

RISK MANAGEMENT
AT
WESTERN KENTUCKY UNIVERSITY

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RISK MANAGEMENT AT WESTERN KENTUCKY UNIVERSITY

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RISK MANAGEMENT AT WESTERN KENTUCKY UNIVERSITY

INTRODUCTION

In order to discuss risk management, we must first define risk. Risk can be broken down into various types of risk, but the one we are interested in is what is called "pure risk". Pure risk is defined as an event or situation that has a "chance for loss." Risk management is the formal process of assessing exposure to risk and financial loss and taking the necessary action to minimize risk. There are many different ways to assess risk. One example of an assessment method is called "Risk Mapping". For additional information on Risk Mapping see the Risk Management webpage. An explanation of Risk Mapping is available on the Risk Management webpage. One of the components of the Risk Management Process is Risk Financing. As part of Risk Financing, it is decided whether to "retain" the risk or "transfer" the risk. One method of transferring the risk is by using insurance. One of the functions of Risk Management at WKU is the coordination of insurance purchasing and filing claims related to that insurance. The discussion included here will be focused on informing you of what insurance we have in effect and what the procedures are for filing claims under those policies. We will also discuss some miscellaneous items of interest.

INSURANCE POLICIES

There are several insurance policies that cover different exposures at the University. Some of those policies are purchased through the state Department of Insurance in Frankfort. These purchases are made through the Department of Insurance as a matter of convenience or because it is required by Kentucky Statute. Other policies are purchased by the University through the University Purchasing Department. If any insurance is to be purchased it should be coordinated through the Office of Risk Management and the Purchasing Department. The University has an exclusive contract with Neace Lukens Insurance to represent the University as our insurance broker.

BUILDINGS

By state statute, all state owned buildings are required to be insured under the State Fire and Tornado Fund. This is a state self-insured fund. The Department of Insurance does an appraisal of the buildings periodically. If we add a new building, Donna Mefford in Inventory Control assigns a building number to that building and a building addition form is completed either by Facilities Management or with their assistance. This insurance is maintained on a "Replacement Cost" basis.

EQUIPMENT

BUILDING CONTENTS (Excluding Computers)

As equipment with a cost of over \$2,000.00 is purchased, The Inventory Control "tags" the item. The item is added to a computer listing created by Inventory Control that includes the building location. Approximately 2 times a year a revised value of this equipment is sent to State Risk and Insurance Services. This equipment is insured under the State Fire and Tornado Fund with a \$1,000.00 deductible. This coverage is only effective while the equipment is in the building in which it is listed. The coverage is actual cash value. ACV basically means depreciated replacement cost.

COMPUTERS

All desktop and laptop Computers are "tagged" in the same way as other equipment. The contents coverage specifically excludes computers. They are insured for "all-risk" under the State Fire and Tornado Fund under the computer policy or in the case of laptops under the Inland Marine policy. There is a \$1,000.00 deductible for desk tops and a \$1,000.00 deductible for stolen laptops. If the cause of loss is other than theft the laptop deductible is \$500.00. A revised listing of computers is sent to Frankfort quarterly. Computers are insured for replacement cost.

INLAND MARINE

Equipment that is mobile can be insured under an Inland Marine policy. Any equipment insured under this policy must be specifically listed. In the Inventory Control System there are insurance codes for the various categories of coverage under this policy. If you have equipment that is not stationed in one location you need to be sure the equipment has the proper insurance code. These items are insured for actual cash value with the exception of fine arts (stated value) and Laptops (replacement cost). There is a \$1,000.00 deductible, other than Laptops; see computers above.

INSURANCE CODES

The insurance codes are listed in the following table. If you have any question as to which code to use do not hesitate to contact the Risk Management Office or the Inventory Control Office.

| Insurance Code | Description |
|-----------------------|---|
| 00 | Building Contents |
| 01 | Inland Marine – Office Equipment |
| 02 | Inland Marine – Fine Arts |
| 03 | Inland Marine – Cameras/Related Equipment |
| 04 | Inland Marine – Musical Equipment |
| 05 | Inland Marine – Contractors/Farm Equipment |
| 06 | Inland Marine – Radio/Communications Equipment |
| 07 | Inland Marine – Scientific/Medical Equipment |
| 08 | Computers (Other than Laptops) |
| 09 | Inland Marine – Miscellaneous |
| 10 | Inland Marine – Laptop Computers |
| 50 | Vehicles and Accessories |
| 70 | Boats and Accessories |

VEHICLES

UNIVERSITY OWNED OR LEASED VEHICLES

All vehicles owned or leased by the University have at least liability and uninsured motorist coverage. We also carry collision and comprehensive coverage on new and leased vehicles. The deductible for collision and comprehensive is \$500.00 plus \$250.00 internal charge.

DEPARTMENT OF TRANSPORTATION (DOT) VEHICLES

Some departments make arrangements to obtain a vehicle from the Department of Transportation. The Department of Transportation only carries \$300,000 of liability insurance on their vehicles.

