

# Risk Management



Oklahoma 4-H Volunteer Development Series

## Risk is Natural

There are risks associated with nearly everything we do. Even a simple task like taking a shower has risk. You could be burned by the water or slip getting in or out of the tub. While many of these things are not likely to happen, they could. Common sense tells us that simply not bathing is not an option, yet certain caution needs to be exercised. The same philosophy follows when managing other forms of risk.

4-H wants our volunteers to be informed and prepared to manage and deal with risks associated with caring out 4-H programs.

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## Risk Management Terms

Common terms when talking about risk management:

- **Risk** – Is an act, which has a probability of causing negative outcomes.
- **Risk Management** – The process of protecting our assets by minimizing the potential for negative outcomes. An asset may be physical well-being or fiscal holdings.
- **Liability** - Being legally responsible or accountable.
- **Assets** - Things of value held by an organization or individual.
- **Tort** – Is a wrong that occurs where there is no contract.

## Identify the Risk Impact

It may be impossible to predict all of the risks and it could be costly to cover every possible factor. In these situations organizers or managers should document good faith efforts to identify the likelihood of risk or injury; notify the facility verbally and in writing of potential hazard and it’s correction; provide orientation and notification to program participants of what the potential risks are and what the individual can do to minimize risk. Communications with an expert in legal issues can be a good investment of your time. There may be laws or forms of insurance, which may protect volunteers or other participants.



## Steps in Risk Management

**When we choose to finance against the risk it is called "insurance".**

In most situations we cannot completely remove risks, so we must plan for them. First, identify possible risks. Next, figure out what the outcome might be if the undesirable risk occurs.

When we choose to finance against the risk it is called insurance. If the risk factor occurs, we then manage claims or losses.

Risk management is an on-going process. By reviewing events and other situations in advance we can anticipate

potential problems. Similarly, by evaluating events, activities and other functions we can identify and potentially correct perceived risk situations.

To determine if a group or individual acted negligently is to determine what the normal standard is for that situation. In other words, what would a normal person do in the same situation? Another determining factor is if the person was acting within the scope of their duties. Many times people are not aware of what their

actual limitations are in a particular situation. In these cases, an aggressive, assertive, or take charge person may be at risk of over-stepping their duties. In contrast a passive, less assertive person may fail to act when necessary.

This is why orientation sessions, written position/job descriptions, and on-going training/education occur for OCES salaried employees, volunteers, and parents/guardians.

## Transportation

Parents are responsible for how their children get to and from 4-H meetings or activities.

Adult supervision is critical when transporting or driving minors. When transporting minors more than one adults from the program must be present in the vehicle or multiple minors must be in the vehicle. It is not advised to be alone in a car with a minor, who is not your child. We fully recognize that this may require programmatic changes; however this is a best practice for youth serving organizations operating successfully today.

It is impossible for Extension educators to avoid using their personal vehicles to transport youth. In fact it is an expectation; however, whenever possible it is advisable to use other public or private transportation when transporting large groups

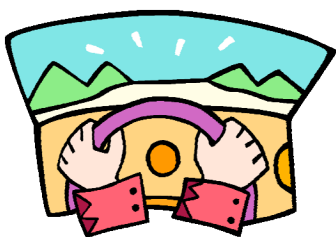
As of March 2015 the University enacted the [Student Travel Policy 1-0133](http://4h.okstate.edu/for-educators/volunteer-management-system/powerpoint-presentations/www-handouts/student-travel-policy-march-2015) (http://4h.okstate.edu/for-educators/volunteer-management-system/powerpoint-presentations/www-handouts/student-travel-policy-march-2015). General highlights include: valid and approved driver's license for the type of vehicle being operated; insured; 18 years old when driving a

auto/minivan/pickup; and 21 years old with a certification in Precision Driving when driving a 12-15 passenger van, regardless of the number of people being transported in the van.

While it is not against Oklahoma law, it is against OSU policy to transport people in the bed of pick up. The exception might be a trailer or pick up used in a parade where extreme caution is being used and safety instructions given.

