



**ADMINISTRATIVE POLICIES**

<b>SECTION:</b> General Administration		<b>POLICY #:</b> 212
<b>TITLE:</b> County Litigation Defense		<b>PROCEDURE #:</b> 212-A
		<b>ORDER #:</b> 18-097
<b>DEPT:</b> Legal Counsel		<b>PROGRAM:</b> N/A
<b>ADOPTED:</b> 01/86	<b>REVIEWED:</b> 6/08	<b>REVISED:</b> 09/18

**PURPOSE:** The purpose of this policy is to reduce risk and limit exposure of liability to the county through litigation defense, to promote settlement and compromise where liability exposure exists, to limit expenditures of time and money, and avoid judgments or orders against the county by minimizing litigation of employee relations, tort claims, civil rights claims, and miscellaneous civil actions.

**AUTHORITY:** The Marion County Board of Commissioners may establish rules and regulations in reference to managing the interest and business of the county under ORS 203.010, 203.035 and 203.111, and 203.230.

The Marion County Board of Commissioners expresses the governing body’s official, organizational position on fundamental issues or specific repetitive situations through formally adopted, written policy statements. The policy statements serve to provide rules for public officials on the conduct of county business.

The Marion County Board of Commissioners’ Administrative Policies and Procedures manual outlines the forms and process through which the board takes formal action on administrative policy. It is the official record of county administrative policy.

Statutory References

Oregon Revised Statutes chapters 20, 28, 30, 31, 33, 34, 36, 250, 254, 652, 659A, ORS 166.293, ORS 203.145, Oregon Rules of Civil Procedure, Oregon Constitution, Title VII of the Civil Rights Act of 1964, 42 USC §§ 1981-1988, the Americans with Disability Act, the Age Discrimination in Employment Act, the Family Medical Leave Act, the Rehabilitation Act of 1973, the Equal Pay Act of 1963, Executive Order 11246, Federal Rules of Civil Procedure, and United States Constitution.

**APPLICABILITY:** All public officials, including county officers, employees or agents, irrespective of whether or not a person is compensated for services.

## **SUBJECT: COUNTY LITIGATION DEFENSE**

**GENERAL POLICY:** The Marion County Office of Legal Counsel provides legal advice and representation to the Board of Commissioners, County Administration, the Sheriff's Office, and all other county departments and agencies on employment, contracts, litigation defense (torts), real estate taxes and issues related to property, civil rights claims and miscellaneous civil actions, and legal matters related to health care.

### **DEFINITIONS:**

Litigation: Includes, but is not limited to: arbitration; administrative hearings; court cases (state or federal); and resolution of contract disputes, with the exception of litigation related to Workers' Compensation.

Tort: The breach of a legal duty that is imposed by law, other than a duty arising from contract or quasi-contract, the breach of which results in injury to a specific person or persons for which the law provides a civil right of action for damages or for a protective remedy. ORS 30.260

### **POLICY GUIDELINES:**

#### **1. RESPONSIBILITIES**

- 1.1. All Marion County public officials are responsible for compliance with this policy and shall consult with legal counsel on all matters involving actual or potential legal issues, the need for legal advice and cooperate fully with the defense of claims.
- 1.2. If an individually named defendant officer, employee, or agent fails to cooperate or otherwise acts in prejudice of the defense of the claim, the county may at any time reject the defense of the claim and may refuse to hold harmless or indemnify that person.
- 1.3. Elected officials and department heads are responsible for consulting with the appropriate legal counsel and risk management staff to assess the risk and impact of litigation upon the county.
- 1.4. Alternative dispute resolution should be considered when feasible and appropriate as a litigation defense option.

#### **2. EXCEPTIONS**

Unless otherwise specifically authorized by the county legal counsel, the lawyers in the Marion County Office of Legal Counsel serve as the exclusive legal representatives and defense attorneys for Marion County.

#### **3. IMPLEMENTATION**

- 3.1. The Board of Commissioners has the authority and responsibility to implement this policy and expect compliance by all county departments.

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3.2. Elected officials and department heads are expected to be knowledgeable of, and shall be responsible for, implementing this policy within their departments.

4. PERIODIC REVIEW

This policy shall be reviewed by county Legal Counsel at least every three years, or more often if needed, and updated as necessary to ensure compliance with any legal changes that may occur.

Adopted: 01/86

Reviewed: 06/08

Revised: 07/08  
09/18