

 <b>Corrections and Community Supervision</b>  <b>DIRECTIVE</b>	TITLE <b>Employee Personal Property Claim</b>		NO. 2734
			DATE 1/10/2017
SUPERSEDES DIR #2734 Dtd. 10/14/15	DISTRIBUTION A	PAGES PAGE 1 OF 7	DATE LAST REVISED
REFERENCES (Include but are not limited to) See Section II;	APPROVING AUTHORITY 		

**I. DESCRIPTION:** This directive sets forth guidelines for processing “small claims” against the State for damages to personal property or real property, or for personal injuries of employees and others (e.g., visitors, volunteers) without formal legal action in the New York State Court of Claims. By law, such small claims or administrative claims may be processed up to the amount of \$5,000. In the event a person wishes to assert a claim against the State in an amount over \$5,000, he or she may proceed to file a claim in the Court of Claims.

**II. REFERENCES**

- State Finance Law, Sec. 8, Subdivisions 12, 12-a, 12-e, and 12-f: This law identifies claimants, causes of action, and monetary limits and is outlined in chart form in Attachment A.
- NYS Office of the State Comptroller, Guide to Financial Operations, Title XIII.8 “Procedures for Employee Non-Travel Expense Reimbursement”: This Section sets forth processing and payment procedures and is also outlined in chart form in Attachment A.
- Agreements Between NYS and Employee Bargaining Units: Under State Finance Law, agreements with various bargaining units have implemented special claims procedures with expedited payments as outlined in chart form in Attachment A.

**III. EMPLOYEE RESPONSIBILITY**

A. Wearing Jewelry and Expensive Items on Duty: Expensive jewelry, watches, sunglasses, and apparel should not be worn by personnel who have contact with inmates. Wearing such items may increase the risk of damage or injury.

State Finance Law authorizes the Department to compensate employees for loss of or damage to jewelry, watches, sunglasses, or apparel which occurs while on duty, at actual verifiable value, not to exceed \$150.

**IV. CLAIMS PROCESS**

A. Compensation May be Awarded

1. Up to \$350 for damage or destruction of personal property (1) caused by an inmate, (2) caused by a fire when the employee is found to be without fault, and (3) which occurs during the performance of official duties when the employee is found to be without fault (State Finance Law Section 8, subdivisions 12, 12e, and 12f).
2. Up to \$5,000 for damage to personal or real property or for personal injury caused by the tort of a State officer or employee (State Finance Law Section 8, subdivision 12a).

Note: If a State vehicle is involved in an accident with an employee's personal vehicle it should not be processed as an employee claim. Information on the accident along with completed DMV Accident Report Form (MV-104) should be forwarded to the Division of Support Operations for review.

B. To Initiate a Claim an Employee Must Take the Following Action

1. Report the Damage or Loss

- a. Same Workday: Make an oral report of the work-related damage or loss to the immediate supervisor.

If an item is damaged and must be repaired immediately (e.g., eyeglasses), show the damaged item to the supervisor and, if possible, the Deputy Superintendent for Administrative Services (DSA)/Area Supervisor.

- b. Same Workday: Forward a written report to the supervisor.
- c. Within Three (3) Business Days: Notify the DSA/Area Supervisor of your intention to file a claim.

2. File the "Employee Claim Form," [Form #1420](#)

- a. Within Ten (10) Business Days: Complete and sign Part 1 of [Form #1420](#), "Employee Claim Form" (provided by the facility Business Office). Part 1 should be completely filled out and specific information included on the claim form or attached documentation in order to substantiate the claim.

The following information is required:

- Time and place of incident
- Involved inmates (parolees) and their ID numbers
- Any misbehavior reports
- Any Unusual Incident (UI) or use of force reports
- Names of witnesses
- Detailed description of incident
- Name of supervisor to whom damage was reported
- Name and detailed description of item(s) damaged
- Original or replacement costs of item(s) damaged or destroyed
- Age of item(s) damaged
- Depreciation rate
- Condition of items(s) prior to loss
- Salvage value of item(s) after loss
- Any reimbursement from insurance
- Amount of reimbursement requested
- Copy of vehicle registration - If registered to anyone other than the employee, the claim must be filed by the owner of the vehicle unless owner submits a statement allowing employee to submit claim (i.e., employee's spouse is owner).

- b. **Include Original Receipts if Available:** If an item has been replaced, include receipts for replacement costs; otherwise a statement of worth from the supplier is sufficient.
- If an item such as eyeglasses has been damaged and repairs have been made, attach a copy of the repair invoice to the claim form. If a vendor states that an item is not repairable, attach the vendor's statement for proof.
- If the claim is for damage to a motor vehicle, attach at least two (2) repair estimates. The lower of the two (2) repair estimates submitted will be considered for reimbursement. If no claim is being made to the vehicle insurance company, a statement signed by the claimant that no reimbursement is being sought from any other agency or insurance company is sufficient.
- Please note that rental vehicle costs **will not** be considered for reimbursement.
- c. **Within Thirty (30) Business Days:** Request witnesses to complete Part 2 of [Form #1420](#) with their descriptions of the incident.
- d. **Within Ninety (90) Business Days**
- (1) Submit the completed [Form #1420](#) and any attachments and damaged item(s) to the DSA/Area Supervisor for review;
  - (2) Complete the "Release" part of [Form #1144](#), "Claim and Release Form," and complete the "Claim" part if the loss resulted from the tort of an employee (both must be notarized); and
  - (3) Employee completes and signs OSC forms AC-132-S, "Employee Report of Travel Expenses and Claim for Payment," and AC3259-S, "Statement of Incidental and Transportation Expenses."
  - (4) Non-Employee completes and signs OSC forms AC-92, "Standard Voucher," and AC-3253-S, "Claim for Payment."

## V. REVIEW AND RECOMMENDATION PROCEDURES

### A. DSA/Area Supervisor Action

1. Initiate review promptly to allow for completion within seven (7) business days;
2. Initiate an investigation, if necessary;
3. Evaluate damage against the depreciation asserted by the claimant in Part 1 of [Form #1420](#);
4. When the claim seems inappropriate, meet with the claimant and suggest more reasonable claim amounts;
5. When the claim is deemed valid, assess the reasonable value of the property involved, taking into consideration initial cost, age and condition, and the Department's liability limits as specified by State Finance Law and Sections III and IV-A, above; and

6. Complete Part 3 of [Form #1420](#) and submit it, with attachments, to the Superintendent/Regional Director for review.
- B. Superintendent/Regional Director Action
1. Initiate review promptly to allow for completion within two (2) business days; and
  2. If disapproving, return copy of [Form #1420](#) to employee with reason and advise of appeal process (see Section VI); or
  3. If approving,
    - a. Complete Part 4 of [Form #1420](#) and the appropriate Section of [Form #1144](#);
    - b. Forward approved [Form #1420](#) with attachments as indicated by the chart in Attachment A below (Note: Claims forwarded to DOCCS Budget and Finance under Section 12a, Torts, must be transmitted by the DSA/Area Supervisor or higher to the Director of Budget and Finance and must include a clear statement of the reasons for the Superintendent's/Regional Director's support of the claim. Vague or ambiguous submissions will be returned to the facility.); and
    - c. Retain a copy of each for reference.
- C. Budget and Finance Action: The Commissioner has authorized the Deputy Commissioner for Administrative Services, and those acting under his or her direction (including Budget and Finance), to have full authority to review, determine, and as circumstances warrant, submit payment to the Office of the State Comptroller for employee claims up to and including the statutory limit of \$5,000 as set forth in the State Finance Law Section 8 or as may hereafter be amended by the Legislature.
- D. Required Documents: Claims forwarded to the Central Office Division of Budget and Finance must include the following:
1. [Form #1420](#), "Employee Claim Form," Section 7, "Description of Incident," (or attachments) must include justification for the State's liability under Section 8 (or other section as identified) of the State Finance Law. This should explain details of negligence on the part of DOCCS; or exhibit proof of tort of employee or inmate; or explain how damage was incurred in the actual performance of duties and that the claimant/employee clearly was not negligent.;
  2. The "Release" part of [Form #1144](#), and the "Claim" part if the loss resulted from the tort of an employee;
  3. A report of any investigation completed;
  4. An original AC 132-S and AC 3259-S, completed by the employee;
  5. Any Unusual Incident/Use of Force form related to the incident;
  6. Witness statement(s); and
  7. Receipts for original purchase of damaged item or for repair of item.
  8. For damages to vehicles (Note: these claims, with few exceptions, must be submitted by owner of vehicle):
    - a. Copies of at least two (2) repair estimates for damage;

