

1 **A. APPLICABILITY TO CERTAIN CLAIMS**

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3 On occasion, the [Transylvania County Board of Education](#) (the “board”) is presented
4 with claims against the board from students, parents, or other citizens for injuries to
5 person or property sustained while on a board property or at a school-sponsored event.
6 The board adopts this policy in order that it may consider and process all such claims in a
7 fair and equitable manner, taking into consideration the economic resources available to
8 the board.
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10 The board will only consider claims under this policy when the applicable insurance
11 agreement and/or coverage agreement, if any, does not provide for the consideration,
12 settlement, and/or adjustment of claims prior to legal action being filed by the claimant in
13 a court of competent jurisdiction. Upon the filing of a complaint, the board will
14 immediately refer all claims to the appropriate insurance company or coverage provider
15 for appropriate action.
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17 **B. PROCEDURE FOR FILING CLAIM**

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19 All claims must be made to the superintendent in writing and must include a detailed
20 account of how the injury occurred, whether board employees were involved, and the
21 amount of damages suffered by the claimant. The claimant should include all supporting
22 documentation and any other information he or she believes is relevant. The
23 superintendent or designee shall investigate the incident and, if necessary, provide
24 supplemental information to the board.
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26 After receiving the claim, the board, in consultation with its attorney, will determine
27 whether to pay the claim, deny the claim, or make an offer to settle the claim.
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29 **C. SETTLEMENT**

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31 In determining whether to settle a claim prior to the filing of a legal action, the board will
32 consider the factors listed below. Before any final decision is reached, the board attorney
33 shall ensure that these factors were considered by the board in arriving at its final
34 decision.
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- 36 1. Whether there is a reasonable possibility that the potential defense costs to be paid
37 by the board, including an estimate of personnel time and school system
38 resources, will exceed the amount for which the case can be settled.
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- 40 2. The extent to which an employee’s actions or omissions may have caused, or
41 contributed to, an injury.
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- 43 3. Whether an employee intentionally caused an injury.
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45 4. Whether there are any affirmative defenses available to the board in the event of
46 litigation. However, the board will not assert or consider the availability of
47 Sovereign/Governmental Immunity for any pre-litigation claim.
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49 5. Whether the demand is within the retention or deductible level for monetary
50 payments pursuant to any applicable insurance or coverage agreement.
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52 Each claim will be evaluated based upon the specific circumstances. All factors need not
53 be given equal weight, and no one factor will be controlling.
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55 The payment of any claim will be subject to the claimant's execution of a full release of
56 liability in favor of the board, its employees, and its agents. The release will be on a form
57 approved by the board attorney.
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59 By considering whether to settle a claim, the board does not waive any affirmative
60 defenses available to it or its employees, including but not limited to the defenses of
61 governmental, sovereign, qualified, or public official immunity, or contributory
62 negligence. The board may assert these defenses should the claimant choose to file a
63 lawsuit.
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65 Legal References: *Dobrowolska v. City of Greensboro*, 138 N.C. App. 1 (2000)

66 Cross References:

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69 Adopted: January 14, 2008

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71 Revised: [DATE]
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