

Statutory Accident Insurance Cover at Institutes of Higher Education

1 Preface

The Federal Republic of Germany has a tight social security net. Alongside statutory health insurance, unemployment insurance, social long-term care insurance and statutory pension insurance, statutory accident insurance represents an essential pillar of the German social security system. It is obligatory. The legal basis of the conditions of the insurance and the scope of the legal provisions can be found in the Code of Social Law (SGB) - in particular in SGB VII. Taking out private accident and liability insurance policies does not influence and cannot substitute for statutory accident insurance.

The prerequisite for an obligation of the statutory insurance to indemnify is the existence of a claim; that is, an insured person suffers an accident as a result of an insured activity.

The agencies funding statutory accident insurance at institutes of higher education are the accident insurance agencies of the public sector (accident insurance funds on federal and regional level: Unfallkasse).

This information leaflet is concerned with statutory accident insurance cover for such persons as are employed in various functions at institutes of higher education.

2 Insurance obligation for employees and teaching staff

For the higher education sector it is essentially insurance cover according to law, which is the subject matter here.

2.1 Employees according to § 2, Paragraph 1, SGB VIII, together with § 7, SGB IV

Employment is non-self-employed work, in particular that in an employment relationship. The essential criterion for the existence of a work or service relationship according to the established judgement of the Federal Social Court (BSG), is personal dependence on the employer. This shows itself primarily in the integration in the organisational structure and in the place, time and manner of the employer's prerogative to direct the work to be done.

The employment relationship is based on the signing of an employment contract.

Characteristics of employment are: The payment of a fixed remuneration (e.g. hourly or monthly pay), the right to continued remuneration in the event of illness, agreements on termination, right to holiday, lack of entrepreneurial risk on the part of the employee.

Both the employee and the employer are subject to accident insurance according to § 2, Paragraph 1, No. 1, SGB VII.

The accident insurance cover of an employee of the institute of higher education is not affected by remuneration from third party funds, e.g. within the framework of a research project financed by industry.

Training, practical training

If the employment is not primarily for the purpose of service in the interests of the organisation, but rather for training purposes for the employee, activities are carried out in the framework of a traineeship/apprenticeship.

A traineeship/apprenticeship in the sense of § 2, Paragraph 1, No. 1 SGB VII is not only an employment relationship on the basis of a formal training contract, but rather of any similar employment relationship with the goal of imparting a certain specialist or occupational training to the employee through practical means.

Practical training also represents such a training relationship in which an individual participant hopes to acquire practical knowledge and experience from the activity, in order to complete his or her training for their main occupation later on.

Practical training differs from an employment relationship in that the trainee does not continuously carry out necessary work for the organisation, thus not substituting or being paid for the work of a normal employee. Characteristic of a training relationship in this sense is that a relationship of personal dependence of the trainee on the trainer exists, whilst the trainer carries the main responsibility for the training and support of the trainee. This mirrors the trainee's obligation to make every effort to reach the training target, integrate into the organisational structure and community and to conscientiously carry out the tasks given to them.

The payment of remuneration is not crucial for statutory accident insurance cover.

2.2 Participation in studies or examinations according to § 2, Paragraph 1, No. 3, SGB VII

Insurance cover is also enjoyed by persons who take part in studies, examinations or similar measures, which are necessary due to legal regulations for the commencement of an insured activity or as a result of a completed insured activity, in as far as these measures are arranged by the organisation or authorities.

These can be medical or psychological examinations to determine health, which can also be carried out in occupational health centres outside the organisation which occupies the trainee. The same applies to suitability tests for studies at institutes of higher education.

2.3 Freelance employees, self-employed persons¹

Self-employed persons sign a service contract with the contractor. They do not place their manpower at the disposal of the contractor and concerning the type, place and manner of their work are not subject to directives. They must take care of taxation and social security obligations themselves. They deliver a "piece of work" at the conditions arranged.

