

SPOTLIGHT

A publication focusing on loss prevention information from the Risk Management Division of Washington State's Office of Financial Management

RISK MANAGEMENT DIVISION
OFFICE OF FINANCIAL MANAGEMENT

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VOLUNTEERS: UNPAID WORKERS ARE NOT "FREE"

Many state agencies rely on volunteers in part to carry out their mission. Frequently when managers hear the words "volunteer liability" they think about risk of injury to the volunteer. Risk to the volunteers themselves is only part of the overall risk picture.* In many cases the more significant loss exposure comes from accidents and incidents *caused* by the volunteer.

**State agencies are required to report all hours worked by volunteers to the Department of Labor and Industries. Volunteer hours are reported in risk classification 6901, which only has premium in the medical aid fund. Benefits for volunteers cover medical services only.*

State agencies should track volunteers by knowing how and where they are being used. A complete risk assessment should be done by the agency's risk manager to identify risks associated with using the volunteers, and determine how those risks should be treated.

Agencies are responsible for the actions of their volunteers and are expected to reasonably foresee and address the risks associated with using their services. The legal doctrine behind this responsibility is the "agent" relationship created between the organization and the volunteer. In short, if an agency has or should have control of a volunteer, it can be held responsible for his or her actions. A volunteer can create expectations of safety or service delivery, which translates as a liability exposure for the agency.

Agencies that use volunteers need to identify who they are and what they do as part of an overall Enterprise Risk Management (ERM) program. Risk management strategies for volunteers may include:

- Background checks
- Driver license and driving record checks
- Drivers training if volunteers are approved to drive state vehicles (including a review of agency and statewide driver/vehicle policies)
- Proof of insurance if the volunteer is driving a personal vehicle on state business
- Proper interview process
- An orientation program (including safety orientation applicable to job risks)
- Supervision
- Clarity of the volunteer's job role—including a job description
- Performance evaluations in some cases
- A written volunteer agreement



Click on this website link for a wealth of information on developing and managing volunteer programs.

<http://www.managementhelp.org/staffing/outsrc/volunteer/volunteer.htm>

If you would like assistance with conducting a risk assessment for your agency's volunteer programs, please contact your assigned Risk Specialist.

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For Risk Specialist assignments click on <http://www.ofm.wa.gov/rmd/budget/default.asp>.

Commercial Insurance Update

TAKING NOTE OF NOTARY PUBLIC BOND REQUIREMENTS

Roles and responsibilities are outlined in notary public bond requirements.



RCW 42.44 - Requires all individuals applying for a notary certificate in the State of Washington to file a \$10,000 notary public bond with the Department of Licensing (DOL) prior to their appointment as a notary public.

RCW 43.19.1935 - Assigns the responsibility and authority for the purchase of commercial insurance and bonds for all state agencies with the Risk Management Division (RMD). RMD has the authority to authorize state agencies to make direct purchases, and as such has established a procedure which allows state employees to purchase notary bonds directly from the state Broker of Record.

For more details on the procedure for "Purchasing Notary Bonds for State Employees", visit the RMD web site at <http://www.ofm.wa.gov/rmd/risk/notarybond.asp>.

For questions or assistance, contact **Claudia Schmitz** at (360) 902-7306.

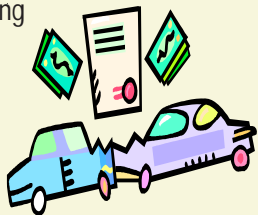


CLAIMS

Is Your Agency Prepared For Tort Claims?

Encarta defines an accident as an "unplanned and unfortunate "event" that results in damage, injury or upset of some kind".

While the perennial loss prevention push aims to nip at the number of events (incidents, accidents, claims, and lawsuits), the reality is that unplanned and unfortunate events will occur, some resulting in tort claims. So, the question is—does your agency have a timely and effective process in place to address unplanned events?



The old cliché "time is of the essence" aptly describes the follow-up timeline for unplanned events (keeping in mind it may not be a tort claim yet). Obviously, an adequate emergency response to the event is critical. But just as imperative is the mundane and equally important follow-up once emergency actions are in place.

In their role as claims adjudicators, the Risk Management Division (RMD) claim staff has a unique perspective on the value of timely and adequate post-event follow by agencies. Untimely or inadequate information usually results in extra work for that agency as well as RMD claims staff. This is easily avoided through established policies and processes. The RMD claim staff compiled the following self-survey to help agencies answer the question—how prepared are you to address tort claims?

