

When to Use Waiver and Informed Consent Forms

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A waiver is a legal contract between the participant attending a program or event and the organization delivering that program or event. Waivers and informed consents are tools that the University of Alberta uses to educate and inform participants of the risks they may be exposed to when they participate in voluntary activities so that they can make informed choices about their own health and safety. These documents ask participants to take responsibility for their own actions and assume the risks associated with their participation in a voluntary program or event. Waivers can also be a valuable risk management tool to help limit the organization's liability.

Insurance & Risk Assessment is responsible for assisting University of Alberta faculties, department, and administrative units with the development and administration of waivers and informed consents. The following guidelines will help the university community understand our institutional approach to waivers and informed consents and provide staff with important information about how to obtain and manage such documents on behalf of the University of Alberta.

Please note: Insurance & Risk Assessment **does not issue informed consent forms for research involving human subjects**. Contact the [Research Ethics Office](#) for information about informed consent documents and procedures for research.

Contents

[What is a waiver?](#)

[What is in a waiver?](#)

[What is an informed consent?](#)

[Why do we need waivers and informed consents?](#)

[When do we need to use a waiver?](#)

[When do we need to use an informed consent?](#)

[When is a waiver not an appropriate tool?](#)

[Who should sign a waiver or informed consent?](#)

[Who should NOT sign a waiver or informed consent?](#)

[How do we get a waiver or informed consent issued for our program or event?](#)

[How often do we need to request new waivers?](#)

[How do we administer the waiver?](#)

What is a waiver?

A Waiver and Release of Liability form is an **intentional and voluntary contract** between a participant and an organization that asks participants to take responsibility for their own actions and assume the risks when they voluntarily participate in a program or event.

The participant's signature on the waiver creates a binding contract whereby the participant gives away their right to sue if they are injured, even if the injury resulted from the negligence of the people organizing the activity. For waivers to be upheld they need to be properly constructed and implemented, and the way they are administered will be considered.

Only participants who are **18 years of age or older** may sign a waiver.

What is in a waiver?

Waivers ask participants to accept two types of risk: physical (inherent) risk and legal risk (due to negligence) of a particular activity. Waivers need to make it clear that injury and loss can be caused as result of either kind of risk. These types of risk are covered by distinct sections of a waiver:

- **Assumption of Risks:** draws attention to the **physical risks** or hazards associated with the activity. Explicit wording specific to each activity is necessary in this section because claims can still be actionable if the waiver fails to cover a specific risk or injury, no matter how obvious it may seem.
- **Release of Liability and Indemnification:** addresses the **legal risks** associated with the activity by ensuring that participants understand their responsibility in any cases of injury or property damage arising from their participation. It is very important to capture and include **possible negligent acts** in this section.

Through consultation with General Counsel and the Information & Privacy Office, Insurance & Risk Assessment has drafted standard waiver templates for various university activities. Each template includes the following sections:

- University of Alberta logo - makes it clear that UAlberta is the organization entering into the contract with the participant.
- Name & date of activity and name of organizing faculty/department/administrative unit.
- Warning about giving up legal rights - for a court to consider the waiver valid, it must be very clear to participants that they are being asked to give up their right to legal

recourse for any injury or loss they may suffer. This is why the warning is highlighted in colour and printed in bold, capital letters.

- Name, UAlberta ID (if applicable), street address, email address of the participant - to confirm the identity of the person who signed the waiver.
- Age (for informed consent) - in order to set an appropriate retention schedule.
- Emergency contact information - so activity organizers can communicate with the designated person in case the participant is seriously injured or ill.
- Assumption of risks - explicit wording describing the physical risks of the activity. Needs to be tailored to the specific activity or event.
- Release of Liability and Indemnification - releases the university from liability and protects us against loss or damage caused by the participant's actions.
- Acknowledgement - asks the participant to confirm that they 1) have read and understood the waiver, and 2) are willing to accept the risks.
- Signature box - includes signature date and location as well as printed name and signature of the participant (or parent/guardian) and a witness
- FOIP notification statement - describes why personal information is being collected and how it will be used.
- Distribution & retention instructions - helps staff with waiver administration.

