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Legal and Compliance

Responsible Office:  
[University Counsel](#)

**Other Requirement Title:**

Small Claims

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This procedure item applies to:  
State-Operated Campuses

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**Summary**

Pursuant to grants of authority in the NYS State Finance Law, the State University of New York (University) has developed procedures for handling small claims. This documents sets forth general guidelines for handling small claims against the University. One procedure deals with small claims in the amount of \$250.00 or less (refer to Small Claims of \$250.00 or Less). These claims do not require submission to or approval by the Chancellor or the New York State attorney general. The other procedure dealing with small claims in the amount from \$250.01 to \$5,000.00, involves investigation and a sworn statement by the campus president, review by the University counsel's office, approval by the University counsel, approval by the attorney general for any claim in excess of \$1,000.00, and audit and payment by the office of the state comptroller (refer to Small Claims between \$250.01 and \$5,000.00).

The NYS Court of Claims Act requires filing of a claim or notice of intention to file a claim against the State of New York within 90 days after the incident. Since time limitations on filing and notice are strictly construed, prompt investigation and processing are essential. Claimants should be notified as soon as possible if a decision is made not to use the small claims procedure.

These small claims procedures may be used only by claimants age 18 or older. Persons under age 18 may sue the State of New York in the NYS Court of Claims in accordance with the procedure of the NYS Court of Claims Act.

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**Requirement**

**Guidelines for the Use of Small Claim Procedures**

1. The use of the University procedures for presenting claims should be used with great caution as these procedures are not devices for disposing of every small claim which is presented for payment even where the amount involved may be insignificant. No matter how small the amount involved in the particular matter, a precedent may be established, resulting in a multiplicity of similar claims.
2. The liability should be shown to be directly caused by the act or omission on the part of a state officer or employee as described in the claim. The damage should not be caused by "an act of God" or other accidental occurrence which does not involve fault or breach of duty by a state officer or employee. The individual causing

the damage should be an officer or employee of the State of New York, not an independent contractor. It is impossible to advise precisely what would constitute an actionable claim but because this procedure is based upon a concession by the State of New York of its liability, without the usual safeguards provided by the courts as to the weight of the evidence, the facts constituting the liability should point very strongly to an act or omission on the part of the state.

3. In case of doubt as to the use of these procedures, the University counsel's office should be consulted first.
4. Claims against the State of New York should not be encouraged and claimants should not be advised on legal matters.
5. Prior to payment, claims for an amount in excess of \$1,000.00 must be approved by the attorney general, who has not been disposed to approve of certain types of claims where the liability is doubtful. Furthermore, the attorney general is not permitted to approve a claim where the right to sue has elapsed and is barred by the statute of limitations. The State of New York is not obligated to pay replacement value for damaged personal property (with the exception of jewelry and other special items such as antiques) and the attorney general will disapprove any small claim that does not reflect a reasonable amount for depreciation. The attorney general's office has not set forth specific guidelines for depreciation but a particular item's age and condition must be considered in determining a reasonable amount for depreciation. Generally, depreciation in the range of 20% to 50% of original cost is considered reasonable. Campuses should therefore ensure that, in processing claims involving personal property, other than jewelry or other items which do not usually depreciate in value, an appropriate amount of depreciation is taken on the value of any items which are over one year old.
6. The small claim procedure permits recovery for damages up to the sum of \$5,000.00.
7. The claimant is not precluded from legal redress if these procedures are not appropriate as the claim may be instituted in the NYS Court of Claims for recovery of the damages.
8. Where damage or loss has occurred in a dormitory, the campus should contact the office of the University counsel to discuss how to proceed. If the loss occurred through the fault or breach of duty of a state officer or employee, it may be appropriate for counsel's office to submit the claim to the dormitory authority for payment through the self-insured retention fund of its liability policy. Alternatively, it may be appropriate for a dormitory resident to submit a claim to his or her homeowner's policy.

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## Definitions

There are no special definitions relevant to this requirement.

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## Related Procedures

[Small Claims \\$250.01 to \\$5K](#)

[Small Claims of \\$250.00 or Less](#)

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## Forms

[Claims for \\$250.01 - \\$5,000.00](#)

[Small Claims Form under \\$250.00](#)

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## 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 State Finance Law §8\(12-a\) and \(12-b\)](#) (Duties of the NYS Comptroller relating to claims against the state)

[NYS Court of Claims Act § 8](#) (State's Waiver of Immunity from Liability)

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

Chapter 370 of the Laws of 1999.

Chapter 542 of the Laws of 1990.

Memorandum to campus business officers from the office vice chancellor for finance and business, dated March 3, 1992.

Letter to office of University counsel from the NYS assistant attorney general dated November 12, 1991.

Memorandum to campus business officers from the office vice chancellor for finance and business, dated April 1, 1991.

Memorandum to presidents from the office of University counsel, dated January 28, 1983.

Letter of policy from the office of NYS attorney general, dated March 7, 1974.

Memorandum to presidents and business officers from the office of University counsel, dated January 23, 1969.

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## **Appendicies**

There are no appendicies relevant to this requirement.