



PORTLAND PUBLIC SCHOOLS
Office of General Counsel

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Date: June 10, 2022
To: School Board
From: Liz Large, Contracted General Counsel
cc: Guadalupe Guerrero, Superintendent
Subject: Amendment of Liability Claims Policy, 8.60.021-P

BACKGROUND

PPS's Liability Claims Policy, 8.60.021-P, sets forth the Board's expectations for the District's handling of liability claims, including thresholds for Board approval of settlement of such claims. The policy was last amended in 2000 and makes references to a defunct Board committee and to financial reserving practices that are inconsistent with the District's accounting and budgeting for such claims.

RELATED POLICIES/BEST PRACTICES

It is best practice to review policies on a regular basis and to make sure they provide clear guidance to the District and the public on what is authorized by the Board.

ANALYSIS OF SITUATION

The proposed revisions to the policy address the reference to the defunct Board committee and related process and the financial accounting/budgeting process that do not reflect current or recommended practice. The revisions also increase the threshold for Board approval from \$25,000 to \$75,000 to adjust for inflation since the policy was last amended in 2000. In addition, the proposed revisions also add a quarterly report from the General Counsel to the Board on all liability claims settled below the Board-approval threshold, so that the Board has visibility to those settlements.

FISCAL IMPACT

None.

COMMUNITY ENGAGEMENT (IF APPLICABLE)

The proposed policy revisions were discussed over several public meetings of the Policy Committee; there was no additional community engagement or community feedback received.

TIMELINE FOR IMPLEMENTATION / EVALUATION

Will be implemented upon final approval of the Board.

STAFF RECOMMENDATION

Approve the revised policy as unanimously recommended by the Policy Committee.



Liability Claims

I. Self-Insurance, Investigation and Settlement of Claims

(1) The District is self-insured with respect to certain bodily injury, property damage and other claims arising from certain accidents and other occurrences. The District may contract for external services to investigate and/or defend claims made against the District.

(2) Proposed final determination and settlement agreements involving payment of District funds of \$75,000 and over will be submitted to the Board after review by the District's General Counsel. The Superintendent may authorize (and delegate to the General Counsel and director of risk management) final settlements for claims involving payment of District funds under \$75,000 upon determining that such settlement is in the best interests of the District and is reasonable under the circumstances, considering the risk of liability involved. A liability release signed by the payee is required as part of the terms of settlement.

II. Notice of Settlement of Claims Below Board-Approval Threshold

(1) Within 30 days of the end of each quarter, the General Counsel's Office shall provide the Board with a list of the settlements of claims resolved below the board-approval threshold.

Legal References: ORS 30.290; ORS 294.463; ORS 332.435; ORS 332.437

History: Adpt 9/13/77; Amd 5/81; Amd 10/13/83; Rev 8/28/00, BA 1400; Amd ___/22

8.60.021 Liability Claims

I. Self-Insurance, Investigation and Settlement ~~Services~~ of Claims

- (1) The District is self-insured with respect to certain bodily injury, property damage and other claims arising from certain accidents and other occurrences. The District may contract for investigative ~~external~~ services for to investigate and/or defend ~~bodily injury and property damage~~ claims made against the District.
- (2) Proposed final determination and settlement agreements involving payment of District funds of \$725,000 and over will be submitted ~~by the Ddistrict's risk manager~~ to the Board after review by the District's General Counsel. ~~[2][3]~~ The Superintendent may authorize (and delegate to the General Counsel and director of Risk Management ~~[4][5]~~) final settlements for ~~uninsured personal injury and property damage~~ claims involving payment of District funds under \$725,000 upon determining that such settlement is in the best interests of the District and is reasonable ~~[6][7][8][9][10]~~ under the circumstances, considering the risk of liability involved. A liability release signed by the payee ~~will be~~ is required as part of the terms of settlement.

II. Notice of Settlement of Claims Below Board-Approval Threshold

- ~~(1) Upon receipt of a notice of claim for an alleged tort or similar claim (exclusive of employment and student discrimination claims), the General Counsel Risk Management Department will proceed to do the following:~~
 - ~~— Determine whether the matter will be handled by the General Counsel's office or Risk Management.~~
 - ~~(a) Notify the claimant or the claimant's legal counsel that notice has been received and will be investigated;~~
 - ~~(b) Prepare and administer files;~~
 - ~~(c) Notify and submit claims for review by the Ddistrict's general counsel when a settlement in excess of \$5,000 is considered or when the claimant elects to pursue litigation; and~~
 - ~~(d) Maintain financial statistics on all claims costs.~~
- ~~(2)~~ (1) Within 30 days of the end of each quarter, the General Counsel's Office Notwithstanding the delegation of authority limits set forth in 8.90.010-P Contracts, the legal committee of the Board shall be provide the Board with a list of summary of the settlements of claims resolved below the board-approval threshold. advised/consulted regarding settlements of actual or threatened litigation or administrative complaints where the settlement is between \$25,000 and \$725,000.

