

The strategic and legal risks of work-integrated learning: An enterprise risk management perspective

CRAIG CAMERON¹

Griffith University, Gold Coast, Australia

Work-integrated learning (WIL) is a risky business for universities. WIL is a strategic risk worthy of pursuing by universities in the prevailing higher education environment, which is characterized by competition, changes in funding arrangements and stakeholder demand for WIL. Nevertheless the strategic opportunities that WIL presents cannot be achieved without the university taking on unavoidable and distinct legal risks that may have serious financial and reputational consequences for the university. This article examines WIL through a lens of enterprise risk management. The author describes how WIL is a strategic risk for universities, and identifies the possible legal risks of WIL through a review of empirical studies and case law in Australia. It is argued that risk management involves a balance between the university goals of maximizing the strategic value and minimizing the legal risks in relation to WIL. (*Asia-Pacific Journal of Cooperative Education*, 2017, 18(3), 243-256)

Keywords: Work-integrated learning, legal risk, strategic risk, risk management, enterprise risk management

This article examines work-integrated learning (WIL) through a lens of enterprise risk management (ERM), a comprehensive process of managing risks across the university that may affect the achievement of university objectives related to its core activities in learning and teaching, research, and service (Abraham, Baird, & Neugebauer, 2013; Ackley et al., 2007; Association of Governing Boards of Universities and Colleges & United Educators, 2014; Kaplin & Lee, 2013; Mattie, 2007). ERM evolved from the private sector, a consequence of lessons learned from the high risk financing strategies responsible for several business failures during the Wall Street crash of the late 1980's (Clyde-Smith, 2014). Empirical studies demonstrate that a number of universities in the USA are implementing ERM because of its perceived benefits, compared to the traditional "silo" approach to risk management in which university elements act in isolation from one another, detached from the goals of the university (Ackley et al., 2007; AGB & UE, 2014). There is also evidence that ERM is being adopted by Australian universities (Clyde-Smith, 2014) and it is suggested that the risk-based approach to higher education regulation in Australia represents a model of ERM (Padro, 2014).

There are five features which distinguish ERM, as it applies to universities, from the traditional perspectives of risk and risk management:

1. *Dual perspective on risk*: Risks are conceptualized as opportunities (positive) as well as hazards or threats (negative) to the university (Abraham et al., 2013; Cassidy, Goldstein, Johnson, Mattie, & Morley, 2001; Clyde-Smith, 2014). ERM involves universities managing the opportunities and minimizing the hazards (Mattie, 2007);
2. *Holistic perspective on risk*: Risks represent issues across the university that can affect the university's ability to meet its objectives (Blustain et al., 2016; Mattie, 2007; Tufano, 2011);
3. *Strategic focus of risk management*: Risk management is "mission centered" (Tufano, 2011), linked to institutional governance and aligned with the goals and objectives of the university (Mattie, 2007);

¹ Corresponding author: Craig Cameron, craig.cameron@griffith.edu.au

4. *Shared responsibility for risk management*: All parts of the university are involved with and share responsibility for risk management (Ackley et al., 2007; Blustain et al., 2016); and
5. *Integration with traditional risk management*: The distinguishing features of ERM are integrated with traditional risk management (Ackley et al., 2007).

From an ERM perspective, risk is any issue that influences, positively or negatively, the university's ability to meet its objectives (Mattie, 2007). This broad definition of risk encompasses a range of operational, reputational, strategic, financial and legal issues (or risks) that may impact on the university's ability to meet its objectives. Strategic risk is an issue that affects the university's ability to achieve the goals specified in university strategy, whereas operational risk is an issue that affects those day-to-day operations of the university that are necessary to achieve the goals (Ackley et al., 2007; Cassidy et al., 2001). Financial risk is about the potential loss of assets and reputational risk is associated with the university's prestige, standing, or brand (Blustain et al., 2016). Legal risk is defined in this article as an event or circumstance that exposes the university to the possibility of liability or non-compliance with external or internal rules and regulations. The categories of risk may also be interrelated, in that the same event or circumstance may generate legal, operational, strategic, financial and reputational risk. This article focuses on the strategic risks and legal risks associated with placement WIL, being student placements in real, as opposed to simulated, practice settings. The unique legal risk profile of placement WIL is demonstrated in this article by the review of empirical studies and reported cases in Australia, which all involved placement WIL.

It is argued that WIL is an appropriate activity for viewing through an ERM lens. WIL is conceptualized in this article as a strategic risk. WIL programs are delivered by academic disciplines across the university to meet university goals with respect to learning and teaching (holistic perspective on risk), and they offer strategic opportunities as well as legal hazards (dual perspective on risk). Various university elements are involved with managing the risks associated with WIL (shared responsibility for risk management), and their risk management activities are aligned to the goals of the university (strategic focus of risk management). The goals of the university are to maximize the strategic value of WIL but to minimize the legal hazards that WIL entails. ERM is a model for articulating the balancing act between the strategic risks and legal risks to achieve the goals in relation to WIL.

