



Policy, Risk & Environmental Programs (PREP)
Office of Risk Management & Insurance
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<http://www.ehs.colostate.edu/WRisk/Home.aspx>

To: Dr. Lou Swanson, Vice President for Engagement & Director
Colorado State University Extension

From: Sally Alexander, CRO & Director
Office of Risk Management & Insurance

A handwritten signature in black ink that reads "Sally Alexander". The signature is written in a cursive, flowing style.

Re: Liability Protection
CSU Extension Activities

Date: February 21, 2017

Colorado State University is protected from liability by the Colorado Governmental Immunity Act (24-10-101 et seq. C.R.S) and the Risk Management Act (24-30-1501 et seq. C.R.S)

The Governmental Immunity Act states that public entities (includes all public entities, cities, counties, school districts and other special government districts such as water and utility districts) in this state are immune from liability except in certain waived areas. In those waived areas the Act limits the assessment against public entities to **\$350,000** each person, and **\$990,000** each occurrence.¹ Paraphrasing² the statute, the areas of waived immunity are:

1. The operation of a motor vehicle, owned or leased and being used in the course of CSU's business;
2. The operation of any public hospital, correctional facility or jail;
3. A dangerous condition of any public building;
4. A dangerous condition of a public highway, road, or street which physically interferes with the movement of traffic;
5. A dangerous condition of any public hospital, jail, public facility located in any park or recreation area, public water, gas sanitation, electrical, power or swimming facility;
6. The operation and maintenance of any public water facility, gas facility, sanitation facility, electrical facility, power facility or swimming facility;

¹ The statute was amended to increase the limits. Formally the limits were \$150,000 per person, \$600,000 per occurrence. The statute now provides for an automatic adjustment of limits every 4 years, based on CPI.

² This information is a brief summary and a simplification of the actual wording. Please review the Colorado Governmental Immunity Statute for the actual wording.

7. Operation and maintenance of a qualified state capital asset subject to a leveraged leasing agreement;
8. Failure to perform an education employment required background check;
9. Performing prescribed burn operations.³

The Risk Management Act authorizes Colorado State University to maintain and manage a self-insured fund to insure against the liabilities for which immunity is waived. This fund does not provide any protection from liability for public entities other than Colorado State University. Other public entities in the State of Colorado must arrange for their own insurance, but do enjoy the same immunities we have.

Employees and authorized volunteers of Colorado State University, also have protections of the Colorado Governmental Immunity Act and the self-insurance fund for the areas of waived immunity as described above. The definition of a public employee and authorized volunteer is:

24-10-103 (4) (a) “Public employee” means an officer, employee, servant, or authorized volunteer of the public entity, whether or not compensated, elected, or appointed, but does not include an independent contractor or any person who is sentenced to participate in any type of useful public service. For the purposes of this subsection (4) “authorized volunteer” means a person who performs an act for the benefit of a public entity at the request of and subject to the control of such public entity.

Please note that the Governmental Immunity Act does restrict protection of employees to acts within the scope of employment that are not willful and wanton. **There is no protection for criminal acts.**

Private individuals and industry do not have any governmental immunity, and each is responsible for the acquisition of their own insurance.

To help clarify:

- a. Colorado State University employees and authorized volunteers are protected from liability for injury or damage to others by immunity or the self-insured program. Liability protection is provided only for actions within the scope of employment or volunteer appointment, and as long as such actions are not willful and wanton. Criminal acts are NEVER covered.
- b. Liability protection is not workers compensation coverage, which provides Colorado State University employees medical expenses and other benefits for compensable on the job injuries. **CSU authorized volunteers are NOT covered by CSU’s workers compensation insurance.**

³ The statute has been amended to add prescribed burn operations to the list of waived areas.

