

 Tucson, Arizona GOVERNING BOARD POLICY	POLICY TITLE: Defense and Indemnification of Employees in Litigation
	POLICY CODE: GE

The purpose of this policy is to establish the defense and indemnification of District Employees who are named in civil litigation along with Tucson Unified School District.

It is the policy of TUSD to defend employees of the District named in civil litigation and to hold harmless and indemnify any employee of the District from and against any and all claims of civil liability for alleged acts, errors or omissions of any nature while the employee is acting on behalf of TUSD and in the course and scope of the employee’s employment. Civil litigation includes, without limitation, administrative proceedings brought by any licensing or regulatory authority relating to any technical or professional activity within the scope of employment including any proceeding affecting a license possessed by employee that is necessary for the performance of the duties of the employee.

The following exclusions apply to the indemnification:

- laims or losses that arise out of or are directly attributable to any act or omission determined by a court of competent jurisdiction to be a felony by the employee; or
- Claims or losses that arise out of or are directly attributable to any act or omission constituting a tort outside of the scope and course of the employee’s employment with the District.
- Actions brought against an employee, whether criminal or civil, arising out of conduct unrelated to the employee’s employment with the District.

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Cooperation with TUSD’s Defense

In order to receive the benefits of defense and indemnification described above, the employee shall perform the following:

- If notice of claim or suit is filed against an employee claiming indemnity, that person shall immediately forward to the Legal Department every demand, notice, summons or other process received by that person within ten days after the service of such document. The employee shall also inform his/her supervisor.
- Employees seeking indemnity shall cooperate with the District, and upon the District’s request, assist in participating in settlement conferences, in the conduct of lawsuits and the enforcement of any right of defense, contribution or indemnity which may be owing to said employee by any third person or organization.

- The employee claiming indemnity shall attend any necessary meetings, hearings, or trials. The employee shall not voluntarily make any payment, assume any obligation, or incur any expense related to the defense of the matter, without prior authorization from the Legal Department.

District's Defense of Litigation

In civil litigation where the District is named as a Defendant along with its employees, in which there is no question that the employee's actions that are alleged to give rise to liability occurred within the course and scope of District employment, the District's Attorney, or outside counsel designated by the District will jointly represent both the District and the named employees at the District's expense to the extent permitted by Arizona law and Supreme Court ethical rules.

Any employee has the right to retain civil defense counsel of the employee's choosing at the sole cost and expense of the employee. Retaining counsel does not limit or eliminate the employee's obligation to cooperate with the District in defense of the claim or civil litigation.

Limitation of Liability

Nothing in this policy shall be construed to impose any liability upon the District or departments, or upon any District employee.

Nothing in this policy shall be construed to impair any defense that the District or employees may have available at law.

Adopted: March 27, 2012

Reviewed:

Revised:

Legal Ref: A.R.S. 15-502

CROSS REF: