

Litigation

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Purpose

Only the ASI Board of Directors as a corporate body has the capacity to sue and be sued. Accordingly, all litigation to be brought by the ASI on its own behalf or on behalf of any of the subsidiaries over which the Board has jurisdiction shall be brought in the name of the Associated Students, Incorporated.

Policy Statement

It is the policy of the Associated Students, Incorporated that no litigation shall be initiated in the name of the ASI Board of Directors without specific authorization by the Board. In an emergency, tentative approval to initiate emergency litigation may be granted to the board appointed attorney upon approval of the ASI President and the Executive Director. Any emergency litigation is subject to ratification by the Board at its next regular meeting.

Who Should Know This Policy

- | | | |
|--|--|---|
| <input type="checkbox"/> Budget Area Administrators | <input checked="" type="checkbox"/> Elected/Appointed Officers | <input type="checkbox"/> Grant Recipients |
| <input checked="" type="checkbox"/> Management Personnel | <input type="checkbox"/> Program Advisors | <input type="checkbox"/> Staff |
| <input type="checkbox"/> Supervisors | <input type="checkbox"/> Volunteers | |

Definitions

For purposes of this policy, the terms used are defined as follows:

Term	Definition
Board Appointed Attorney	An attorney authorized by the Board of Director to represent the Associated Students, Incorporated in all legal matters
Claim	A demand for money, property, or a legal remedy to which one asserts a right
Indemnification	The action of compensating for loss or damage sustained
Lawsuit	Any proceeding by a party or parties against another in a court of law
Litigation	The process of carrying on a lawsuit; a lawsuit itself
Serve	To make legal delivery of a notice or process
Settlement	An agreement ending a dispute or lawsuit
Small Claims	A claim for damages at or below a specified monetary amount
Summons	A writ or process commencing the plaintiff's action and requiring the defendant to appear and answer; a notice requiring a person to appear in court as a juror or witness
Tort Claims	Claims citing a civil wrong, other than a breach of contract, for which a remedy may be obtained usually in the form of damages

Regulations

1.0 Litigation Initiative by ASI

Before authorization to initiate litigation is sought from the Board, the Executive Director shall advise the board appointed attorney of the need to seek such authorization and shall supply to the attorney a summary of the facts, the legal basis for the proposed litigation, and the relief sought by ASI.

Once the Board has acted on a request to initiate litigation, the Executive Director shall advise the attorney in writing of the Board's decision. If the Board has authorized litigation, the Executive Director, in consultation with the attorney, shall designate the manner in which the legal services necessary to handle the litigation will be provided.

1.1 Small Claims

The Executive Director may initiate litigation without prior approval of the Board where the amount in controversy does not exceed \$5,000.

2.0 Litigation Initiated Against ASI

2.1 Employees and Officers Involved in Lawsuits

ASI's Governing Board Policy on Indemnification states that the ASI will indemnify and defend a covered individual against any claim, demand, suit, complaint or petition provided the cause of action occurred while the individual was engaged in the performance of his/her duties as an ASI employee or official and the individual was free of criminal conduct.

The employee or official must, within ten (10) days of being served with any summons, complaint, process, notice, demand or pleading, deliver a copy of the original document to the Executive Director and request that ASI provide him/her with a defense and indemnification.

Timely delivery of the summons or claim is a prerequisite for defense and indemnification. The notice or documents delivered to the Executive Director's office should also indicate the date and type of service (served by mail or the Sheriff) and the date received. Failure to follow this procedure may result in ASI's refusal to accept responsibility for the defense or consequences of the lawsuit. This process must be followed separately for each employee who is served with a claim or lawsuit.

2.2 ASI Served With Official Legal Documents

Anytime a lawsuit, legal document, or other official notice is served on an ASI department or employee, the document must be immediately forwarded to the attention of the Executive Director. The Executive Director will be responsible for the appropriate routing of the document to the board appointed attorney.

The Executive Director or designee shall hold monthly meetings with those persons employed by ASI to defend such claims and report on such meetings with the Board of Directors. Such action will alert the Board as to the type and kinds of claims that are pending as well as the quality and efficiency by which they are being handled. This will also enable the Board to interject policy considerations in the resolution of any claims that may affect management.

2.3 Types of Claims

ASI is generally confronted with two types of claims.

2.3.1 Claims Involving Labor, Management, and/or Employment Issues

These claims generally involve the right of the ASI and its officials to manage or take personnel actions with regard to the corporation. These actions often involve employment, promotion, salary, job assignment and other labor or employment related issues. They are not in the nature of tort claims.

All employees normally proceed through ASI's internal grievance procedure and then may file certain claims in State or Federal Court if issues are unresolved.

2.3.2 General Liability Claims

This group of claims arises generally from "doing business." The claims include accidents on ASI premises, contract breaches, and discrimination or improper treatment. All are classified as tort claims. Students, employees, or third parties may file these claims.

2.4 Management of Claims

2.4.1 Claims Involving Labor, Management, and/or Employment

These claims are handled through the ASI Human Resources Office. The Controller may become involved if attorney's fees are demanded or if there is a possibility that there will be a general damage award. If claims are considered insured, the ASI Controller will tender defense to the appropriate insurance provider. If the claim is considered uninsured, the defense and payment of any judgment must be authorized by the Board of Directors.

2.4.2 General Liability Claims

These claims are handled through the ASI Controller. The Controller assumes responsibility for tendering claims to the appropriate insurance provider. The insurer assumes responsibility for the cost of defense as well as the payment of any judgment that may be rendered up to the limits contained in the policy.

2.5 Settlement of Claims and Litigation

A claim or litigation to which ASI is a party and for which insurance is not provided through ASI's risk management program may be settled in accordance with the following guidelines:

- If ASI's contribution to any financial settlement does not exceed \$5,000 then the settlement may be approved by the Executive Director without Board approval. All such settlements shall be reported to the Board at their next regularly scheduled meeting.
- If ASI's contribution to any proposed financial settlement exceeds \$5,000 then the settlement shall be submitted for Board approval.

Forms

There are no forms associated with the execution of this policy.