheets-by-US-State/2014>.

**Figure 1.**

**SEVEN MINNESOTA INSTITUTIONS ACCOUNTED FOR 66 PERCENT OF MINNESOTA STUDY ABROAD STUDENTS, 2012-13**



\*Ranked in top 20 nationally in percent of the institution's undergraduate enrollment studying abroad.

Source: Institute of International Education, Open Doors Report on International Educational Exchange

### *Minnesota Study Abroad Oversight*

While many institutions in the state have well-established policies and procedures related to the health and safety of their students studying abroad, the extent to which program staff, hosts, and students are prepared for the health and safety risks is unknown. Minnesota does not currently require institutions to adhere to standard policies and procedures, such as student orientation, faculty training, or program crisis response. Further no external monitoring entity currently exist to oversee study abroad programs in the state. Institutions oversee their own programs and sign contracts with third party programs to serve their students. Conversations with study abroad professionals in Minnesota seem to indicate that the variation in health and safety standards is connected to program type and program host. Data to support this claim does not currently exist.

### *Minnesota Professional and Advocacy Organizations*

Minnesota Study Abroad Professionals (MSAP) is a professional organization of education abroad professionals that connects Minnesota-based education professionals with emerging research on best practices in the field. This group meets monthly throughout the year. Currently, MSAP has 403 members from institutions across Minnesota which includes representatives from institutions with the largest international education programs.

Institutions involved in these state and national international education organizations have access to professional support for implementing best practices and procedures for ensuring the health and safety of their students studying abroad. While member institutions have access to these best practices, the extent to which those are consistently implemented is unknown. Additionally, it is

unclear whether non-participating Minnesota institutions have health and safety procedures in place. As a result of the new legislation adopted by the Minnesota Legislature, Minnesota's study abroad reporting and data collection will provide a better understanding of the types of international education programs, as well as the health and safety of student participants.

The Minnesota nonprofit organization, ClearCause Foundation aims to protect students abroad by providing standardized student abroad safety training to help them identify and mitigate risks. ClearCause also serves as a support network for students whose health or safety was compromised while abroad and families of students who died abroad. The organization established the Incomplete Illness Injury Student Abroad Death report which collects and discloses information on health and safety incident abroad. ClearCause Foundation also advocates for state and federal legislation to regulate study abroad.

## Implementation of Minnesota's Law

Per *Minnesota Session Laws* Chapter 312, Section 5, Minnesota postsecondary institutions are required to report:

- accidents or illnesses that resulted from program participation and required hospitalization,
- deaths of program participants that occurred during program participation as a result of program participation, and
- whether institutions' study abroad programs comply with health and safety standards set by the Forum on Education Abroad or a similar agency.

The Minnesota Office of Higher Education and the Minnesota Office of the Secretary of State will publish this information online for students and parents to make more informed decisions about participating in study abroad, and more specifically the health and safety records of Minnesota's postsecondary institutions in each country. In addition to the information provided by the postsecondary institutions on hospitalizations and deaths of students abroad, the Secretary of State is required to publish the best available information on sexual assaults and other criminal acts affecting study abroad program participants by country. The first reporting period is August 1, 2014 to July 31, 2015, with data submission to the state required by November 1, 2015. OHE anticipated this data to be made publicly available by January 1, 2016.

No other state has passed legislation on oversight of study abroad or the health and safety of study abroad participants. There is no model for implementation of Minnesota's current law. As such, the implementation of this law required extensive, collaborative work with a variety of stakeholders. A detailed timeline of the law's implementation follows:

## Timeline of Study Abroad Law Implementation

<u>Date</u>	<u>Event</u>
March 20, 2014	Higher Education & Workforce Development Committee hearing
May, 2014	Minnesota law passed
June 17, 2014	Met with Julie Strother, Secretary of State's Office
July 10, 2014	Met with study abroad professionals and government relations staff from MnSCU, U of M, and MPCC
<b>August 1, 2014</b>	<b>Law in effect; Data Collection period started</b>
August 6, 2014	Conference call with MnSCU, U of M, and MPCC representatives
August 7, 2014	Met with MPCC Study Abroad Professionals at MPCC
August 26, 2014	Met with MnSCU Representatives
September 9, 2014	Met with Senator Bonoff
September 16, 2014	Met with victim of sexual assault abroad
October, 2014	Shared drafts of web survey and mock reports with stakeholders for feedback
October 28, 2014	Met with Sheryl Hill, founder of ClearCause Foundation and lead advocate
October 28, 2014	Presented at Minnesota Study Abroad Professionals Workshop
October 30, 2014	Conference call with Franken's staff re. Letter
November 25, 2014	Conference call with MSAP group
December 12, 2014	Letter sent to all institution presidents and study abroad professionals in state; Shared links to web survey and mock report pages with all institutions
January 15, 2015	Deadline for institutions to share contact information of staff member responsible for completing report with OHE
<b>February 1, 2015</b>	<b>Report due to Legislature</b>
<b>July 31, 2015</b>	<b>Data collection period ends</b>
<b>November 1, 2015</b>	<b>Institution report due to OHE</b>
<b>Nov. – Dec. 2015</b>	<b>Analyzing data and preparing reports</b>
<b>January 1, 2016</b>	<b>Data available to public</b>

Once the data collection period ends on July 31, 2015, institutions have until November 1 to compile and submit their data. OHE will then analyze the data and prepare public reports for each institution. Institutions will have an opportunity to review their report information and provide feedback prior to publication.