Examples of self-employed persons: Contract teachers (Lehrbeauftragte), craftsmen or women

That work is done in their own name and at their own cost, rather than in the name of and at the cost of the contractor is a typical characteristic of entrepreneurial activity.

Affiliation with free professions or the designation "freelancer" is not enough to be recognised as self-employed in this group of persons. In such individual cases the overall context is decisive.

2.4 Activities equivalent to those of an employee according to § 2, Paragraph 2, No. 1, SGB VII

Statutory accident insurance also applies to people who are "like" an employee, according to Paragraph 1, No. 1, that is, those who work "like" an employee.

According to jurisdiction, statutory accident insurance cover also exists for people who carry out an activity which

- is designed to serve a more or less temporary, serious purpose, intended to serve the organisation significantly and which is of economic value.
- This activity must correspond to the real or presumed will of the organisation
- and be such that it is able to be carried out by persons who are in employment in the general labour market,
- on condition that it is similar to an activity done on the basis of an employment relationship (work comparable to that of an employee).

In summary, it is important that

- the work is comparable to the work of an employee,
- and that the work of the institute of higher education is substantially furthered by the outcome of the work (e.g. in its research and teaching responsibilities).

Example: A student temporarily substitutes a technical employee of the institute of higher education, who is not available for some hours, in the laboratory.

2.5 Exemption from insurance payments, § 4 Paragraph 1 No. 1 SGB VII

Civil service law (Beamtenrecht) guarantees benefits claims against the employer in the case of accidents at work. To avoid double coverage, persons are exempt from insurance payments for accident insurance, in so far as accident provision regulations or corresponding basic principles of civil service law are valid.

Honorary public servants and honorary judges are excluded.

2.6 Outbound assignment, § 4 SGB IV ²

The rules about the obligation to make insurance contributions are only valid per se for the Federal Republic of Germany. An exception is regulated in § 4 SGB IV. Accordingly, the rules about the obligation to make insurance contributions also apply to persons who are sent abroad as part of their employment relationship in the Federal Republic of Germany, if the deployment is a result of the character of this employment or is contractually limited in advance ("outbound assignment").

Example: An employee of the university is sent by his employer to Geneva for a year to CERN. The employee continues to be subject to both German social insurance and statutory accident insurance.

Further details about outbound assignment can be taken from the guidelines (see references).

2.7 Inbound assignment, § 5 SGB IV ²

An employee working in Germany by virtue of inbound assignment is not subject to the rules of German social insurance. A deployment in this sense exists when an employee of a foreign employer moves from abroad to Germany in order to do work here for that employer. Inbound assignment is therefore the counterpart of outbound assignment.

Further details about inbound assignment can be taken from the guidelines (see references).

2.8 Procedure according to § 7 a SGB IV ³

The status determination procedure has the intention of giving those involved legal certainty in cases of doubt about whether they are self-employed or dependent employees and therefore insured. The procedure is carried out by the Federal Insurance Institution for Employees (BfA), Clearingstelle, 10704 Berlin. Parties which can apply for a status determination procedure are the contract partners (eg. contractor and client), but not insurer. Any party can apply for the procedure alone; the parties do not need to be in agreement about the occupation. For purposes of proof, the request must be made in writing. The parties must fill in an application form, which must be obtained from the the BfA (Federal Insurance Institution) or one of its information and advice centres. The application form can also be accessed via the internet platform of the BfA (Federal Insurance Institution).

2.9 Teaching on behalf of a sending institute of higher education or a sending company, competitive relationship

2.9.1 Example:

The University of Public Administration agrees a teaching contract with an employee of a locally-based authority. This employee brings their own accident insurance cover or occupational accident cover with them, if the teaching job is essentially appropriate to their main occupation and is on behalf of their "actual" employer.

2.9.2 Insured as an employee or as a student?

For diploma and doctoral students the completion of the diploma or the preparation of the doctorate are in general the main purpose for the work carried out. Only if the advancement of academic research dominates in contrast to the training purpose related to the writing of the thesis, can insurance cover corresponding to § 2, Paragraph 2, Sentence 1, in conjunction with Paragraph 1, No. 1 SGB VII be considered. Otherwise the person is insured as a student.

