



## Liability of Employees of the District

DRAFT DATED 5/7/21

- (1) Defense in Civil Actions. Because the nature of the services required of employees of the ~~d~~District may expose them to claims based upon negligence or carelessness in the performance of their duties, the ~~D~~istrict shall provide liability insurance in amounts as may be determined from time to time for actions brought against its employees and/or the ~~d~~District, as described below.
- (2) ~~Conditions and Extent of Defense~~Notice of Claims. An employee shall promptly notify the Office of the Superintendent and the General Counsel that a civil action may be or has been brought against ~~him/her~~them in ~~his/her~~their official or individual capacity:
  - (a) Any claims related to action taken, work done, or omission in ~~his/her~~their official capacity, or in the course of ~~his/her~~their employment; or
  - (b) Any claims related to injuries to persons or property resulting from an occurrence involving any ~~d~~District property.
- (3) The ~~d~~District shall provide the employee with the defense authorized by the Oregon Tort Claims Act.
- (4) This assistance in legal litigation shall apply in litigation arising out of performance of the employee's professional duties whether or not the employee has left the employment of the ~~d~~District at the time the action is brought.

### 5. Expenses Incurred by an Employee when Claim is by a Governmental Entity or Professional Licensing Authority.

- (a) Expenses incurred by an employee not represented by a labor organization (Employee) in the defense of a Claim brought by a governmental entity or a professional licensing authority may be advanced or reimbursed by the ~~d~~District if the ~~d~~District, in its sole discretion, determines that the Claim arose out of the Employee's performance of official duties. Such advancement or reimbursement constitutes part of the Employee's official compensation package for purposes of ORS Chapter



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244. The dDistrict may decline to pay an Employee for any expenses incurred prior to the dDistrict's written commitment to provide such payment.

(b) Expenses shall be paid by the dDistrict in advance of the final disposition of a Claim at the written request of the Employee if:

(1) The dDistrict determines, in its sole discretion, that the conduct of such Employee was in good faith, and the Employee reasonably believed that such conduct was in the best interests of the district.

(2) The Employee furnishes the dDistrict a written undertaking to repay such advance to the extent it is ultimately determined by the dDistrict, in its sole discretion, that such Employee is not entitled to be indemnified by the dDistrict under this section or under any other indemnification rights granted by the dDistrict to such Employee.

Such advances shall be made without regard to the Employee's ability to repay such advances.

(c) If the District pays expenses in defense of a claim, the General Counsel shall have the exclusive authority to select counsel and to defend against any Claim. The General Counsel will consult with the Employee regarding any term of a settlement agreement that affects the legal rights of the Employee. Authority to settle claims against General Counsel shall be delegated to the Superintendent or ~~his~~ the Superintendent's designee.

(d) The dDistrict shall not pay for expenses under this section in the case of malfeasance in office or willful or wanton neglect of duty. The dDistrict may cease to advance or reimburse expenses upon a determination by the district, in its sole discretion, that an act or omission may constitute criminal conduct.

(e) The dDistrict may choose to advance or reimburse expenses to an Employee under a reservation of rights. An Employee shall cooperate fully with the district. If the district determines, in its sole discretion, that the Employee has not so cooperated or has otherwise acted to prejudice the defense of the Claim, the dDistrict may at any time terminate its obligation



## Board Policy

5.50.020-P

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to advance or reimburse expenses or proceed under a reservation of rights.

(f) The term "Claim" means any threatened, pending, or completed investigation, action, suit, or proceeding except one brought or made by the eDistrict.

~~(f)~~ (g) This section shall not be deemed exclusive of any other rights to which an Employee may be entitled under any statute, agreement, general or specific action of the eDistrict or otherwise. Any repeal of this section shall only be prospective, and no repeal or modification shall adversely affect the rights under this section in effect at the time of the alleged occurrence of any action or omission to act that is the cause of any Claim.

Legal Reference: ORS 30.260 - 30.300 History: Adpt 6/71; Amd. 6/14/84; Amd. \_\_\_\_\_