

Idaho State Board of Education
GOVERNING POLICIES AND PROCEDURES

SECTION: V. FINANCIAL AFFAIRS

Subsection: W. Litigation

August 2015

1. General

When a lawsuit, legal document, or other official notice is instituted against an institution and/or the Board, the following positions are authorized to accept service of process of such matter on behalf of the institution and/or Board:

- a. The institution's chief executive officer or general counsel; or
- b. The Board's executive director or deputy attorneys general assigned to the Board.

This authority to accept service pertains only to attempted service upon the institution and/or Board, and not to any attempt to serve the Idaho secretary of state or the Idaho attorney general. An institution president or general counsel who accepts service of any matter on behalf of such institution and/or the Board pursuant to this authority must promptly forward a copy of any such matter to the Board office, and in appropriate circumstances, should also forward a copy of such matter to the State of Idaho Department of Administration, Division of Internal Management Systems, Risk Management Program.

2. Initiation of Litigation

An institution or agency under the governance of the Board may initiate a legal action with respect to any matter in which the amount in controversy does not exceed one hundred thousand dollars (\$100,000). With the prior approval of the executive director, an institution, agency, or school under the governance of the Board may initiate a legal action with respect to any matter in which the amount in controversy does not exceed two hundred thousand dollars (\$200,000). Any other proposed legal action may not be instituted without the prior approval and authorization of the Board.

- a. Notwithstanding the authority to initiate litigation provided above, any legal action involving the exercise of the right of eminent domain must have the prior approval of the Board.
- b. Pursuant to Section 33-3804, Idaho Code, an institution is permitted to initiate legal action in its own name.

3. Settlement

The chief executive officer has authority to settle a legal matter involving the payment or receipt of up to one hundred thousand dollars (\$100,000) of institution or agency funds. The executive director may authorize the settlement of a legal matter involving the payment or receipt of up to two hundred thousand dollars (\$200,000) of institution, agency, or school funds. Any settlement of a legal matter that is in excess of two hundred thousand dollars (\$200,000) in institution or agency funds must be approved by the Board prior to any binding settlement commitment.

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4. Litigation Reporting by Institutions

Legal counsel for the institutions shall provide monthly attorney–client privileged litigation reports to the Board office (to the attention of the Board’s legal counsel) for distribution to members of the Board. Such reports should include a description of all claims and legal actions filed against the institution since the date of the last report (and identify legal counsel for the parties involved, for conflict analysis purposes); a summary of the current status of all claims and pending litigation; risk analysis pertaining to all such claims and pending litigation; and the settlement of any matters since the date of the last report, including settlements of matters handled by the State of Idaho Department of Administration, Division of Internal Management Systems, Risk Management Program. With respect to the reporting of a legal settlement, such report shall describe the amount of institution funds that were used, and the amount and source of any other funds that were provided in connection with such settlement, including funds from the Office of Insurance Management or from any other parties. Legal counsel for the institutions should also include in the report any significant incident occurring since the last report that is reasonably expected to give rise to a claim, as well as probable claims or legal actions the institution is aware of which have been threatened but not yet instituted.