The article firstly discusses how WIL is a strategic risk for universities. This is followed by a review of empirical studies and case law in Australia to identify the possible legal risks of WIL. The next section applies the ERM model to the strategic and legal risks of WIL, and illustrates the distinguishing features of ERM using a WIL "see-saw". The article concludes by considering the applications and implications of this research for an intended audience of staff involved with the delivery of WIL programs (WIL staff), university management and university elements such as the legal office, insurance-risk and student equity and disability services that are responsible for supporting risk management in WIL programs.

WORK-INTEGRATED LEARNING AS A STRATEGIC RISK

WIL involves a strategic risk taken by higher education to support the goals of a university. Competition on a national and global scale, and a shift in funding arrangements, has necessitated a more "business-orientated" approach to higher education by Australian

universities (Freudenberg & Samarkovski, 2014; Smith & Worsfold, 2015). WIL has strategic value because it satisfies the demands of two key stakeholders – students and employers. Delivering WIL programs can enhance a university’s reputation, which can be critical in attracting future students, and can positively influence student satisfaction with their degree (Blackwell, Bowes, Harvey, Hesketh, & Knight, 2001; Cameron, Freudenberg, & Brimble, 2013; Patrick et al., 2008). If the consumer (student) is satisfied with the delivery of their educational product, this can have a positive impact on student enrolment and retention, thus providing a continuing income stream for the university through to graduation, and potentially after graduation if the student pursues further studies (Zegwaard & McCurdy, 2014). Employer satisfaction with WIL programs can strengthen university–employer relationships and employment outcomes for students. This enhanced relationship may lead to research partnerships, consultancy work and other shared initiatives (Cooper, Orrell, & Bowden, 2010; Patrick et al., 2008).

Many universities have formally recognized WIL as a strategic risk by incorporating WIL as part of their objectives (Cooper et al., 2010; McLennan & Keating, 2008). For example, a goal in the Griffith University Strategic Plan 2013–2017 is to “prepare work-ready graduates with the capacity to play an influential role in the world” (Griffith University, 2013, p. 5). The target to achieve that goal is “to ensure that all students experience at least one of the following by 2017: work-integrated learning; service learning; a research project/practicum; an international study experience” (Griffith University, 2013, p. 5). As a consequence, WIL programs are becoming more accessible for students in non-traditional WIL disciplines such as business and the arts. An example of this is WIL being embedded within the business curriculum at Griffith University, as part of its strategy to improve the educational experience of students, to attract and retain students and to facilitate graduate success (Griffith Business School, 2013).

Employer and student demand for this learning paradigm stems from the fact that WIL offers a “rich, active and contextualized learning experience for students” (McLennan & Keating, 2008, p. 4). WIL can have a positive influence on student generic skills such as interpersonal, written and oral communication, team work, self-management and professionalism (Blackwell et al., 2001; Jackson, 2013; Little & Harvey, 2006), as well as on student self-efficacy (Cameron et al., 2013; Freudenberg, Brimble, & Cameron, 2010) and academic performance (Reddy & Moores, 2006). In career terms, WIL can enhance student understanding of the work environment and employer expectations (Patrick et al., 2008; Wilton, 2012), can facilitate career awareness, progression and direction (Patrick et al., 2008; Reddy & Moores, 2006; Zegwaard & McCurdy, 2014) and can improve graduate employment outcomes (Blackwell et al., 2001). Employment can be a key motivator for students enrolling in university. Consequently, students may demand educational programs such as WIL that can have a positive impact on their future employment.

From an employer perspective, WIL can equip students with the skills and self-efficacy to successfully transition from the campus to the workplace, a response to a longstanding concern expressed by government, industry associations and employers about the work-readiness of graduates (Australian Chamber of Commerce and Industry [ACCI] & Business Council of Australia [BCA], 2002; Precision Consultancy, 2007). The demand for WIL is made explicit in industry and institutional agendas to expand WIL programs (Australian Workforce and Productivity Agency [AWPA], 2014; Office of the Chief Scientist, 2012; Universities Australia, ACCI, Australian Industry Group, BCA, & Australian Collaborative

Education Network [ACEN], 2014, 2015) as well as by professional bodies that impose WIL as a compulsory requirement in a number of disciplines such as education, nursing, medicine, allied health and engineering.

The stakeholder demand for WIL, plus a competitive higher education environment, suggests that WIL will be increasingly incorporated into the curriculum across a wide range of disciplines. Although WIL is a strategic opportunity, it presents a number of distinct legal hazards that can have serious financial, operational and reputational consequences for universities.

THE LEGAL RISKS OF WORK-INTEGRATED LEARNING

WIL programs create different legal risks for universities, compared to traditional study programs, because the learning environment is situated in a workplace controlled by a third party (the host organization). In traditional study programs, the classroom is the university's locus of control. Learning in the classroom (whether on-campus or virtual) is relatively predictable because of the teacher's ability to control the learning environment through the curriculum (Cooper et al., 2010). The university relinquishes some of that control in WIL programs because the student is situated in a separate environment (Swift & Kent, 1999). The opportunity for students to interact with representatives and clients in the workplace makes learning authentic, but also unpredictable and risky. Furthermore, undergraduate students, many of whom are in their teenage years and early twenties, may lack life experience and maturity (Newhook, 2016) and may have little or no previous experience in that workplace environment, which arguably makes them more vulnerable to risk.

