

Information for Extension Employees and Volunteers Concerning Liability Issues

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Purpose

This fact sheet is intended to address general liability questions. Specific questions that may arise should be addressed with legal counsel.

Liability Considerations for Volunteers

General Liability

- Federal and state legislation provides some protection for volunteers of nonprofit organizations and government agencies. Volunteers for government agencies, like the University of Arkansas Cooperative Extension Service, are entitled to the same sovereign immunity as paid staff. This means that they are immune from liability and from being sued for acts or omissions occurring within the scope of their volunteer service, except for malicious acts or omissions and acts or omissions that are covered by liability insurance.
- Volunteers may be held responsible for damage or injury if they act outside the scope of the volunteer program.
- If a volunteer is covered by automobile liability insurance, the volunteer's liability for negligent acts is limited to the amount of coverage.

- 4-H clubs that own property may wish to consider obtaining commercial general liability coverage as the Arkansas 4-H Foundation, Inc., has done primarily in case of accidents that may occur on Foundation property.

Sovereign Immunity for Employees

Sovereign Immunity

According to Attorney General Opinion No. 84-7¹, University of Arkansas employees are employees of the State of Arkansas under Act 543 of 1977². As defined by Sovereign Immunity, the State of Arkansas shall pay actual, not punitive damages adjudged by a state or federal court, or entered by such court as a result of a compromise settlement approved and recommended by the Attorney General, against officers or employees of the State of Arkansas.

Act 292 of 1993³ clarifies that officers and employees of the State of Arkansas are immune from liability and from suit, except to the extent that they may be covered by liability insurance, for damages for acts or omissions, other than malicious acts or omissions, occurring within the course and scope of their employment.

The University General Counsel's Office provides legal representation for the institution. Such legal representation also

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includes employees of the institution if they are sued solely or in conjunction with a suit against the institution, so long as the litigation relates to their performance in the scope of their employment for the University and arises out of the course of that employment, as distinguished from their personal acts.

Where an employee is named as a defendant in litigation and the case relates to the University, the employee may be represented if the litigation did arise out of the scope and course of the employee performing the work of the University. If the employee acts on his or her own and not in the scope of their duties, coverage would not be provided.

Immunity for Volunteers

Volunteer Liability

- Under Arkansas Code § 21-13-108, individuals who volunteer for service to a state agency, department, institution or division are entitled to the protection of the state agency's sovereign immunity to the same extent as paid staff. This means that state volunteers are immune from liability and from being sued for acts occurring within the scope of their volunteer service, except for malicious acts or omissions or acts to the extent that they may be covered by liability insurance.
- There are many questions about the potential liability and possible immunity for 4-H Foundation board members. The Arkansas Code (16-120-102) provides immunity from tort liability to board members of any nonprofit corporation that hold a valid federal income tax exemption. The immunity protects board members from personal liability for any alleged acts of negligence committed by an employee of the nonprofit or by the nonprofit itself.

- 4-H Foundation board members have the protection of immunity from tort liability except for claims regarding their own personal negligence and for their own intentional torts (assault, battery, intentional infliction of emotional distress, etc.).

Event Insurance

American Income Life is the event insurance carrier of Cooperative Extension Service. The premium is a small amount and covers up to \$3,000 in medical expenses. The faculty estimates the number of participants who will attend the event and requests coverage through Financial Services. This policy is considered a secondary medical insurance policy and does not cover general liability. First, the participant's primary insurance will be charged with any medical expenses. All events conducted by faculty can be covered.

Shooting Sports General Liability Coverage

Many of our shooting sports clubs have concerns about general liability and have chosen to purchase liability coverage.

The NRA Endorsed Insurance Program may be an alternative for clubs and foundations to purchase insurance protection. Additional information may be found at www.NRAEndorsedInsurance.com or phone 1-877-487-5407.

Source: ¹Attorney General Opinion No. 84-7

²Act 543 of 1977

³Act 292 of 1993