



ADMINISTRATIVE POLICY

SECTION: 500- Health, Safety & Security	POLICY#: 504
TITLE: Risk Management Program Rules	R & O #: 12-060; 22-80
	IMPLEMENTED BY PROCEDURE #: 504-A
SPONSORING DEPT/DIV: Department of Human Resources, Risk Management Division	
ADOPTED: 08/07/2012	REVISED: 09/27/2022

1. Purpose. Washington County (the “County”) has established the Risk Management Division to cost effectively protect the people, property and finances of Washington County through techniques of loss identification, prevention, mitigation and reduction and ensure adequate funding is available to recover from accidental loss through methods of risk retention and transfer. These rules are intended to implement and be consistent with the Risk Management Policy Statement, Ordinance No. 330, and replace Resolution Nos. 87-64 and 90-107.

2. Responsibilities and Duties.

- 2.1 County Administrator – The County Administrator is responsible to:
 - 2.1.1 Have ultimate accountability for risk management within the County; and
 - 2.1.2 Appoint an employee to act as Chief Human Resources Officer, at a level within the administrative structure of the County that will enable that person to appoint a Risk Manager to effectively carry out the day-to-day management of the Risk Management Division of the Department of Human Resources.
- 2.2 County Counsel – County Counsel is responsible to:
 - 2.2.1 Provide legal advice to the Risk Manager related to all risk management functions except workers’ compensation claims management and administration;
 - 2.2.2 Provide legal advice and representation to the Risk Manager a within the scope of the Casualty Fund;
 - 2.2.3 Represent the County, its officers, employees, and agents with respect to claims within the scope of the Oregon Tort Claims Act, including actions in

federal court alleging violations of federal law or deprivation of federally protected rights;

2.2.4 Recommend retention of outside legal counsel for the defense of claims that County Counsel would otherwise be required to defend, where County Counsel determines that there is a conflict of interest, or that County Counsel staff cannot effectively undertake such representation because of workload or the specialized or complex nature of a particular claim; and

2.2.5 Manage outside counsel involved in the defense of claims within the scope of the Oregon Tort Claims Act, including actions in federal court alleging violations of federal law or deprivation of federally protected rights.

2.3 Risk Manager – The Risk Manager is responsible to:

2.3.1 Set goals and objectives for the Risk Management Division and measure program effectiveness and performance;

2.3.2 Administer the Casualty and Workers' Compensation Funds to cost effectively balance risk retention and risk transfer and to ensure the County's ability to quickly recover from accidental loss;

2.3.3 Provide loss prevention and control services to County departments;

2.3.4 Review contracts and other agreements to ensure the appropriate transfer of risk to responsible parties;

2.3.5 Develop and monitor compliance with policies, procedures and programs that ensure the safety and wellbeing of County employees and the public, protect its property, and limit its liability and related risk financing costs;

2.3.6 Identify, analyze, and control risks of loss;

2.3.7 Purchase and maintain all insurance, except insurance for employee fringe benefits;

2.3.8 Allocate to County departments risk management costs, including insurance premiums, self-insured retentions, and administrative costs;

2.3.9 Represent the County's interests in connection with compliance reviews and enforcement actions taken under state and federal insurance and safety regulations, such as OR-OSHA rules;

2.3.10 Administer general liability and workers' compensation claims either through a third-party administrator or self-administration;

2.3.11 Maintain the official record of all claims, losses, insurance, and other risk related records and expenses;

2.3.12 Recommend, in consultation with the Risk Manager, appropriate outside legal counsel for representation of the County in connection with self-insured workers' compensation claims; and

2.3.13 Hire and manage professional staff to assist in carrying out the responsibilities of the Risk Management Division.

2.4 Department Directors – Department Directors are responsible to:

2.4.1 Proactively maintain and promote safe and healthful working conditions throughout their department, including, but not limited to, ensuring an active departmental safety committee, supporting employee training, and giving budgetary consideration to needed safety improvements and equipment;

2.4.2 Implement and maintain risk management and loss control procedures and practices within the department;

2.4.3 Report and review all incidents involving their areas of responsibility, and cooperate and coordinate with Risk Management staff in the disposition and resolution of claims and recommendations for improvements;

2.4.4 Assure that equipment, facilities, and programs have safety measures built into them consistent with applicable state and federal safety and health rules;

2.4.5 Manage operations in accordance with County standards and statutory requirements;

2.4.6 Determine risks presented by new projects, activities or programs and methods for reduction or elimination in consultation with Risk Management staff; and

2.4.7 Report new property values, disposal of assets and significant changes in operations to the Risk Manager.

2.5 Supervisors – Supervisors are responsible to:

2.5.1 Have a working knowledge of health and safety policies and codes and ensure that employees have received required training and equipment;

2.5.2 Comply with, and monitor employee compliance with established safety rules, practices, and procedures;

2.5.3 Conduct regularly scheduled safety meetings;

2.5.4 Assist new employees by reinforcing and modeling proper job safety practices;

- 2.5.5 Promptly report and investigate all accidents to determine the cause and file reports in a timely manner;
 - 2.5.6 Take immediate corrective action to eliminate hazardous conditions or consult with management on all safety problems that cannot be corrected at the line supervisor level; and
 - 2.5.7 Counsel employees and use disciplinary action, when necessary, as corrective measures for safety violations.
- 2.6 All Employees – All employees are responsible to:
- 2.6.1 Promote safety among co-workers and contribute to good communication on risk and safety matters;
 - 2.6.2 Apply the principles of accident prevention in their daily work, and care for and use proper safety devices and protective equipment as required by their assignments;
 - 2.6.3 Become familiar with and observe safe work procedures during the course of their assigned activities;
 - 2.6.4 Promptly report to their immediate supervisors any on the job accident, injury, or occupational illness, regardless of the degree of severity, prior to the end of the work shift;
 - 2.6.5 Cooperate with and assist in the investigation of accidents to identify correctable causes and to prevent their recurrence;
 - 2.6.6 Promptly report to their immediate supervisor all unsafe actions, practices, or conditions they observe;
 - 2.6.7 Always keep work areas clean and orderly;
 - 2.6.8 Obey safety rules and follow established work procedures;
 - 2.6.9 Avoid horseplay and refrain from distracting others;
 - 2.6.10 Dress in attire appropriate for the assignments they are expected to perform; and
 - 2.6.11 Cooperate in the implementation of recommendations intended to eliminate or reduce the risk of injury or illness to themselves or others.

3. Risk Committee.

- 3.1 A committee to be known as the “Risk Committee” is established to:
 - 3.1.1 Review, consider and advise on issues relating to the Risk Management Division.

- 3.1.2 The Risk Committee convenes on an as-needed basis but no less than twice every fiscal year to review open claims.
- 3.2 Settlement Authority
 - 3.2.1 Risk Management claims valued between \$0 and \$25,000 can be settled under the authority of the Risk Manager;
 - 3.2.2 Risk Management claims valued between \$25,001 and \$100,000 can be settled under the authority of the Risk Committee; and
 - 3.2.3 Risk Management claims valued over \$100,001 can be settled under the authority of the Board of County Commissioners.
- 3.3 Members of the Committee will include:
 - 3.3.1 Risk Manager;
 - 3.3.2 County Counsel or designee; and
 - 3.3.3 County Administrator or designee.
- 3.4 Whenever practical and possible, a representative(s) of the department against whom a claim is filed will be invited to attend a meeting of the Committee in which settlement of a claim involving the department is discussed. The department representative(s) will have no vote in the matter; however, the Committee will consider any recommendations or concerns raised by the department representative(s).
- 3.5 The Committee has final discretion to decide whether to settle, and for how much, within its monetary authority, and has a responsibility to make a recommendation to the Board of County Commissioners regarding settlement beyond the Committee's monetary authority. In addition to considering the concerns of the involved department, the Committee will consider interests of the County as a whole, including:
 - 3.5.1 Cost to litigate relative to the cost to settle;
 - 3.5.2 Workload, including the lost opportunity cost of devoting resources to trial and the priority given other claims;
 - 3.5.3 Likelihood of success at trial;
 - 3.5.4 Usefulness of settlement discussions or mediation in defending the matter;
 - 3.5.5 Amount of money at risk and the potential financial impact of an adverse outcome;
 - 3.5.6 Impact on County policies, procedures, and practices;