A table of legal risks in WIL programs, gleaned from a literature review of personal author accounts, empirical studies and case law in Australia, is detailed in Appendix A. Selected references are reported in the table in the interests of brevity. The table was inspired by and extends the work of Cooper et al. (2010), who collated a reference table of general concerns and specific issues (or risks) to students associated with WIL. The legal risks are categorized according to the three parties in WIL programs (student, university and host organization) and to the timing of the conduct (before, during and after the WIL placement). The table is not intended to be an exhaustive list of legal risks or to establish that all of the legal risks are unique to WIL programs. For instance, students who receive a failing grade in a traditional study program may be denied procedural fairness or the university may not provide reasonable adjustments for students with a disability on campus. Nevertheless the table details the university's exposure to a broad spectrum of distinctive legal risks in WIL programs. The circumstance, which distinguishes legal risks in WIL from those in traditional study programs, is the participation of a host organization that accepts the student into the workplace environment.

Appendix A also includes the results of an additional study using popular legal search engines (CaseBase, Austlii and Thomson Reuters Laws of Australia) that sought to identify any legal cases taken by students, host organizations or their clients against the university in relation to a WIL program. This study replicates the study by Cameron and Klopper (2015), who published a list of eight reported cases up to 2014 (p. 345). Although an analysis of the law underpinning the risks identified in the literature and cases is outside the scope of this article (refer Varnham, Kamvounias, & Squelch, 2015), the cases are instructive, as they provide examples of when the legal risks have resulted in litigation for the university involved. The study revealed 12 reported Australian cases, all involving student action

against the university. Appendix B provides the case citation and legal grounds of the student action.

It is clear that universities are operating WIL programs in an increasingly litigious environment (Astor, 2010; Kaplin & Lee, 2013). All 12 reported cases occurred between 1998 and 2016, with the more recent cases having a similar theme – a disgruntled consumer of educational services claiming discrimination or seeking judicial review concerning an academic decision to award a failing grade for the WIL program and/or to exclude them from the course or university. A strategic expansion of WIL programs may result in more student complaints to internal and external bodies.

Although the universities involved successfully defended all but one of the cases (*Tadros*), the costs to universities of resolving legal risks remain substantial. First are the explicit legal costs and potential payment of damages to an injured party. The costs of staff time and the emotional costs of staff involvement, although difficult to quantify, also impact on the university's bottom line and divert universities from their primary objectives of teaching, research and service (Santora & Kaplin, 2003). Astor (2008) notes that "in some cases, the talents and experience of staff and students are lost to the university: people involved in disputes frequently choose to leave, retire early, suffer health consequences, become demoralized and less productive" (p. 157). A case in point is *Sluggett v Flinders University*. Flinders University was the respondent to one action alleging disability discrimination during a WIL placement at the Human Rights and Equal Opportunity Commission and then to two appeals in the Federal Court. The three actions resulted in 18 days of court hearings and the calling of numerous witnesses from the university and host organization from the date of the first application (22 June 1994) to the decision of the Full Court of the Federal Court dismissing the student's second appeal (5 March 2003). The negative publicity surrounding a legal issue can also damage the reputation of the university, thereby deterring potential students and staff (Astor, 2008; Cooper et al., 2010). Given these substantial costs, risk management by universities in WIL programs is a business necessity as well as a legal obligation.

BALANCING STRATEGIC AND LEGAL RISKS

WIL is a strategic opportunity for universities but it does expose the university to different legal risks. The catalyst for that distinctive legal risk – a host organization that accepts students into the workplace environment – is also the characteristic that defines WIL. The tension between strategic opportunity and legal risk in WIL programs is clear. It is not possible to remove all legal risks without removing the "work-integrated" component from work-integrated learning. Universities must either accept and manage the legal hazards associated with WIL or forego the strategic opportunity of WIL. The formal recognition by universities of WIL as a strategic risk, the stakeholder demand for WIL and a competitive higher education environment suggest that universities could be risk takers when it comes to WIL. The challenge for universities is to maximize the strategic value of WIL, but to minimize the legal hazards it entails.

From an ERM perspective, maximizing the strategic value of WIL and minimizing the legal risks of WIL represent goals of the university. WIL is a strategic opportunity that benefits students, universities and future employers because it delivers a contextualized learning experience in the workplace, but exposes the university to different legal hazards compared to traditional study programs. A balancing act between strategic and legal risk is therefore

required to achieve both goals. The strategic focus of risk management articulated by ERM is illustrated by the WIL 'see-saw' (Figure 1). It is argued that risk management involves a balancing act between the strategic risks and the legal risks that can affect the university goals of maximizing the strategic value and minimizing the legal risks of WIL.

The strategic factors related to WIL discussed in this article can be conceptualized as strategic risks, being circumstances that affect (positively or negatively) the university's ability to achieve its goals with respect to WIL programs. The host organization is a strategic factor related to the supply of WIL placements, in the sense that, without the host organization, there is no WIL placement, whereas the competitive higher education environment may impact both the supply of WIL placements and the number of students enrolled at the university demanding WIL placements. Strategic risks arising from these factors may include: the student demand for WIL placements exceeds the supply of WIL placements to the university; and a potential or current host organization does, or does not, offer a WIL placement(s). These strategic risks influence the university's goal of maximizing the strategic value of WIL.