3 Insurance cover for students

3.1 § 2, Paragraph 1, No. 8 c SGB VII

Students are covered by statutory accident insurance during their education and training at institutes of higher education.

Accidents on the way to the place of occupation also count as occupational accidents.
(§ 8 Paragraph 2 Nos. 1-4 SGB VII).

Students in the sense of the above-mentioned regulation are persons who take part in courses at an institute of higher education – i.e. enrolled students - but also guest students and doctoral candidates who have already taken their final examinations.

The concept of institutes of higher education includes all universities, technical universities, music and arts colleges, academies and universities, whether the maintaining body is the national state or the federal state or a private entity.

A prerequisite of the accident insurance is the requirement that the student attends the institute of higher education in order to seriously gain a higher level of education or training, even if this is not occupationally necessary. Enrolment alone, or the occasional attendance of individual lectures or talks does not in principle fulfil this prerequisite.

In the assessment of the insurance cover, in the same way as in schools, it depends on whether the work can be defined as being within the **area of organisational responsibility** of the institute of higher education.

It is always necessary for there to be a significant inner connection between the education and training at the institute of higher education and the occupation of the student.

This connection exists for students only in relation to study-related activities which are carried out **in direct temporal and spatial relation** to the institute of higher education and its institutions.

These activities include the direct participation in lectures, and also the frequenting of other institutions of the higher education institute, such as university libraries, seminars and other institutions for the purposes of study or taking part in excursions; it does not, however, include their studies or work in their own private or home sphere, even when they are necessary as preparation for examinations.

The decisive point is that the activity - if it is to be covered by the insurance - must belong to the area of organisational responsibility of the institute of higher education.

Statutory insurance cover also exists for participation in general college sports.

3.2 § 3 Paragraph 1 No. 2 SGB VII in conjunction with the statutes.

The SGB VII (Social Security Code) grants the accident insurers the right, in the scope of their statutes, to cover persons who spend time on the premises of the organisation without being employees of the organisation.

A number of accident insurers in the public sphere have made use of these powers and justified statutory accident insurance cover for example for students, doctoral students, diploma students and scholarship holders who are on the premises.

It is important that this insurance cover **only applies to the time spent** on the premises, but not to routes otherwise insured according to § 8, Paragraph 2, SGB VII.

4 Individual cases

Assistants

The tasks of a university assistant arise from the Framework Act for Higher Education (Hochschulrahmengesetz, HRG ⁴). Accordingly, academic services are to be provided which are also conducive to gaining a further academic qualification. The communication of specialist knowledge, practical skills and the use of academic methodology to students are counted among these academic services. The assistant's own academic work is also possible alongside this. Prerequisite for employment as a university assistant is the successful completion of a study programme. Employment as a university assistant is thus not possible during studies, but rather afterwards. Therefore insurance cover as an employee exists in principle - if during the time as an assistant at the institute of higher education no appointment as a public servant takes place.

Work experience abroad

Studies or other practical work of students, doctoral students or diploma students abroad are only insured if they are a measure or course of the German institute of higher education which takes place abroad. In this context the decisive point is whether the organisational responsibility of the institute of higher education also includes the execution of activities abroad which serve the course of study. This can be the case, for example, with academic excursions of a university department to foreign countries.

Normally, undertaking practical work experience abroad will not count as being within the area of organisational responsibility of the institute of higher education. And this will even be the case if practical work must be undertaken in connection with the course of study or the doctorate. For independently chosen periods of practical training abroad there generally no longer any accident insurance cover - not even under the aspect of so-called outbound assignment - unless the social insurance code of the host country offers entitlement for such activities.

Semester abroad

Statutory accident insurance cover for semesters abroad can be justified if these are part of the domestic course of studies. This is, again, always to be assumed if they are formally, organisationally and in content attributable to the program studied.