- 3.5.7 Political implications and public perception, particularly in high-profile cases; and
- 3.5.8 Whether the decision sets or will be perceived as setting, a precedent.

4. Insurance

- 4.1 Washington County is self-insured for auto physical damage, workers' compensation, and general liability. In addition, the County purchases policies and bonds which provide coverage as follows:
 - 4.1.1 Buildings and Contents;
 - 4.1.2 Boiler and Machinery;
 - 4.1.3 Excess Liability;
 - 4.1.4 Aviation Hull and Liability;
 - 4.1.5 Excess Workers' Compensation;
 - 4.1.6 Blanket Public Employee Dishonesty and Faithful Performance Bond;
 - 4.1.7 Public Official Position Bonds;
 - 4.1.8 Sheriff's Office Search and Rescue, Community Chaplain and Reserve Officer Volunteer Workers' Compensation; and
 - 4.1.9 Such other insurance as may be cost effective and necessary to adequately protect the County from unintended loss.
- 4.2 All commercial insurance purchases must be made through the Risk Management Division except for insurance for employee fringe benefits.
 - 4.2.1 The department will be responsible for paying the premiums insurance purchased for an exposure specific to that department (for example, the Sheriff's Office pays the premium for Aviation Hull and Liability Protection for its aircraft).
 - 4.2.2 The department will be responsible for paying the first \$500 of any loss to County-owned property, including, but not limited to, facilities, building contents, automobiles, heavy equipment, and electronic data processing equipment. If the amount of the loss to repair or replace the property exceeds \$500, the Casualty Fund will pay the amount of the loss over \$500. If the property is replaced, the amount paid by the Casualty Fund will be limited to the "actual cash value" of the property at the time of loss.
- 4.3 The Risk Manager may appoint a consultant(s) and/or broker(s) to assist and advise in the consideration of whether to purchase insurance and in the placement of that insurance, including fire, commercial general liability, automobile liability,

auto physical damage, fidelity bonds, workers' compensation, boiler and machinery and other such coverage as deemed necessary by the Risk Manager.

- 4.4 Each consultant/broker shall be experienced in those fields of insurance for which the consultant/broker is selected and shall have had prior experience either in consulting or brokering insurance for public entities. The consultant shall have adequate staff to assist in technical areas as may be required from time to time by the Risk Manager.
- 4.5 The actual placement of the insurance policies shall be through the consultant(s)/broker(s) and shall be at the direction and control of the Risk Manager, giving due regard to the evaluation and recommendation of the consultant(s)/broker(s).
- 4.6 Insurance purchased for the County shall be obtained through negotiations directed by the consultant(s)/broker(s).

5. Non-Insurance Transfer of Risk.

- 5.1 When feasible, the County may transfer risk by contracting with other entities to provide needed services. These transfers will include a hold harmless agreement and will require the other entity to comply with the County's insurance requirements.
- 5.2 The Risk Manager will establish standardized insurance requirements to be included in all contracts, leases, and agreements to which the County is a party. Insurance requirements will include, but not be limited to, type of insurance, limits of insurance, deductibles, and additional insured provisions.
- 5.3 The Risk Manager has authority to waive or modify hold harmless and/or insurance requirements when the Risk Manager determines it is in the County's best interest to do so.
- 5.4 When there is a loss to property not owned by the County for which a department has contractually agreed to pay, the department shall pay for the loss, unless prior to entering into a contract with such provision, the department has obtained a written acknowledgement from the Risk Manager that such loss is either covered by insurance or self-insurance pursuant to these rules.