For some activities, such as international travel, the waiver will also include a section regarding the participant's responsibility to obtain their own medical, health, and travel insurance.

The following information should NEVER be collected on a waiver:

- Birth date
- Health care number
- Gender

Waivers and informed consents should NEVER attempt to cover a third party by including their name in the Release of Liability and Indemnification section, as this could create additional liability for the University vis-a-vis the third party.

Waivers are strongest as a stand-alone document, must be signed before an individual can participate in the activity, and should therefore not be combined with other documents such as photo consents or registration forms, unless this has been approved by Insurance & Risk Assessment. Please see [What To Do With Waivers and Informed Consents](#) for more specific information about content and administration of waivers.

What is an informed consent?

When participants are **under the age of 18** their parent or legal guardian must sign an informed consent form rather than a waiver. An informed consent is an effective tool to make

parents/guardians aware of and ask them to accept the physical risks associated with an activity before their child participates.

Why do we need waivers and informed consents?

An appropriately worded and effectively executed waiver can offer the university protection from legal liability and reduce the exposures to claims by third parties. It can also be an effective way to educate and inform participants of the risks they will be exposed to when they participate in voluntary activities so they can make informed choices for their own health and safety.

It is important for faculties, departments, and administrative units to remember that, regardless of the strength of a waiver, courts have discretion to render it unenforceable if the plaintiff can demonstrate an “unconscionable level of negligence.” Courts are also more likely to hear a case if a plaintiff has suffered catastrophic injuries. Waivers should never be used in place of more important tools to protect people from injury, such as effective systems to schedule, maintain, and document facility maintenance and safety procedures.

When do we need to use a waiver?

Examples of activities organized by the University of Alberta requiring waivers:

- Recreational trips such as ski trips or hiking trips
- Travel for overnight trips and/or trips outside of Alberta
- Events involving high-risk physical activities such as wall climbing or water sports
- Campus & Community Recreation programs
- Activity including extraordinary exposures such as field work in remote locations
- Visitors to campus working on their own research in high-risk settings such as laboratories

If you are not sure whether you need a waiver, please feel free to contact Insurance & Risk Assessment or [submit a waiver request](#) and we can work with you to determine the best risk management tools for your activity.

When do we need to use an informed consent?

Informed consents should be used to inform a parent or guardian of physical risks that their child may be exposed to when participating in a university program or event. Example of activities organized by the University of Alberta requiring waivers:

- Sports camps
- Science camps
- Campus & Community Recreation programs
- Student volunteers gaining work experience

- First year students who have not yet reached the age of 18 may need to have a parent/guardian sign an informed consent when waivers have been issued for an activity

If you are not sure whether you need an informed consent, please feel free to contact Insurance & Risk Assessment or [submit a waiver request](#) and we can work with you to determine the best risk management tools for your activity.

When is a waiver not an appropriate tool?

Insurance & Risk Assessment **will not issue waivers for personal activities** (i.e. any activity not organized by, related to and approved by the university).

Waivers should not be used in lieu of a more formal agreement between the University and an external organization or service provider (eg. service contracts or student placement agreements) or instead of one of the following procedures. The university may decide to have individuals sign waivers **in addition** to the below, but the appropriate process or tool needs to be in place first and foremost:

Tool to Use	Activity	Department to Contact
Academic Visitor Registration Form	Academic visitors to campus	Academic Visitor Office
Alcohol Event Application	Alcohol event	Insurance & Risk Assessment
BearsDen application	Registered Student Group activity	Dean of Students
Consent for the use of photographs, videos, audio recording forms	Consent for the use of photographs, etc.	Information and Privacy Office
Equipment Asset Loan Agreement	To rent equipment FROM an external group or individual	Equipment Services
Equipment Loan Agreement	To rent equipment TO an external group or individual	Equipment Services
Facility License Agreement	Facility usage by external group or individual	Real Estate Services
Field Activity Plan	Field research	Field Research Office

Off-Campus Activity & Travel Planning Tool	International travel	Insurance & Risk Assessment or University of Alberta International
Placement or Practicum agreement (between the two organizations)	Student placement or practicum	General Counsel *
SupplyNet	Contract for goods & services	Supply Management Services
Volunteer registration form	Volunteer registration	Insurance & Risk Assessment

*Please note that units contacting General Counsel should do so through the authorized contact in your portfolio (see the [Retention of External Legal Counsel Procedure](#) for more info).

