



## Risk Research Bulletin

# A Common but Risky Location— The Campus Parking Lot

When you think of dangerous places on school or college campuses, do parking lots immediately come to mind? They should. A study of United Educators claims reveals that parking lots are one of an institution's riskiest locations, resulting in costly injuries to individuals and damage to property totaling an astonishing \$32 million over a recent five-year period.

Several factors make parking lots risky locations. First, most institutions' parking lots are predominately traversed by inexperienced student drivers under age 25. Additionally, access to lots is largely unrestricted and open to the public. While in parking lots, many drivers speed, don't use turn signals, and tend

to be distracted, focusing primarily on finding a spot to park rather than on their actual driving. Combine these factors with the high concentration of automobiles and pedestrians in a confined space, and the location is conducive to accidents and crime.

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## UE's Claims Study

A study of 114 parking lot claims received by UE show that 53 percent involved personal injury. The most common causes of personal injuries were (1) slips, trips, and falls; and (2) assaults. The remaining claims involved damage to property. All property damage concerned automobiles.

### Personal Injury Claims

**Slips, trips, and falls:** Personal injuries from slips, trips, and falls in parking lots were the most costly cause of all parking lot injuries. They accounted for 47 percent of the claims studied and over \$18 million of incurred losses. Nearly half of the slip, trip, and fall claims involved lost footing on snow or ice. Other contributing factors included:

- Poor lighting
- Potholes
- Broken concrete, gravel, or curbing
- Uneven surfaces
- Unsecured parking bollards
- Ground holes, such as manholes, water meters, or drainage grates with defective coverings

**Assaults:** Claims were not as frequent, but they were expensive, costing about \$2 million each, or a total of nearly \$13 million in losses. Claims were associated with parking lot assaults due to the following problems:

- Poor lighting
- Inadequate response to prior assaults in the campus parking lot
- Overgrown trees or shrubbery in the parking lot
- Failure to patrol parking lots regularly
- Failure of the institution to follow its own safety practices

### Property Claims

Nearly half of the claims studied involved property damage. The most common causes of property damage to automobiles were:

- Protruding rebar from parking bumpers
- Malfunctioning parking gates
- Collision with a student- or staff-driven golf cart
- Falling trees or branches
- Falling metal parking signs



## An Institution's Duty of Care

Educational institutions have two distinct legal duties in connection with the parking lots for which they are responsible or own:

1. **Take reasonable actions when the institution has actual notice of a dangerous condition in a parking lot.** If an institution's security employee observes an exposed manhole in a campus parking lot, for example, then the institution has actual notice of a dangerous condition. Once an institution's representative has notice of a dangerous condition, he or she must take corrective action or warn others of its presence.
2. **Use reasonable efforts to inspect parking lots for such dangerous conditions.** If a manhole is exposed in a campus parking lot for a period of time, but no institutional representative actually sees the manhole without its covering, the institution may still be charged with a duty to act. An institution must make reasonable efforts to inspect its parking lots for dangerous conditions and cannot remain in conscious ignorance of a problem.

## Improving Parking Lot Management

Institutions are often exposed to liability for parking lot injuries because they are unable to demonstrate that they exerted care over their parking lots. It is often difficult to determine whether an institution actually neglected its duty of care for a parking lot or whether it simply did not prove the care it had exerted over a lot. By adopting the following practices aimed at improving parking lot management, your institution will be in a better position to demonstrate that it has fulfilled its legal obligations to keep campus parking lots safe and clear of dangerous conditions.

### Practice 1: Know the properties for which the institution is responsible.

Many institutions commit negligence because they do not realize they are responsible for maintaining a parking lot or property in a lot. Consider the following example:

A college leased a property with a parking lot to Tenant Industries. Emily, a student, was walking across the lot when she tripped on a defective water meter cover and broke her arm. College personnel were aware that there was a hole in the cover but believed that the lease transferred the duty to maintain the parking lot to Tenant Industries. The college also understood that the water meter cover was the city's property. Emily sued the college, alleging negligence and seeking \$150,000 for her broken arm. Evidence showed that even though the city owned the water meter cover, the landowner or the college was responsible for maintaining it. The lease did not include a provision transferring responsibility for parking lot maintenance to Tenant Industries.



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The college was found negligent because it misunderstood who was responsible for repairing the water meter cover. This scenario could have been avoided if the institution had taken these steps:

1. **When leasing a property to or from another party, use well-written contracts that clearly explain who must maintain the property.** If an institution does not effectively allocate risks when contracting with other parties, the institution can be liable for its contractors' negligence. Well-written contracts with appropriate insurance requirements are crucial for an institution to avoid retaining liability for actions it did not approve or control. For more guidance on contracts and risk allocation, please see UE's two-part *Risk Research Bulletin*, "Improving Contracting on Campus."
2. **When a property is located on an institution's land, assume care for it until responsibility can be determined.** If an institution is uncertain about whether it is responsible for property that is located on land it owns, the institution should care for that property until the responsibility can be determined. "Caring" means taking action to correct or warn of any dangerous conditions on the property. Simply doing nothing or seeking clarification without taking any corrective measures is not sufficient. An institution remains exposed to liability for any injuries that occur on that property.

