

Indemnification

Policy Category:

Legal

Approved By:

Board of Governors

Effective Date:

September 5, 1991 [Revised 18 September 1998; 17 June 1999]

1. RATIONALE

There is an increasing occurrence of legal claims and actions against organizations and their employees, with significant costs of defending against such claims and actions. This has given rise to Lakehead University (the "University") establishing a policy (the "Policy") to assist its employees in understanding the extent of the University's indemnification for legal costs incurred by its employees as a result of claims and actions brought against the University and/or its employees, and arising out of employees' employment duties.

2. POLICY

It is the policy of Lakehead University to provide a legal defence and to pay for the legal costs in the event that an employee has need for legal representation as a result of proceedings arising from her/his employment duties, subject to the following guidelines.

3. GUIDELINES

3.1 Employees of the University are expected to exercise their employment duties in conformity with government legislation and regulations, in good faith, in a reasonable manner, and in accordance with other University policies, procedures and practices.

3.2 The University cannot support nor condone activities by its employees which are illegal, malicious or in deliberate contravention of recognized policies, procedures and practices of the University and any relevant legislation applicable to employees of the University.

3.3 The Policy is not intended to provide any legal representation to an employee who asserts a claim or action against the University and/or another employee of the University.

3.4 The University carries a general liability insurance policy, an errors and omissions liability insurance policy and an automobile liability policy (the "Insurance Policies") under which the insurers (the "Insurers") will provide a legal defence to any action or claim commenced against the University or its employees and will pay all sums that the University and/or its employees are obligated to pay as damages in respect of any claim or action made against the University and/or its employees provided that the claim or action is covered under the terms of the Insurance Policies and, in addition, only to the extent of the limits of the Insurance Policies. The Insurance Policies specifically do not cover criminal or quasi-criminal action arising from an employee's employment duties.

3.5 Where the action or claim against the employee of the University is covered under any of the Insurance Policies, legal counsel and representation will be provided to the employee in accordance with the terms of the applicable Insurance Policy.

3.6 In the event that a claim or action of a criminal or quasi-criminal nature or any other claim outside the terms of the coverage provided to the University employees under the Insurance Policies, and arising out of employment duties, is made against an employee of the University, the University will determine whether or not a legal defence will be provided under the Policy. In instances where the University does not provide a legal defence, and where the event would be of a nature that would normally fall under the Policy, and the employee is subsequently found not guilty or not responsible in respect to the claim or action, the University will pay the employee's legal costs as agreed to by the University or alternately as assessed by the appropriate Assessment Officer.

3.7 Nothing under this Policy shall be construed to obligate the University to provide any legal defence to the employee or to pay any fines or damages that may be assessed against the employee in respect of any claim or action except to the extent of its obligations under this Policy.

3.8 In the event that an employee is named by a student(s) as a respondent in a matter to be adjudicated by an internal tribunal of the University and, where the student(s) has legal representation, the University will provide legal counsel upon the request of the employee.

3.9 Subject to the terms of this Policy, the University is under no obligation to assume the costs for legal defence of an employee when the legal counsel has been secured by the employee without the permission of the University.

PROCEDURE

4.1 The employee named in a claim or action shall, within three (3) working days of receipt of the claim or action, report the matter in writing to the Department Chair/School Director or Dean (in the case where the employee is a member of the Faculty) and to the appropriate Supervisor or Director (in the case of other employees) who will then refer the matter immediately to the appropriate Vice-President. When providing notice to the University in this regard, the employee will provide the University with a copy of any court or other documents served on the employee. Any failure on the part of the employee to report the claim or action on a timely basis may result in the Insurer denying coverage under the Insurance Policies. If the Insurer does not respond to provide a legal defence and coverage and it is felt by the University that its position has been prejudiced as a result of the delay on the part of the employee, it may, in its discretion, deny the application of this Policy to the claim or action.

4.2 The occurrence will then be reviewed by the Vice-President and the Risk Manager (Director of Finance) who will report the occurrence immediately to the Insurers under the Insurance Policies, requesting a prompt reply as to the assumption of responsibility for legal defence for the employee.

4.3 In the event that the Insurers under the Insurance Policies do not provide a legal defence to the employee, the Vice-President will determine, in her/his sole discretion, whether or not a legal defence will be provided to the employee by the University. If the decision is made to provide the legal defence to the employee, legal counsel will be selected at the discretion of the University. The decision of the University in this regard will be provided to the employee in writing as soon as reasonably possible after receipt of the notice of claim or action from the employee and after receipt of a response from the Insurers under the Insurance Policies.

4.4 Where a legal defence is provided by the University and/or the Insurers, the employee will fully co-operate with respect to all matters pertaining to the claim or action and will assist the University and legal counsel with respect to a defence of the claim or action. Where the University determines that the employee has failed on a reasonable basis to provide the co-operation and assistance with respect to the defence of the claim or action, or has failed to disclose or has misrepresented relevant information concerning the claim or action, then the University shall, in its sole and absolute discretion, have the right to decline any further legal representation for the employee.

5. REVIEW

5.1 The Policy will be subject to review within three years from the date of implementation.

6. IMPLEMENTATION

This Policy will be implemented following review by the Insurers of the University and upon approval by the Board of Governors.