Contract risk and program risk are argued as two specific types of legal risk in WIL programs. Contract risks are associated with contracts involving the host organization, the student and/or the university in WIL programs. A contract is a mechanism which articulates rights and responsibilities for these stakeholders, but it can also be a source of legal risk for universities (Cameron, forthcoming). Program risks are associated with the operation of the WIL program. More specifically, they relate to the conduct of the university, the host organization and the student before, during and after the WIL placement, as well as personal characteristics of the student that can expose the university to legal risk. All of the legal risks in Appendix A are program risks.



FIGURE 1: The balance between strategic and legal risks in WIL

WIL staff, senior university management and other university elements, such as the legal office, insurance-risk and student equity and disability services, share responsibility for managing the strategic and legal risks on the WIL see-saw. For instance, university lawyers are responsible for delivering legal services to WIL disciplines designed to manage legal risk, but it is the responsibility of the WIL discipline for implementing risk management into their WIL programs (Cameron & Klopper, 2015; Newhook, 2013). University management is ultimately responsible for determining an appropriate balance between the returns from WIL as a strategic activity and the unavoidable legal risks of student participation in a workplace. Finding the right balance represents risk management at an institutional level. University management is responsible for determining the weight accorded to minimizing legal risk and maximizing strategic value, in consultation with WIL disciplines and with the support of other university elements.

RESEARCH APPLICATIONS AND IMPLICATIONS

This research can educate WIL stakeholders about the legal risks with respect to WIL programs and can support their risk management activities. For instance, members of university management oversee risk management at the operating level of the WIL disciplines, but are ultimately responsible for balancing the strategic and legal risks associated with WIL which impact on achieving the university goals of maximizing the strategic value and minimizing the legal risks of WIL. University management may apply the research findings to assess and evaluate existing risk management frameworks. For instance, do the existing frameworks cover and appropriately manage the legal risks identified in the case law and the literature?

The discussion on legal risks may also foster greater legal awareness amongst WIL staff, that is, the degree to which WIL staff are aware of the legal rights and obligations relating to the design and management of the WIL program. This could also be referred to as their “legal literacy”. Such legal literacy of WIL staff is critical, given that the WIL discipline is responsible for implementing risk management in their WIL programs. In terms of ERM, WIL staff who do not possess this legal literacy may compromise the balance between managing the returns from WIL as a strategic activity and the unavoidable legal risks of WIL. For instance, a strategic focus by WIL staff on securing the WIL placement from the host organization, without due consideration or appreciation of the legal risks, may expose the university to legal risks which would be considered unacceptable and should be avoided, or at least minimized. In fact, university lawyers have expressed this concern in the context of WIL staff not requesting legal advice in relation to a WIL program, or WIL staff approaching the legal office after a WIL contract is finalized with the host organization (Cameron & Klopper, 2015). Legal literacy, and the circumstances described by university lawyers, may be considered operational risks that need to be managed by the university as part of an ERM framework.

This article is also the first known study that examines WIL through a lens of ERM. It is argued that ERM offers a contemporary and insightful perspective for WIL stakeholders on risk and risk management. The traditional perspective of risk in higher education is negative – events are viewed solely as a hazard to the university, which must be minimized (Ackley et al., 2007; Cassidy et al., 2001). ERM provides a framework for WIL stakeholders to understand and appreciate the dual and holistic nature of risk, and adds strategic focus to risk management. Risk management is not simply a process which involves identifying,

analyzing, developing, implementing and evaluating methods to manage risk, but is also “mission centered”. WIL staff, university management and other university elements (legal office, insurance-risk, disability and equity services) engage in risk management activities to support the goals and objectives of the university, their employer, that are related to learning and teaching, research and service. ERM can also provide a theoretical lens for further research which examines the strategic, legal, operational, reputational and financial risks associated with WIL.

CONCLUSION

The formal recognition by universities of WIL as a strategic risk, the stakeholder demand for WIL and an increasingly competitive higher education environment are factors which suggest that universities will expand the delivery of WIL programs, notwithstanding their exposure to distinct, and at times, unavoidable legal risks. From an ERM perspective, risk management in WIL is part of a balancing act between strategic and legal risks which are aligned with the university goals of maximizing the strategic opportunity that WIL presents but minimizing the legal hazards it entails.

