

ADMINISTRATIVE MEMORANDUM

SUBJECT Notice and record-keeping requirements of
personal liability insurance protection

NUMBER 96

DATE February 7, 1978

Effective December 5, 1977, all full-time employees of The University of North Carolina and its constituent institutions became insureds under a policy of personal liability insurance designed to pay specified types of judgments which might be rendered against them as a consequence of conduct undertaken within the course and scope of their employment. This protection affects all full-time University personnel, including members of governing boards, administrators, faculty members, and employees subject to the State Personnel Act.

The policy requires that the insuring company be notified of a potential claim within 21 calendar days of the date the University learns of it. Failure to provide timely notice may result in forfeiture of the insurance protection. By this memorandum I want to establish University definitions and procedures for timely and coordinated notification of the insurer when potential claims become apparent to you or your colleagues in a way that requires such notice.

1. General Administration responsibilities

My office will be responsible for receiving notice from you and providing it to the insurance carrier. Richard Robinson and Jeffrey Orleans will coordinate this activity, and I urge that you communicate with them if you have any questions about potential claims.

2. Institutional responsibilities

Each institution should designate an official to be responsible for its administration of this policy; his or her name and institutional title, address, and telephone number should be sent to Mr. Robinson. The individual so designated will be responsible for receiving reports of potential claims from within his or her institution, providing the required notice to this office, and maintaining records of all inquiries concerning potential claims.

3. Notice process

Each institution should establish a procedure whereby all employees are aware of both the coverage and the notice period provided in the policy, and of the kinds of actions that should be treated as potential claims. An employee

learning of a potential claim, as discussed in Item 4, should notify the responsible institutional officer immediately, in person or by telephone. The responsible institutional officer should then immediately provide to Mr. Robinson or Mr. Orleans the written notice described in Item 5.

4. Issues and proceedings requiring notice as potential claims

Section 4 of the insurance policy broadly provides that notice is required when any institutional employee:

receive(s) written or oral notice from any party that it is the intention of such party to hold the Insureds (i.e., any full-time institutional employee) responsible for the results of any specified Wrongful Act . . . ;

or when any institutional employee:

shall become aware of any occurrence which may subsequently give rise to a claim

The following items list representative categories of charges which should be treated as potential claims for insurance purposes. Institutional employees should immediately notify the responsible institutional official, who in turn should notify this office, whenever such a charge is evidenced by the taking of formal action of the type indicated in brackets:

- a. Violation of State constitution or statutory law, including provisions relating to open meetings, public records, personnel records, and political activities [filing suit in State court].
- b. Violation of federal constitution or statutory law protecting personal rights (e.g., due process, freedom of speech, etc.) [filing suit in federal court].
- c. Violation of federal equal employment and nondiscrimination laws or regulations [complaint to or from H.E.W., E.E.O.C., Department of Labor, or Department of Justice, or suit in federal court].
- d. Violation of State rules concerning employees subject to State Personnel Act [final appeal within institutional S.P.A. grievance process, or appeal bypassing that process directly to Office of State Personnel].
- e. Violation of federal law or regulation regarding privacy of student records, the "Buckley Amendment" [complaint to or from H.E.W.].

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f. Violation of federal or State law or regulation regarding occupational safety [complaint to or from federal or State OSHA].

g. Violation of University Code or institutional tenure documents in matters addressed therein, including, e.g., nonreappointment of faculty members for listed impermissible reasons (Code Section 604B), other faculty grievances (Code Section 507), and general grievance provisions (Code Section 501C(4) [initiation of grievance procedures established by those documents, or initiation by an institution of faculty discipline or "retrenchment" procedures (Code Sections 603 and 605, respectively)]. Notice is not required of matters before student judiciary or honor systems until appeal is taken to the Chancellor.

h. Contract disputes [filing suit in state or federal court].

(Note that the policy excludes negligence or tort disputes, and that notice therefore is not required of such matters.)

When notice has been given concerning a particular dispute under one of these procedures and the complainant subsequently invokes an additional or different procedure, notice should be given of that new action.

5. Notice information

The responsible institutional officer should notify Mr. Robinson or Mr. Orleans of a potential claim by providing the following information in written form suitable for forwarding to the insurer:

a. Name, rank, and position or other status of the potential claimant.

b. A brief factual statement of the decision or action complained of. This statement should not express possible institutional views or conclusions on the matter in question, but should be intended only to describe the concerns expressed by the claimant.

c. The name, rank, and position or other status of any full-time institutional employee(s) implicated in the claim.

d. The date, time, and manner by which an institutional employee first learned of the potential claim and by which the responsible institutional official was apprised of it.

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The institutional official should retain a copy of each written notice provided to General Administration.



William Friday