6. Auto Liability and Auto Property Damage.

- 6.1 The County is self-insured for auto liability pursuant to ORS 30.282.
- 6.2 When there is damage to or loss of a County-owned or leased motor vehicle, the department is responsible to pay the first \$500 to repair or replace the vehicle. If the amount of loss exceeds \$500, the Casualty Fund will pay the amount over \$500 to repair or replace the vehicle up to the actual cash value of the vehicle.

- 6.3 County coverage for vehicles leased, or not owned by the County, is in excess over any other valid and collectible insurance. County officials, employees and agents are required to purchase the maximum liability coverage available from leasing rental companies.
- 6.4 Employees authorized to operate their own vehicles on County business are responsible for carrying liability insurance. When an employee's own vehicle is used on County business, the employee's personal liability insurance policy is primary. The Casualty Fund coverage is secondary and excess.
- 6.5 The County does not provide collision, comprehensive, uninsured/under-insured motorist coverage or personal injury protection for privately-owned vehicles used on County business.

7. Uninsured and Underinsured Motorist Coverage and Personal Injury Protection.

- 7.1 The County provides no personal injury protection (PIP) per se. The County covers injured employees through its Workers' Compensation Fund and injured passengers through its Casualty Fund should the County be found negligent.
- 7.2 The County provides uninsured motorist (UM) coverage per ORS 278.215 and underinsured motorist coverage (UIM) per ORS 742.504 subject to the following conditions. Coverage is provided:
 - 7.2.1 At the minimum limits set by ORS 806.070;
 - 7.2.2 Only to an authorized driver and passenger(s) in a County vehicle for bodily injury from an accident;
 - 7.2.3 Only to what no other funding source covers;
 - 7.2.4 To the driver only when the driver is an authorized driver under state law and the County vehicle is being used for official County business;
 - 7.2.5 Only when the other motorist in the accident is uninsured or under-insured;
 - 7.2.6 Only when the other driver is equally or more negligent than the County driver.
- 7.3 Coverage for injury or damage due to operation of a motor vehicle in the conduct of official County business shall apply in the order below. None of these will pay a cost for which one of the prior coverages is responsible. Injured parties may not choose among coverages. The County's UM/UIM coverage does stack on other PIP or UM coverages except to the extent required by ORS 742.504. Each dollar paid by another PIP or UM/UIM coverage reduces the limits of the County's UM/UIM coverage;
 - 7.3.1 Workers' compensation coverage;

- 7.3.2 Any other applicable and collectible insurance;
- 7.3.3 The County's self-insured tort liability coverage;
- 7.3.4 Any collateral benefit, including insurance, gratuitous benefit, government benefit or any other benefit;
- 7.3.5 The County's uninsured motorist coverage.
- 7.4 The County regards private vehicles operated by employees, volunteers, interns or contract employees as not under County control. In the event a court of competent jurisdiction should determine that the County, as a self-insured local government, must provide uninsured and underinsured motorist coverage on one or more of these classes of private vehicles, the limits of the County's coverage are as stated in section 7.2 above.
- 7.5 In UIM and UM cases where the parties agree to arbitration, the arbitration proceedings shall be conducted pursuant to ORS 742.505