### *Stakeholders*

In June 2014, OHE staff members met with Julie Strother, Government Relations Associate from the Secretary of State's office. Together, we decided that OHE would be responsible for the data collection, given our existing relationship and established data collection processes with postsecondary institutions throughout the state.

OHE established the implementation plan for this law in close collaboration with several stakeholders. Commissioner Pogemiller and Office staff met with the author of the law, Senator Terri Bonoff and her staff, to clarify her intent and ensure the data collection plan aligned with her original goals. In addition, Commissioner Pogemiller and Office staff met with Sheryl Hill,

Founder and Executive Director of ClearCause Foundation, and lead advocate for the legislation.<sup>14</sup>

OHE also worked closely with Minnesota study abroad professionals in the state. Our primary contacts have been Jodi Malmgren, Director of International and Off-Campus Studies at St. Olaf College, and Stacey Tsantir, Director of Health, Safety, and Compliance with the Global Programs and Strategy Alliance of the University of Minnesota, as they participated in legislative deliberations leading up to passage of the law. We have also met with representatives from the Minnesota State Colleges and Universities system, the University of Minnesota, and the Minnesota Private College Council and their member institutions to inform our implementation of the law.<sup>15</sup>

### *Process and Definitions for Reporting Data*

OHE contacted all postsecondary institutions in the state that are eligible to participate in a Minnesota-funded student financial aid program to inform them of the law and to request the name and contact information of the person responsible for the institution's reporting.

Institutions that offer or approve credit for study abroad programs must complete a secured web survey by November 1, 2015 on incidents that occurred between August 1, 2014 and July 31, 2015. The survey will collect information about study abroad participation and incidents of hospitalizations and deaths of students who study abroad. The following sections describe the process and challenges of implementing the reporting requirements of Chapter 312.

#### *a. Who is included in an institution's report?*

The law does not specify who should be included in an institution's report. This presented a challenge, as many Minnesota students enroll in study abroad programs offered by other postsecondary institutions in or out of state, as well as third party providers. After discussion with professionals in the field, OHE determined that the institution in which a student is typically enrolled and offers or approves credit for the study abroad program should be responsible for reporting that student.

Reporting by the student's home institution is the clearest definition for the general public reading the final report. This also allows us to collect data on students who typically attend a Minnesota institution, but study abroad through an institution or third party provider located outside of the state. While it is possible that the student's home institution does not have knowledge of an incident abroad hosted by another institution or third party provider, we established that the student's home institution has some accountability for approving credit for study abroad participation.

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<sup>14</sup> ClearCause Foundation. (n.d.). *Advocacy*. Retrieved from <http://www.clearcausefoundation.org/#!/advocacy/c1k81>.

<sup>15</sup> Additional stakeholders involved in this process include: Nichole Pazdernik, St. Cloud State University; Caryn Lindsay, Minnesota State University, Mankato; Tim Dohmen, University of St. Thomas; Regina McGoff, Augsburg College; Christine Kiel, University of Minnesota; Melissa Fahning, Todd Harmening, Kris Kaplan, and Susan Carter, MnSCU; Amy McDonough, Minnesota Private Colleges

There are notable categories of students not included in reporting under Minnesota’s current law. These include:

- Minnesota residents who attend out of state institutions;
- Students who participate in a Minnesota institution’s study abroad program but whose home institution is out of state,
- Students who travel abroad with a Minnesota institution for coeducational purposes, such as choir or band, an international service effort, or athletic team training or competition, as these programs are not for academic credit; and,
- K-12 school students.

*b. How do we define study abroad program?*

The law specifies that institutions should report the deaths and hospitalizations on “its programs” and includes in that definition study abroad programs offered or approved for credit. As the law is currently written, it is unclear whether institutions are required to report the program name, program host, or program type for health or safety incidents. The law does not clearly give OHE legal authority to require program name or program host, and institutions argued that they were not mandated to report program name or program host under the law as it is written. OHE made the determination that incident data would be reported by program type, as defined on pages 4-5 of this report, and by country. As such, reports will not link incidents to specific program names or program hosts. This limits the state and public’s ability to identify problematic program hosts or potential health and safety trends that may need to be addressed.

In addition to the incident data required by law, institutions will also report study abroad participation by country. This allows the state and public to interpret incident data and understand the relative frequency of health and safety incidents to participants in each country of study, providing a measure of risk for health or safety incidents.