### Practice 2: Regularly inspect and patrol parking lots.

An institution's legal duty to inspect its parking lots for dangerous or defective conditions can be addressed by placing campus parking lots on a routine inspection schedule. Maintenance personnel can then spot and correct any problems before they cause an injury. Schedule inspections to be completed on a regular basis. Consider seasonal changes, usage patterns, and other factors that may affect the parking lot's condition. Most important, make sure the institution can comply with the schedule it sets. Otherwise, it risks breaching the duty of care it has assumed by establishing the inspection schedule.

Since parking lots are often prime locations for crime and accidents, regular surveillance by campus security also is critical to preventing injury. Consider this example:

Jennifer, a university student, was returning from a night class when she was brutally beaten and carjacked in a university parking lot. Although the university security staff patrols the parking lot, it patrols inconsistently and staff do not keep records of when patrols occur. Jennifer filed a lawsuit against the university seeking \$20 million in damages. She alleged that the university's negligent security of the parking lot caused her attack.

If the university had conducted routine patrols and maintained documentation of these patrols, it might have prevented Jennifer's attack and would certainly be better positioned to refute Jennifer's claim. By conducting and documenting regular security patrols of campus parking lots, an institution can fulfill its duty to inspect for dangerous conditions and more readily discover any dangerous conditions that exist.



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### Practice 3: Create and retain maintenance records and accident reports.

**Maintenance records:** The inability of institutions to document their maintenance practices can prove costly. Consider the following example:

Bertha, an elderly visitor to a college, was walking through one of its parking lots when she slipped on ice and broke her leg, resulting in a lengthy recovery. Nearly two years after her fall, the college learned of Bertha's accident when it was served with a lawsuit. The lawsuit sought \$12.5 million in damages and claimed the school was negligent in maintaining the parking lot. The college kept no maintenance records to document when it performed snow and ice removal services.

Although the college may have actually met its legal duty of taking reasonable actions to clear the snow and ice from its parking lots, the school will have a hard time proving its case.

Since the college did not retain maintenance records, proof of what occurred on the day of Bertha's accident was left to the subjective memories of college personnel. Given the amount of time that had passed since the accident, their memories were likely to have faded and their testimony would not be compelling.

To avoid this situation, create and retain maintenance records to document all maintenance reviews and actions. These records can provide valuable evidence and can be crucial when defending or settling a negligence claim.

**Accident reports:** A well-crafted accident report can have a significant impact on the institution's liability for the accident and its appropriate corrective measures. Consider this example:

Mark, a campus security officer at a university, was called to the scene of a slip and fall in a campus parking lot. When he arrived, Mark noticed that the injured person was lying near a broken light that he had reported to maintenance one month earlier. The injured person tripped over his shoelaces but told Mark that he was not sure how he fell. In Mark's report of the accident, he wrote: "Lighting in the lot is broken. I have been warning maintenance to repair the lighting, or this type of thing was going to happen." The injured party brought a claim against the university alleging that negligent maintenance of the parking lot caused him \$1 million in damages.

***The university's maintenance of the parking lot did not cause the individual's fall. However, Mark's accident report provided a reason for the fall, and the university could be found negligent. A good accident report should objectively document the scene of the accident. It should be void of personal opinions. The job of the person completing the report is not to determine the cause of the accident, but to document observations about the site and the injured party. In this scenario, Mark should have simply noted that the light was out; he should not have speculated that his request to repair the lighting was ignored or might have caused the fall.***



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## Practice 4: Promptly repair unsafe conditions and remove snow and ice.

Allegations of negligent removal of snow or ice accounted for half of the slip, trip, and fall claims and losses occurring in parking lots. Once an institution becomes aware of a dangerous condition in a parking lot, it must act. If it starts to snow or if the institution receives a report of snow or ice in a parking lot, it must act. To demonstrate reasonable care in the removal of snow or ice, an institution's parking lot maintenance practices should promote timely response to snow or ice in parking lots. Consider this example:

Mister Freeze, Inc. had a contract to remove snow from an independent school whenever the school's maintenance department requested it. In late January, snow fell overnight, but no one at the academy contacted Mister Freeze for its services. Several students called campus security while it was snowing to complain about the accumulation in the parking lots. Campus security reported the complaints to maintenance the following morning. Later that morning, Mark, a student at the academy, slipped and fell on ice while getting out of a car in a campus parking lot. Because academy employees had notice of the dangerous condition created by the snow in its parking lots but failed to notify Mister Freeze, Mark had strong grounds for a negligence claim against the school.

The school might have prevented Mark's injuries by taking a different approach to getting Mister Freeze's services. For example, the academy could have used a shorter chain of command that allowed security to directly contact the snow removal contractor, or the contract could have made snow removal services automatic after a snowfall.