- c. Other public entity employees and authorized volunteers, e.g. county, city etc. share the same immunities as we have, but they are not protected by CSU's self-insurance program.
- d. Authorized volunteers of the CSU Extension Service are protected from liability in the same manner as CSU employees. To qualify as an authorized volunteer of CSU, the performance of any "duties" must be for the benefit of CSU, at the request of and under the supervision of CSU. (Some volunteers may be volunteers for the county, or another public entity or of a private enterprise as the case may be. These volunteers are not authorized volunteers of CSU, and are not protected by CSU's self-insurance program.)
- e. CSU authorizes CSU employees and authorized volunteers to use CSU owned vehicles. CSU owned vehicles can only be used for CSU business. Personal use of a CSU owned vehicle is strictly forbidden. While driving a CSU owned or leased vehicle on CSU business, both CSU employees and authorized volunteers are protected from liability by CSU's self-insurance program.
- f. Please remember that for use of a personal vehicle on CSU business, the personal auto insurance is primary and is expected to respond first. This applies to personal vehicles belonging to both employees and authorized volunteers. CSU does not cover damage to personal vehicles. Please remember that employees who sustain bodily injuries in motor vehicles, including personal motor vehicles may be eligible for workers compensation coverage, provided they meet the requirements for compensability under the Workers Compensation statute. Authorized volunteers of CSU are not eligible for workers compensations benefits. If you have questions please contact the Office of Risk Management at Tel # 970 491 6745, or visit our website <http://rmi.prep.colostate.edu/>
- g. For leased vehicles please remember that CSU participates in the State Travel Management Program. The State of Colorado has negotiated auto liability limits with authorized vehicle leasing companies, which is why CSU employees are required to lease vehicles from only those vendors.

Please see <http://busfin.colostate.edu/Depts/TravelSvcs.aspx> for state approved car rental agencies.

In addition through CSU's agreement with the credit card company that holds CSU's State Travel card, CSU participates in the visa collision damage waiver program. This means that employees renting vehicles from authorized vendors must use their state travel card, and must decline the collision damage waiver offered through the vendor. Remember: collision damage waiver refers to responsibility for physical damage to the rented vehicle, while auto liability refers to third party liability arising out of a motor vehicle accident. For damage to the rental vehicle please make sure that the credit card carrier is **notified**

immediately, as conditions and limits may apply. For additional assistance please contact CSU's Travel Services <http://busfin.colostate.edu/Depts/TravelSvc.aspx> .

- h. Independent contractors are specifically excluded from protection of immunity or the self-insurance fund (see definition of a public employee above.)
- i. Owners of private property are not protected from liability by CSU, either through the protections afforded by the Immunity Statute, or the self-insurance program. For example a farm owner is not protected by injuries occurring on his property.

To ascertain if an event or function is a function of the state, county or other entity, determine who will benefit from the event, who is requesting the event, and who is controlling the event. Only those events benefitting CSU, at the request of CSU and controlled by CSU are functions of CSU.

4-H functions are generally considered functions of CSU. 4-H leaders are authorized volunteers of CSU. However participants of 4-H events, member and parents etc are not protected from liability by immunity or by the self-insurance program of CSU. Please note that clubs may wish to purchase medical coverage policies to cover participants.

There may be times when a certificate of insurance certifying CSU's insurance coverages is required for an Extension Service event or agreement. Please make sure that you contact our office prior to signature, as there may be insurance requirements for CSU that we are unable to certify. For example: CSU cannot certify that its insurance is primary and non-contributory. Neither can our certificates certify that the carrier will provide notice of cancellation or change in coverage.

A certificate of insurance may be requested by completing the certificate of insurance request form see <http://rmi.prep.colostate.edu/insurance/contracts/certificates-of-insurance/> and sending it to Joyce Pratt at, Joyce.Pratt@colostate.edu, tel # 970 491 1432.

A copy of the agreement is required to be attached to the request. As a matter of information, complete copies of requests should be provided by your office. If you need assistance please contact Joyce Pratt, Insurance Program Assistant at 970-491-1432.

Further, the constitution of the State of Colorado forbids the pledging the credit or the faith of the state. Therefore, hold harmless or indemnification agreements are not authorized. All such requirements by private individuals, corporations, or other public entities must be submitted to legal counsel for review. In most cases, you will find that the other party will eliminate these requirements upon becoming aware of the prohibition of such clauses.