- Has your agency established an event reporting policy for employees or students to report incidents, accidents, injuries, property loss, or related event that occur on the job or on campus? If not, should implementing a policy be considered?
- Is the policy adequately communicated and reinforced with employees and students?
- If your agency has a policy in place, does the time frame for reporting the incident give you adequate time to investigate the incident properly? In other words, is the evidence still fresh and not tainted, injured party contacted and statement taken, witnesses contacted, photos taken in a timely matter, etc.?
- Is the final report reviewed for completeness? Apply this simple test. Does the incident report contain enough information that you could answer questions under oath in court years after the incident took place?
- Does the established follow-up process require an agency official (e.g., supervisor, safety officer, security officer) to complete the incident report? RMD has seen instances where claimants filled out their own incident reports, which were submitted to RMD with no agency follow up.
- Does the report contain essential information? No matter how minor the incident, write the report as if a lawsuit was going to be filed against the agency. In other words, write event or incident reports to include the basic facts that are answered with the questions: WHO, WHAT, WHERE, WHEN AND HOW.

LEGAL



LINKS

A lawsuit is started when a *summons and complaint* is filed with the court and served on a party to the lawsuit. As an agency employee receiving the *summons and complaint*, you should take the following actions:

- Immediately notify your supervisor and agency risk manager.
- Call the agency AAG; and
- Send a copy of the *summons and complaint* to the AAG so he/she is aware of the lawsuit, noting the date, time and location you were served, and the method of service.

Possible consequences for not initiating the above actions:

- If the supervisor or risk manager is not notified, agency records important to the defense may not be preserved.
- If the AAG is not notified, the plaintiff may have the court enter a default and the case could be resolved against you.

Disclaimer: *This is not legal advice and should not be used as legal advice. It is merely a general educational item that may be of use to risk management efforts within state agencies.*



RMD STAFF FOCUS

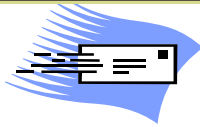


New Investigator Joins RMD

Michael Hopkins joined the Risk Management Division (RMD) on March 16, 2007 as a tort claims investigator. He joins RMD's claims team of Greg Pressel, Brian Agar, Geri Hartley, Kathy Cleveland, and Nazmoon Rodulfo. Mr. Hopkins also serves as RMD's office safety coordinator.

Mr. Hopkins worked over 20 years as partner in a private liability claims administration firm in northern California investigating and managing public agency liability claims for numerous self-insured public agencies. He managed a number of northern California liability claim offices including Chico, Sacramento, and Redding. He also developed an in-house liability claims program for the City of Redding prior to returning to Washington state.

Michael currently lives in west Olympia and is waiting for a new home to be built in a nearby area. He enjoys all that the great state of Washington has to offer in outdoor recreation such as hiking, kayaking, biking and golf. Michael likes to cook, and as such is constantly amazed to see the Northwest's high quality of fish and fresh vegetables. Michael has two grown children, Tyler 21, and daughter, Ashley 23.



Fast Fact

The National Transportation Safety Board (NTSB) opened its doors April 1, 1967. It's an independent federal agency charged with investigation of every civil aviation accident in the United States and major accidents in other modes of transportation (highway, rail, marine and pipeline). It is a "safety recommendations", not a regulatory agency.



- It has investigated about 130,000 aviation accidents and thousands of highway, rail, marine and pipeline accidents.
- In its 40 years, the NTSB has issued some 12,600 safety recommendations, with an average acceptance rate of 82 percent.
- If the air carrier accident rate were the same today as it was in 1965, the United States would average a fatal airliner accident every 10 days.
- Except for the terrorist attacks of 2001 (which were deliberate criminal acts), no year since 1990 has seen more than 4 fatal scheduled air carrier accidents in the US. The annual number of general aviation crashes has dropped by two thirds in the last 40 years.
- Highway safety has improved dramatically in that period of time as well. Although the number of highway fatalities has fallen only 17% in the last 35 years, the extremely large increase in miles driven has resulted in a drop in the fatality rate of about 70%. NTSB website: <http://www.nts.gov/>.

Is your Agency's Fleet Safety Initiatives Addressing Rear-end Collisions?

STATEWIDE AUTO LIABILITY TOTALS FOR REAR-END INCIDENTS*

FY	#Filed	# Pending With Pay	# Pending W/O Pay	#Closed W/O Pay	# Closed With Pay	Total Paid
2002	327	0	4	224	99	\$ 562,169
2003	308	0	3	189	116	\$ 500,536
2004	201	1	6	142	52	\$ 554,764
2005	231	1	5	156	69	\$389,752
2006	232	1	8	155	68	\$256,796
2007*	234	3	41	143	47	\$143,317
Grand Totals	1,533	6	67	1,009	451	\$2,407,336

*Source - OFM-RMD Data as of May 31, 2007 - Includes all incidents, claims, and lawsuits.