RENTAL VEHICLES

NOTE BEST TO RENT FROM ENTERPRISE OR NATIONAL THAT PROVIDES FULL INSURANCE IN THE WKU REDUCED RATES. For vehicles rented through other rental agency WKU's insurance policy covers rental vehicles for liability claims of \$350,000 and physical damage claims up to \$50,000. The vehicle must be rented in the University name and for a University business purpose. A certificate of insurance is available - please request a copy from the CFO Office, phone number 745-5859. There is a \$500.00 deductible on the auto insurance and internal for collision and comprehensive. In case of a \$250 internal charge back the department is responsible plus and other non-covered rental company charges (i.e. loss of use).

AUTHORIZED DRIVERS

Anyone driving any of the above described vehicles must be on the University approved drivers list. If renting a 15 passenger van, the driver must complete the training provided by Parking & Transportation. The full policy and form to be added to the approved drivers list can be found on the Risk Management webpage.

GENERAL LIABILITY

WKU, being a state institution, does not maintain general liability insurance and is generally provided with sovereign immunity from claims of personal injury caused by the negligence of the University, its agents, officers, or employees. However, the Kentucky legislature has enacted a series of statutes that act as a partial waiver of the University's immunity from suit. Persons with claims against the University (or any of its programs or operations) are not left without any recourse. They may file a claim for negligence against the University under the Board of Claims Act (KRS Chapter 44 et seq.), and their claim will be reviewed by a body authorized to decide those claims, the Board of Claims, sitting in Frankfort, Kentucky.

BOARD OF CLAIMS

The process to be followed if a claimant feels WKU was negligent and responsible for a loss is to obtain a claim form. The form is available from the Risk Management webpage or by calling the Office of the CFO (5-5859). Complete the form and mail it along with any supporting information to the Board of Claims. The Board of Claims will notify the claimant if additional information is needed and make a ruling as to the responsibility of WKU to make restitution.

SPECIAL EVENTS

On occasion, special events are required to have general liability insurance. For example, displays or events held at the Greenwood Mall are required to have liability insurance before being allowed to use the mall. WKU does purchase short term liability coverage for those events. The cost of the insurance is charged to the requesting Department. Anyone needing this insurance should contact the Office of Risk Management.

DIRECTOR & OFFICERS / EMPLOYMENT PRACTICES LIABILITY - \$5 Million

Exclusions and Coverage

An insured person is defined as "any past, present or future member of the faculty, student teacher, teaching assistant, representative to an education association of which WKU is a member, and any president, chancellor, provost, treasurer, vice president, dean, personnel director, executive director, risk manager, university counsel or other comparable senior administrator of WKU, regardless of whether they are considered as an Employee of WKU or an independent contractor". The following are also insured persons: "any past, present or future director, officer, trustee, employee, volunteer, or any committee member of a duly constituted committee of WKU, solely **when acting in his or her capacity as such**".

The coverage territory is world-wide. A covered claim would be an employment practices wrongful act, as defined by the policy terms.

This policy EXCLUDES coverage for any of the following whether alleging, arising out of, based upon, attributable to, or in any way involving, directly or indirectly:

- A) Bodily injury, sickness, disease or death of any person.
- B) Damage to or destruction of any tangible property, including loss of use thereof.

Immunity:

Individual employees of Western Kentucky University may, in limited circumstances, may be found personally liable for their actions, regardless of whether or not that action was completed in the scope of their employment. Faculty and staff leading off-campus learning experiences should always exercise prudence and good judgment to avoid exposing students and other participants to undue risk when traveling regionally, nationally, or internationally.

The Kentucky Supreme Court's most recent and authoritative statement defined official or public employee immunity as "immunity from tort liability afforded to public officers and employees for acts performed in the exercise of their discretionary functions. It rests not on the status or title of the officer or employee, but on the function performed."

Immunity continued:

As a result, employees of Western Kentucky University enjoy qualified official immunity in certain situations.

Qualified official immunity only applies to the negligent performance by a public officer or employee of

- (1) discretionary acts or functions (i.e. those acts or functions that involve the exercise of discretion and judgment, or personal deliberation, decision and judgment),
- (2) made in good faith; and
- (3) which are within the scope of the employee's authority and job duties.

Note that the employee's act must not only be discretionary to be afforded qualified official immunity, the discretionary act must also have been performed in good faith. Qualified official immunity will not apply if the employee knew or reasonably should have known that the action he/she took within his/her sphere of official responsibility would violate the constitutional rights of another, or if the employee took the action with the malicious intention to cause a deprivation of constitutional rights or other injury.

Qualified official immunity will not apply to the negligent performance of ministerial acts. A ministerial act is defined as one that requires only obedience to the orders of others, or when the employee's duty is absolute, certain, and imperative, involving merely execution of a specific act arising from fixed and designated facts. If the employee performs a ministerial act in a negligent manner, the employee will not be protected by qualified official immunity.

