

Number: AD-3108
Section: PUBLIC SERVICE EMPLOYEE BENEFITS
Subject: PERSONAL LIABILITY PROTECTION
Last update: 09/09/98
Printed: 05/99

1. APPLICATION

This policy applies to all employees in Parts I, II and III of the Public Service of New Brunswick. In addition, the policy applies to a person, who is not an employee of the province as defined in the Public Service Labour Relations Act, while such person performs services on behalf of the province, provided however that such person;

- was authorized in advance to perform the services;
- performed the services as directed; and
- acted in good faith.

2. AUTHORITY

Financial Administration Act, Section 6 (1) (i); Board of Management Minute 86-0431; 87-0625; 89.0003; 90.0509; 91.0059; 98.0551.

3. POLICY

Where it is alleged that an employee is negligent, the employer will defend, negotiate or settle claims and will, when necessary, pay all loss damages, costs or expenses provided the employee has acted in good faith and provided that the employee has acted within the scope of his employment.

Whenever the employer does defend an employee pursuant to the aforementioned, the employer shall have the general conduct of the action. This policy is further conditional upon:

- (a) the co-operation of the employee with the employer in all matters, except in a pecuniary way, relating to the defence of the claim or in the prosecution of any appeal, including, when requested by the employer, attending all meetings, hearings and trials, assisting in effecting any settlement, securing and giving evidence, and obtaining the attendance of witnesses;
- (b) the employee not assuming any obligation, admitting any liability or taking any steps to compromise the defence of the claim without the prior written approval of the employer;
- (c) the claim not being covered by any policy of insurance effected directly or indirectly for the benefit of the employee, but a homeowner's policy of insurance,

providing personal liability coverage for the employee is not considered to be a policy of insurance for the purposes of this paragraph;

(d) the employee agreeing that any costs recovered in the defence of the action is the property of the province and such costs are to be made payable to the Minister of Finance, and the employee agrees to release such costs in favour of the province and to execute any such documentation that may be required to ensure that the costs awarded are paid to the province.

4. DEFINITION

4.1 Person means

- a) a casual worker, a part-time worker, supply teacher, exchange teacher or an individual who receives wages or salary from the province; or
- b) an individual who performs service for the province on a voluntary basis without fee or charge;
- c) an individual having terminated employment in Parts I, II or III of the Public Service;
- d) an individual who is appointed by Order-in-Council to a Commission or a Board and receives a "per diem" rate;

BUT DOES NOT INCLUDE

- e) an independent contractor; and
- f) an individual, company, agency or body retained by the province to provide goods or services for a fee or charge.

4.2 Province includes a hospital

5. EXTRACURRICULAR ACTIVITIES - TEACHERS

The Personal Liability Protection Policy applies in instances where members of the New Brunswick Teachers Federation (NBTF) are involved in authorized extracurricular activities and authorized non-teaching duties, as established by the appropriate school board within the particular school district.

6. INDEMNIFICATION

In the event the employer is required to make a payment on behalf of an employee or person to whom the benefits of the policy apply, the board will not seek indemnification from the employee or person on whose behalf the payment is made.

7. INQUIRIES

For further information contact Compensation and Staffing Policy Branch, Department of Finance at 453-5359.