III. Establishment of Reserves ~~[11]~~

- ~~(1) A special financial reserve and budgetary fund is hereby established~~

8.60.021 Liability Claims

~~pursuant to ORS 332.437 for the purpose of paying:~~

- ~~(a) costs incurred by the District under this policy; and~~
- ~~— claims against the District, including discrimination claims, in accordance with settlement agreements or other determination.~~
- ~~(b)~~

8.60.021 Liability Claims

~~(2) As used in this section, “normal reserve” refers to the amount of such fund established by Board resolution after review and comment by the risk manager. Recommendations for the normal reserve shall be made with the objectives of:~~

~~(a) providing a clearly adequate amount with which to pay all uninsured costs and claims of the kind for which the fund is established; and~~

~~(b) preventing the existence or settlement of claims from having any further effect on the budget or funds of the Ddistrict.~~

~~(3) III. Additions during a fiscal year may also be made by resolution of the Board pursuant to ORS 294.46350. Reductions shall not be made except: (1) in connection with the adoption of the Ddistrict’s budget for the ensuing year; or (2) by expenditures made for the purposes described in this policy.~~

~~(4) (1) The budget resources of said reserve fund shall be permitted to increase from year to year by reason of earnings on investments of monies in said fund and additions thereto made pursuant to this policy. Expenditures therefrom shall be made only pursuant to specific resolutions adopted by the Board or pursuant to settlements approved in accordance with this policy, and only for the purpose for which said reserve fund had been created.~~

Legal References: ORS 30.290; ORS 294.46350; ORS 332.435; ORS 332.437

History: Adpt 9/13/77; Amd 5/81; Amd 10/13/83; Rev 8/28/00, BA 1400; Amd /22-

8.60.021-P Liability Claims Handling

I. Self-Insurance, Investigation and Settlement Services

- (1) The district is self-insured with respect to certain bodily injury, property damage and other claims arising from certain accidents and other occurrences. The district may contract investigative services for bodily injury and property damage claims made against the district.
- (2) Proposed final determination and settlement agreements involving payment of district funds of \$25,000 and over will be submitted by the district's risk manager to the Board after review by the district's general counsel. The risk manager may authorize final settlements for uninsured personal injury and property damage claims involving payment of district funds under \$25,000 upon determining that such settlement is in the best interests of the district and is reasonable under the circumstances, considering the risk of liability involved. A liability release signed by the payee will be required as part of the terms of settlement.

II. Notice of Claim

- (1) Upon receipt of a notice of claim for an alleged tort or similar claim (exclusive of employment and student discrimination claims), the Risk Management Department will proceed to do the following:
 - (a) Notify the claimant or the claimant's legal counsel that notice has been received and will be investigated;
 - (b) Prepare and administer files;
 - (c) Notify and submit claims for review by the district's general counsel when a settlement in excess of \$5,000 is considered or when the claimant elects to pursue litigation; and
 - (d) Maintain financial statistics on all claims costs.
- (2) Notwithstanding the delegation of authority limits set forth in 8.90.010-P Contracts, the legal committee of the Board shall be advised/consulted regarding settlements of actual or threatened litigation or administrative complaints where the settlement is between \$5,000 and \$25,000.

III. Establishment of Reserves

- (1) A special financial reserve and budgetary fund is hereby established pursuant to ORS 332.437 for the purpose of paying:
 - (a) costs incurred by the district under this policy; and
 - (b) claims against the district, including discrimination claims, in accordance with settlement agreements or other determination.

8.60.021-P Liability Claims Handling

- (2) As used in this section, “normal reserve” refers to the amount of such fund established by Board resolution after review and comment by the risk manager. Recommendations for the normal reserve shall be made with the objectives of:
 - (a) providing a clearly adequate amount with which to pay all uninsured costs and claims of the kind for which the fund is established; and
 - (b) preventing the existence or settlement of claims from having any further effect on the budget or funds of the district.
- (3) Additions during a fiscal year may also be made by resolution of the Board pursuant to ORS 294.450. Reductions shall not be made except: (1) in connection with the adoption of the district’s budget for the ensuing year; or (2) by expenditures made for the purposes described in this policy.
- (4) The budget resources of said reserve fund shall be permitted to increase from year to year by reason of earnings on investments of monies in said fund and additions thereto made pursuant to this policy. Expenditures therefrom shall be made only pursuant to specific resolutions adopted by the Board or pursuant to settlements approved in accordance with this policy, and only for the purpose for which said reserve fund had been created.

Legal References: ORS 30.290; ORS 294.450; ORS 332.435; ORS 332.437

History: Adpt 9/13/77; Amd 5/81; Amd 10/13/83; Rev 8/28/00, BA 1400.