A formal connection is shown for example, if the course of studies will be continued after the stay abroad, if the student remains enrolled at the institute of higher education at home and if academic attainments are fully recognised by the institute at home.

How far the institute of higher education at home retains the organisational responsibility for exchange students can only be determined by means of the specific rules in each individual case. In principle the institute of higher education at home retains organisational control if, as regards the substance (execution and content of the stay, the possibility of intervention in particular events) it has the right to issue directives or has any kind of controlling rights.

This right to give directives or control can, for example, be exercised by the institute's own personnel (i.e. through a lecturer of the institute of higher education at home, who is teaching at a partner institute in the foreign country) Also in collaboration with the partner institute or by the commissioning of a person at the foreign institute of higher education who exercises this influence.

For organisational connection to the institute of higher education at home, it is not enough for courses at the foreign institute to have been approved in advance by the institute of higher education at home, and the exchange student to commit to follow the study plan at the host institute and to submit every change in the implementation of the study programme to the institute at home, if the possibility of the home institute exercising influence is not specifically proven.

Trainees

A training relationship is normally shown by a vocational training and education contract,

e.g. as an administrative clerk. Insurance cover exists according to §2, Paragraph 1, No. 1, SGB VII, see 2.1.

Application process

Work and travel which take place in connection with job seeking, application or interview with a possible employer and the negotiation of an employment contract are insured against accident as what is known as preparatory activities.

Diploma students/doctoral students

In order to complete their diplomas or doctoral theses, diploma and doctoral candidates visit higher education institutions or work in companies.

- **Activities in conjunction with writing a doctoral or diploma thesis at the institute of higher education**

Higher education institutions are usually attended by diploma or doctoral candidates as enrolled students or after taking their final exams. They use the institutes of higher education and their institutions (e.g. the library) for writing their doctoral or diploma theses.

Doctoral and diploma candidates have insurance cover according to § 2, Paragraph 1, No. 8 c SGB VII, if their activity has the goal of preparing their doctoral or diploma thesis within the area of organisational responsibility of the institute of higher education. There must be a direct temporal and spatial connection with the institute of higher education and its institutions.

The relevant insurer in such cases is the regional insurance provider (§128, Paragraph 1, Nos. 1 and 4, SGB VII - (Unfallkassen, Landesunfallkassen).

- **Activities in companies in connection with writing a doctoral or diploma thesis**

Companies support doctoral or diploma theses by permitting doctoral and diploma candidates to use their company facilities - as far as is necessary for writing these theses. In this context, doctoral and diploma students receive necessary information from the company for preparing their theses, can use company facilities or follow company processes or carry out necessary company activities for the preparation of their theses.

The usual arrangement between the company and the doctoral or diploma candidate is that the company will be informed of the results of the work or that the company will receive a copy of the thesis on completion or that the company will benefit from the results of the work (e.g. exploitation rights).

No contract is usually made between the doctoral or diploma candidate and the company. Doctoral and diploma candidates work

independently and autonomously on their theses. They are free to manage their own working hours. The company only undertakes supervision. Integration into the company's operations does not take place. The doctoral or diploma candidate does not usually receive any payment or social security provision for his or her activities in the company. In exceptional cases, the company reimburses a flat amount as support during the preparation or writing of the thesis.

If doctoral or diploma candidates are in the company employed on the preparation or writing of their thesis, there is **in principle no insurance cover**. There is no occupational relationship to justify insurance cover according to §2, Paragraph 1, No. 1 SGB VII. Doctoral or diploma candidates work at the company in their own interest when preparing their theses. The work done by them in this connection is of secondary importance. The exploitation rights of the company in respect of the work done is not enough to justify an employment relationship in terms of social security regulations.

It may be otherwise if the doctoral or diploma student is integrated into the company's operations with an employment contract and salary. In that case, statutory accident insurance exists in principle according to the legal basis given by § 2, Paragraph 1, No. 1 SGB VII. Where appropriate, insurance cover according to § 3, Paragraph 1, No. 2 SGB VII, in conjunction with the statutes can also come into question.