*c. What data is included in an institution’s report?*

The survey asks respondents to indicate the number of students who studied abroad in each country. If the program takes students to multiple countries, students are reported multiple times.

Institutions must also report the number of hospitalizations and deaths that occurred within each country, if the incident meets the law’s definition of occurring “during and as a result of program participation.” To ensure institutions across the state have standard reporting processes and that expectations for reporting are clear, OHE created a document that further defines these terms based on feedback from study abroad professionals (see Appendix B). To clarify “during program participation,” we determined that reports should include incidents occurring only during the study abroad program’s published start to end dates.

“As a result of program participation” was more challenging to define. Some advocated for the broadest possible definition that all incidents that happen while a student is abroad are as a result of program participation since the student is in the country for the program. Other stakeholders see “as a result of program participation” as assigning fault or liability, so only incidents directly related to program activities should be included. OHE determined that institutions are required to report incidents that occur as a result of program location, facilities, and/or activities. This excludes any incidents that occur during unrelated, independent travel.

Despite these clarifications, “as a result of program participation” remains challenging to implement. For example, if a student with asthma must go to the hospital because she is studying in Beijing and her pre-existing condition is aggravated by the polluted air, is this “as a result of program participation?” Or is this unrelated to the program location? The wording “as a result of” suggests that study abroad professionals make decisions about the cause of medical conditions, which is outside of their professional expertise.

Another challenge related to the language of the current law is the phrase “accidents and illnesses...that required hospitalization,” as medical services and the definition of a “hospital” varies around the world. We interpreted the intent of the law to mean hospitalization by U.S. standards, so services that would occur in a U.S. clinic would not be “hospitalization.” As such, OHE determined that institutions are to report incidents requiring hospital admission, excluding outpatient care admissions.

To help institutions understand if incident information should be reported, OHE collaborated with study abroad professionals to develop a reporting flow chart, included in Appendix C. OHE presented this tool to study abroad professionals from across the state at the MSAP workshop in October.

#### *d. How does an institution know about an incident?*

The law relies on institutions to report health and safety data, but does not define institutional knowledge, nor does it allow OHE to require a process for institutions to gather hospitalization information from their students. At present, institutions are not required to request incident disclosure from their students. Some stakeholders are opposed to requesting incident disclosure upon return to the U.S. because it “risks revictimizing” students. Others argue that requesting incident disclosure ensures the validity of data and gives students better access to support services upon their return to campus.

OHE determined that a reporting institution is deemed to have substantiated knowledge or notice if:

- A responsible employee has personal knowledge of the incident;
- A student files an incident report with the reporting institution;
- A student informs a responsible employee of the incident; or,
- A responsible employee witnesses the incident.

A responsible employee is a program provider or institution employee who operates, promotes, approves for credit, and/or administers study abroad programs.

Some stakeholders oppose the law’s reporting structure, and argue that individual students should be able to report incidents directly to OHE. The current model draws into question the accuracy of the data as it relies on a student informing his or her home institution of incidents that occur abroad, and there may be disincentives or barriers for students reporting to their institutions. However, allowing both processes would raise problems of double reporting, de-identified data, and data privacy.

*e. Does an institution comply with health and safety standards?*

The law requires postsecondary institutions to report “whether its program complies with health and safety standards set by the Forum on Education Abroad or a similar study abroad program standard setting agency.” Postsecondary institution’s legal counsel would not approve participation in the compliance reporting due to the legal ramifications of declaring compliance. If the survey was written as the law suggests, no data would have been collected on compliance because institutions indicated they would leave it blank.

Therefore, the language of the reporting survey was changed from “complies” to “committed to complying” in order to gather information from institutions on the extent of their adherence to best practices. The survey asks “Is your institution committed to complying with the health and safety standards of the Forum on Education Abroad? (Check all that apply).” This change allows the institutions to report information on compliance with best practices that interests the state and the public. OHE recognizes that the data collected will be different than what the law indicates, but made the judgment that the alternate language will enhance the first round of data collection until the Legislature can discuss and determine how to proceed.

*f. What will the data look like to the public?*

Once the data collection period is complete, data will be reported by institution and in the aggregate of all institutions in the state. The data is classified as private under *Minnesota Statute 13.2* and personally identifiable information will be protected. If more than ten students are offered or receive credit for a program in each country, the data will be reported by country and by institution. If fewer than ten students from an institution study in a country, the data will be aggregated with all other countries with low participation and reported as "Other Countries" to protect student privacy.

*g. How will crimes and sexual assaults against students abroad be reported?*

The law requires the Secretary of State and OHE to “publish on its Web site the best available information by country on sexual assaults and other criminal acts affecting study abroad program participants during program participation.” At present, no public or nonprofit organization disaggregates this data to specifically look at trends among study abroad students. The inability to provide this information to the public, especially given the increased public attention on crime and sexual assault in higher education at large, is a concern.

