

Chapter 2.98 DEFENSE AND INDEMNIFICATION OF COUNTY OFFICERS, OFFICIALS, AGENTS AND EMPLOYEES

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2.98.010 Adoption.

The policy set forth in this chapter is adopted as part of the risk retention program of the county.

(Res. 556-1978 (part), 1978).

2.98.020 Chapter in Public Interest.

The adoption of this chapter is in the interests of the public health, safety and general welfare of all the citizens of the county, and is necessary for the protection of the county's existing public institutions.

(Res. 556-1978 (part), 1978).

2.98.030 Defense – Persons to Whom Provided.

Whenever an action or proceeding for damages is brought against any officer, official, agent or employee of Yakima County where it has been determined by the prosecuting attorney that such action or proceeding arose from acts or omissions while performing or in good faith purporting to perform his or her official duties and when such officer, official, agent or employee has requested defense of the action or proceeding at the expense of the county, the board of county commissioners shall be deemed to have granted such a request. The necessary expenses of defending the action or proceeding by the prosecuting attorney shall be paid by the county and any final money judgment against said officer, official, agent or employee shall be paid by the county.

(Res. 531-1986 (part), 1986; Res. 556-1978 (part), 1978).

2.98.040 Defense – Limitations.

(1) The services or reimbursement provided for by this chapter may be provided to both past and present officers and employees, provided the incident which gave rise to the claim or cause of action for which defense services are deemed necessary occurred during the tenure of office or employment of the individual.

(2) Such defense or reimbursement may be provided even though such officer or employee may be found to have exceeded his legal rights and authority, provided the officer or employee has not exceeded or deviated from the scope of his office or employment. Such defense may also be provided even though the result of a trial or other legal proceeding indicates that the acts were illegal, provided such acts were performed by the officer or employee in the bona fide good-faith discharge of his duties.

(3) Legal services will not be provided to officers or employees of the county to defend a charge of official misconduct or to defend the right to hold office. Official misconduct is not intended to include action taken in the good-faith belief that it is legally authorized or required.

(Res. 556-1978 (part), 1978).

2.98.050 Defense – Determination of Right to Defense and Indemnification.

The board of county commissioners hereby delegates to the prosecuting attorney the final determination of any and all questions relating to the following issues:

(1) Whether acts or omissions performed by a county officer, official, agent or employee were or in good faith purported to be within the scope of that person's official county duties; and

(2) Whether, for purposes of the issues raised by an action or proceeding for damages, a particular person is, in fact, a county officer or employee.

(Res. 531-1986 (part), 1986; Res. 556-1978 (part), 1978).

2.98.055 Action for Malicious Prosecution Authorized.

The board of county commissioners hereby authorizes the prosecuting attorney to bring an action or counterclaim for damages on behalf of a county officer or employee as authorized by RCW [4.24.350](#) as hereafter amended when, in the sole discretion of the prosecuting attorney, the prosecuting attorney determines that it is in the best interest of the county to bring such action or counterclaim. The prosecuting attorney is authorized to provide legal services for the employee and to expend county funds to prosecute such action or counterclaim.

(Res. 531-1986 (part), 1986).

2.98.060 Defense – Representation by Prosecuting Attorney.

Where a county officer, official, agent or employee, or his or her marital community is sued for an act determined by the prosecuting attorney to be within the scope of such officer's or employee's official duties, the prosecuting attorney shall be responsible for defense of that person or marital community, and shall direct recommendations, if any, for settlement of such suits to the board of county commissioners.

In arriving at any such recommendation for settlement, the prosecuting attorney shall consult with the county agency most involved with the litigation and/or named as a party to the lawsuit.

(Res. 531-1986 (part), 1986; Res. 556-1978 (part), 1978).

2.98.065 Defense – Cooperation with Prosecuting Attorney.

(1) All county departments, divisions, officials, officers, agents and employees are directed to cooperate fully with the prosecuting attorney in all matters including investigation involving disposition of claims and

the settlement and defense of claims lawsuits. All departments, divisions and other county agencies are directed to provide such information as requested by the prosecuting attorney in defense of claims lawsuits.

(2) Except as specifically directed by the prosecuting attorney, no county agency, officer, official, agent or employee may engage in any of the following acts with respect to actions or proceedings for damages defended by Yakima County:

- (a) Negotiate or otherwise affect the settlement of such an action or proceeding for damages against the county;
- (b) Make an admission of liability involving such action or proceeding for damages against the county;
- (c) Discuss with persons who are not county employees incidents which could reasonably lead to actions or proceedings for damages against the county, or its officers or employees.

(3) County departments, divisions and other county agencies shall immediately report to the prosecuting attorney circumstances of any accident involving a county vehicle or other county property and shall forward to the prosecuting attorney copies of all accident or investigation reports related to such accidents.

(Res. 531-1986 (part), 1986).

2.98.070 Indemnification.

Any officer, official, agent or employee of the county may be indemnified for all costs and judgments which he or she is actually obligated or called upon to pay if the act or omission resulting in judgment is one for which the individual would be eligible for legal services or reimbursement for legal services under this chapter, provided that the same approval process and criteria for determining whether the county shall provide legal services for the defense of an action shall be employed to determine whether or not indemnification will be made by the county.

(Res. 556-1978 (part), 1978).

2.98.080 County Need Not be Party to Cause.

Legal services and indemnification may be provided by the county under this chapter irrespective of whether or not the county is either a party to the cause or itself subject to liability.

(Res. 556-1978 (part), 1978).

2.98.090 Claims – Information Required – Procedure.

(1) No claim shall be paid by Yakima County until a written claim has been filed with the office of the board of county commissioners which claim shall include the name and address of the claimant; the name and address of the injured person or owner of property damaged if different than the name of the claimant; the date, location, and value of the claimed loss; the cause of the loss; a description of the injury or property damaged sufficient to allow an evaluation of the loss; and such other information as is necessary for the county to determine why the county may be liable for the claimed loss and the value of the loss. Claim forms may be provided through the office of the board of county commissioners.

(2) Upon receipt of a claim, the board of county commissioners shall assign a claim number, shall file the original claim, and shall transmit copies of the claim to the department or departments of the county involved in the loss and a copy to the prosecuting attorney.

(3) The prosecuting attorney shall investigate the claim and shall make a recommendation to the board of county commissioners regarding disposition of the claim; except, if a lawsuit against the county, its departments, officials, employees or agents, is filed or served on the county before such recommendation for disposition is made, or in the event that the prosecuting attorney anticipates that a lawsuit will be filed against the county, the prosecuting attorney, in his discretion, may not make a recommendation of disposition of the claim.

(4) No claim shall be paid, settled or denied until the prosecuting attorney has made a recommendation of disposition. The final decision to deny, pay or settle a claim shall lie with the board of county commissioners.

(5) The board of county commissioners shall notify the claimant of the disposition of the claim in writing by mailing such notice to the claimant at the address listed on the claim.

(Res. 531-1986 (part), 1986).

The Yakima County Code is current through Ordinance 11-2014, and legislation passed through May 5, 2015.

Disclaimer: The Clerk of the Board's Office has the official version of the Yakima County Code. Users should contact the Clerk of the Board's Office for ordinances passed subsequent to the ordinance cited above.