REFERENCES

- Abraham, J. M., Baird, R., & Neugebauer, F. (2013). Leveraging enterprise risk management: Opportunity for greater relevance. *EDUCAUSE Review*, 48(6), 28-40.
- Ackley, S., Adams, M., Crickette, G., Eick, C., Finch, L., Freeman, R., . . . Unks, R. (2007). *ERM in higher education*. Retrieved from http://www.nacubo.org/Business_and_Policy_Areas/Risk_Management/Enterprise_Risk_Management.html
- Association of Governing Boards of Universities and Colleges, & United Educators. (2014). *A wake-up call: Enterprise risk management at colleges and universities today*. Retrieved from <http://agb.org/reports/2014/wake-call-enterprise-risk-management-colleges-and-universities-today>
- Asteriadis, M., Davis, V., Masoodi, J., & Miller, M. (1995). Chemical impairment of nursing students: A comprehensive policy and procedure. *Nurse Educator*, 20(2), 19-22.
- Astor, H. (2008). Australian universities in court: Causes, costs and consequences of increasing litigation. *Australasian Dispute Resolution Journal*, 19(3), 156-169.
- Astor, H. (2010). Why do students sue Australian universities? *Australasian Dispute Resolution Journal*, 21(1), 20-32.
- Australian Chamber of Commerce and Industry and Business Council of Australia. (2002). *Employability skills for the future*. Canberra, Australia: Department of Education, Science and Technology (DEST).
- Australian Workforce and Productivity Agency. (2014). *Work integrated learning: AWPAs scoping paper*. Canberra, Australia: Author.
- Baird, B. N. (2011). *The internship, practicum, and field placement handbook: A guide for the helping professions* (6th ed.). Upper Saddle River, NJ: Prentice Hall.
- Bial, M. C., & Lynn, M. (1995). Field education for students with disabilities: Front door/back door; negotiation/accommodation/mediation. In G. Rogers (Ed.), *Social work field education: Views and visions* (pp. 437-451). Dubuque, IA: Kendall/Hunt. Blackwell, A., Bowes, L., Harvey, L., Hesketh, A. J., & Knight, P. T. (2001). Transforming work experience in higher education. *British Educational Research Journal*, 27(3), 269-285. doi:10.2307/1501896
- Blustain, H., Abraham, J. M., Adair, R. L., Carmichael, E. J., Klinksiek, G., & Thompson, J. W. (2016). Risk management. In National Association of College and University Business Officers (Ed.), *College and University Business Administration* (7th ed.) (pp 1-71). Retrieved from http://www.nacubo.org/Products/Online_Publications/CUBA_7.html

- Brodersen, M., Swick, D., & Richman, J. (2009). Risks and mitigating factors in decisions to accept students with criminal records. *Journal of Social Work Education, 45*(3), 349-363.
- Brulle, A. R. (2006). Teacher candidates with disabilities: Guidance for teacher educators. *Action in Teacher Education, 28*(3), 3-10.
- Burke, S. G., & Harris, R. R. (1996). Violence: A study of ways to support social work students in urban field placements. *The Clinical Supervisor, 14*(2), 147-155. doi:10.1300/J001v14n02_12
- Cameron, C. (forthcoming). The contract risks to universities of work-integrated learning programs, *Australian Business Law Review*
- Cameron, C., Freudenberg, B., & Brimble, M. (2013). Making economics real - The economics internship. *International Review of Economics Education, 13*, 10-25. doi:http://dx.doi.org/10.1016/j.iree.2013.04.011
- Cameron, C. & Klopper, C. (2015) University lawyers: A study of legal risk, risk management and role in work integrated learning programmes. *Journal of Higher Education Policy and Management, 37*(3), 344-360. doi: 10.1080/1360080X.2015.1034423
- Cassidy, D., Goldstein, L., Johnson, S., Mattie, J., & Morley Jr., J. (2001). *Developing a strategy to manage enterprise-wide risk in higher education*. Retrieved from http://www.nacubo.org/Business_and_Policy_Areas/Risk_Management/Enterprise_Risk_Management.html
- Clyde-Smith, J. (2014). Utilising enterprise risk management strategies to develop a governance and operations framework for a new research complex: a case study. *Journal of Higher Education Policy and Management, 36*(3), 327-337. doi:10.1080/01587919.2014.899051
- Cooper, L., Orrell, J., & Bowden, M. (2010). *Work integrated learning: A guide to effective practice*. London, UK: Taylor & Francis Group.
- Farnsworth, J., & Springer, P. J. (2006). Background checks for nursing students: What are schools doing? *Nursing Education Perspectives, 27*(3), 148-153.
- Freudenberg, B., Brimble, M., & Cameron, C. (2010). Where there is a WIL there is a way. *Higher Education Research & Development, 29*(5), 575-588.
- Freudenberg, B., & Samarkovski, L. (2014). Enthusiasm and the effective modern academic. *Australian Universities' Review, 56*(1), 22-31.
- Gilbert, S. L. (1998). Another type of diversity: A student teacher with a learning disability. *International Journal of Qualitative Studies in Education, 11*(2), 323-340. doi:10.1080/095183998236791.
- Gillis, H., & Lewis, J. S. (2004). Addressing the issue of psychiatric disability in social work interns: The need for a problem-solving framework. *Journal of Social Work Education, 40*(3), 391-402.
- Goldman, J. D. G. (2010). Australian undergraduate primary school student teachers' responses to child sexual abuse and its mandatory reporting. *Pastoral Care in Education, 28*(4), 283-294. doi:10.1080/02643944.2010.530679
- Gompertz, S. (1990). Needle-stick injuries in medical students. *Occupational Medicine, 40*(1), 19-20. doi:10.1093/occmed/40.1.19
- Gordon, G. R., McBride, B., & Hage, H. H. (2004). *Criminal justice internships: Theory into practice* (5th ed.). Newark, NJ: Lexis Nexis.
- Griffith Business School. (2013). *Business group strategic plan 2013-2017*. Brisbane, Australia: Griffith University.
- Griffith University. (2013). *Strategic Plan 2013-2017*. Retrieved from <https://www.griffith.edu.au/about-griffith/governance/plans-publications>
- Jackson, D. (2013). The contribution of work-integrated learning to undergraduate employability skill outcomes. *Asia-Pacific Journal of Cooperative Education, 14*(2), 99-115.
- Jones, R. L., Jr., Glynn, G. F., & Francis, J. J. (2012). When things go wrong in the clinic: How to prevent and respond to serious student misconduct. *University of Baltimore Law Review, 41*(3), 441-522.
- Kaplin, W. A., & Lee, B. A. (2013). *The law of higher education* (5th ed.). San Francisco, CA: Jossey-Bass.
- Leung, T. T. F., Lam, C. M., & Wong, H. (2007). Repositioning risk in social work education: Reflections arising from the threat of SARS to social work students in Hong Kong during their field practicum. *Social Work Education, 26*(4), 389-398. doi:10.1080/02615470601081704.