Current data sources, such as the U.S. Department of Justice (DOJ), the U.S. Department of State (DOS), and the Forum’s Critical Incident Database, have been recommended to OHE, but their data does not fully comply with the mandate of the law. The DOJ oversees the Office for Victims of Crime, which provides resources for American victims of crime abroad, but does not provide a public report of incident rates by country.<sup>16</sup> The DOJ also has a webpage specific to students abroad, but no data on rates of crime and sexual assaults are available.<sup>17</sup> The DOS publishes “non-natural” deaths of Americans abroad, but does not publish information on sexual assault

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<sup>16</sup> Office for Victims of Crime. (n.d.). *Resource guide for serving U.S. citizens victimized abroad*. Retrieved from <http://www.ovc.gov/publications/infores/ServingVictimsAbroad/pfv.html>.

<sup>17</sup> United States Department of State. (n.d.) *Students abroad*. Retrieved from <http://travel.state.gov/content/studentsabroad/en.html>.

abroad.<sup>18</sup> The DOS Overseas Security Advisory Council publishes general information on crime against Americans abroad by country, but it is not incident reporting or student specific.<sup>19</sup> The Critical Incident Database collects information on crime and sexual assault, but participation by postsecondary institutions is voluntary so remains quite low.

Postsecondary institutions often have knowledge of sexual assaults and crimes against their students studying abroad, just as they have knowledge of the other reportable incidents. Therefore, the “best available information” is most likely from the institutions. However, OHE does not have the authority to collect this data under the current law. Institutions have expressed concern about sexual assault and crime reporting. They argue that definitions of reportable crime are unclear, it risks student privacy, and it could disincentivize student disclosure of incidents. However, assault and crime definitions could align with industry best practices. Additionally, sexual assault and crime data would be protected by FERPA guidelines and deidentified for reporting purposes as with all other reportable incidents included in the law. Failing to include crime and sexual assault data in institutional reporting is a significant omission and limits the effectiveness of the law to better inform students and parents of health and safety risks of studying abroad.

## Assessing Appropriate Regulation

The 2014 Minnesota Legislature assigned OHE the responsibility to report on appropriate regulation of Minnesota’s study abroad programs. Per the Legislature’s mandate, this assessment is based on a balanced approach of protecting the health and safety of program participants and maintaining the opportunity of students to study abroad. Given the data collection timeline in Minnesota law and the lack of other sources of data on study abroad, it is important to note that many of these recommendations are currently based on the limited data available.

There are areas of exploration the Legislature might consider for regulation. If the Legislature chooses to pursue regulating study abroad, we recommend appointing a diverse working group with representation from postsecondary institutions, advocacy organizations, student safety experts, and students to develop suggested regulatory language. The working group could convene as soon as the data from the first year of study abroad health and safety reporting is available so the initial year of data can inform the deliberations of the working group. Lastly, given the challenges of implementing the current law, we recommend clarifications to the current law to improve its implementation and the resulting data.

### *1. Require Best Practice Policies and Procedures for Study Abroad*

The Legislature could pursue statutory policy and procedure requirements for institutions offering study abroad programs for credit. The current implementation of the law’s compliance reporting requirement is contentious and does not provide the most useful data. Asking if institutions comply with study abroad best practices is not the same as requiring adherence by institutions.

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<sup>18</sup> United States Department of State. (n.d.). *U.S. citizens’ deaths overseas*. Retrieved from <http://travel.state.gov/content/travel/english/statistics/deaths.html>.

<sup>19</sup> Overseas Security Advisory Council. (n.d.). *Report details*. Retrieved from <https://www.osac.gov/pages/ContentReportDetails.aspx?cid=16937>.

If the Legislature wanted to require adherence to international education best practices, options include:

- 1) requiring membership in the Forum on Education Abroad so institutions could accurately and legally report whether they complied;
- 2) requiring that Minnesota institutions only offer or approve for credit programs that align with the U.S. Department of State sponsored programs; or,
- 3) requiring best practice policies and procedures for study abroad by defining them in Minnesota law.

The first option offers the added benefit of providing support to institutions in becoming compliant and implementing best practices. The drawback of this option is the expense of membership, especially for smaller institutions. The second option aligns with a national standard but limits the state's oversight and student choice.

The third option would be the most direct means of regulating study abroad programs. Minnesota would be the first state to do so. It is critical and strongly recommended to collaborate with stakeholders from a variety of professional backgrounds to determine best practices before placing any regulations in law. In addition to study abroad best practices, models from the travel and tourism industry as well as employee abroad programs and organizations should be considered.

## *2. Establish Expectations for Faculty-Led Programs*

At present, there is no statewide training or certification for faculty and staff members leading study abroad programs. Institutions indicate that faculty involvement with study abroad offices varies widely. The Forum recommends “staff are trained to anticipate and respond responsibly to student health, safety, or security issues.”<sup>20</sup> The state could explore language to define the training or certification requirements of eligible faculty or staff members who lead student groups abroad. The University of Minnesota's adviser training program is a possible model to explore.<sup>21</sup>

Another option is for the Legislature to require that each institution create their own standardized process for preparing faculty and staff to lead study abroad programs. The state could provide a model of best practices or set minimum requirements, but leave the decision-making process to each institution. This would maintain institutional control, but ensure that communication about faculty preparation occurs across institutions and departments.

