

**Massachusetts Institute of Technology General Counsel's Office
Memorandum on Indemnification and Insurance of MIT Employees,
Agents, Volunteers and Committee Members**

September 19, 2007

This memorandum provides general advice concerning the protections that are available to employees and agents, including volunteers¹ and committee members, of MIT against liability that might arise from their performance of activities in good faith and within the scope of their MIT employment or agency. In connection with your duties as an MIT employee or agent (including volunteer or committee member) there are two sources of financial protections that may be available to you.

First, MIT provides an employee or agent, including volunteer or committee member, protection in connection with his or her MIT duties through insurance coverage under certain insurance policies that MIT has purchased. It has been MIT's practice over the years to carry, and MIT presently carries, liability insurance coverage for MIT employees, agents, volunteers and committee members engaged in activities for MIT. Coverage is also provided to these individuals when they are engaged in activities for another entity at the request or on behalf of MIT, where such entity has been added to MIT's insurance policy. In both cases, the insurance covers both defense costs and liability for damages. The terms and limits of coverage may change over the years, and are subject to conditions, but can be confirmed annually. This insurance has been the primary source of protection for employees, agents, volunteers and committee members for some time.

Second, in addition to insurance coverage, if further protection were needed, MIT's corporate by-laws permit the Executive Committee to exercise its discretion to indemnify any employee or agent, including a volunteer or committee member, and the heirs of such a person. Indemnification may be made to the extent permitted by law, is subject to any conditions the Executive Committee may impose, and may include advancing funds to pay for or reimburse the reasonable expenses, including legal fees and disbursements, incurred by the person in defending a claim or proceeding prior to final disposition, and for reasonable amounts paid in settlement. Indemnification may only be provided to the extent that it would not adversely affect MIT's tax exempt or charitable status or cause any tax under Section 4958 or its successor section of the Internal Revenue Code (which generally relates to certain "excess benefit" transactions between MIT and individuals in a position to exercise "substantial influence" over the affairs of the Institute such as trustees, directors, and key officials). No person will be indemnified for amounts owed to MIT itself or for expenses incurred in connection with a claim or proceeding by or in the right of MIT, unless that person is wholly successful, on the merits or otherwise.

¹ Volunteers are individuals whose services have been requested or otherwise approved by MIT for MIT.