

**CITY OF MINNEAPOLIS**  
**Defense and Indemnification Procedures**

**Applies to:** City Council Departments, Boards and Commissions, Elected and Appointed Officials

**Synopsis:** City Policy & Procedure for Defense & Indemnification of Officers and Employees in accordance with the requirements of MN Statutes, Chap. 466.

**Links to Related Policies and Procedures:** N/A

**Administered By:** City Attorney's Office

**Phone:** (612) 673-3000

**A. Request to Defend and Indemnify**

A City officer or employee, whether elective or appointive (collectively, "employee"), who receives a summons and complaint in a lawsuit for which the employee wishes to request defense and indemnification must complete a request form. This form shall be available on the City's internal website and shall include a reference to this policy. By requesting defense and indemnification, the employee agrees to cooperate with the City in the defense and gives full authorization to the City to make determinations regarding settlement of the legal claim(s) if defense and indemnification are provided.

Timely submission of this form is required to request defense and indemnification from the City. It must be completed and submitted to the employee's department head or directly to the City Attorney's Office within 7 days of the date that the officer or employee received the Summons and Complaint. The department head must submit the request to defend to the City Attorney immediately, and in no event later than within three business days of receipt.

**B. City Attorney's Determination**

If the City Attorney's determination is that the employee should be defended and indemnified, then the City Attorney shall proceed to provide that defense and indemnification pursuant to legal ethics and rules, any applicable labor agreements, and subject to the requirement of the employee to cooperate with the defense described below.

In any case where the City Attorney is considering denial of defense and indemnification, the following process shall be followed:

1. The employee shall be provided notice that the matter is under consideration.
2. The employee shall be provided an opportunity to submit evidence and argument in support of the request for defense and indemnification. The employee shall be afforded at least 30 days to submit such materials.
3. The City Attorney or designee shall make a quasi-judicial determination as to whether the City will defend and indemnify the employee. The quasi-judicial determination shall be made no fewer than 7 days after the materials are submitted.
4. A determination denying a request to defend shall be made in writing and shall include: a description of the employee's notice and opportunity to submit evidence and argument in support of the request to defend; a statement of the documents and information considered; factual findings that support the determination; application of those factual findings to the prescribed legal standards according to applicable law and the City policy; and a binding decision regarding the request.
5. The employee shall be provided with notice of the quasi-judicial determination and a copy of any written decision.

### **C. Duty to Cooperate and Settlement**

All decisions to defend and indemnify are contingent on the ongoing duty of the employee or officer to fully cooperate in the defense of the claims. Refusal or failure to cooperate in the defense of the claims may be considered malfeasance, willful neglect of duty, or bad faith as to the underlying conduct and justify reconsideration of a request to defend and indemnify. In the event that the City Attorney identifies a potential failure to cooperate, the City Attorney will follow the quasi-judicial process described above before denying defense and indemnification on the basis of failure to cooperate.

The City retains all authority to make decisions regarding settlement of civil claims asserted against employees or officers whom the City has agreed to defend and indemnify.