



NATIONAL HEADQUARTERS CIVIL AIR PATROL

CAP REGULATION 112-10

29 OCTOBER 2012
Corrected Copy

Claims

INDEMNIFICATION

This regulation establishes policies and procedures for the submission and processing of requests for indemnification pursuant to CAP Bylaws.

SUMMARY OF CHANGES.

Complete revision of regulation to implement the policy changes to the CAP indemnification as a result of the governance restructuring approved by the Board of Governors. **Note:** Shaded areas identify new or revised material.

1. Definitions.

The following definitions apply herein:

- a. "Review Panel" means the National Vice Commander, Chief Operating Officer (or his/her designee), General Counsel (or his/her designee), National Chief of Staff, and Chief of the CAP Legal Officer Corps.
- b. "CAP" means Civil Air Patrol.
- c. "Employee" means a person who is a paid employee of Civil Air Patrol.
- d. "Member" means a member of Civil Air Patrol.
- e. "Indemnity" means protection, such as by insurance, from liabilities incurred by way of one's actions. Here, it includes expenses from civil litigation and any settlement or civil judgment. (See CAP Constitution and Bylaws, Bylaw 11.1 which is incorporated herein by reference.)
- f. "Individual" means such members or employees of CAP, past or present, or their heirs, estates or personal representatives of such members or employees as are referenced in paragraph 2a of this regulation.
- g. "Command Council" means the CAP Command Council, as defined in the CAP Constitution & Bylaws.
- h. "CSAG" means the CAP Senior Advisory Group, as defined in the CAP Constitution and Bylaws.
- i. "Request for Indemnification" means a request in writing for indemnification pursuant to CAP Bylaws.

2. Conditions and Limitations:

- a. Indemnification shall be limited to claims arising from events, acts or failure to act that occurred during such time as the requesting individual, either in his/her own capacity or at the direction of a corporate officer, was

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- (1) serving as a corporate officer;
- (2) serving as a member of the Command Council or CSAG;
- (3) serving as a region or wing commander or vice commander;
- (4) serving as an acting region or wing commander pursuant to CAPR 20-1, *Organization of Civil Air Patrol*;
- (5) serving as the CAP Inspector General or as an inspector general or investigative officer while acting in that capacity as set out in CAPR 123-2, *Complaints*;
- (6) serving as the Equal Opportunity Officer or an investigative officer while acting in that capacity as set out in CAPR 36-2, *Complaints Under the Civil Air Patrol Nondiscrimination Policy*;
- (7) serving as an investigating officer for a commander directed investigation that has been directed/authorized in writing by a wing, region or national commander (or the legal officer thereof acting under the auspices of such a commander) to investigate "a possible violation of a CAP directive, misconduct, concerns over proper management, effective leadership and other command issues";
- (8) serving as a legal officer while acting in that capacity as set out in CAPR 111-1, *Qualifications and Duties of Legal Officers*;
- (9) serving as Chief of Chaplain or a Chaplain while acting in that capacity as set out in CAPR 265-1; or
- (10) employed as Assistant Chief Operating Officer, Director, or Assistant General Counsel.

b. Indemnification shall be made only if a timely request for indemnification has been given to CAP in the form and manner required by the provisions of this regulation. Such request shall contain sufficient detail to enable the National Commander to determine the nature of the pending or threatened litigation and set out sufficient facts regarding the circumstances surrounding such claim and allegation of liability to enable a determination to be made as to the eligibility for indemnification of the individual requesting indemnification.

c. Indemnification shall be made as requested UNLESS the individual (1) is found to have been guilty of gross negligence or willful misconduct, (2) is found to have deliberately acted beyond his scope of authority or (3) has intentionally or knowingly violated CAP regulations, manuals, directives or policies (unless the Review Panel finds the individual was in substantial compliance with such CAP regulations, manuals, directives or policies notwithstanding such violation).

d. Indemnification shall not be provided to the extent that the individual is covered by liability insurance with regard to the events being alleged as the factual basis for the claim of liability against the individual.

3. Request for Indemnification. To be eligible for indemnification, an individual desiring to be indemnified pursuant to CAP Bylaws must:

- a.** Cause a written request for indemnification to be delivered to the CAP National Headquarters, addressed to the CAP National Commander, to the attention of the CAP Chief Operating Officer, 105 S Hansell St., Maxwell AFB AL 36112-5937.
- b.** Such written request for indemnification must be delivered to CAP National Headquarters in sufficient time to permit CAP to have an opportunity to appear and participate in the litigation or settlement of any claim against the individual for which the individual is requesting indemnification.

4. Processing. Subject to the provisions of paragraph 5:

a. Upon receipt of a request for indemnification, the CAP Chief Operating Officer, or the Chief Operating Officer's designee shall notify the Review Panel of the receipt of the request for indemnification and furnish them with copies of the request for indemnification.

b. The National Commander, in consultation with the Review Panel shall proceed to make or to cause to be made a determination as to whether or not there is cause to believe that the individual requesting indemnification is or is not entitled to such indemnification under the provisions of paragraph 2 of this regulation.

c. If the determination is that for any reasons set out in paragraph 2 of this regulation, the individual is not entitled to indemnification, the individual shall be notified in writing of such determination and the reasons therefore. Otherwise, the individual shall be notified in writing that CAP will undertake the defense of the individual, through counsel approved by the General Counsel, which counsel shall be selected and retained by General Counsel or CAP's insurer, if any, to act on behalf of CAP and the individual indemnified after consultation with the National Commander and the Chief Operating Officer.

d. If at any time it becomes apparent that the determination of the eligibility or ineligibility of the individual to indemnification was in error, such determination may be changed as the circumstances require by order of the National Commander.

e. In the event the right to indemnification is not withdrawn and a settlement or money judgment is entered or proposed involving an individual entitled to indemnification, such settlement or judgment may be paid from the CAP general fund only upon a majority vote of the Board of Governors.

5. Conflict.

a. Submission of a request for indemnification by a volunteer member of the Review Panel shall disqualify such person from participation in any judgmental process authorized or required of the Review Panel and a designee shall be named by the remainder of the members of the Review Panel to act in his/her name, place and stead.

b. Notwithstanding subparagraph (a) hereinabove, in the event all or a majority of the Review Panel are named as parties or defendants in a civil claim, then such legal claim shall be deemed to be an action against CAP as a corporate entity and the Review Panel shall not be deemed to have been disqualified.

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Commander