- b. Documentation showing reimbursement from insurance carrier, or proof that payment has not been made or proof that no claim will be submitted to an insurance carrier;
  - c. Copy of vehicle registration; and
  - d. If vehicle is not owned by claimant, a complete explanation of the ownership circumstance must be submitted by the owner.
9. For damages to eyeglasses:
- a. Documentation showing whether the eyeglasses were repairable or non-repairable;
  - b. Documentation of the repair or replacement cost; and
  - c. Documentation showing amount of insurance reimbursement received or statement that insurance reimbursement will not be sought or was not made.
10. Incomplete packets will be returned to the facility for completion.

## **VI. APPEAL PROCESS**

- A. If a claim is disapproved by a Departmental official, or the claimant is not satisfied with the amount approved for reimbursement, the claimant may appeal such disapproval to the Department Head within ten (10) business days of the receipt thereof by notifying the DSA/Area Supervisor.
- B. The DSA/Area Supervisor shall, within ten (10) business days, forward a copy of all papers related to the claim (including the disapproval notice) to the Commissioner.
- C. The Commissioner or designee shall review the claim and notify the employee and the facility of his or her decision. If the claim is approved by the Commissioner, the DSA/Area Supervisor shall follow the steps outlined in Attachment A for payment of an approved claim.
- D. If not satisfied with the disposition of the claim, the employee/claimant may institute a claim in the New York State Court of Claims.

Ref. State Finance Law, Section 8

**NON – TORTS**

Subdivision CLAIMANT	CAUSE OF LOSS	TYPE OF LOSS	AMOUNT OF LOSS	SUBMIT VIA	REQUIRED PAPER	COST CENTER
<b>12</b> Any employee  Any Person  Council 82- Security Supervision Unit	Act of inmate or no-fault fire in facility.  Act of inmate.  "Actions unique to the performance of law enforcement duties."	Personal property  "  "	Up to \$350  "  "	DSA/Area Supervisor to SUPT/Regional Director to OSC  "  DSA/Area Supervisor to SUPT/Regional Director to Dir. B&F to Facility	1 - Appropriate investigation 2 - Form #1420, "Employee Claim Form" <b>3 – Form AC 132- S, "Employee Report of Travel Expenses and Claim for Payment"</b> <b>4 – Form AC3259- S, "Statement of Incidental and Transportation Expenses"</b> 5 - Form #1144 , "Claim and Release" 5 - Form AC 92, "Standard Voucher" Non-Employees: Form AC-3253-S, "Claim for Payment"	Appropriate Facility Code  "  "
<b>12e CSEA</b>  Operational Services  Institutional Services  Administrative Services PS&T	"Damaged or destroyed in the actual performance of official duties"  "  "	Personal property  "  "	Up to \$350  "  "	DSA/Area Supervisor to SUPT/Regional Director to OSC  "  "	Same as above	Appropriate Facility Code  "  "
<b>12f MC</b>	Incurred "in actual performance of official duties"	Personal property	Up to \$350	DSA/Area Supervisor to SUPT/Regional Director to OSC	Same as above	Appropriate Facility Code

**TORTS**

A tort is any wrongful act, not involving breach of contract, for which a civil suit can be brought

Subdivision CLAIMANT	CAUSE OF LOSS	TYPE OF LOSS	AMOUNT OF LOSS	SUBMIT VIA	REQUIRED PAPER	COST CENTER
<b>12a</b>  Any Person	Tort of an officer or employee acting within the scope of the job.	Personal property, Real property, or Personal Injury	Up to \$1,000  Over \$1,000 and up to \$5,000	DSA/Area Supervisor to SUPT/Regional Director to Dir. B&F  DSA/Area Supervisor to SUPT/Regional Director to Dir. B&F to Atty. Gen. to Facility to OSC	1-Appropriate investigation  2-Form #1420, "Employee Claim Form"  3-Form #1144, "Claim and Release"  4- Form AC 92, "Standard Voucher"	Appropriate Facility Code  "