8. Property Damage Claims

- 8.1 In the event of a loss, Risk Management will require County departments or divisions to provide documentation proving the loss. This may include records verifying any extra expense being claimed, the ownership or control and/or responsibility for property damage or loss being claimed. Risk may also need to know how reported value was determined
- 8.2 When there is damage to property owned by Washington County, the department is responsible for a \$500 deductible to repair or replace the property. Risk Management may elect to waive the deductible if full recovery is obtained through means such as subrogation, payment agreements, and court ordered Restitution.
- 8.3 Risk Management provides coverage for property damage incurred as a result of accident, theft, or vandalism.
 - 8.3.1 Claims related to theft or vandalism require notification to the police as soon as possible, and submission of the corresponding police report to Risk Management.
 - 8.3.2 Property damage claims should be documented, whenever possible, with photographs of the damaged property.
- 8.4 Risk Management does not provide coverage for any loss, damage, cost, or expense of any kind caused directly or indirectly by, or resulting from, wear and tear, depreciation, repairs necessary in the normal course of maintenance, corrosion, rusting, damp conditions, insects, vermin, fungus, frost, or anything which happens gradually, in the process of cleaning, repair, alteration, renovation, or restoration.

- 8.5 Loss payment for County Property is determined by:
- 8.5.1 All Property will be paid on an actual cash value basis (ACV).
 - 8.5.2 Actual Cash Value means a valuation method where the value equals the current replacement cost less proper deduction for depreciation based on age, condition at time of loss, time in use, and obsolescence.
 - 8.5.3 Vehicles: a. Actual cash value (ACV) loss payment; or b. The cost to repair the vehicle, whichever is lower.
 - 8.5.3.1 Risk pays reasonable and necessary towing charges:
(not to exceed 2 tow bills for one damaged county vehicle).
 - 8.5.4 Total Loss: A vehicle will be considered a “total loss” when the cost to repair exceeds 75% of NADA book (retail value) or similar depreciated value as determined by Risk or an independent appraiser. Total losses will be settled on an actual cash value rather than a retail replacement value.
 - 8.5.5 Commercially Rented Vehicles and Property of Others: At the time of rental, the County Department who is renting the vehicle should purchase the Limited Damage Waiver, if applicable. Risk Management will pay: 1) Loss or damage that is in excess of the Limited Damage Waiver (purchased by department) that department becomes obligated to pay according to the terms of the agency’s rental contract. Losses we pay will be paid on an actual cash value at the time of loss.
 - 8.5.6 Buildings and Structures: Qualify for the lower of necessary and reasonable cost to repair or construct a new building that will functionally replace the old building. These costs will be paid on an actual cash Value(ACV) basis.
 - 8.5.7 Exclusions: Loss to personal property of employees, volunteers, or agents is not covered by Washington County Risk Management.
 - 8.5.8 Subrogation: If Risk makes payment on the departmental loss, Risk will handle any recovery actions against third parties.

9. General Liability Claims Administration.

- 9.1 “General liability claims” are claims directed at the County, its elected officials, appointed officers, agents, or employees, which arise under the Oregon Tort Claims Act, 42 USC section 1983, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act or any similar state or federal statute or administrative rule addressing civil rights or employment discrimination.
- 9.2 Coverage for general liability claims provided by the Casualty Fund includes:

- 9.2.1 General liability, including claims for property damage and bodily injury;
 - 9.2.2 Automobile liability, including claims for property damage and bodily injury;
 - 9.2.3 Errors and Omissions, including claims which arise from any actual or alleged error, omission, act, misstatement, negligence, or breach of duty in the discharge of duties to or on behalf of the County;
 - 9.2.4 Personal Injury;
 - 9.2.5 Malpractice, including claims arising from a breach of the applicable standards of care in providing professional services; and
 - 9.2.6 Punitive damages when they are awarded as the result of litigation for which the County has provided defense and indemnification to the involved employee.
- 9.3 The right to be defended, held harmless or indemnified may be terminated or denied by the County under the provision of ORS 30.287.
- 9.4 General liability claims shall be administered pursuant to these Rules and be subject to the general direction of the Risk Manager and County Counsel.
- 9.4.1 The Risk Manager is responsible for investigating, evaluating, and analyzing all general liability claims filed against the County to determine the level of liability.
 - 9.4.2 Immediately upon receipt by any County officer or employee, all written notices of general liability claims shall be forwarded to the Risk Manager, who will make appropriate record of the claims and assure that they are administered consistent with these Rules.
 - 9.4.3 For any claim reasonably likely to result in litigation alleging bodily injury, personal injury, civil rights violation, employment discrimination or any economic damages in excess of \$50,000, the Risk Manager will send a "Notice to Collect and Secure Records" to the director or elected official of the involved department, as well as any employee named in the notice of claim and to Information Technology. If the claim remains unresolved, subsequent reminders will be sent to the involved director, elected official, employee(s) and Information Technology every 90 days until the claim is resolved or the statute of limitation runs. The "Notice to Collect and Secure Records" shall include:
 - 9.4.3.1 A summary of the nature, time, place, and circumstance of the claim; and
 - 9.4.3.2 A directive to immediately preserve all documents in any form and/or physical evidence that may in any way be relevant to the matter.