Both of these options present greater challenges for smaller postsecondary institutions, and could limit the offerings of study abroad programs for their students. However, smaller institutions

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<sup>20</sup> The Forum on Education Abroad. (2014). *Draft of the revised standards of good practice (5<sup>th</sup> edition)*. p. 4. Retrieved from <http://www.forumea.org/wp-content/uploads/2014/10/PublicComment-ForumEA-Standards-of-Good-Practice-5thed-2014-.pdf>.

<sup>21</sup> University of Minnesota. (2012). *Learning abroad center adviser training*. Retrieved from <http://umabroad.umn.edu/professionals/faculty/adviser-training>.

may be able to fulfill their training requirements by participating in training programs at larger institutions.

### *3. Set Requirements for Student Participation*

Students experience vastly different pre-departure processes at various institutions in Minnesota. The Legislature could consider establishing base requirements for all students who receive credit from a Minnesota institution for participating in an educational program abroad. This change would likely not affect many institutions, as they already meet or exceed these requirements. Examples of these base requirements include international health insurance, signed acknowledgement of health and safety risks, and a pre-departure orientation. More specifically, an orientation based on best practices strives to ensure that students are “adequately prepared for the challenge of the education abroad context” and “anticipates personal, health or safety issues that might arise.”<sup>22</sup> Again, diverse stakeholder involvement would be essential to developing effective minimum requirements for student participation in international education programs.

## Recommendations for Appropriate Regulation

Development of appropriate regulations for institutions to adhere to best practices, faculty training standards, or minimum student requirements will take time and should seek input from study abroad professionals, institution leaders and other stakeholders, so as to balance protecting the health and safety of program participants and maintaining study abroad opportunities. The implementation of the 2014 study abroad law has been successful to this point largely due to the relationship building and partnership with postsecondary institutions and stakeholders. The data collected in the first year of the law’s implementation will be useful in determining the need or appropriateness of state regulation of study abroad. If the Legislature were to pursue regulation of study abroad in any of these three areas, OHE recommends appointing a working group to develop and recommend appropriate regulatory language.

## Challenge of State-Level Oversight or Regulation

There are clear limitations to regulating study abroad on a state level. While implementing a reporting requirement in Minnesota is an important first step to improve the transparency of international education programs and consumer information, state-level reporting and regulation excludes important student groups. As described above, data collection is conducted based on a student’s home institution. This means we are not including Minnesota residents who attend a postsecondary institution out of the state. For example, the Minnesota mother who testified during the committee hearing for this law whose son died while studying abroad would not be included in the data because he attended the University of Iowa. It also means we are not including students who typically attend a postsecondary institution out-of-state, but attend a program hosted by a Minnesota institution. Given the complex network of study abroad participation in higher education, a national standard for study abroad health and safety reporting and regulation would provide more consistent and accurate data.

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<sup>22</sup> The Forum on Education Abroad. (2014). Draft of the revised standards of good practice (5th edition). p. 2. Retrieved from <http://www.forumea.org/wp-content/uploads/2014/10/PublicComment-ForumEA-Standards-of-Good-Practice-5thed-2014-.pdf>.

Minnesota's law, however, could be a model for potential national reporting and regulation. Therefore, if the Legislature is going to act on study abroad, OHE recommends the Legislature focus on clarifying the current law in this session. One challenge of changing the law in the current session is that the data from the first year's reporting is not yet available.

## Recommended Changes to Current Law

As described in the "Implementation of Minnesota's Law" section on pages 8 to 14, the current language presents key challenges that prevent the law from fully achieving its goal of informing students and parents about the health and safety risks of studying abroad. Further, by clarifying the law and improving data collection, the following changes would better inform any regulation that the Legislature chooses to pursue. OHE recommends the following changes to the current law:

- Amend the law to more accurately reflect the roles of the Office of Higher Education and the Office of the Secretary of State in its implementation.
- Amend the law to require institutions to request, but not mandate, incident disclosure from students. In addition to the current requirement in Subdivision 5 to include a link to the online health and safety reports, the law could require institutions to provide notice to students upon return to the U.S. of the option to report any health or safety incidents. This addition would improve the comprehensiveness and accuracy of incident reporting. Also by prompting students to report incidents to their institutions, students would be better able to access the institution's support services as needed.
- Amend the law to clarify the definition of program such that health and safety incident reporting include program name and program host. Adding program host and name to the reporting requirements would eliminate the ambiguity of "program" and better fulfill the consumer information intent of this law by allowing OHE to further inquire about trends in incident data. This change is crucial for the state and public to identify problematic program hosts or health and safety trends that should be addressed.
- Amend the law to require all critical incidents as defined by the Forum's Critical Incident Database to be reported and categorize them accordingly, rather than only incidents "as a result of program participation." The current law provides vague definitions of the incidents to be included in reporting. By contrast, the Forum defines 16 types of incidents for reporting, which include injury, illness, physical assault, structure fire, theft, robbery, equipment failure, motor vehicle accident, missing/separated person, sexual harassment, sexual assault, behavioral/psychological, natural disaster, disease outbreak, political upheaval, and terrorist event.<sup>23</sup> Definitions of each are included in Appendix D.

