Category: Community Colleges Legal and Compliance Responsible Office: University Counsel	**Other Requirement Title:** Criminal Defense Reimbursement CostsCriminal Defense Reimbursement of Costs Incurred by or on Behalf of Community College Trustees, Officers and Employees Document Number: 6300 Effective Date: July 23, 1987 This procedure item applies to: Community Colleges

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Summary

This document provides an overview of NYS Education Law §6309, governing the reimbursement to community college trustees, officers, and employees for expenses incurred in successfully defending criminal charges which arise from acts within the scope of public employment or duties. It also provides guidance on the mechanism in place to obtain such reimbursement.

Requirement

Reimbursement of Legal Fees in a Criminal Proceeding

NYS Education Law §6309 provides for the reimbursement of reasonable attorneys' fees and related litigation expenses incurred by community college employees in a criminal proceeding in state or federal court, as well as appearances before a grand jury. Please note, however, that this reimbursement process is distinct from the defense and indemnification protection provided to community college employees in civil litigation under NYS Education Law §6308.

Reimbursement may be authorized by the local sponsor if the act giving rise to the criminal proceeding was within the scope of the trustee's, officer's, employee's or volunteer's public employment or duties. Reimbursement may be provided only after the trustee, officer, or employee is acquitted or the criminal charges are dismissed. The local sponsor is empowered to determine, after investigation and review of the facts and circumstances of the criminal proceeding, whether an application for reimbursement should be granted. In the event the entitlement to reimbursement or the amount of reimbursement is disputed, a court will resolve the issue.

In order to obtain this protection in criminal cases, a trustee, officer, employee, or volunteer must deliver a written request to the local sponsor, at its main business office, together with an original or a copy of any accusatory instrument (such as an indictment, criminal information or misdemeanor complaint), within ten days after the individual is arraigned (enters a plea) upon such an instrument. A copy of the request for reimbursement and accusatory instrument should also be sent to the office of the community college president. The person requesting reimbursement is also required to provide his or her full cooperation to the local sponsor in the prosecution of any criminal appeal or in the defense of any civil lawsuit arising out of the same act or occurrence.

Definitions

Employee - Any person holding a position by appointment or employment in the service of a community college, whether or not compensated, or a volunteer expressly authorized to participate in a community college sponsored volunteer program, but the term employee shall not include an independent contractor. The term employee shall include a former employee, his or her estate, or a judicially appointed personal representative.

Related Procedures

There is no related procedures relevant to this requirement.

Forms

There are no forms relevant to this requirement.

Other Related Information

The following links to FindLaw's New York State Laws are provided for users' convenience; it is not the official site for the State of New York laws.

NYS Education Law § 6309 (Reimbursement of defense costs)

NYS Education Law Article 126 (Community Colleges and State-Aided Four-Year Colleges)

In case of questions, readers are advised to refer to the New York State Legislature site for the menu of New York State Consolidated.

Memorandum to Community College Presidents from the Office of the University Counsel, No. 88-1, dated February 10, 1988.

Appendicies

There are no appendicies relevant to this requirement.