

The X-Files
(or District Liability Claims)
"The Truth Is Out There"

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What is an X-File?

A claim resulting from our alleged negligence causing bodily injury or property damage to a third party resulting from:

- ◆ Premises and operations
- ◆ Owned or leased property
- ◆ Property under construction
- ◆ Negligence of employees, agents, contractors
- ◆ Automobile liability
- ◆ Professional liability
- ◆ Contractual obligations: insurance and indemnification requirements in leases and contracts
- ◆ Personal injury (libel, slander, discrimination)

Examples of X-Files

- ✳ **Golf ball from golf class damaged windshield**
- ✳ **Our vehicle rear-ended another**
- ✳ **Slip & fall caused by bolt in sidewalk left by contractor**
- ✳ **Inappropriate dental treatment**
- ✳ **Civil rights violation**
- ✳ **Van rollover**

Estimated Costs of X-Files

We pay the first \$100,000 of each claim or occurrence.

January 1, 1996 - June 30, 2000

Total claims:	\$3,215,695.01
Insurance paid:	<u>\$2,635,383.54</u>
District paid:	\$ 580,311.47

Claims Process

Risk Manager's Role

- * Procedures are developed, implemented, and followed for accepting claims.**
- * Assure that claims handling function is adequately staffed.**
- * Act as liaison between the third-party claims administrator (TPA), insurer, and the District.**

The Claims Process

- * Incident occurs.**
- * Report is made to College Safety Office and forwarded to risk manager.**
- * Injured person is referred to risk manager to discuss claims process.**
- * Notice of Claim (per A.R.S. §12-821) is received in Legal Services.**

The Claims Process

- ✳ **Risk manager assigns claim to TPA.**
- ✳ **TPA investigates claim:**
 - ◆ **Liability is clear**
 - ◆ **Liability is doubtful**
 - ◆ **Liability is unclear**
 - ◆ **TPA recommends acceptance or denial**
- ✳ **Claim is settled (or we prepare for litigation).**

Key Stages of Claims

✳ **Proactive Stage**

✳ **Reactive Stage**

✳ **Litigation Stage**

The Proactive Stage

Implement a risk-management program.

- * Develop loss prevention/control programs.**
- * Physically inspect properties.**
- * Ask for legal/risk management input on new projects/activities.**
- * Review contracts/certificates of insurance.**
- * Establish claims-reporting procedures.**

The Reactive Stage

A.R.S. §12-821 Compliance

Claim against a public entity must:

- ✳ **Be filed with the appropriate party within 180 days after the cause of action accrues.**
- ✳ **Contain sufficient facts to permit the public entity to understand the basis upon which liability is claimed.**
- ✳ **Contain a specific dollar amount for which the claim can be settled.**

The Reactive Stage

A.R.S. §12-821 Compliance

- ✳ **Claim not filed within 180 days after the cause of action accrues is barred.**
- ✳ **Lawsuit Criteria:**
 - ◆ **Valid Notice of Claim must first be filed.**
 - ◆ **Lawsuit must be filed within one year after the cause of action accrues.**

The Reactive Stage

Your Responsibilities

- * Report all incidents to College Safety and risk manager.**
- * Show you care without accepting liability.**
- * Refer claimant and anyone else asking questions to risk manager.**
- * Presume that all injured persons will become claimants, if not litigants.**
- * Preserve **ALL** evidence.**
- * Cooperate in investigation.**

The Reactive Stage

Risk Manager's Responsibilities

- ✳ **Explain claims process.**
- ✳ **Forward Notice of Claim to TPA (and our insurer if claim meets insurer's reporting criteria).**
- ✳ **Act as liaison between claimant, TPA, insurer and District.**

The Reactive Stage

Insurance Company's Claims Criteria

The following types of losses must be reported immediately without regard to liability:

- * **Amputations**
- * **Brain or Spinal Cord Injuries**
- * **Fatalities**
- * **Hospital stays of two weeks or more**
- * **Loss of use of an arm , leg, or eye**
- * **Major burns**
- * **Multiple fractures**
- * **Rape/sexual assault or molestation**
- * **Severe cosmetic deformity or disfigurement**
- * **Losses that could be greater than \$50,000**

The Reactive Stage

TPA Responsibilities

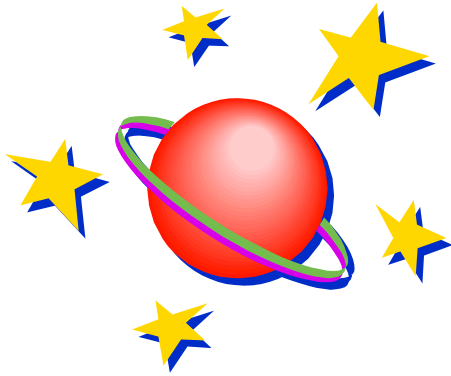
- ✳ **Review claims notice, medical bills, auto body bills, etc., and interview claimant, witnesses, and other parties.**
- ✳ **Determine if District is liable.**
- ✳ **Recommend acceptance/denial.**
- ✳ **Receive authority from District (and insurer) to settle claim.**

The Litigation Stage

- * Original complaint must be filed and served within one year of cause of action.**
 - * Formal discovery takes place.**
 - * Tell legal counsel everything! (Remember, the truth is out there!)**
 - * Negotiate fair settlement ASAP if liability is clear.**
 - * Manage litigation.**
- Minimum cost of lawsuit through trial is \$70,000.**

Conclusion

- * A comprehensive risk management program is our best defense.**
- * Your cooperation and understanding is vital to the success of our claims program.**
- * Questions? Call the risk manager!**



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