

SUL ROSS STATE UNIVERSITY

A Member of the Texas State University System

STATE LIABILITY FOR CONDUCT OF STATE EMPLOYEES

APM 5.08 (Revised 5/2012)

A. EMPLOYEE TORT LIABILITY

All University employees are subject to "tort" lawsuits filed by parties claiming injury as a result of the wrongful acts or omissions of such employees. The State of Texas assumes a limited monetary responsibility for its employees in certain tort cases. Under the Texas Civil Practice and Remedies Code, each governmental unit in the state shall be liable for property damage, personal injury and death proximately caused by negligence or wrongful act or omission of a state employee acting within his/her scope of employment. Several conditions and limitations are placed upon the state's liability, however.

One limitation is that the maximum monetary obligation the state will assume is "\$250,000 per person and \$500,000 for each single occurrence for bodily injury or death and \$100,000 for each single occurrence for injury to or destruction of property." An employee whose tort liability is found by a court to be higher than the above-noted limits would have to use his/her own insurance or resources to cover the difference. In addition, the Code prohibits universities from paying tort claims except by direct legislative appropriation.

Chapter 101 of the Code also lists cases in which the state will assume no liability at all. In such cases, the employee might have to assume his/her own liability.

B. WRONGFUL CONDUCT BY EMPLOYEES

Chapter 104 of the Civil Practice and Remedies Code pertains to the state's liability for and defense of claims involving negligence and other wrongful conduct by state employees. Under this chapter, the State of Texas is liable for actual damages, court costs and attorney's fees adjudged against any state officer or employee based upon acts or omissions by such person if he/she was acting within the scope of his/her employment and if the damages resulted from negligence or deprivation of rights. Again, the state's liability is limited. For example, if the court finds the officer or employee guilty of gross negligence or of willfully committing a wrongful act, or if he/she acted in bad faith, the state will not be liable. In addition, the state is not liable to the extent that damages are recoverable under a contract of insurance or under a plan of self-insurance.

State liability under this chapter may not exceed \$100,000 to a single person and \$300,000 for a single occurrence in the case of personal injury, death, or deprivation of a right, privilege or immunity secured by the constitution or laws of this state or of the United States. State liability for damage to property may not

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exceed \$10,000 for a single occurrence. The state attorney general may defend an employee in a cause of action under this chapter, provided the person against whom the action is brought delivers to the attorney general all process served on that person not later than the 10th day after the date of service.

B. EMPLOYEE PROCEDURES

It is important that all employees realize that any injury, no matter how small, can be a potential tort claim or other lawsuit. All injuries or property damage should be reported to the employee's immediate supervisor as soon as possible. The report should be reduced to writing as soon as practical and should be accompanied by a written report of any investigation conducted by the supervisor.

Employees should also take particular care in areas of high vulnerability to tort claims; i.e., traveling on state business in University-owned or personal vehicles; student activities involving a high probability of accident or injury, such as athletics, class or laboratory work involving dangerous chemicals or equipment; areas involving student rights; safety of University property and equipment accessible to the general public, etc. Employees should be familiar with University policies and procedures affecting such areas.

Nothing herein shall be taken as an offer of legal advice and shall in no way bind the University or the Board of Regents, Texas State University System, aside from the specific provisions of the Civil Practice and Remedies Code. Employees who require fuller explanation of the Code should read the Code and/or consult an attorney.