- Little, B., & Harvey, L. (2006). *Learning through work placements and beyond: A report for HECSU and the Higher Education Academy's Work Placements Organisation Forum*. Retrieved from http://www.hecsu.ac.uk/assets/assets/documents/Learning_through_work_placements_and_beyond.pdf
- Mattie, J. (2007). *Meeting the challenges of enterprise risk management in higher education*. Retrieved from <http://eric.ed.gov/?id=ED524480>
- McLennan, B., & Keating, S. (2008). *Work-integrated learning (WIL) in Australian universities: The challenges of mainstreaming WIL*. Paper presented at the ALTC NAGCAS National Symposium, Melbourne, Australia. Retrieved from <http://tls.vu.edu.au/vucollege/LiWC/resources/NAGCASpaper-final10June08.pdf>
- Moorman, A. M. (2004). Legal issues and the supervised internship relationship: Who is responsible for what? *Journal of Physical Education, Recreation & Dance*, 75(2), 19-24,34.
- Morris, D., & Turnbull, P. (2006). Clinical experiences of students with dyslexia. *Journal of Advanced Nursing*, 54(2), 238-247. doi:10.1111/j.1365-2648.2006.03806.x.
- Newhook, R. (2013). Perceptions of risk in co-operative education. *Journal of Cooperative Education and Internships*, 47(1), 78-93.
- Newhook, R. (2016). Are university co-operative education students safe? Perceptions of risk to students on work terms. *Canadian Journal of Higher Education*, 46(1), 121-137.
- Nolan, C., Gleeson, C., Treanor, D., & Madigan, S. (2014). Higher education students registered with disability services and practice educators: Issues and concerns for professional placements. *International Journal of Inclusive Education*, 1-16. doi:10.1080/13603116.2014.943306.
- Office of the Chief Scientist. (2012). *Top breakthrough actions for innovation*, PMSEIC, December 2012. Retrieved from http://www.chiefscientist.gov.au/wp-content/uploads/Item_3-Breakthrough-Actions.pdf
- Olkin, R., & Gaughen, S. (1991). Evaluation and dismissal of students in master's level clinical programs: Legal parameters and survey results. *Counselor Education and Supervision*, 30(4), 276-288. doi:10.1002/j.1556-6978.1991.tb01210.x.
- Padro, F. F. (2014). A conceptual framework on establishing a risk management framework within existing university assessment and evaluation practices. *Studies in Learning, Evaluation, Innovation and Development*, 10(1), 1-20.
- Patrick, C.-J., Peach, D., Pocknee, C., Webb, F., Fletcher, M., & Pretto, G. (2008). *The WIL [work integrated learning] report: A national scoping study*. Retrieved from <http://www.olt.gov.au/resource-library?text=Work%20integrated%20learning>
- Peak, D. A., & O'Hara, M. J. (1998). Practical liability issues of information technology education: Internship and consulting engagements. *Informing Science: the International Journal of an Emerging Transdiscipline*, 1(2), 43-51.
- Peak, D. A., & O'Hara, M. J. (1999). Internship and consulting engagements: Management of the university's liability. *Journal of Managerial Issues*, 11(1), 56-76.
- Precision Consultancy. (2007). *Graduate employability skills: Prepared for the Business, Industry and Higher Education Collaboration Council*. Canberra, Australia: DEST.
- Rankin, E. R., Nayda, R., Cocks, S., & Smith, M. (2010). Students with disabilities and clinical placement: Understanding the perspective of healthcare organisations. *International Journal of Inclusive Education*, 14(5), 533-542.
- Reddy, P., & Moores, E. (2006). Measuring the benefits of a psychology placement year. *Assessment & Evaluation in Higher Education*, 31(5), 551-567. doi:10.1080/02602930600679555
- Reeser, L. C. (1992). Students with disabilities in practicum: What is reasonable accommodation? *Journal of Social Work Education*, 28(1), 98-109.
- Reeser, L. C., & Wertkin, R. A. (1997). Sharing sensitive student information with field instructors: Responses of students, liaisons, and field instructors. *Journal of Social Work Education*, 33(2), 347-362.
- Rising, D. W., Bennett, B. C., Hursch, K., & Plesh, O. (2005). Reports of body pain in a dental student population. *Journal of the American Dental Association*, 136(1), 81-86.
- Santora, K. C., & Kaplin, W. A. (2003). Preventive law: How colleges can avoid legal problems. *The Chronicle of Higher Education*, 49(32), B.20.