Externally funded position

Who the employer is and who pays the salary is less important for the employee's insurance cover than for the responsibility of the insurer. Persons who are employed by a lecturer or professor on the basis of his or her private employment contract and are paid from third-party funds in the context of a research assignment, are insured as employees. The institute of higher education is not responsible for the accident insurance coverage, but rather the person who engaged them, as "employer" in the context of statutory accident insurance.

Therefore, in such cases, a professional association carries the responsibility if the higher education acts of the Federal States provide no other regulations.

Former professors

can be called upon for one-off support by the institute of higher education, for example for examinations or excursions.

In this case, it is of primary importance to determine whether occupational accident insurance exists through the employer.

Guest lecturers

Institutes of higher education and businesses or industrial enterprises cooperate for the advancement and support of practice-oriented teaching. Appropriate employees of these companies can be given contracts as contract lecturers (Lehrbeauftragte).

Such guest lecturers usually retain their employment in the company; an employment relationship to the institute of higher education is not justified. Insurance cover exists through the relevant accident insurer for the delegating company. See 2.9.1

Guest students

Students in the legal sense are not only ordinary students, who are enrolled and admitted for final examinations. Participants of preparatory courses, holiday courses and enrolled guest students are also classified as students. This term covers a wide area and stretches beyond enrolled students to all persons who take part in lectures and other teaching events of an academic institute of higher education of their own free will, and this does not depend on their occupation, age or nationality.

A prerequisite of the accident insurance is the requirement that the student attends the institute of higher education in order to seriously gain a higher level of education or training, even if this is not occupationally necessary. Enrolment alone, or the simply occasional participation in a lecture does not in principle fulfil this prerequisite.

Visiting academics/licensing agreement

The subject of a contractual relationship can be the implementation of a particular research assignment, for example in the EU research programme "Training and Mobility of Researchers - TMR-". Freedom for personal research activity amounting to up to 30% of working hours is allowed. Payment is made from the funds of this programme.

Insurance cover exists according to §2, Paragraph 1, No. 1, SGB VII.

The legal basis is different for visiting academics who are only given permission by the institute of higher education, through a licensing agreement, to use the premises and institutions for the implementation of their research projects. In such cases, insurance cover through the institute of higher education can only be justified if the visiting academic's work, that is, the results of their research activities, benefit the guest institute substantially.

Research training groups

If offered by a department, for example for the implementation of a research project, graduate fellows may come together to implement that project. These can be diploma or doctoral students, i.e. students or also professors from other universities.

If the fellows do not "bring" their own insurance cover with them, accident insurance cover exists through the institute of higher education according to § 2, Paragraph 2, Sentence 1, SGB VII.

Candidates for habilitation

According to the case law, candidates for habilitation (post-doctoral qualification) belong to the group of persons insured according to § 2, Paragraph 1, No. 8c, SGB VII. Of primary importance in the case of a contractual relationship between the institute of higher education and the candidate for habilitation is insurance cover according to § 2, Paragraph 1, No. 1, SGB VII.

University sport

Optional participation in sport in general at the institute of higher education is to be considered insured if the following conditions are met:

- The sport programme at institutes of higher education must have the character of official events of the institute.
- General university sport must be conducted by the institute of higher education itself (e.g. Hochschulinstitut für Leibesübungen, - University Institute for Physical Exercise) or a higher-education-based institution (ASTA - General Students' Committee).
- The sporting activity must take place during organised practice, that is, during the appointed times and under the guidance of an appointed trainer. Free sporting activities outside organised practice at the sports facilities of an institute of higher education is uninsured, as is the participation in competitive or elite sport at university and other sports clubs.

Freelance staff

The title "freelance staff member" (Honorarkräfte) says nothing about a person's legal assessment in matters of social security and does not represent a criterion for the assumption that they are self-employed. The assessment must be made based on the overall context.

