



Thurston County Fire Protection District 8

HR/LF POLICY

POLICY TITLE:	Management of Legal Risk
PROCEDURE NUMBER:	1-50-PO-00
REVISION:	1
DATE ISSUED/REVISED:	DRAFT
BOARD APPROVAL:	

The District faces potential legal risk resulting from acts or omissions occurring from its operational or administrative functions. This Policy shall describe how to handle claims arising from the same. District Policy 1-51 "Litigation Defense Policy" will describe how complaints and charges are managed when a member is named individually.

I. Background: ~~District Policy 2-20 "District Safety & Health Program" and the attendant NET Safety & Accident Prevention Program procedures define the management of incidents wherein the District suffers immediate loss (personal injury or death of a member, damage to District assets, or other loss as a result of a District action) and/or create a potential legal risk for the District. Emergency care for life & property must be provided first, with legal risk management measures to commence as soon as possible after the situation is stabilized.~~

~~Chapter 4.96 RCW establishes procedural requirements in respect to claims against local government agencies including the District. It provides that the District is liable for damages arising from tortious conduct of past or present officers, employees and volunteers while performing, or in good faith purporting to perform, their official duties. The statute also requires the District to appoint an agent for the purpose of receiving any damage claims.~~

~~Chapter 4.96 RCW provides that in the event of an action for damages against any past or present officer, employee or volunteer of the District who is named as a defendant in an action or proceeding may file a written request with the Board to provide defense to the action or proceeding. Any past or present officer, employee or volunteer who is required to seek injunctive relief to enable them to perform their duty to the District when faced with threats of harm to their personal or business interest directly resulting from their service to the District may request that the Board provide legal counsel as necessary to obtain and enforce the injunctive relief.~~

~~The District's obligation under this Policy may be satisfied in full by the District's insurance carrier since the officers, employees and volunteers are named insureds on the District insurance policies. The provisions relating to assumption of defense coverage and payment of monetary judgments are intended to apply only in those instances where insurance coverage is not available.~~

II. District Tort Claim Agent: The District Secretary shall serve as the appointed agent ("Agent"). The appointment, as well as the District's business address and normal hours of business shall be filed with the Thurston County Auditor. The Fire Chief shall act as the alternate Agent if the District Secretary is not available.

III. Notification of Significant Event: A *significant event* is defined as any incident that causes personal injury or death to any member or third party, causes injury or damage to any District or third party property, or any incident that could potentially place the District in a position of liability. Any member that becomes aware of a significant event shall immediately report such significant event to a) the incident commander or the member's supervisor, b) the Battalion Chief in charge of the on-duty platoon and/or c) the Fire Chief or designee. If the Fire Chief or

designee is not available, then the ~~member-supervisor or Battalion Chief~~ should contact the Board Chair or any Board member. ~~Concurrent with procedures identified in the NET Safety & Accident Prevention Program, the Fire Chief or designee shall immediately notify each Board member and any other persons as directed by the Board Chair or designee.~~

IVIII. Process for Handling of Significant Events: The Fire Chief or designee shall evaluate the liability risk and District responsibility for the significant event and shall initiate the following procedures:

1. The Fire Chief shall notify the attorney for the District and insurance carrier as soon as reasonably practical;
- ~~2.~~ 2. ~~If the District attorney determines that there is a potential risk of litigation or financial harm to the District arising from the significant event, the District attorney shall guide the Fire Chief in any resulting investigation;~~
- ~~3.~~ 3. The Fire Chief shall establish parameters for any response to news media and public inquiries (refer also to District Policy 1-91 "Public Information");
- ~~4.~~ 4. The Fire Chief, in consultation with the District attorney, shall appoint an Investigator to investigate the acts or omissions out of which the significant event arose to determine the following:
 - a. The nature of the acts or omissions that gave rise to the significant event;
 - b. The identity of any and all District personnel involved in the incident and the identity of any non-District personnel that may be witnesses to the significant event;
 - ~~b.c.~~ b.c. Identify and preserve all applicable records and computer files relating to the significant event;
 - ~~e.d.~~ d. Whether the significant event creates the potential for litigation; and
 - ~~d.e.~~ e. What corrective actions should be taken by the District in response to the significant event.
- ~~5.~~ 5. The Fire Chief, in consultation with the District attorney, shall review the Investigator's initial report and shall decide ~~whether or not to further involve the attorney for the District~~ the nature of any subsequent steps or investigation prior to the release of the report and any investigator records to any other individual; and
- ~~6.~~ 6. The Fire Chief when necessary shall report the investigation's findings and any legal & risk management recommendations to the Board.