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<sup>23</sup> The Forum on Education Abroad. (2010). *Preliminary report: education abroad incident database pilot project*. p.7. Retrieved from <http://www.forumea.org/wp-content/uploads/2014/10/PublicComment-ForumEA-Standards-of-Good-Practice-5thed-2014-.pdf>.

This change would remove the ambiguity of the law resulting from the phrase “as a result of program participation” and the varying definition of “hospitalization” around the world. It also removes the burden from higher education professionals attempting to make judgments outside their ability or professional expertise and thereby reduces potential reporting error. This change would also align Minnesota’s law with the incident definitions that the U.S. Department of Justice considers best practice within the field of international education.

Changing the law to require reporting of all critical incidents as defined by the Forum would also require sexual assault and crime information to be reported. The current exclusion of crime and sexual assault information from the law’s reporting requirements is a significant omission in the data. Its inclusion would improve the scope and accuracy of institutional reporting and better fulfill the purpose of the law to report the best available health and safety information for potential study abroad participants.

## Appendix A: 2014 MN Study Abroad Law

### 2014 Minnesota Session Laws Chapter 312--H.F.No. 3172

#### Sec. 5. [5.41]

#### **STUDY ABROAD PROGRAMS.**

##### **Subdivision 1. Definitions.**

(a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Postsecondary institution" means an institution that meets the eligibility requirements under section 136A.103 to participate in state financial aid programs.

(c) "Program" means a study abroad program offered or approved for credit by a postsecondary institution in which program participants travel outside of the United States in connection with an educational experience.

##### **Subd. 2. Report.**

(a) A postsecondary institution, must file by November 1 of each year a report on its programs with the secretary of state. The report must contain the following information from the previous academic year, including summer terms:

(1) deaths of program participants that occurred during program participation as a result of program participation; and

(2) accidents and illnesses that occurred during program participation as a result of program participation and that required hospitalization.

Information reported under clause (1) may be supplemented by a brief explanatory statement.

(b) A postsecondary institution must report to the secretary of state annually by November 1 whether its program complies with health and safety standards set by the Forum on Education Abroad or a similar study abroad program standard setting agency.

##### **Subd. 3. Secretary of state; publication of program information.**

(a) The secretary of state must publish the reports required by subdivision 2, on its Web site in a format that facilitates identifying information related to a particular postsecondary institution.

(b) The secretary of state shall publish on its Web site the best available information by country on sexual assaults and other criminal acts affecting study abroad program participants during program participation. This information shall not be limited to programs subject to this section.

**Subd. 4. Office of Higher Education.**

The secretary of state shall provide the information it posts on its Web site under subdivision 3 to the Office of Higher Education, in electronic format, at the time it posts the information. The Office of Higher Education shall post the information on its Web site and may otherwise distribute the information. In materials distributed or posted, the Office of Higher Education must reference this section.

**Subd. 5. Program material.**

A postsecondary institution must include in its written materials provided to prospective program participants a link to the secretary of state Web site stating that program health and safety information is available at the Web site.

**EFFECTIVE DATE.** This section is effective August 1, 2014, provided that the initial reports under subdivision 2 are due November 1, 2015.

**Sec. 14.****STUDY ABROAD PROGRAM; ASSESSMENT OF APPROPRIATE REGULATION.**

The Office of Higher Education shall, using existing staff and budget, assess the appropriate state regulation of postsecondary study abroad programs. The assessment must be based on a balanced approach of protecting the health and safety of program participants and maintaining the opportunity of students to study abroad. The office shall report the results of its assessment with any legislative recommendation by February 1, 2015, to the committees of the legislature with primary jurisdiction over higher education.

## Appendix B: Study Abroad Health and Safety Data Definitions

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**Why is this data collected?**

*2014 Minnesota Session Laws Chapter 312* requires Minnesota postsecondary institutions offering study abroad programs to students for credit to annually report the numbers and rates of deaths, and accidents and illnesses requiring hospitalization that occurred during and as a result of, program participation. This law also requires the Minnesota secretary of state to publish the best available information by country on sexual assaults and other criminal acts affecting study abroad program participants during program participation.

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**When is data reported?**

Data is due annually on November 1 and includes data from the previous academic year (August 1 through July 31).

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**Which institutions must report data?**

A Minnesota postsecondary institution that:

- is eligible to participate in a Minnesota-funded student financial aid program, and
  - offers at least one study abroad program for credit, or
  - approves for credit a study abroad program to enrolled students
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**Who is included in the institution's report?**

Institutions must report required data on students pre-approved for participation in a credit-bearing study abroad program through the institution.