Enrolment

On enrolment (registration) the applicant for a place at an institute of higher education becomes a "**Student**". The travel undertaken for the enrolment is already insured.

Fellows

See: Research training groups

Contract lecturers (Lehrbeauftragte) ¹

Contract lecturers at institutes of higher education are in general **not** in a dependent employment relationship with these institutions

- if they have been given a teaching assignment which is limited, in time and in terms of the subject matter to be taught, from the outset,
- if they have to take on no further duties and
- there is thus a significant difference between them and the salaried teaching staff.

They are employed in the context of a Werkvertrag (outsourcing contract) and are, as self-employed persons, uninsured.

Post-docs

The conclusion of an employment contract between an institute of higher education and a post-doctoral academic justifies insurance cover according to § 2, Paragraph 1, Nr. 1, SGB VII; without a contract, insurance cover exists according to § 2, Paragraph 2, Sentence 1, SGB VII. It is not dependent on the remuneration.

Placement students/interns

Students at universities of applied science and polytechnics complete a work placement which is stipulated in the study and examination regulations, either before, during or at the end of their course of studies. Likewise, placements which are not compulsory, but are completed in conjunction with the course of studies for purposes of expediency, are conceivable.

With work placements for universities and universities of applied sciences there is no direct influence of the university or university of applied sciences on the manner of implementation nor on the progress of the placement. During their placement, students are integrated in the operating process of the company and thus fulfil the prerequisites for dependent employees according to §2, Paragraph 1, SGB VII. It is irrelevant for the assessment of the work placement in terms of accident insurance whether the placement is a compulsory part of the study programme according to the study and examination regulations or is a voluntary placement.

The responsible insurer is the accident insurer of the host company (§ 133, Paragraph 1, SGB VII).

Medicine students must complete a practical year at a university hospital or a non-university teaching hospital. During this practical year accident insurance exists according to §2, Paragraph 1, No. 8 c SGB VII, as the practical clinical training of medicine students is, in terms of the content, training and organisation an integral part of the complete course of medical studies in higher education law. The relevant insurer is the regional accident insurance provider (§128, Paragraph 1, Nos. 1 and 4, SGB VII; (Unfallkassen, Landesunfallkassen).

Besides this, the licence to practise medicine stipulates training phases of up to 2 months' duration (nursing training service and clinical traineeship). In respect of insurance cover and responsibility the explanations given above on students' work placements apply. The clinical trainee counts as a student doing a work placement and is therefore insured by the relevant hospital through the responsible professional association.

Hospital interns are differentiated here, as they are in a true employment relationship. Accident insurance therefore exists for hospital interns according to § 2, Paragraph 1, No. 1, SGB VII.

Law students in preparatory service

Accident insurance exists if the legal preparatory service is carried out as public service.

Cleaning services

Cleaning services are often wholly or partially outsourced and assigned to commercial businesses. Their employees are thus in no way employees of the institute of higher education. Nonetheless, insurance in and contributions to statutory accident insurance are compulsory. The cleaning services company is usually a member of a professional association for the construction sector.

Scholarship holders

Scholarships can be received by some people in order to promote their academic and artistic education and training. The scholarship alone does not normally constitute a dependent employment relationship and in consequence does not imply an obligation to pay social security contributions. Whether the scholarship is for the living costs of the recipient or for the costs of education and training is not relevant. A prerequisite, however, is that such a scholarship is altruistic, i.e. the recipient does not have to commit to a direct employer-employee relationship.

If during the course of studies or during doctoral or diploma studies a scholarship (= financial support) is granted, this has no influence on the assessment of the insurance cover.

Student self-administration

Activities in student self-administration bodies are considered part of the institute of higher education and are thus covered by statutory accident insurance. Members of student self-administration bodies are "voluntary workers" in terms of statutory accident insurance and therefore have - independently of the provision of the statutes of the respective accident insurer - the right to "additional benefits".