Oklahoma State University has self-insurance, which provides protection for

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volunteers who are involved in a traffic accident while performing an official duty sanctioned on behalf of the 4-H program. This does not include taking care of your family's personal 4-H business. A certificate of self-insurance can be obtained from the Risk Management Office at OSU if one is not on file in the county office.

Adult or teen drivers transporting 4-H youth should have a valid license and a reasonably clean driving record. An occasional traffic violation is generally not cause for dismissing a volunteer. A driver who has been convicted of a DUI or who has a history of multiple traffic violations may not be an acceptable volunteer for transporting people.

Oklahoma law requires all

vehicles to be covered by liability insurance if being driven. Persons who are transporting youth on behalf of 4-H are required to have and to maintain liability coverage as outlined by state law.

All vehicles should be in good repair and there should be one seat belt per person.

Drivers transporting youth for a sanctioned event need a current copy of the child's medical release form in the vehicle during transport.

When youth are driving others, consider the Oklahoma Graduated Driving Laws.

In general, youth should not be used to transport other youth to 4-H events. If there are *absolutely no adults available*, older teens that have demonstrated reasonable caution and maturity might transport

others only if the parents are aware of this arrangement and an orientation has been conducted. A parental release letter or statement is an added safeguard.

Occasionally, teens may travel in a carpool to an event. This is done at the pleasure and discretion of the parents. Parents are responsible for how their children get to and from meetings or other gatherings and they assume the bulk of the responsibility when allowing youth to travel together.

When youth drive their own vehicles to a 4-H event, they are **expected to park and not move it during the event**. By moving the vehicle they may be in violation of the Code of Conduct and may forfeit future rights to participate in 4-H activities.



## Possible Risks

Possible areas of risk, in the order of those most likely to occur: Injury to participants; Automobile liability; Professional and malpractice liability; Personnel issues; Director and officers liability; General liability; Offering services to vulnerable people; and Workers compensation. Beyond the first two, the others are not going to be of major concerns for 4-H groups.

There are many things that could "go wrong". By attempting to anticipate risks we plan how to avoid and handle the risk when it becomes reality. *It is generally easier to deal with an anticipated risk than react to the unexpected.* Having activity/event insurance reduces risk of litigation associated with accidents.

There are two tools available to assist volunteers in planning for and

managing potential risks: the *Activities and Events Intent Form 7* and the *Incident and Accident Form 8*. Form 7 assists in the planning process and provides protocol for emergencies. Form 8 is completed to document the details of an incident or accident.

A **tort** is a wrong that is done in the absence of a contract. There are seven

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## Kinds of Torts

- Abuse
- Assault and Battery
- Negligence
- Fraud
- Slander and Libel
- Trespass
- Violation of Civil Rights

## Four Elements of Negligence

- Duty
- Breach of Duty
- Actual Injury
- Connection between breach and injury

## “Employee” as Defined by Law

“Under the Oklahoma Governmental Tort Act, 4-H volunteers who are working within the “scope of their duties” are afforded the same protection as paid staff. OSU recognizes those who are carrying out activities on our behalf as staff even if they are not being paid.

“...any person who is authorized to act in behalf of a political subdivision or the state whether that person is acting on a permanent or temporary basis, with or without being compensated on a full-time or part-time basis.” (51 O.S. 1991, 152)

To know the “scope of duty,” volunteers need to have a position or job description, or some other communication that defines what services are to be preformed.

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common forms of tort. Each has occurred in 4-H at some point in time. Negligence is perhaps one of the most common and has the greatest potential to occur by accident or without intent.

Abuse has become more widely recognized. The law states that anyone who suspects *any form* of child abuse must report it to the appropriate law-enforcement officials. Oklahoma law makes the reporting of known or suspected child abuse or neglect *mandatory* for **all individuals** who may become aware of such behavior.

There are four elements which must be present for negligence to occur. As staff and volunteers we have a “duty of care.” This means responsibility. Generally our duty begins at the point where the other party makes a decision to participate in our event. This means our duty begins before the other party ever leaves home.

A breach of duty occurs when one fails to carry out one’s duty of providing a safe environment or we fail to fulfill some other responsibility. There must be some actual injury for negligence to be present. Most importantly there has to be a connection between the injury and our breach of duty.