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**Who is a study abroad program participant?**

A degree or non-degree seeking student at any degree level who is pre-approved for participation in a credit-bearing study abroad program offered through a Minnesota postsecondary institution and remains enrolled in the institution.

Excludes faculty and staff leaders. Excludes degree or non-degree students typically enrolled at a postsecondary institution outside of the state who enroll in a Minnesota institution only for the study abroad term.

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**What is a study abroad program?**

A study abroad program offered or approved for credit by a postsecondary institution in which program participants travel outside of the United States in connection with an educational experience.

Excludes non-credit bearing travel abroad, and study abroad participation without the institution's prior approval whereby a student retroactively seeks transfer credit for that activity.

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**What is institutional knowledge?**

A reporting institution is deemed to have substantiated knowledge or notice if:

- A responsible employee has personal knowledge of the incident
- A student files an incident report with the reporting institution
- A student informs a responsible employee of the incident
- A responsible employee witnesses the incident

A responsible employee is a program provider or institution employee who operates, promotes, approves for credit, and/or administers study abroad programs. **Institutions are not required to request disclosure from students on incidents.**

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**What is during program participation?**

Institutions are to report deaths and hospitalizations that occur during study abroad program participation. Includes incidents occurring only during the study abroad program's published start to end dates.

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**What is a result of program participation?**

Institutions are required to report incidents that occur as a result of program location, facilities, and/or activities.

Excludes any incidents that occur during unrelated, independent travel.

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**How will deaths be reported?**

Data will be reported by institution and by country when possible. Information reported may be supplemented by brief explanatory statement.

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**What is a hospitalization?**

Institutions are to report accident and illness data requiring hospital admission, excluding outpatient care admissions.

Data will be reported by institution and by country when possible.

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**What about student data privacy?**

The Minnesota Office of Higher Education adheres to current federal and state data privacy laws to protect the privacy of individual students.

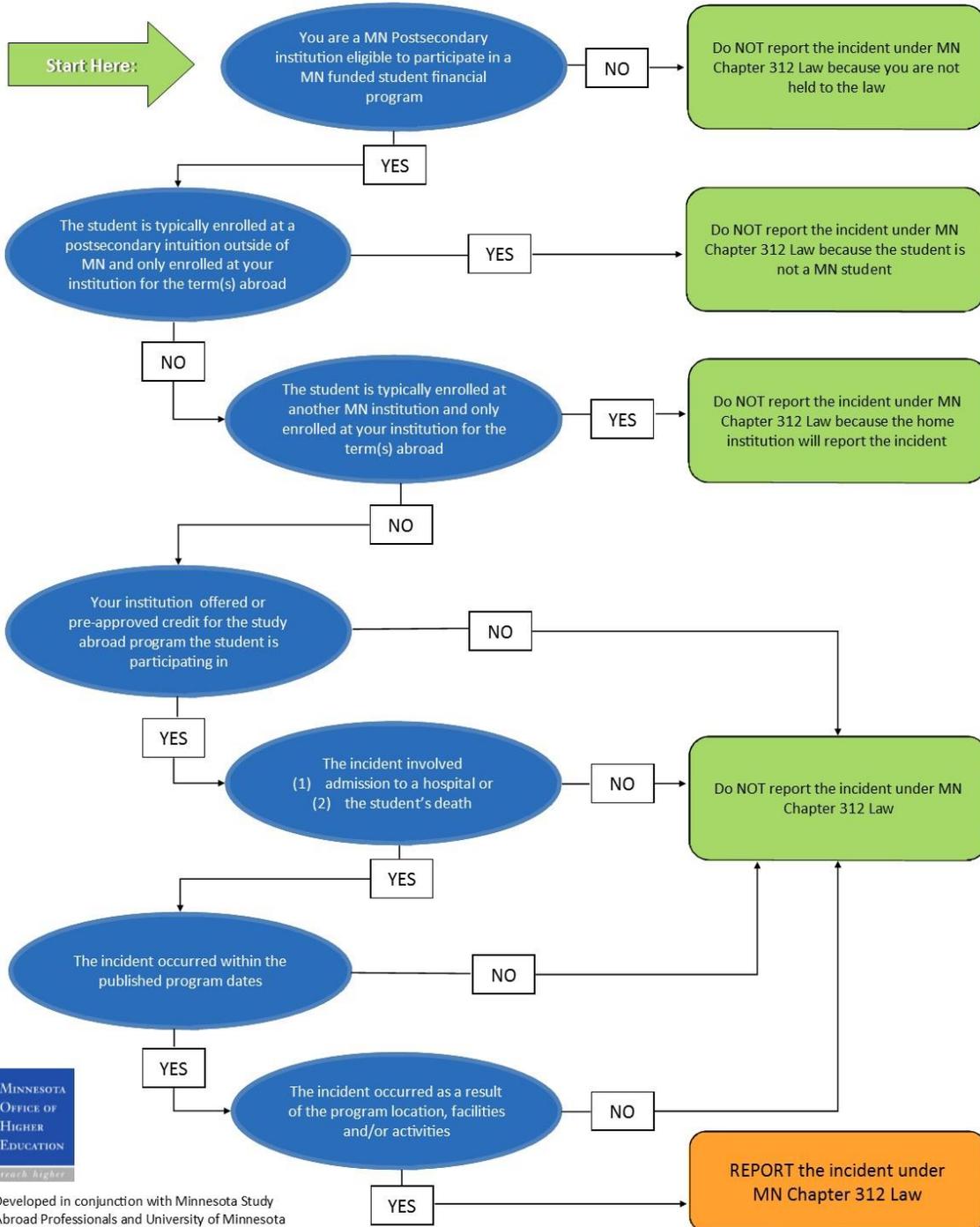
The data is classified as private under Minn. Statute 13.2 and personal identifiable information will be protected. Data will be aggregated if necessary to protect student privacy. Reports are public.