Studying at a partner institute (inland/abroad)

Statutory accident insurance when studying at a partner university can be justified if this is an integral component of the original program at the "home" institute of education. This, in turn, is considered to be the case whenever it can be attributed formally, organisationally and in content to the course of studies at the university of origin.

A formal connection is shown for example, if the program will be continued after the stay abroad, if the student remains enrolled at the institute of higher education at home and if academic attainments are fully recognised by the institute at home.

How far the institute of higher education at home retains the organisational responsibility for exchange students can only be determined by means of the specific rules in each individual case. In principle the institute of higher education at home retains organisational control if, as regards the substance (execution and content of the stay, the possibility of intervention in particular events) it has the right to issue directives or has any kind of controlling rights.

The right to issue directives or controlling rights can be exercised by

the institute's own personnel (e.g. by a lecturer from the institute of higher education at home, who is teaching at the partner institute). Also in collaboration with the partner institute or by the commissioning of a person at the foreign institute of higher education who exercises this influence.

To be considered as organisationally connected to the institute of higher education at home, it is of no consequence whether the courses at the foreign institute have been approved in advance by the institute of higher education at home, and the exchange student commits to following the study plan at the host institute and to submit every change in the implementation of the study programme to the institute at home if the possibility of the home institute exercising influence is not specifically proven.

Remote work

Remote work is applied in particular in text entry, the creation of programmes, accounting and external clerical work. In practice there are several organisational forms of remote work. It can be done by employees at home or in a place chosen by them. The creation of texts for publishers at home is common, whereby the employees no longer have a workplace in an office. Remote work is also usual for modern sales personnel. Employees in this situation are connected to the company via the Internet, in order to be able to forward business transactions (e.g. orders, invoices) to the company.

The assessment of whether remote work constitutes a dependent employment relationship depends on the extent to which the employees are integrated into the organisational structure of the company. A dependent employment relationship exists despite spatial disconnection whenever there are fixed working hours - even within a certain time frame -, on-call duty can be prescribed by the employer and the work must be done personally by the person concerned. This applies even when the remote work was designed as remote work.

Training supervisors ¹

The decision as to whether a training supervisor performs their work on a self-employed basis or as an employee depends on the circumstances of the individual case.

The criteria for self-employed work are:

- Personal responsibility for the execution of the training; the training supervisor determines the duration, location and content of the training and personally coordinates the use of the sports facilities with others.
- Time needed and the level of payment; the shorter the time needed and the lower the pay of the training supervisor, the more grounds for considering it as self-employment.

The more time needed and the higher the payment of the training supervisor, however, the more grounds there are for integration and thus for dependent employment. Indications for the assumption of an employment relationship are also such contractually arranged rights to continual

payment during holidays or when sick, as well as the right to a Christmas bonus or comparable benefits.

A decisive factor for the assessment of insurance rights is always an overall appraisal of all existing circumstances in the specific individual case.

Self-employed training supervisors can be voluntarily insured through statutory accident insurance according to §6, Paragraph 1, No. 1 SGB VII. They must direct their application to the Verwaltungs-Berufsgenossenschaft (Administrative Professions Organisation), 22281 Hamburg.

Academic and artistic staff

According to the regulations of the Framework Act for Higher Education (Hochschulrahmengesetz, HRG), academic staff are members of the faculties, academic departments or facilities of the institute of higher education. As far as is necessary for the provision of the teaching programme, they are responsible for the transfer of specialised knowledge, practical skills or the use of scientific methodology. The prerequisite for employment is a degree from an institute of higher education.

They must then be insured as employees.

Sources:

¹Catalogue for the differentiation between dependent employment and self-employment (www.bfa.de)

²Guidelines for the assessment of employees on outbound and inbound assignments regarding insurance regulations; Aichberger, Social Security Statute Book (SGB), 4/30: www.aok-business.de/index2.php3?showpage=pro/pro-online.phpinc

³ www.bfa.de

⁴Framework Act for Higher Education (Hochschulrahmengesetz, HRG) www.bmbf.de/gesetz_3823.html