

3359-61-01 Indemnification and defense.

- (A) The university of Akron shall indemnify and defend any member of its board of trustees, and any officer, administrator, faculty or staff member, or other agent or employee who has been, is, or becomes a party, or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the institution) by reason of the fact that, within the scope and in pursuit of what (s)he in good faith believed to be his or her lawful and proper authority or responsibility on behalf of, and in the best interests of the institution, (s)he acted or omitted to act in such a manner as to cause actionable injury, harm, loss or damage to another. The termination of any action, suit, or proceeding by finding, judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner which (s)he reasonably believed to be in the best interests of the institution and within his (her) lawful and proper authority or responsibility. This indemnity shall extend to all expenses (including reasonable attorneys' fees), judgments, fines, and amounts paid in settlement which are reasonably incurred in connection with any such claim, action, suit, or proceeding, provided that control of the investigation, negotiation, settlement, and defense of the same has been tendered to the university promptly upon the indemnitee's first notice of such claim, and prior to any admission or concession of liability with respect to the same, and provided that the indemnitee fully cooperates with the university in any such investigation, negotiation, settlement and defense which it may undertake.
- (B) With respect to any such claim, action, suit, or proceeding brought or threatened to be brought by or in the right of the university to recover a judgment in its favor, no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall be determined to be liable for negligence or misconduct in the performance of his or her duty to the institution, except and only to the extent that a court of competent jurisdiction shall determine, upon application, that payment of such indemnity under the circumstances is lawful and proper and that such person is reasonably entitled thereto.
- (C) Except as just above provided, any indemnification hereunder shall be made only as authorized in the specific case upon a determination that the person is qualified as a member of the board of trustees, or an officer, administrator, faculty or staff member, or other agent or employee of the university, and has met the applicable standard of conduct and that indemnification is otherwise

lawful and proper. Such determination shall be made by the board by a majority vote of a quorum consisting of members not parties to such claim action, suit, or proceedings; or, if such a quorum cannot be convened, or, even if convened, if a majority of such quorum so directs, by lawfully appointed special independent legal counsel in a written opinion.

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