- 9.4.4 If it is determined that it is in the County’s interest to enter into a settlement, the payment will be the amount reasonably necessary to settle the claim. If it is determined that the County is not liable for a loss, or the claim cannot be settled for a reasonable amount, the County will deny and defend against the claim.
- 9.4.5 The County shall defend itself against all nuisance claims. However, if the Risk Manager and County Counsel agree that the cost to defend a disputed claim is greater than the settlement amount, it is within their discretion to settle that claim, subject to the limitations provided in these Rules.
- 9.4.6 No other department, official or employee has authority to settle a liability claim on behalf of the County.
- 9.4.7 The Risk Manager may authorize the services of a third-party administrator to administer and manage claims. The third-party administrator is subject to the general direction of the Risk Manager.
- 9.4.8 Departments will cooperate with and assist the Risk Manager or third-party administrator in the investigation and management of claims.
- 9.4.9 Elected and appointed department directors are responsible for consulting County Counsel and/or the Risk Manager to assess the risk and impact of potential litigation upon the County. If the department director or elected official chooses to proceed against advice of the Risk Manager and/or legal counsel and that choice results in expense to the County, all costs, expenses and awards may be charged against the department's budget at the discretion of the Board of Commissioners. This provision does not in any way limit the settlement authority set out above.

10. Workers’ Compensation Claims Administration.

- 10.1 The County places high priority on the safety and well-being of its employees. When an employee is injured on the job, the County’s primary objective is to assist the employee in obtaining workers’ compensation benefits and in returning to work.
- 10.2 For the purpose of workers’ compensation claims administration, the term “employee” shall be understood to also include “volunteers” for whom the County provides workers’ compensation benefits.
- 10.3 The County shall comply with the State of Oregon Workers’ Compensation Laws, Orders and Rules and with County policies regarding the treatment of injured employees.
- 10.4 The Risk Manager shall work with injured employees and departments to facilitate early return to work when feasible, including temporary, modified work positions.

- 10.5 The Risk Manager is responsible for investigating, evaluating, and analyzing all workers' compensation claims. The Risk Manager may authorize the services of a third-party administrator to investigate and/or manage claims.
- 10.6 The Risk Manager shall have sole and exclusive authority to accept and/or deny workers' compensation claims filed against the County. In making such determination, the Risk Manager shall consider the specific circumstances of the claim and comply with applicable law.
- 10.7 With approval of County Counsel, the Risk Manager may appoint outside legal counsel with an expertise in workers' compensation matters to defend the County on workers' compensation claims, claim denials and appeals involving litigation.
- 10.8 The Risk Manager has authority to settle any disputed claim in an amount equal to or less than \$25,000 per cause of action.
- 10.9 Settlement of any disputed claim in excess of \$25,000 up to \$100,000 must first be reviewed and approved by the Risk Management Committee.
- 10.10 Settlement of any disputed claim in excess of \$100,000 must first be reviewed and approved by the Board of Commissioners on recommendation of the Risk Management Committee.
- 10.11 As used in sections 10.8 through 10.10 above, a "disputed claim" is one for which a denial has been issued by the County.
- 10.12 Whenever practical and possible, departments will be consulted prior to offering any settlement or making a settlement recommendation to the Board of Commissioners.
- 10.13 No other department, official or employee has authority to settle a workers' compensation claim on behalf of the County.
- 10.14 Departments will cooperate with and assist the Risk Manager or third-party administrator in the investigation and management of claims.
- 10.15 To assist in administration of complex workers' compensation claims, managed care organizations (MCO) will be utilized to provide medical oversight for the sole purpose of ensuring injured employees receive the best medical care and treatment possible to maximize positive recovery outcomes.
- 10.16 The County will make every effort to select organizations that will be utilized based on their alignment with group insurance offerings for County employees.
- 10.17 Standardized MCO enrollment requirements will be as follows:
 - 10.17.1 Claim will be enrolled if injured worker is fully off work for 30 calendar days, either consecutive or non-consecutive (Primary).

