

Personal Liability for Neighborhood Council Board Members

The purpose of this handout is to provide guidance on reducing your personal liability while serving as a volunteer board member on a Neighborhood Council. This handout also discusses the limited situations when the City will protect board members in the event of a lawsuit by representing that person in the lawsuit and paying any damages on behalf of the board member. While liability in this area is complex and fact specific, the general rule is that the City will provide protection against personal liability if you are acting in the course and scope of your duties as a board member.

1. What is personal liability and indemnification?

Personal liability means that, if you are sued, the City will not represent you in the lawsuit and you will be required to pay for your own attorney and any damages arising from that lawsuit.

Indemnification means that the City will represent you in the lawsuit and pay any judgment against stemming from that lawsuit.

2. What are the limited circumstances where the City will provide indemnification protection?

The City will only indemnify a Neighborhood Council board member if the board member is sued as a result of actions arising out of the course and scope of the board member's duties.

3. What does it mean to act in the “course and scope” of my duties as a board member?

Your role as a board member is limited by the City Charter and the City's rules and regulations regarding Neighborhood Councils. Under the Charter, Neighborhood Councils exist to provide advice and recommendations to the City decision-makers on issues of concern in the neighborhood. (Los Angeles City Charter Art. XI §900.) Thus, an example where the City would provide indemnification protection is a situation where a Neighborhood Council communicated or the Neighborhood Council asked an individual board member to repeat the board's position to a City decision-maker, e.g., City Council, on an issue in the Neighborhood Council's community and a lawsuit was filed regarding this activity.

4. What are examples of a board member acting outside a “course and scope” of duties that would prevent indemnification by the City?

In general, the City will not indemnify a board member when the person is acting in a private or personal capacity, in cases involving criminal conduct by the board member or when the claim in the lawsuit alleges that the board member committed an intentional tort (civil wrong). A tort is an intentional civil wrong that causes injury to another person. Examples of personal torts include Assault, Battery, Libel, Slander, and Defamation. In addition, you may not be protected if a criminal

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case is brought against you. Examples of criminal cases could be for misuse of public funds, violating the Brown Act or violating the conflict of interest laws.

The following are examples when indemnification may not be provided:

- (a) Board member is contacted by the press to provide comments about an individual in the community and the board member provides a personal point of view that is potentially defamatory where the statement were not authorized by the board and the board did not take formal action regarding that individual in the community.
- (b) Board member is at a sponsored Neighborhood Council event or in a board meeting and physically removes a person that the board member believes should not be present.
- (c) Board member acts in personal retaliation in voting to remove a fellow board member or fails to follow the board's rules for removal.
- (d) Board member writes to a private entity using the board member's title and causes injury to another person's reputation in the community or the board member uses their title for a personal benefit.
- (e) Board member defames a person at a board meeting, committee meeting, in the board's newsletter or on social media.

5. What is the best way for you to protect yourself from being sued or, if sued, to obtain the City's indemnification?

You should try to ensure that all of your conduct is exemplary and professional, especially in dealing with members of the public and vendors. If you need to communicate negative comments or take unfavorable actions toward a third party, you should ensure that the exact language or conduct is pre-approved by your board and becomes the official position of your board. Most importantly, you should seek advice and approval from the City Attorney before taking action. Often, the very act of seeking full board approval and legal advice will temper and moderate your actions and statements to help you reduce your exposure to any liability. If you have a doubt, please contact your assigned Regional Attorney for guidance.

6. What do I do if I receive a lawsuit naming me as a defendant?

If you are served with a lawsuit, the first step is to send a copy of the lawsuit to Deputy City Attorney Darren Martinez at darren.martinez@lacity.org and include a statement requesting that the City indemnify you in the lawsuit.