Who should sign a waiver or informed consent?

Only an individual participant should sign a waiver. An individual should NOT sign a waiver on behalf of a group of people. A participant must be 18 years or older to sign a waiver. The parent or guardian of a minor (under the age of 18) should sign an informed consent before the minor participates in the activity.

A witness should also sign the waiver or informed consent in case we ever need to prove that the participant did, in fact, sign the form. Wherever possible, the witness should be a university representative and should be available to answer any questions the participant has about the waiver before signing. When the witness is not a university representative, it is important that they are not an immediate family member of the participant. Please see [What To Do With Waivers and Informed Consents](#) for more specific information about witnesses.

Who should NOT sign a waiver or informed consent?

Waivers should not be signed by:

1. Staff who are performing mandatory job duties.
2. Someone who is intoxicated and/or, by law, does not have the mental capacity to sign a contract.

How do we get a waiver or informed consent issued for our program or event?

For assistance drafting a waiver for your **faculty, department, or administrative unit**, please take the following steps:

1. For activities including international travel, please use the [Off-Campus Activity & Travel Planning Tool](#) to complete a risk assessment of your trip before submitting the waiver request form. Please submit your request at least 1 month in advance of the trip, if possible.
2. If your event involves alcohol service, please complete the [Alcohol Event Application](#) and Insurance & Risk Assessment will work with you to determine whether you need waivers in addition to alcohol event approval.
3. For all other activities, complete the [waiver request form](#) at least 15 business days prior to your event. This Google form will capture all waiver requests and we will use the information collected for better communication with stakeholders, quality assurance, and oversight of waiver usage.
4. You can expect a response from Insurance & Risk Assessment within 1 week.

If your faculty, department, or administrative unit frequently issues waivers for the same kinds of activities, please contact Insurance & Risk Assessment and we will work with you to develop your own templates for use.

Waivers and informed consent should NEVER BE ALTERED without the express written permission of Insurance & Risk Assessment ([refer to this list for departments with permission](#)). No external group or third party except a registered and approved University of Alberta Student Group can be included in the waiver or informed consent.

Registered Student Groups should submit their event to BearsDen as early as possible before the activity, and the Student Event Risk Management Coordinator will assist with waivers.

How often do we need to request new waivers?

The Assumption of Risks section of a waiver needs to be different depending on the activity for a court to consider the waiver valid. This means that a waiver should be tailored as much as possible to each event, program, or trip, in order to cover all of the risks associated with a specific combination of activities.

A waiver or informed consent has a maximum “usage” of one year. For example, if you have a waiver for a drop-in activity that goes throughout the year, you are required to set up a system to ensure that each participant signs a new waiver at least once a year.

If you change any activities in the drop-in program or add activities that were not originally considered when the waiver or informed consent was built, you must contact Insurance & Risk Assessment or use the [request form](#) to request an updated waiver. Once completed, all participants must sign the new waiver.

If your faculty, department, or administrative unit has your own templates for use, you must contact Insurance & Risk Assessment to have your waiver updated any time you change the

type of activity, location, or type of participants in your program. The only information you should ever change on a waiver template is the activity date and name.

Insurance and Risk Assessment will communicate changes made to the waiver procedure to users who have requested waivers through our Google form. Templates will be reviewed at least once every two years to ensure they stay current with the most up-to-date legal language.

How do we administer the waiver?

Courts have found that the way the waiver is explained and administered by the organization is as important as the composition of the waiver when determining whether the participant had sufficient notice and information about the risks associated with the activity.

We have developed guidelines to give faculties, departments, and administrative units the “dos and don'ts” of distributing, collecting, and storing waivers. Once you have your waiver or informed consent drafted by Insurance & Risk Assessment, please see [What To Do With Waivers and Informed Consents](#) for more specific information about the university's procedures.