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# Appendix C: Flow Chart

## Is a Student Incident Abroad Reportable Under Minnesota Chapter 312 Law?

Data Collection Period  
8/1/14-7/31/15



Developed in conjunction with Minnesota Study Abroad Professionals and University of Minnesota

## Appendix D: Forum's Incident Definitions

### **The Forum on Education Abroad Critical Incident Database Definition of Incidents<sup>24</sup>**

**Injury** – An event that required professional medical attention beyond rudimentary first aid, or that resulted in an inability to participate in the program for a day or more. Not to include stubbed toes, minor splinters, minor muscle strains, etc.

**Illness** – An event that required professional medical attention, or that resulted in an inability to participate in the program for a day or more. Not to include routine colds, sore throats, isolated low grade fevers, minor traveler's diarrhea, etc.

**Physical Assault** – Any event involving any staff or student where there was a physical attack (empty handed or with weapon) delivered with the likely intention of injury.

**Structure Fire** – Any event where there was a fire in a building that housed students where the fire was not easily contained and controlled within several minutes.

**Theft** – Any event whereby a student or staff had their property taken without their consent without violence or intimidation. To include passports, credit cards, money or valuables worth more than U.S. \$100.

**Robbery** – Any event whereby a student or staff had property seized from them via violence or intimidation.

**Equipment Failure** – Any event where there was an equipment failure that did or had the potential to cause injury, i.e., the brakes on a vehicle fail; a boat motor dies without backup;

**Motor Vehicle Accident (pedestrian, motorbike, car, truck, etc.)** – Any event in which a staff or student was injured involving a motorized vehicle whether the injured person was the driver, a passenger or a pedestrian. Any event where someone was injured by program owned/hired vehicle. Any motor vehicle accident where over \$1000 of damage was done to a program vehicle.

**Missing/Separated Person** – Any event in which a student or staff was missing/overdue for more than 12 hours without the program's direct communication with them.

**Sexual Harassment** – Any event whereby a staff or student felt that they had been victimized by unwanted and offensive sexual advances or sexually offensive remarks or acts.

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<sup>24</sup> The Forum on Education Abroad. (2010). *Preliminary report: education abroad incident database pilot project*. Retrieved from <http://www.forumea.org/wp-content/uploads/2014/08/ForumEAIincidentDataPilot.pdf>.

Sexual Assault – Sexual activity (defined as direct contact that involved genitals, breasts, mouth or anus) without the consent and against the will of the victim, with threat of force or harm. To include attempted rape and rape (defined as sexual intercourse) without the consent, and against the will of the victim. Sexual intercourse being defined as penetration of the penis and the vagina or anus.

Behavioral/Psychological – Any event in which a student manifested an acute episode of behaviors associated with anxiety disorders, depressive disorders, eating disorders, etc. Any event in which a student showed evidence of suicide ideation, made a suicide gesture or attempted suicide. Any event in which a student behaved in a way that required disciplinary action. Any event in which a student was separated from the program owing to behavioral issues.

Natural Disaster (Tropical Cyclone, Earthquake, Wildfire, Flood) – Any event that directly caused injury to staff or students, or caused damage in excess of \$1000. Any event that necessitated a significant change in program schedule, itinerary or location. Any event which resulted in the suspension of the program.

Disease Outbreak – Any event which directly caused illness to staff or students. Any event that necessitated a significant change in program schedule, itinerary or location. Any event which resulted in the suspension of the program.

Political Upheaval (War, Civil Unrest, Violent Protests, Riots, etc.) – Any event that directly caused injury to staff or students. Any event that necessitated a significant change in program schedule, itinerary or location. Any event which resulted in the suspension of the program.

Terrorist Event – Any event that directly caused injury to staff or students. Any event that necessitated a significant change in program schedule, itinerary or location. Any event that resulted in the suspension of the program.