

Procedure: 4.9.6p. (III.P)

Defense and Indemnification

Revised:

Last Reviewed: September 29, 2022; September 24, 2019; September 10, 2018; and June 23, 2005.

Adopted: August 21, 2001.



I. PURPOSE:

In accordance with O.C.G.A. § 45-9-1 and O.C.G.A. § 45-9-4, any System or Technical College employee, including any member of the State Board or a local board, who is exposed to personal liability for damages arising out of the performance of their duties or in any way connected therewith shall be indemnified against expenses, including attorneys' fees, judgments, fines, and amounts paid in settlement.

In order to qualify for defense and indemnification, the board member, officer, or employee shall promptly advise the Commissioner in writing upon being served with any summons, complaint, process, notice, demand or pleading. Such notice shall include the date the employee was served and the method of such service. If an employee or former employee fails to cooperate completely with the defense of any such matter, then the employee or former employee shall forfeit any right to indemnification.

When approved by the Attorney General, the System Office shall provide for the reimbursement to an officer, official or employee for reasonable legal fees and other expenses incurred in the successful defense of a criminal action arising out of the performance of their official duties.

When approved by the Attorney General, the System Office shall provide for the reimbursement to an officer, official or employee who is required to maintain a professional license for reasonable legal fees and other expenses incurred in the successful defense of a charge arising out of the performance of his or her official duties in proceedings before a professional licensing board, disciplinary board, or commission.

The Board reserves the right to provide legal counsel for the benefit of any officer, official or employee, current or former, and to negotiate, settle or otherwise manage the defense of any action, suit, or proceeding on the employee's behalf. The Board authorizes the commissioner of administrative services to provide for the liability insurance coverage or contracts of indemnification for the TCSG's officers, officials and employees as provided by O.C.G.A. § 45-9-4(a).

II. RELATED AUTHORITY:

O.C.G.A. § 20-4-11 – Powers of Board.

O.C.G.A. § 20-4-14 – TCSG Established; Powers and Duties.

TCSG State Board Policy 4.9.6. – Defense and Indemnification.

III. APPLICABILITY:

All work units and Technical Colleges that are associated with the Technical College System of Georgia.

IV. DEFINITIONS:

Under Georgia's Tort Claims Act:

"State officer or employee" means any officer or employee of the State, including elected or appointed officials, law enforcement officers, and persons acting on behalf or in service of the State in an official capacity, whether with or without compensation. However, the term does not include an independent contractor doing business with the State.

The term **state officer or employee** also includes any natural person who is a member of a board, commission, committee, task force, or similar body established to perform specific tasks or advisory functions, with or without compensation, for the State or a state government entity, and any natural person who is a volunteer participating as a volunteer, with or without compensation, in a structured volunteer program organized, controlled and directed by a state government entity to carry out the functions of the state entity. An employee shall also include foster parents and foster children.

The term shall not include a corporation, whether for profit or not for profit, or any private firm, business proprietorship, company, trust, partnership, association, or other such private entity.

Under the System's general liability insurance, **"Insured"** means any person employed, appointed to a board, elected, hired, or allowed to assume a temporary or permanent position or office or any others authorized by the Georgia General Assembly to be an insured in or with the State of Georgia or any of its departments, bureaus, offices, agencies, authorities, boards, or community service boards which have elected to purchase coverage in this policy. The election to accept coverage under this policy shall be exclusively determined by organizations electing to purchase this coverage.

V. ATTACHMENTS: N/A

VI. PROCEDURE: N/A

VII. RECORD RETENTION: N/A