10.17.2 Claim will be enrolled if injured worker has not been released back to regular duty by their attending physician within 90 consecutive calendar days from the date of injury (Secondary).

10.17.3 Exceptions to standard MCO enrollment criteria may be made on any claim by the Risk Manager, based on a review of available claim information.

10.17.4 For WCSO staff only, injured workers can elect to have their claims enrolled with the REBOUND program in lieu of MCO enrollment. However, if an employee withdraws from the REBOUND program during their claim, they will have their MCO eligibility reinstated.

11. Employee Safety and Health Program.

11.1 The County is committed to providing safe and healthful working conditions for its employees. Under no circumstances will the risk of serious injury or death of employees be considered an acceptable risk. The County's Employee Safety and Health Program shall be coordinated and overseen by the Risk Manager

11.2 For purposes of the County's safety and health program, the term "employee" shall be understood to include "volunteers" for whom the County has elected to provide workers' compensation benefits.

11.3 Each department is responsible for establishing and implementing a written occupational safety and health loss prevention program.

11.3.1 As part of the department's program, the department will ensure that it has either established its own departmental safety committee pursuant to OR-OSHA rules or has provided for a department representative to participate on a multi-departmental committee.

11.3.2 The Risk Manager will assist and consult with each department in the development and implementation of its safety program.

11.4 When a hazardous condition or work procedure creates an "imminent danger" to the health and/or safety of any County employee, the Risk Manager has the authority to issue a "stop work" order until the condition or procedure is corrected.

12. Casualty Fund.

12.1 The County shall maintain a fund to be known as the "Casualty Fund."

12.2 Contributions to the Casualty Fund shall be made by County departments to provide sufficient operating funds to administer the Casualty Program and to establish and maintain actuarially sound reserves for unpaid general liability claims and contingency.

- 12.3 Department contributions shall be made in accordance with a cost allocation formula established by the Risk Manager. This formula may include such factors as exposure to loss and claims experience. Any expense paid by the Casualty Fund may be assessed to departments.
- 12.4 An actuarial study of the Casualty Fund will be conducted every two years or as deemed necessary by the Risk Manager, or as required by the Government Accounting Standards Board (GASB).
- 12.5 According to established County investment policy, the County shall invest the principal sums within the Casualty Fund, and any interest earned shall be applied to the Casualty Fund.
- 12.6 The following general classes of expenditures may be made from the Casualty Fund:
 - 12.6.1 Amounts for payment of general liability claims, including economic and non-economic damages, as defined by these Rules, whether by settlement or judgment of a court with competent jurisdiction;
 - 12.6.2 Premiums for insurance, except insurance related to workers' compensation claims and employee fringe benefits, purchased for the County at the direction of the Risk Manager;
 - 12.6.3 Costs and expenses related to the administration, prevention, investigation, adjustment, and litigation of general liability claims;
 - 12.6.4 Costs and expenses related to the management of liability insurance and programs as described in these Rules; and
 - 12.6.5 Costs and expenses related to loss of or damage to County owned property.
- 12.7 Excluded from coverage by the Casualty Fund are any expense unrelated to a general liability claim or the casualty program, including but not limited to:
 - 12.7.1 Civil or criminal fines or penalties or restitution orders;
 - 12.7.2 Awards or settlements including wages, salary or benefits or the interest thereon when not included as part of a general liability claim;
 - 12.7.3 Liquidated damages;
 - 12.7.4 Defense costs for employees or officials in criminal matters;
 - 12.7.5 Attorney's fees awarded as part of a declaratory action, relief, judgment, equity suit, eminent domain, inverse condemnation, writ of mandamus, or writ of review;
 - 12.7.6 Any attorney fees awarded by a court unless money damages payable because of a personal injury are also awarded;

