

University of Louisiana System

Title: LITIGATION

Effective Date: September 1, 2001

Cancellation: None

Chapter: Bylaws

Policy and Procedures Memorandum

Procedures - State Employees and Officers Involved in Lawsuits

Act 65 of the First Extraordinary Session of 2000 specifies that the State will indemnify and defend a covered individual against any claim, demand, suit, complaint or petition provided the cause of action occurred while the individual was engaged in the performance of his/her duties as a State employee or official and the individual was free of criminal conduct. Further, the Act changes the process by which the State's Attorney General is to be notified.

The employee or official must, within ten (10) days of being served with any summons, complaint, process, notice, demand or pleading, deliver a copy of the original document to The Honorable Richard Ieyoub, Office of the Attorney General, Risk Litigation, Post Office Box 94095, Baton Rouge, LA 70804-9095 and request that the State provide him/her with a defense and indemnification. A referral letter (see attached draft) must be filled out and signed by the employee and sent to the Attorney General's office. A copy must also be forwarded to the System office.

Timely delivery of the summons or claim is a prerequisite for defense and indemnification. The notice or documents delivered to the Attorney General's office should also indicate the date and type of service (served by mail or the Sheriff) and the date received. Failure to follow this procedure may result in the State's refusal to accept responsibility for the defense or consequences of the lawsuit. This process must be followed separately for each employee who is served with a claim or lawsuit.

Anytime a lawsuit, legal document, or other official notice is served on a University of Louisiana System department or employee, the document must be *immediately* forwarded to the attention of the System employee designated to act as the agent for service of process at the System office, officially domiciled at 150 Third Street, Third Floor, Baton Rouge, Louisiana 70801. This designee will be responsible for the appropriate routing of the document.

Procedures - The University is Served With Official Legal Documents

Anytime a lawsuit, legal document, or other official notice is served on a University of Louisiana System institution, the document must be *immediately* forwarded to the attention of the System employee designated to act as the agent for service of process at the System Office, officially domiciled at 150 Third Street, Third Floor, Baton Rouge, Louisiana 70801. This designee will be responsible for the appropriate routing of the document.

University administrators are urged to plan monthly meetings with those persons employed by Risk Management, the System, and/or the university to defend those claims. Such action will alert the Board as to the type and kinds of claims that are pending as well as the quality and efficiency by which they are being handled. This will also place the System in a position of interjecting policy considerations in the resolve of any claims that may affect management.

Information Regarding Claims

Types of Claims

The Board and its universities are generally confronted with the following three types of claims.

- A. Claims involving education issues
These claims may involve the awarding of degrees, grades and grade appeals, course offerings, promotions, graduation, appeal of university decisions, and contract issues between the university and its students as well as student discipline.

- B. Claims involving labor, management, and/or employment issues
These claims generally involve the right of the System, its officials, or the officials of particular universities to manage or take action with regard to the university. These actions often involve employment, promotion, salary, breach of contract, job assignment and other labor or employment related issues. They are not in the nature of tort claims.
1. All *classified* employees normally must go through the Civil Service process with appeals of disciplinary actions wherein the Civil Service Commission generally resolves these issues. Classified employees may file certain claims in State or Federal Court.
 2. All *faculty and unclassified employees* normally proceed through a campus-based grievance procedure and then may file certain claims in State or Federal Court if the issues are unresolved.
- C. General liability claims
This group of claims arises generally from “doing business.” The claims include accidents on campus, contract breaches, and discrimination or improper treatment. All are classified as tort claims. Students, employees, or third parties may file these claims.

Management of Claims by Type

- A. Claims involving education issues
The System’s in-house attorney, the Office of the Attorney General’s Civil Division, or an attorney specifically employed by the university will handle these claims. Risk Management, or any other insurance, generally does not cover these claims. However, if the claim is in the nature of a tort claim, then the Office of Risk Management may provide coverage and a Risk Management attorney will be assigned through the Office of the Attorney General. In the event of any judgment rendered against the System or the university on any insured claim, the Office of Risk Management assumes responsibility for and payment of the judgment. In all other cases, the university or System may pay the judgment or direct the successful party to submit the judgment to the Legislature for appropriation.

- B. Claims involving labor, management, and/or employment
These claims are handled through the Office of the Attorney General or the counsel for the System or university. Risk Management may become involved if attorney's fees are demanded or there is a possibility that there will be a general damage award. If claims are considered insured, the Office of Risk Management will make any judgment and provide for the payment of the defense. If the claim is considered uninsured, the defense and payment of any judgment is the responsibility of the System or university.
- C. General liability claims
These claims are almost always covered through the Office of Risk Management. The Office of Risk Management assumes responsibility and assigns an attorney, either in-house or by contract. The Office of Risk Management takes full responsibility for the cost of defense as well as the payment of any judgment that may be rendered.

Policy References:

Louisiana Revised Statutes

Review Process:

Legal Counsel

Distribution:

University Presidents