Category: Community Colleges Legal and Compliance Responsible Office: University Counsel	**Other Requirement Title:** Defense and Indemnification of Community Colleges Employees Document Number: 6302 Effective Date: August 22, 1980 This procedure item applies to: Community Colleges

Table of Contents

Summary
Requirement
Related Procedures
Forms
Definitions
Other Related Information
Appendicies

Summary

This document provides an overview of NYS Education Law §6308, which affords protection to community college trustees, officers, employees, and volunteers against personal liability in the event they are sued individually, as a result of a cause of action which may arise by reason of an act or omission which occurs “while the employee was acting within the scope of his or her public employment or duties.” It also provides guidance on the mechanism in place to obtain such protection.

NYS Education Law §6308 covers civil actions and specifically includes federal civil rights actions. Intentional injuries and those caused by a reckless disregard of foreseeable consequences are excluded.

Requirement

Defense and Indemnification in Civil Proceedings

NYS Education Law §6308 makes uniform the responsibility of community college sponsors operating under the program of the State University of New York to defend and indemnify college trustees, officers and employees for financial losses and costs incurred in defending suits, claims and demands, and in satisfying judgments against them resulting from acts or omissions committed in the discharge of their official duties.

The local sponsor is responsible for providing defense to those covered by this measure. However, in situations where the sponsor determines that representation by its attorney is “inappropriate”, or where a court determines that a conflict of interest exists, the employee may be represented by private counsel of his or her choice and the local sponsor will be responsible for all fees and expenses resulting from such representation.

The sponsor’s duty to defend and indemnify an individual employee is predicated upon the employee’s compliance with certain requirements. The officer or employee must deliver to the sponsor’s main business office any summons, complaint, notice or other legal paper within five days after service. The employee is not required to deliver a special request for sponsor defense. Delivery of the papers within the five-day limit is deemed to be such a request. Also, the employee must cooperate fully with the sponsor in its defense of any action against the employee individually, or against the community college or sponsor when the action is based on the same act or omission of the employee.

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 estate or 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

Criminal Defense Reimbursement CostsCriminal Defense Reimbursement of Costs Incurred by or on Behalf of Community College Trustees, Officers and Employees

The following link to FindLaw's New York State Laws is provided for users' convenience; it is not the official site for the State of New York laws.
NYS Education Law §6308 (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. 80-10, dated August 15, 1980.

Appendicies

There are no appendicies relevant to this requirement.