



OREGON YOUTH AUTHORITY
Policy Statement
Part I – Administrative Services



Subject:

Tort Liability and Claims

Section – Policy Number:

A: General Administration – 4.0

Supersedes:

- I-A-4.0 (9/16)
- I-A-4.0 (7/14)
- I-A-4.0 (07/12)
- I-A-4.0 (11/06)
- I-A-4.0 (09/96)

Effective Date:

10/02/2019

Date of Last Review/Revision:

None

Related Standards and References:

- [ORS 30.260 through 30.300 \(Tort Actions Against Public Bodies\)](#)
- [OAR Chapter 125, Division 150 \(Risk Management\)](#)
- Department of Administrative Services, Enterprise Goods and Services(DAS-RMD) 125-7-201 ([Liability Self-Insurance Policy Manual](#))
- [OYA policy](#): I-A-3.0 (Attorney General Opinions and Advice)

Related Procedures:

- None

Policy Owner:

Public Policy and Government Relations Manager

Approved:



 Joseph O'Leary, Director

I. PURPOSE:

This policy describes OYA's responsibilities in reporting claims or lawsuits against OYA, staff, agents, or lawful agents when acting in their official capacities.

II. POLICY DEFINITIONS:

Claim: A legal action to obtain money, property or the enforcement of a right protected by law against another party.

Complaint: A complaint is the initial pleading that starts the process of civil litigation, citing the grounds for the lawsuit, the plaintiff's claim, and the relief sought.

Personal liability insurance: Provides coverage to staff in connection with claims for damages to persons or property caused by alleged wrongful acts or omissions.

Torts: Wrongful acts, except for breach of contract, for which civil action may be instituted.

III. POLICY:

The State of Oregon is liable for its torts and those of its officers, employees, agents and lawful agents acting within the scope of their employment or contracted responsibility. The Department of Administrative Services, Risk Management Division (DAS-RMD) administers the liability fund insurance program that covers tort liability. The scope of tort liability is limited by Oregon statute. The maximum amount of liability coverage is also limited by statute.

Defense of a staff or agent is the responsibility of the Attorney General's office. The Attorney General will reject defense of the claim if, after investigation, it is found that:

- The claim or demand does not arise out of an alleged act or omission occurring in the performance of duty; or
- The act or omission complained of amounted to malfeasance in office, or willful or wanton neglect of duty.

IV. GENERAL STANDARDS:

A. OYA's risk coordinator is the public policy and government relations manager.

B. Notification process

1. The risk coordinator must notify DAS-RMD verbally or in writing of any accident, occurrence, or loss which could reasonably be assumed to result in a tort liability claim or lawsuit. The risk coordinator must gather summary information and provide to DAS-RMD risk within 10 days of becoming aware of the incident.
2. Upon receipt of a tort notice or a suit, the risk coordinator must notify the OYA director, deputy director, Human Resources Office, and pertinent assistant directors. The risk coordinator must complete the notifications within five days of becoming aware of the incident.

The risk coordinator must respond to DAS-RMD within 30 days of receipt of a tort notice.

3. OYA must cooperate with DAS-RMD and the Trial Division, Department of Justice in the investigation, settlement, and defense of claims and lawsuits. This may include attending hearings and trials, securing and giving evidence, obtaining the attendance of employee witnesses, and disclosing all pertinent records and files.

The risk coordinator will coordinate this process.

4. DAS RMD has sole authority to pay tort claims. OYA must have DAS-RMD approval prior to resolving, assuming an obligation, or incurring an expense concerning a claim.

C. Potential tort liability claims

1. If a staff member becomes aware of a reason to believe that an act by a staff, agent, or lawful agent could produce a liability claim or lawsuit, the staff member must notify the risk coordinator verbally or in writing and provide the facts.

The notice must be completed as soon as possible after the staff member becomes aware of a specific incident or identification that an act may have the potential for a liability claim.

2. The risk coordinator, or designee, may obtain incident documentation from JJIS and youth records when appropriate.
3. If documentation is not available through JJIS or youth records, staff must provide the following information to the risk coordinator:
 - a) The time, place, and circumstances giving rise to the claim; and
 - b) The identity of persons involved, and any witnesses.

D. Tort liability claims

1. Staff, agents or lawful agents must direct individuals to DAS-RMD, Claims Section if contacted by individuals about claim filing procedures or notice of a claim.
2. The local office or facility must immediately forward any written claim notices, whether received in person or by mail (usually a demand letter or notice of intent to sue), through the local management structure to the risk coordinator.

Staff must also include the following information with the notice:

- a) The person upon whom notice was served;
 - b) If personally presented, by whom and date received; and
 - c) If by mail, date received.
3. The risk coordinator must send a letter to the claimant notifying the claimant to file a claim with DAS-RMD.

E. Tort complaints (lawsuits)

Whenever a staff, agent, or lawful agent is served with a complaint (lawsuit), they must immediately notify the risk coordinator.

1. Copies of the summons and complaint papers, along with a description of the exact date, time, and method the complaint was served, must be forwarded to the risk coordinator.

2. The risk coordinator must work with the local office or facility to initiate communication with the appropriate parties in the Department of Justice, Trial Division, and DAS-RMD.

V. LOCAL OPERATING PROTOCOL REQUIRED: NO