

System-wide Policy: BT0012 - Policy on Settlement of Claims and Litigation	
Version: 2	Effective Date: 06/21/2019

**BOARD OF TRUSTEES
POLICY ON SETTLEMENT OF CLAIMS AND LITIGATION**

SECTION 1. BACKGROUND

The Bylaws of the Board of Trustees authorize the President, Chief Financial Officer, Treasurer, and Secretary to execute legal instruments binding on the University, which include settlement agreements resolving legal claims and litigation against the University and University officials. Prior to adoption of this policy, there was no requirement for Board involvement in the settlement of claims and litigation. The typical practice was for the Chief Financial Officer to approve settlements after other approvals appropriate to the particular matter had been obtained, including approval by the chief executive officer of the campus or institute (or designee).

SECTION 2. PURPOSE

This policy establishes specific requirements for approval and oversight of the settlement of claims and litigation, including approval of settlements above a certain amount by either the Executive Committee or the Audit and Compliance Committee of the Board of Trustees, and reserves certain approval authority in the Board itself.

SECTION 3. APPLICATION

This policy applies to claims and litigation against (a) The University of Tennessee (including any component unit of the University), or the Board of Trustees, as a corporate body; (b) Trustees and University employees sued in their official capacities; and (c) Trustees and University employees sued in their individual capacities when representation has been authorized by the Attorney General and Reporter pursuant to Tennessee Code Annotated § 8-42-103.

SECTION 4. DEFINITIONS

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As used in this policy, the terms “claim” and “litigation” shall have the following meanings:

- a. “Claim” means a dispute in which a demand for payment is asserted in some manner other than through litigation.
- b. “Litigation” means (1) a lawsuit in a federal or state court with original jurisdiction over the subject matter; and (2) a matter before a state or federal administrative agency (such as the Tennessee Human Rights Commission, the Equal Employment Opportunity Commission, or the Office for Civil Rights).

SECTION 5. APPROVAL AND RECOMMENDATION BY THE CHIEF EXECUTIVE OFFICER OF THE CAMPUS, INSTITUTE, OR SYSTEM ADMINISTRATION

(a) When the chief executive officer of a campus or institute (a Chancellor or the Vice President for Public Service) has decided that settlement of a claim or litigation arising out of the campus or institute is in the University’s best interest, the chief executive officer’s approval of the settlement, and any other campus or institute approvals the chief executive officer may have obtained, shall be documented in a written recommendation submitted to the system Chief Financial Officer as the initial approving authority under Section 6 of this policy. The chief executive officer’s recommendation shall identify the source of funding for the settlement.

(b) When the chief executive officer of the system administration (the President) has decided that settlement of a claim or litigation arising out of the system administration is in the University’s best interest, the chief executive officer’s approval of the settlement, and any other system administration approvals the chief executive officer may have obtained, shall be documented in a written recommendation submitted to the system Chief Financial Officer as the initial approving authority under Section 6 of this policy (in which case further approval by the President under Section 6 of this policy is not required

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regardless of the amount of the settlement). The chief executive officer’s recommendation shall identify the source of funding for the settlement.

(c) The General Counsel shall submit settlements to the approving authorities designated in Section 6 of this policy and shall include the chief executive officer’s written recommendation, an analysis of the claim or litigation, and an analysis of the settlement; provided, however, that if the claim or litigation is defended by attorneys other than those employed in the office of the General Counsel, lead counsel for the claim or litigation shall carry out this responsibility.

SECTION 6. APPROVAL OF THE CHIEF EXECUTIVE OFFICER’S RECOMMENDATION

Except as provided in Section 7 of this policy, the chief executive officer’s recommendation for settlement of claims and litigation is subject to the following approvals:

Up to and including \$25,000	Chief Financial Officer
More than \$25,000 up to and including \$250,000	Chief Financial Officer and President (or General Counsel instead of President if the claim or litigation is defended by attorneys other than those employed in the Office of the General Counsel)
More than \$250,000	Chief Financial Officer, President, and either the Executive Committee or the Audit and Compliance Committee

(a) If the settlement amount is more than \$250,000, the Chair of the Board shall determine which of the two specified committees of the Board will be asked to approve the settlement.

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(b) The Chief Financial Officer, the President, or the General Counsel may refer any settlement submitted to them to either the Executive Committee or the Audit and Compliance Committee for approval, as determined by the Chair of the Board.

(c) Any settlement submitted or referred to the Audit and Compliance Committee may be referred by the Committee to either the Executive Committee or the Board of Trustees for approval.

(d) Any settlement submitted or referred to the Executive Committee may be referred by the Committee to the Board of Trustees for approval.

(e) The General Counsel must approve all settlement agreements as to form and legality.

(f) The President, Chief Financial Officer, and General Counsel may not delegate approval of settlements to another employee except in the extraordinary circumstance in which the official expects to be unable to perform the duties of his or her office for more than two weeks. The official shall give written notice of the delegation to other officials required to approve settlements and to the Chair of the Board.

SECTION 7. RESERVATION OF APPROVAL AUTHORITY IN THE BOARD OF TRUSTEES

Notwithstanding the provisions of Section 6 of this policy, the Board of Trustees reserves to itself authority to approve settlement of the following: (1) claims or litigation involving a decision of the Board; and (2) claims or litigation against Trustees in their individual capacities.

SECTION 8. ADDITIONAL APPROVALS

Nothing in this policy shall be construed to preclude additional approval of settlements if deemed warranted by the Chair of the Board, the President, or the General Counsel.

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SECTION 9. AUDIT AND COMPLIANCE COMMITTEE REVIEW OF CLAIMS AND LITIGATION

The General Counsel’s periodic review (at least annually) of all claims and litigation with the Audit and Compliance Committee in confidential non-public executive sessions, pursuant to Tennessee Code Annotated § 4-35-108, shall continue to include a review of all settlements of claims and litigation approved since the previous review, regardless of the amount of the settlement.

History:

Adopted	10/14/2016
Revised	06/21/2019 (technical revisions)