Examples of discretionary acts include rulemaking and hiring employees. Examples of ministerial functions are following and enforcing rules or policies that have already been promulgated.

BUSINESS TRAVEL

WKU maintains a business travel accidental death and dismemberment policy which covers all employees. The maximum benefit per accident is \$100,000 per individual with an aggregate per accident limit of \$500,000.

STUDENT ACCIDENTAL DEATH & SPECIFIC LOSS

WKU maintains an accidental death and specific loss policy which covers all WKU students while participating in non-athletic activities and field trips sponsored by the University. The principal sum is \$10,000. This is payable for accidental loss of life or dismemberment. This policy also includes \$5,000 of medical coverage for accidents. This medical coverage is secondary to any other medical insurance that is available to the student.

CLAIMS

BUILDINGS

Any claims for building damage from any source should be reported by telephone or email to the WKU Police Department, Facilities Management and to Risk Management.

EQUIPMENT

Any equipment stolen should be reported to the WKU Police immediately after the discovery of the loss. A Report of Property Loss form should be completed. See Property Insurance Claims on the Risk Management webpage for a link to the form and more information. A copy of the police report and detailed information concerning the replacement cost of the equipment should be sent to the Risk Management Office. The replacement cost information should include a complete description of the replacement equipment along with the vendor furnishing the replacement cost. The reporting department needs to provide the inventory number, if it is not on the police report.

VEHICLES

If you are involved in an accident while driving a WKU owned, leased or rented vehicle, you should first contact the police department in the jurisdiction of the accident. Secondly, you should complete the "On-site Accident Form" and follow the directions provided on that report. This report should be maintained and available in any WKU vehicle. If there are any injuries, you should report the accident to the Office of Risk Management immediately, either by hand carrying the on-site report to the Office of Risk Management or by faxing the report along with a telephone confirmation. After getting the official police report you should provide it to the Office of Risk Management. If the vehicle has full coverage, you should obtain two estimates and submit those to the Office of Risk Management. In the Commonwealth of Kentucky it takes a number of days before the official police report is available. There is a link to the "On-site Accident Reporting Form" on the Risk Management webpage under Vehicle Accident Report.

BOARD OF CLAIMS

Anyone who feels that they have a claim against Western Kentucky University because of negligence on the part of the University can obtain a BOC form from the Office of Risk Management, either by phone or the link to the form at the Risk Management webpage, and file that form with the Board of Claims in Frankfort.

MISCELLANEOUS CLAIMS

For any claims under the Business Travel or Student Accidental Death & Specific Loss policies or any other miscellaneous claims please contact the Office of Risk Management for specific instructions.

MISCELLANEOUS ITEMS

RENTAL VEHICLE INFORMATION (within U.S.)

If you are required to rent a vehicle for University business you should rent the vehicle from our contracted providers; **Enterprise and/or National**. The WKU Travel web page provides a portal to make reservations for either company and will correctly document the rental for our reduced rate with full insurance coverage. Please be aware that this coverage is **only** for University related business trips for which you are going to be reimbursed for the expenses. The rental agency sometimes requires the vehicle to be rented in an individual's name, but you can have WKU on the second line.

If Enterprise or National does not have vehicles available, then the department can rent from another agency. Note for other than Enterprise or National car rentals, the agreement must reflect WKU on the agreement. The rental agency sometimes requires the vehicle to be rented in an individual's name, but you can have WKU added on the second line.

For ALL Rentals please follow the steps listed:

1. Before taking possession of the vehicle or signing any rental forms that state you are taking the vehicle without damage, completely inspect the vehicle (inside and out) noting any damages
2. Have the rental company's agent agree (on the rental forms) that damages did exist at the time you took control of the vehicle
3. Upon returning the vehicle, again inspect the vehicle noting any damages
4. Have the rental company's agent note that either no damages existed or that all damages present were there when you originally took possession of the vehicle
5. If there were damages sustained while the vehicle was in your possession, you will need to complete an accident report form that is located on the Risk Management web page.

FIELD TRIP INFORMATION

On any field trip sponsored by Western Kentucky University there should be a Release and Waiver of Liability form obtained from anyone participating. Some examples of suggested waiver forms are available at the Risk Management webpage. In addition to the waiver form you should obtain (at a minimum) the following information from the individuals on the trip:

- Medical Insurance Coverage - a copy of their insurance card
- Emergency telephone numbers and names of persons to be notified in case of an accident (more than one name and number would be advisable)
- Notations of any medical conditions of which someone would need to be aware, if the student is not able to communicate.

If you are traveling as a group a person who is not going on the trip should be present as the group leaves. That person should make a list of the persons actually getting on the bus (or van). That list should be maintained in the departmental office along with the above listed information as well as an itinerary of the trip.

If the trip is an international trip you need to contact the Study Abroad Advisor or Assistant Director in the Office of International Programs. They can also provide additional information concerning in-country trips.

There may be some restrictions, requirements, or procedures that are required by Academics in addition to those detailed above. It is suggested that any academic field trip be reviewed by Academic Affairs.