

Attorneys

Cheryl G. Strecker
General Counsel

Peter J. Paukstelis
Associate General Counsel

Lindsay A. Chapman
Assistant General Counsel

Maureen A. Redeker
Assistant General Counsel

Paralegal Staff

Amy L. McLemore
Nancy A. Kruse

Liability for Employment-related Activities

One of the most frequent questions we get from K-State employees is, “What happens if I get sued?” Under the Kansas Tort Claims Act (“KTCA”), the state of Kansas assumes responsibility for the negligent and wrongful acts and omissions of its agents and employees acting within the scope of their employment. Negligence is failing to exercise ordinary care under the circumstances. There will be liability only if there is negligent or wrongful conduct that causes damages.

Through the KTCA, the state provides a recovery mechanism for harmed individuals and also provides protection for employees of the state, including volunteers and student employees. The state provides legal representation (our office and/or the Kansas Attorney General’s Office) and indemnification (state funds). In other words, K-State employees who are sued for acts committed within the scope of their employment need not hire their own lawyer, and their own money is not on the line — even if they are named individually in a lawsuit. Representation is denied only if the

employee fails to cooperate in the legal proceedings or engages in actual fraud or malice. To date, representation has never been denied in any K-State related litigation.

The key coverage consideration to remember is that the employee must be acting within the course and scope of his/her employment duties if a liability claim or lawsuit arises from the employee’s actions or inactions. Examples of actions that fall within the scope of employment include faculty advising activities, University committee service (such as service on grievance committees, or tenure and promotion review), and hiring or firing decisions.

Even though employees are covered for personal liability, their actions are imputed to the employer, so K-State will potentially be liable for their negligent or wrongful actions. And keep in mind that although the state provides representation and indemnification, the covered employees may still be subject to disciplinary action for misdeeds on the job.

FERPA Continues to Evolve

We all know that the law prohibits us from revealing students’ grades to other people. But many of us are unaware that the Federal Educational Rights and Privacy Act or FERPA — the federal statute that governs most student privacy issues — continues to go through changes. The basic rights college students have under FERPA include:

- (1) accessing one’s own educational records;
- (2) challenging the accuracy of those records; and
- (3) protecting those records from inappropriate disclosure to others.

In general, the newest changes to FERPA allow for greater access to student records for the purpose of conducting research. A recent summary of those changes, prepared for the National Association of College and University Attorneys, can be found at: www.nacua.org/nacualert/notes/RevisedFERPA.pdf.

The University’s web page regarding FERPA and student privacy can be found here: k-state.edu/registrar/ferpa.



Office of General Counsel

Kansas State University
111 Anderson Hall
Manhattan, KS 66506
785-532-5730
785-532-5603 fax
attys@k-state.edu





Parade Permits

The City of Manhattan requires that certain activities (such as parades on City streets) be allowed only with a permit, which must be supported by evidence of adequate insurance coverage.

Kansas State University does not carry general liability insurance, but as a state agency it is covered for liability up to certain limits under the Kansas Tort Claims Act. If a parade permit request is for a University-sponsored and approved activity, the City will accept a letter from the Office of General Counsel describing the University's liability coverage in satisfaction of the insurance requirement.

Student organizations registered with the University are not units of the University and do not have coverage under the Kansas Tort Claims Act. Therefore, the Office of General Counsel cannot issue a liability coverage letter to such groups. If, however, the group's activity or event is approved and co-sponsored by a department, unit or program of the University, it may be considered a University-sponsored activity, and the approving University official should contact the Office of General Counsel to obtain the letter.

Featured FAQ

Q: Does the University have general liability insurance?

A: No. Under the Kansas Tort Claims Act, K.S.A. 75-6101, et seq., the State of Kansas has assumed liability for the negligent or wrongful acts and omissions of its employees and agents, including students who are acting as employees or agents, acting within the scope of their responsibilities on behalf of the State of Kansas. This includes Kansas State University. The liability for claims within the scope of the Act may not exceed Five Hundred Thousand Dollars (\$500,000) per occurrence. As a state agency, the University is self-insured for worker's compensation liability. It is also covered by the State's fleet auto liability policy, which has coverages of \$500,000 per person, \$500,000 per accident, and \$100,000 per accident for property damage liability.

If you are asked as a University official to supply a certificate of liability insurance for a University event or contract, please contact attys@k-state.edu and we will provide you with a letter certifying the above provisions.

For more FAQs, please visit our website at k-state.edu/generalcounsel/faq

Visit our website:

k-state.edu/generalcounsel
Our website gives an introduction to the services we provide and addresses frequently asked questions. It also houses a list of resources for easy access to laws and policies applicable to University operations.

New Assistant General Counsel

Maureen Redeker, an attorney with experience in higher education law, has joined the Kansas State University legal team as an assistant general counsel.

Redeker earned her J.D. summa cum laude from Florida State University College of Law in 2007 and her B.S. in Business Administration from Maryville University of St. Louis in 2004. She has a diverse legal background, including clerking for a federal judge, working in private practice, representing the State of Kansas, and working in federal administrative law. Redeker

has also provided part-time and contract legal services for Kansas State University over the past two years.

Please drop by our office at 111 Anderson Hall on Tuesday, May 14, between 10:00-11:30 a.m. to meet Maureen and welcome her to K-State.



End Notes:

Quote of the Day

"The law is reason, free from passion."

— Aristotle

On the Lighter Side (from actual court transcript):

Lawyer: "How old is your son, the one living with you?"

Witness: "Thirty-eight or thirty-five, I can't remember which."

Lawyer: "How long has he lived with you?"

Witness: "Forty-five years."

About this Publication:

This newsletter is designed to serve as a practical informational tool, bringing you topics of interest and practical tips. It should not be relied on as a substitute for legal advice. Laws, regulations and policies change frequently, and legal advice requires careful consideration and application of all relevant facts. If you have legal questions or need legal advice concerning any University matter, please contact the Office of General Counsel directly at 785-532-5730 or attys@k-state.edu