- Smith, C., & Worsfold, K. (2015). Unpacking the learning–work nexus: ‘Priming’ as lever for high-quality learning outcomes in work-integrated learning curricula. *Studies in Higher Education*, 40(1), 22-42. doi:10.1080/03075079.2013.806456
- Storrie, K., Ahern, K., & Tuckett, A. (2011). Crying in the halls: Supervising students with symptoms of emotional problems in the clinical practicum. *Teaching in Higher Education*, 17(1), 89-103. doi:10.1080/13562517.2011.590980
- Swift, C. O., & Kent, R. (1999). Business school internships: Legal concerns. *Journal of Education for Business*, 75(1), 23-26.
- Tufano, P. (2011). Managing risk in higher education. *Forum Futures* p.55-58. Retrieved from <https://net.educause.edu/ir/library/pdf/ff1109s.pdf>
- Turcotte, J.F., Nichols, L., & Philipps, L. (2016). *Maximizing opportunity, mitigating risk: Aligning law, policy and practice to strengthen work-integrated learning in Ontario*. Retrieved from <http://www.heqco.ca/SiteCollectionDocuments/Maximizing-Opportunity-Mitigating-Risk.pdf>
- Universities Australia, Australian Chamber of Commerce and Industry, Australian Industry Group, Business Council of Australia, & Australian Collaborative Education Network Limited. (2014). *Statement of intent: Work integrated learning - strengthening university and business partnerships*. Retrieved from <http://www.bca.com.au/publications/statement-of-intent-on-work-integrated-learning>
- Universities Australia, Australian Chamber of Commerce and Industry, Australian Industry Group, Business Council of Australia, & Australian Collaborative Education Network Limited (2015). *National strategy on work integrated learning in university education*. Retrieved from <http://cdn1.acen.edu.au/wp-content/uploads/2015/03/National-WIL-Strategy-in-university-education-032015.pdf>
- Varnham, S., Kamvounias, P., & Squelch, J. (Eds.). (2015). *Higher education and the law*. Sydney, Australia: The Federation Press.
- Walker, S., Dearnley, C., Hargreaves, J., & Walker, E. A. (2013). Risk, fitness to practice, and disabled health care students. *Journal of Psychological Issues in Organizational Culture*, 3(4), 46-59. doi:10.1002/jpoc.21081
- Wilton, N. (2012). The impact of work placements on skills development and career outcomes for business and management graduates. *Studies in Higher Education*, 37(5), 603-620. doi:10.1080/03075079.2010.532548
- Zegwaard, K. E., & McCurdy, S. (2014). The influence of work-integrated learning on motivation to undertake graduate studies. *Asia-Pacific Journal of Cooperative Education*, 15(1), 13-28.
- Zuchowski, I., Savage, D., Miles, D., & Gair, S. (2013). Decolonising field education - challenging Australian social work praxis. *Advances in Social Work & Welfare Education*, 15(1), 47-62.

APPENDIX A: The legal risks in WIL programs

Legal risks [selected references]

Conduct of university prior to WIL placement

WIL staff allow, or refuse the student with a criminal record to commence, the WIL program [Brodersen et al. (2009); Turcotte et al. (2016)]

WIL staff fail to conduct a criminal background check of the student [Farnsworth and Springer (2006)]

WIL staff discriminate against the student prior to a WIL placement (e.g. asking inappropriate questions during the interview process or a WIL placement is not offered to the student) [Brulle (2006); Reeser (1992); Turcotte et al. (2016)]

WIL staff disclose sensitive student information (e.g. disability) to the host organization or a colleague [Reeser and Wertkin (1997)]

The university fails to disclose a student disability or a medical condition to the host organization [Gilbert (1998); Gillis and Lewis (2004)]

The university misrepresents student skills and competency [Peak and O'Hara (1999)]

The university makes misrepresentations when promoting the WIL program [*Fennell versus Australian National University*]

Student characteristics

The student has a disability or a medical condition which can affect the performance of their duties and/or expose clients to harm on WIL placement [Gilbert (1998); Gillis and Lewis (2004); Morris and Turnbull (2006); Nolan et al. (2015); Newhook (2016); Reeser and Wertkin (1997); Walker et al. (2013)]

The student has a learning, personal and/or relationship issue which can affect the performance of their duties and/or expose clients to harm on WIL placement [Storrie et al. (2011)]

Conduct of student during WIL placement

Disclosure of confidential client information [Baird (2011)]

Dishonesty (other than passing off and as opposed to academic dishonesty) [Jones et al. (2012); Moonman (2004); Peak and O'Hara (1998)]

Being under the influence of prescription or illegal drugs or alcohol (chemical impairment) [Asteriadis et al. (1995)]

Failure to undertake mandatory reporting of child abuse [Goldman (2010)]

Failure to disclose student status to the client / student represents or passes off as a qualified professional [Jones et al. (2012)]

Unsatisfactory performance [Jones et al. (2012); Storrie et al. (2011)]

Stealing property [Gordon et al. (2004); Jones et al. (2012)]

Physical or verbal abuse of a client, WIL staff or a related party [Gordon et al. (2004); Storrie et al. (2011)]

Unauthorised absence from the workplace or neglect of responsibilities [Jones et al. (2012); Storrie et al. (2011)]

Legal risks [selected references]