To promote the prompt removal of snow and ice from campus parking lots, consider the following:

- Whenever weather reports predict that a snowstorm is imminent, alert the outside contractor that provides snow-removal services that its services may be needed.
- Follow up with the contractor when there is a snowfall or a specific request for their services to ensure that the work has been done. Consider requiring the institution's maintenance personnel to investigate all reports of parking lot snow or ice so that temporary protective measures occur, such as cordoning off slippery or otherwise unsafe areas.
- Keep the chain of command for response short. Avoid situations in which maintenance personnel have to wait for authority before they can investigate individual reports of snow or ice. Rather, give these personnel direct authority to investigate.
- If an institution has a written snow-and-ice-removal policy, broadly state the circumstances when snow and ice removal may be necessary. Avoid using a snowfall measurement, like 2 inches, as the trigger; an institution risks being found negligent for violating its own policy if it cannot prove how much snow had fallen when removal began. Rather, use flexible language, such as "snow and ice removal is conducted as warranted." This language demonstrates an attempt to exert reasonable care but still gives the institution discretion to immediately start removal if necessary.



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### Practice 5: Ensure regular communication between campus maintenance and security to address maintenance issues that affect safety.

An institution's timely response to dangerous conditions often depends upon good communication between personnel in the campus security and maintenance departments—the two areas that usually care for and monitor parking lots. These two groups should consider scheduling periodic meetings at which to update each other about safety issues.

### Practice 6: Inform students and other members of the campus community about parking lot dangers and encourage reporting.

Raise awareness about the dangers in parking lots. People who are aware of their surroundings are less likely to incur injuries and more likely to report accidents, suspicious activities, and dangerous conditions. Consider these actions to educate students, staff, and faculty:

- Post notices about parking lot dangers in local publications.
- Devote a portion of the campus security website to parking lot safety. Provide tips about avoiding crime, car accidents, and slips, trips, and falls in campus parking lots.
- Post the phone number of campus security on signs in the parking lot and on the campus website.
- Install emergency phone boxes in campus parking lots.

### Practice 7: Review campus parking lot accident reports and maintenance records periodically.

Periodic and comprehensive reviews of accident reports and maintenance records make it more likely that institutions will satisfy their legal duty to correct or warn of the dangerous conditions that occur frequently. The following example demonstrates this point:

A motorcyclist was exiting the parking facility at a college when the parking gate arm prematurely fell, striking the driver in his shoulder and damaging his bike. Over the past six months, the same parking gate had malfunctioned on four separate occasions, each time damaging a vehicle as it tried to pass through the gate. The parking attendants completed accident reports, but a different maintenance worker repaired the gate following each accident. Without a fuller review of prior accident reports, no one at the college was aware of a pattern of malfunction.



Devote a portion of the campus security website to parking lot safety. Provide tips about avoiding crime, car accidents, and slips, trips, and falls in campus parking lots.

The college could be negligent since its repeated repairs have failed to correct the prior gate malfunctions effectively. Consider implementing a process for periodic comprehensive review of parking lot accident reports and maintenance records to determine whether any trends or recurring hazards exist that could lead to accidents or dangerous conditions. It may include the following:

- **Routinely review parking lot records by maintenance and security personnel.** Maintenance personnel and campus security should regularly review the records they keep to ensure that timely short-term corrective actions are taken in response to dangerous conditions on campus parking lots. If it is not possible to correct a dangerous condition that has been identified (for example, the repair is too costly or requires certain weather conditions), then maintenance or security staff should seek ways to warn of the condition.
- **For long-term solutions, form a review committee with representatives from a variety of campus departments.** By involving many different campus constituencies in the review process, an institution increases the likelihood for innovative feedback to problems, buy-in on solutions, and raised campus awareness to parking lot dangers.

*Michigan State University has had dramatic success in reducing parking lot injuries through the suggestions and actions of its All University Traffic and Transportation Committee (AUTTC). This committee reviews and recommends solutions to campus parking, traffic, and transportation problems. The committee includes faculty, students, graduate students, collective bargaining groups, the university's disability resource center, campus planning and administration, physical plant, housing and food service, student affairs, and university police.*

- **Involve a traffic engineer.** Traffic engineers use engineering techniques to achieve the safe and efficient movement of people and goods. Their insight during the review process can be beneficial for identifying ways to improve the design of campus parking lots and eliminate safety hazards. If your institution offers instruction in traffic engineering, consider tapping into faculty with this expertise to assist in the review process. They may be able to involve students and use the review process as an educational opportunity.

*For example, in addressing parking lot injuries, Michigan State's AUTTC receives assistance from a faculty member who is a traffic engineer. Together with two students, the faculty member reviews parking lot accident data and devises design recommendations for university parking lots. Since implementing the traffic engineer's suggested changes in a particular campus lot, Michigan State was able to reduce injuries in that lot from 17 a year to just one.*



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## Conclusion

Institution parking lots can be a hazardous location, the frequent site of slips, trips, falls, assaults, and property damage. By implementing sound management practices, your institution can enhance the safety of this location and decrease its liability.

## Acknowledgment

This *Risk Research Bulletin*, “A Common but Risky Location—The Campus Parking Lot,” was written by Alyssa Keehan, JD, Director of Risk Research at UE.



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