IV. Receipt & Notification Process for Handling of Complaint/Claim: On receipt of service of summons and complaint or claim:

1. The Agent shall record date, time and name of person served;
2. The Agent shall immediately notify the Fire Chief ~~and or if the complaint or claim involves the Fire Chief, the Board Chair, who will then in turn notify each Board member. After consultation with the Fire Chief and Board members, the attorney for the District and insurance carrier will be notified as soon as possible by a Board designated central point of contact ("Contact", generally assigned to the Fire Chief);~~
- ~~3.~~ 3. ~~The Contact shall identify any an all District personnel involved in the incident;~~
- ~~4.~~ 4. ~~The District Secretary shall locate & preserve all applicable documentation & records for access by the Contact;~~
- ~~5.~~ 5. ~~The Contact shall consult with the attorney for the District and the insurance carrier to determine who shall conduct any necessary investigation and the scope of such investigation; and~~
- ~~6.~~ 6. ~~The Board shall establish parameters for the Contact to respond to news media and public inquiries (refer also to District Policy 1-91 "Public Information"); all personnel should be cautioned not to disclose information unless authorized by the Board.~~

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~~**VI. Process for Handling of Complaint/Claim:** The Board shall evaluate its legal liability and responsibility:~~

- ~~3. The Fire Chief (or Board Chair) shall notify the District attorney and, if so recommended by the District attorney, the insurance carrier as soon as reasonably practical;~~
- ~~4. If the District attorney determines that there is a potential risk of litigation or financial harm to the District arising from the significant event, the District attorney shall guide the Fire Chief in conduction of the investigation;~~
- ~~5. The Fire Chief (or Board Chair) shall establish parameters for any response to news media and public inquiries (refer to *District Policy 1-91, "Public Information"*);~~
- ~~4-6. The Fire Chief (or Board Chair), in conjunction with the District attorney, shall appoint an Investigator to investigate the acts or omissions out of which the complaint/claim arose to determine the following:
 - ~~a. The nature of the acts or omissions that gave rise to the complaint/claim;~~
 - ~~b. Whether the acts or omissions of the past or present officer, employee or volunteer were, or in good faith purported to be, within the scope of the individual's official duties with the District; and~~
 - ~~b-c. Identify any and all District members involved in the claim; and~~
 - ~~e-d. Whether the District has insurance coverage which may cover the alleged acts or omissions of the individual.~~~~
- ~~2-7. The Fire Chief (or Board Chair), in conjunction with the District attorney, shall review the Investigator's report and decide whether or not to tender a defense of complaint/claim to the insurance carrier in writing.~~
- ~~3-8. The Board shall review any decision by the insurance carrier to:
 - ~~a-e. Accept the defense without qualification;~~
 - ~~b-f. Deny coverage; or~~
 - ~~e-g. Accept the defense with reservation of certain rights.~~The Board may then either challenge the insurance carrier's decision or approve the decision and any additional actions as necessary or desired; and~~
- ~~4-2. In the event insurance coverage is not available, the Board shall authorize the individual's defense or representation at the expense of the District; and~~
- ~~7-9. The Contact Fire Chief (or Board Chair) shall closely monitor the progress of claims or litigation, coordinate with the attorney for the District and insurance carrier, and report to the Board on a regular basis.~~

~~**VII. Defense & Judgment:** During the course of any litigation that would follow:~~

- ~~1. The Board may withdraw its defense or representation of the action or proceeding if it becomes aware of information showing that the acts or omissions of a past or present officer, employee or volunteer were not, or in good faith did not purport to be, within the scope of the individual's official duties with the District;~~
- ~~2. The Board may appeal any monetary judgment for punitive or non punitive damages against the individual if such process is available;~~
- ~~3. The Board shall review a decision of monetary judgment for punitive damages against the individual with the attorney for the District to determine if the judgment be satisfied at the expense of the District unless covered by the District's insurance coverage; and~~
- ~~4. The Board shall satisfy any monetary judgment for non punitive damages at the expense of the District unless covered by the District's insurance coverage.~~

~~**VIII. Post-Action:** A review of relevant District Policies & Procedures will be conducted as part of the investigation of a significant event, complaint/claim or lawsuit. If policy or procedural corrections or changes are indicated, they should be enacted as soon as practical. Likewise, based on the investigative findings, the Fire Chief shall ensure that appropriate training is provided to all District members to reinforce correct practices and behavior.~~

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