For example: There is no negligence on my part if you had an accident on the way to my meeting and I had nothing to do with the cause of the accident. However, if I did something to cause the accident (such as not canceling a meeting because of icy roads) then negligence may be present.

An orientation for 4-H events and activities is a good method for managing liability and risk. During the orientation, participants are provided instructions and informed of possible risks. The orientation shows good faith effort on our part to inform participants. It also demonstrates we are not being negligent in our duties if an accident occurs.

## Risk Management in a “Nut Shell”

- It is best to be a prepared and informed volunteer. The best preparation is to be a certified 4-H volunteer or an episodic volunteer with adequate orientation and training in both carrying out your duties and in how to manage and deal with risk.
- If an accident occurs, first seek appropriate medical attention for the injured party. Then document what happened and file a report (form 8) with the county Extension office. Both the Extension office and the volunteer should keep a copy of the report. This is important because a minor child can file a suite for injuries three years past the age of majority.
- Most laws are based upon common law, which was based upon common sense. For this reason the most basic test for determining if a person has acted in good faith is to ask what a prudent person would do in the situation.
- By attempting to anticipate risks we plan how to avoid and handle the risk when it becomes reality. Risk associated with accidents is reduced when insurance is provided through the event/activity.
- There are two tools available to assist volunteers in planning for and managing crisis: The Activities and Events Intent Form 7 and The Incident and Accident Form 8.

## Insurance Needs for a Meeting Sites

**Individual/Group Insurance**—Insurance is a good investment. “Event and activity insurance” is **very strongly recommended for all 4-H functions!** Several companies provide either year-round or per-event coverage.

OK 4-H provides an annual Club Coverage to all enrolled 4-H members, Cloverbuds and certified volunteers. Coverage which is in effect from September 1 through August 31 each year. This is an accident policy, not a liability policy it and does not cover illnesses.

\*\*For details on the annual club insurance coverage go to [American Income Life](https://www.aillife.com/SpecialRiskDivision/4H-Extension).  
<https://www.aillife.com/SpecialRiskDivision/4H-Extension>

Special Activity Insurance is recommended for the following events: overnight activities, camps/day camps, field trips or high risk activities (winter sports, water sports, trail rides, etc.). Note— the American Income Life Annual Club Coverage does not cover illnesses where their Special Activity Insurance Plans B and C do.

**Equipment Insurance** – In acquiring equipment insurance determine the value of the item. There are times when the cost of replacing a piece of equipment would be more practical than insuring it.

**Facilities Insurance** – When meeting in a **PRIVATE HOME OR ON PRIVATE PROPERTY** the homeowner’s insurance provides coverage. Most policies cover occasional group gatherings with no additional premium. Additional coverage

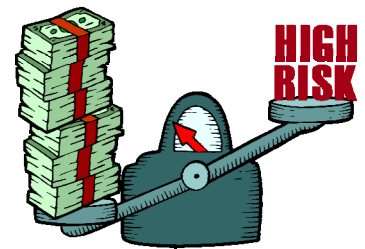
may be required for clubs who meet regularly at a home or on private property for high-risk activities such as horsemanship, shooting sports, ATV or any other projects with greater physical risks. It is recommended that you contact your insurance agent or company.

**PUBLIC OR PRIVATE FACILITIES** such as libraries, churches or county buildings may have insurance that covers outside groups. When seeking to use these facilities ask up front about insurance, rather than trying to figure out if there is coverage after an accident.

A **SCHOOL** may recognize 4-H as a school activity in some communities. In these cases 4-H is generally allowed use of the facilities under the umbrella of the school’s protection, often with the stipulation that a school employee be present.

The Supreme Court has ruled that if the school allows other non-school groups to meet in their facilities they must allow all groups. This law may open or close doors in a community. (Board of Education of Westside Community Schools v. Mergens (1990))

When using facilities owned by a company or individual you may have to provide proof of insurance. The university’s certificate of self-insurance is a *liability policy* and only covers government owned buildings and officers and directors, it provides no protection for the facility being used.



**“Event and activity insurance” is very strongly recommended for all 4-H functions!**