What To Do With Waivers and Informed Consents

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This document is for the use of University of Alberta **faculties, departments, and administrative units** who have received waivers or informed consents from Insurance & Risk Assessment for their program or event.

Registered Student Groups will receive a different version of this document from the Student Event Risk Management Coordinator once their event has been approved through [BearsDen](#).

Once you have [requested a waiver or informed consent](#) from Insurance & Risk Assessment for your program or event, follow these simple guidelines to ensure proper execution.

Here is a quick summary of the “dos and don’ts” of waiver or informed consent administration. More detailed information about each point is also provided below.

DO	DON'T
Give participants advance notice	Administer just before you leave on a trip
Give participants an opportunity to read the waiver or informed consent and ask questions	Alter the waiver or informed consent provided to you by Insurance & Risk Assessment without express permission
Enforce a “no signature, no play” policy	Administer to someone under the influence of alcohol or drugs
Have a UAlberta representative witness the signature, whenever possible	Allow participants to cross out or delete sections of the waiver or informed consent
Follow a consistent administrative procedure in you department	Allow minors to participate in high-risk activity
Print the waiver or informed consent double-sided, in colour, on a single piece of paper	Collect more personal information than is necessary for the administration of the program or event

Keep signed waivers and informed consents on file according to the recommended retention period	Allow the participant to list a fellow participant as their emergency contact
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Contents

[Give participants advance notice](#)

[Explain the waiver or informed consent](#)

[Do not sign waivers when or where alcohol is being served](#)

[Witnesses](#)

[Witness contact information](#)

[Enforce a “no signature, no play” policy](#)

[Implementation best practices](#)

[Collection of personal information](#)

[Minors](#)

[Do not collect](#)

[Emergency contact](#)

[Storage of waivers and informed consent forms](#)

[Retention guidelines](#)

[Storage Format Best Practices](#)

Give participants advance notice

Whenever possible, advance notice of the requirement to sign a waiver or informed consent should be given to all participants. For example, mention the requirement to sign a waiver or informed consent in promotional literature distributed to potential participants. Ideally, the waiver or informed consent will be provided well in advance of the program starting or during registration so that participants can have time to read it and appreciate its impacts and consequences.

Explain the waiver or informed consent

Provide the participant with some general information about what the waiver or informed consent is intended to do. It is important that the participant understands what they are doing by signing the waiver or informed consent. This will be of particular concern if you are dealing with international students who do not have a strong grasp of English. Their inability to understand what they are signing could impact whether the waiver or informed consent is found enforceable by a court. You should use the following explanation:

"The document you are asked to sign is a waiver and release of liability. The purposes of this document are to make you aware of the risks associated with this activity, to ask you to accept those risks, and to help you understand your responsibility in case of injury or property damage arising from your participation. This will allow you to make an informed choice about whether to participate. This is a legal document and, by signing, it you are giving up certain legal rights, including the right to sue should you be injured during participation."

If the participant has more questions, do not feel pressured to attempt a more elaborate explanation, but instead suggest the participant re-read the document. If the participant still has questions, please refer them to Insurance and Risk Assessment for more information.

Do not sign waivers when or where alcohol is being served

Someone who has been drinking cannot sign a waiver. If waivers are signed just prior to the event (this should only rarely occur because waivers should be signed well in advance), anyone who has been drinking will not have the legal capacity to sign the waiver and therefore **cannot and will not be allowed to participate**.

Witnesses

A waiver or informed consent should be signed in front of a witness. Whenever possible, the witness should be a University of Alberta representative (specifically designated staff or registered volunteer of the faculty, department, or administrative unit) and should be the person that explained the waiver or informed consent to the participant. Sometimes this will not be administratively possible (for example, when a parent/guardian needs to sign on behalf of an international student who is 17). In these cases, the witness **MUST NOT** be an immediate family member of the participant.

Please keep in mind that in rare circumstances, a witness may have to appear in court to testify as to the execution of the document, so they should be informed of this responsibility. Each waiver or informed consent should be signed and witnessed the same way every time with no exceptions so that it is easier on the witness if they are ever required to testify in court as to how the waivers or informed consents were administered.