Failure to disclose a student disability or a medical condition to the host organization and/or university [Gillis and Lewis (2004); Morris and Turnbull (2006); Nolan et al. (2015); Rankin et al. (2010); Reeser and Wertkin (1997); Turcotte et al. (2016); Walker et al. (2013)]

Incompetence or error which may cause the client harm (physical injury, property damage or economic loss) [Peak and O'Hara (1998, 1999)]

Conduct of host organization and/or university during WIL placement

Sexual harassment and/or sex discrimination of the student by WIL staff, host organization, host supervisor, client, related party or an outsider [Brulle (2006); Newhook (2016)]

Verbal abuse (including bullying) or physical abuse of the student by WIL staff, host organization, host supervisor, client, related party or an outsider [Burke and Harris (1996); Newhook (2016); *Simundic versus University of Newcastle*]

The student experiences stress due to the work environment [Burke and Harris (1996); Newhook (2016)]

Failure by the host organization and/or university to provide reasonable support / adjustments / accommodations for students with a disability [Bial and Lynn (1995); Morris and Turnbull (2006); Nolan et al. (2015); Walker et al. (2013); *Coomaraswamy versus University of New South Wales*; *Sluggett versus Flinders University of South Australia*; *W versus Flinders University of South Australia*]

The student suffers physical injury arising from the use of equipment by the student, host organization staff or clients [Moonman (2004); Rising et al. (2005)]

The student is exposed to hazardous substances in the workplace (includes needle stick injuries, viruses and bodily fluids) [Gompertz (1990); Leung et al. (2007)]

Poor or no supervision of the student by host supervisors during the WIL placement [Peak and O'Hara (1999)]

Homophobic attitudes and behaviours towards LGBT students [Newhook (2016)]

Racial discrimination against students [Zuchowski et al. (2013); *Coomaraswamy versus University of New South Wales*; *Ellis versus Southern Cross University*; *Simundic versus University of Newcastle*]

Age discrimination against students [*Coomaraswamy versus University of New South Wales*]

Conduct of host organization and/or university after WIL placement

The student is excluded from the degree or university and/or receives a failing grade for the WIL program due to academic or disciplinary reasons [*Jenkins versus Charles Sturt University*; *Shvetsova versus University of New England*; *Tadros versus Charles Sturt University and 2 Ors*]

The student is discriminated against arising from a failing grade for the WIL program [*Coomaraswamy versus University of New South Wales*; *Ellis versus Southern Cross University*; *Sluggett versus Flinders University of South Australia*; *Williams versus Monash University*]

The reluctance by WIL staff and/or the host supervisor to fulfil their responsibility to evaluate and/or fail the student [Bial and Lynn (1995)]

The university releases, or fails to release, information concerning the student in the WIL program [*BKR and Queensland University of Technology*; *Shvetsova versus University of New England*]

APPENDIX B: Legal cases in Australia relating to WIL programs

Case citation and legal grounds of action

W versus Flinders University of South Australia [1998] HREOCA 19: A claim of disability discrimination on the basis that reasonable adjustments were not made by the university to facilitate the WIL placement.

Fennell versus Australian National University [1999] FCA 989: A claim of misleading or deceptive conduct concerning the promotion of a WIL program.

BKR and Queensland University of Technology [1999] 5 QAR 7: A challenge under freedom of information legislation to the university's decision to release information concerning the student's participation in a WIL program.

Sluggett versus Flinders University of South Australia [2003] FCAFC 27: A claim of disability discrimination based on the lack of access to the host organization site and a failing grade for the WIL program.

Williams versus Monash University (Anti-Discrimination) [2005] VCAT 958: A claim of discrimination on religious grounds arising from a failing grade for the WIL program.

Simundic versus University of Newcastle [2007] FCAFC 144: A claim that the university supervisor criticised, verbally abused and discriminated against the student on the basis of race during a WIL program.

Jenkins versus Charles Sturt University [2008] NSWSC 50: An application for judicial review of a university's decision to exclude the student from the degree arising from the award of repeated failing grades for a WIL program.

Tadros versus Charles Sturt University and 2 Ors [2008] NSWSC 1140: An application for judicial review of the university's decisions to award a failing grade for the WIL program and to exclude the student from the university arising from the student's misconduct during a WIL program.

Shvetsova versus University of New England [2014] NSWSC 918: An application for judicial review of a university's decision to award a RU (Result Unknown) grade for the WIL program and to require the student to complete an additional WIL placement of 10 days arising from the student's unsatisfactory performance during a WIL placement.

Shvetsova versus University of New England [2015] NSWCATAD 49: A separate claim under freedom of information legislation that the university did not provide access to particular records relating to an internal review of university decisions about the student's enrolment in the WIL program.

Ellis versus Southern Cross University [2015] NSWCATAD 25: Claims of victimisation and race discrimination based on the words of a university supervisor during an interim performance evaluation; subsequent termination of the WIL placement and the award of a failing grade; and the failure to reinstate the placement following a successful internal appeal.

Coomaraswamy versus University of New South Wales [2016] NSWCATAD 41: Claims of race, age and disability discrimination based on the failure of teaching staff to provide adequate assistance and support to undertake WIL placements; and the termination of enrolment at the university arising from the student's unsatisfactory performance during a WIL placement.