12.7.7 Exclusions under an insurance policy providing property/casualty coverage purchased by the County are also exclusions from coverage by the Casualty Fund, except as may be specifically allowed by these Rules.

12.7.8 If a dispute arises as to whether an expenditure should be paid from the Casualty Fund, that dispute shall be resolved by the County Administrator or designee.

13. Workers' Compensation Fund.

13.1 The County shall maintain a fund to be known as the "Workers' Compensation Fund."

13.2 Contributions to the Workers' Compensation Fund shall be made by County departments to provide sufficient operating funds to administer the Workers' Compensation Program and to establish and maintain actuarially sound reserves for unpaid workers' compensation claims and contingency.

13.3 Department contributions shall be made in accordance with a cost allocation formula established by the Risk Manager. This formula may include such factors as exposure to loss and claims experience. Any expense paid by the Workers' Compensation Fund may be assessed to departments.

13.4 An actuarial study of the Workers' Compensation Fund will be conducted every two years or as deemed necessary by the Risk Manager, or as required by the Government Accounting Standards Board (GASB).

13.5 According to established County investment policy, the County shall invest the principal sums within the Workers' Compensation Fund, and any interest earned shall be applied to the Workers' Compensation Fund.

13.6 The following general classes of expenditures may be made from the Workers' Compensation Fund:

13.6.1 Amounts for payment of workers' compensation claims filed by County employees or volunteers for whom the County has elected coverage;

13.6.2 Premiums for workers' compensation insurance to cover County employees or volunteers for whom the County has elected coverage purchased at the direction of the Risk Manager;

13.6.3 Costs and expenses related to the administration, prevention, investigation, adjustment, and litigation of workers' compensation claims; and

13.6.4 Costs and expenses related to the management of workers' compensation insurance and programs as described in these rules.

13.7 Excluded from coverage by the Workers' Compensation Fund is any expense which is not directly related to compliance with the workers' compensation laws of the state of Oregon, ORS Chapter 656, ORS Chapter 654 or ORS Chapter 183.

- 13.8 Exclusions under an insurance policy providing workers' compensation coverage purchased by the County are also exclusions from coverage by the Workers' Compensation Fund.
- 13.9 If a dispute arises as to whether an expenditure should be paid from the Workers' Compensation Fund, that dispute shall be resolved by the County Administrator or designee.

14. General Provisions.

- 14.1 The Risk Manager will prepare and present to the Board of Commissioners an annual evaluation of each department's risk management performance.
- 14.2 Procedures consistent with the Risk Management Policy Statement and these Rules may be established by the Risk Manager to ensure the efficient administration of the Risk Management Program.
- 14.3 The Casualty and Workers' Compensation Funds and these Rules are not intended to create any contract or rights in third parties, including insurance companies.
- 14.4 The Risk Manager will prepare and present to the Board of Commissioners an annual report on the activities of the risk management program. The timing of the report should coincide with the preparation of the annual audit, budget process and renewal of insurance policies so that analysis of information, budget impacts and any program adjustments can occur in a timely manner.