Witness contact information

When the witness is not a designated UAlberta representative, the witness **MUST NOT** be an immediate family member of the participant and the witness must provide their name and address for identification purposes.

Enforce a “no signature, no play” policy

When a faculty, department, or administrative unit has worked with Insurance & Risk Assessment to determine that waivers or informed consents will be used for an activity, all participants must sign the waiver or informed consent in order to participate. Anyone who refuses to sign the waiver or informed consent should not be allowed to participate in the activity.

Implement best practices

It is important for your department to follow a simple, consistent procedure when issuing and collecting waivers or informed consents. Everything should be done the same way by everybody every time so that if they ever need to provide evidence in court relating to waivers or informed consents they can speak regarding their "standard process."

Here is an example of a standard process you may wish to adopt in your department:

1. The waiver or informed consent should be printed and/or copied in colour to a single double-sided page.
2. As noted above, the form should be signed in front of a witness, if possible.
3. The witness should ask each participant: “Have you read and do you understand the waiver or informed consent?”
4. The witness should check the waiver or informed consent to ensure:
 1. that the personal information, emergency contact, printed name, initials have been provided;
 2. that the participant **has not changed or crossed out** any of the wording of the waiver or informed consent;
 3. that the participant is over 18. If they are not over 18, their parent/guardian should sign the form instead;
 4. that the participant has indeed signed and dated the waiver or informed consent.

Only after all the above points have been confirmed should the witness sign the waiver or informed consent.

Collection of personal information

It is important not to collect unnecessary personal information on a waiver or informed consent but some information is required so that we are able to identify individuals that have signed (in case of legal action). Participants will be required to provide their name, UAlberta ID (if applicable), street address, and email address. The informed consent form will collect the age of the participant for retention purposes.

Minors

Participants are asked to acknowledge that they are over 18 before signing a waiver. If they are not over 18, their parent or guardian should sign an informed consent, not a waiver. The parent or guardian should also provide their name and mailing address for identification purposes.

Do not collect

The following information should NEVER be collected on a waiver or informed consent: minor

- Birth date
- Health care number
- Gender

Emergency contact

The emergency contact person should NOT be someone who is also involved in the activity or on the same trip with the participant.

Storage of waivers and informed consent forms

A waiver is a legal document that could be needed to defend the university during legal proceedings. For this reason, it is very important that waivers and informed consents be stored in such a way that they are secure but also easily accessible if there is an incident. The best way to ensure this is for all departments and units to consistently follow a standard retention guideline.

Signed waivers and informed consent forms should be filed in a secure location with the faculty, department, or administrative unit. Please consult the [Information & Privacy Office's website](#) for information about reasonable security arrangements for safeguarding these files, since they contain personal information.

Exceptions to this are online waiver or informed consent forms collected by select faculties on campus, with prior review/approval from senior administration and Insurance & Risk Assessment.

Retention guidelines

- Waivers: keep for 10 years
- Informed consent forms for minors: 10 years after the minor reaches the age of 18
 - Eg. if minor is 12 at time of signature her form should be kept for 16 years

Storage Format Best Practices

- Keep signed paper copies of waivers and informed consents in an organized filing system that would allow you to find them by activity date and/or event name, if required.

OR

- Keep scanned copies of signed waivers and informed consents in PDF format in a secure server location that is regularly backed up. Ensure that PDF files are labeled and filed in such a way that they would be easily located, if required.
- To save administrative time and to reduce the number of digital files you are storing, you may wish to feed all of the waivers and informed consents from an event or activity through your scanner at once and save them as a single PDF file, and then group your PDFs into folders by year. Be sure to use all relevant identifying information (activity name, date, retention date) in the file name for easy retrieval and/or destruction.
 - Eg. Waivers>2018>Field Trip to Drumheller July 5 (keep until July 2028).pdf
 - Eg. Waivers>2018>Field Trip to Drumheller July 5 Minors (keep until July 2034).pdf
 - Note: In these examples, “Waiver” would be the name of the root file, “2018” would be a subfile, and the rest would be the name of the document. Each document could potentially contain dozens or even hundreds of signed waivers combined into 1 file.