

Department of Administrative Services **Guidance Document**

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.



Standard Operating Procedures: How to File a Tort Claim Against the State of Nebraska

Department of Administrative Services
Risk Management

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[State Tort Claims Act, Nebraska Revised Statutes §§ 81-8,209 to 81-8,235](#)

Authority is hereby conferred upon the Risk Manager and State Claims Board, acting on behalf of the State of Nebraska, to consider, ascertain, adjust, compromise, settle, determine, and allow any tort claim.

Pursuant to [Neb. Rev. Stat. § 81-8,227](#), every tort claim permitted under the State Tort Claims Act shall be forever barred unless within two years after such claim accrued the claim is made in writing to the Risk Manager in the manner provided by such act.

WHAT IS A TORT CLAIM:

Tort claim means any claim against the State of Nebraska for money only on account of damage to or loss of property or on account of personal injury or death caused by the negligent or wrongful act or omission of any employee of the State, while acting within the scope of his or her office or employment.

There are uniform procedures for the bringing of tort claims against the State or an employee of the State. The procedures provided by such act shall be used to the exclusion of all others.

In all claims brought under the State Tort claims Act, the State shall be liable in the same manner and to the same extent as a private individual under like circumstances.

A TORT CLAIM IS NOT:

A Tort Claim may not be filed against any act or omission of an employee of the State in the execution of a statute, rule, or regulation, or against the assessment of any tax or fee.

A Tort Claim may not be filed for damages occurring as the result of quarantine.

Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit or interference with contract rights are not included in the Tort Claim process.

Tort Claims do not include any claim covered by the Nebraska Workers' Compensation Act, claims against the Board of Regents of any State University, or claims covering negligence for failing to revoke a day-care license issued by the Department of Health and Human Services. Nor do Tort Claims include any claims against a contractor who has signed a contract with the State of Nebraska, or a claim for money paid for work or a service in accordance with a contract. Tort Claims are not accepted for any legal remedy sought in a civil lawsuit.

A Tort Claim does not include any claim based on activities of the Nebraska National Guard, federal, or State service at the call of the Governor for quelling riots and civil disturbances.

A Tort Claim does not include any claim based upon the failure to make an inspection, or an inadequate or negligent inspection of any property other than owned by or leased to the State, unless the State has had reasonable notice to inspect.

Tort Claims do not include any claims based upon the issuance, denial, suspension, revocation of, or failure or refusal to issue, deny, suspend or revoke any permit, license, certificate or order. No Tort Claim will be accepted against a State of Nebraska employee acting within the scope of his or her office. No Tort Claim may be filed against a State employee in the issuance of a certificate of title under the Motor Vehicle Certificate of Title Act and the State Boat Act.

No Tort Claim will be accepted that arises out of the malfunction, destruction, or unauthorized removal of any traffic or road sign, signal, or warning device unless it is not corrected within a reasonable time after notice of such malfunction, destruction, or removal. Nor will a Tort Claim be allowed when the placing or removing of a traffic or road sign, signal or warning device is the result of a discretionary act of the State of Nebraska.

No Tort Claim will be allowed for snow or icy conditions or other temporary conditions caused by nature on any highway, bridge, public thoroughfare, or other State-owned public place. No Tort Claim may arise out of the plan or design for the construction of or an improvement to any highway if the plan or design is approved in advance by the State of Nebraska.

No Tort Claim will be allowed that arises out of the alleged insufficiency or want of repair of any highway, bridge, or other public thoroughfare. The State of Nebraska shall wave its immunity only for a claim that has had actual or constructive notice of the defect within a reasonable time to allow repair prior to the incident giving rise to the claim.

No Tort Claim will be allowed that relates to recreational activity on property leased, owned, or controlled by the State for which no fee is charged.



TO FILE A TORT CLAIM:

[Download the Tort Claim Form Here](#)

Only fully completed and signed Tort Claim Forms will be accepted by the Office of Risk Management.

State of Nebraska Tort & Miscellaneous Claim Form

This form is for Tort (Neb. Rev. Stat. § 81-8,209 - § 81-8,235) and Miscellaneous (Neb. Rev. Stat. § 81-8,294 - § 81-8,301) Claims against the State of Nebraska.

Only COMPLETED and SIGNED Claim Forms will be accepted by the Office of Risk Management. * Indicates a REQUIRED field. If required fields are not filled out, your Claim will not be processed.		FOR OFFICE USE ONLY <input type="checkbox"/> TORT <input type="checkbox"/> MISCELLANEOUS Claim Number:	
Claimant's Name*:	Claimant's Phone Number*:	Alternate Phone Number:	
Claimant's Mailing Address*:	Claimant's Email Address:	Is Claim Work Related? <input type="checkbox"/> YES <input type="checkbox"/> NO	
Is Claimant Medicare Eligible*? <input type="checkbox"/> YES <input type="checkbox"/> NO	Is Claimant a State Employee? <input type="checkbox"/> YES <input type="checkbox"/> NO	If YES, What State Agency?	
Date of Occurrence*:	Total Amount of Claim*:	Place of Occurrence:	
Do you have insurance covering this claim? <input type="checkbox"/> YES <input type="checkbox"/> NO		Insurance Deductible Amount:	
Name and Address of Insurance Company & Insurance Policy Number:			

Name, Address, and Phone Number of Attorney, if any:

In the below space, please provide a detailed itemization of all known facts/circumstances/damages leading to your claim. Identify all property, places, and people involved. Include names, addresses, and phone numbers of witnesses, if any. The information provided below, along with the findings of the investigating agency, will form the basis of any decision.*

Claimant Signature*:

Date*:

	Under Penalties of law, I declare that I have examined this statement and that it is, to the best of my knowledge and belief, true, complete, and correct, and that I am duly authorized to sign this statement.	
Please include copies of any supporting documents that may be relevant to your claim including, but not limited to, Photos, Invoices, Receipts, Police Reports, Estimates, Medical Bills, Expense Reports, etc.		
Make and keep copies of all documentation submitted as copies will not be provided.		

Claim form and supporting documents can be emailed to: as.riskmanagement@nebraska.gov
 Or mailed to: Office of Risk Management, PO Box 94974, Lincoln, NE 68509-4974
 Questions? Call the Office of Risk Management at (402) 471-2551



The following pages explain the various sections of the Tort Claim Form. The title of each section is provided, followed by a description and an explanation of the information requested. Please note that when a field contains an asterisk (*), it is a **REQUIRED FIELD** and cannot be left blank. Please fill out the fields with the asterisks completely. This will help the investigation.

Claimant's Name *:

This is the name of the person making the claim. If the claim were to be approved, this is also the person who will be paid. This name is the same as the Claimant's signature.

Claimant's Phone Number *:

This is the phone number of the Claimant, the number where the Claimant can be reached during the day.

Alternate Phone Number:

This is any other phone number than the daytime phone number listed above. This field may be left blank when there is no alternate phone number.

Claimant's Mailing Address *:

This is the mailing address of the Claimant. The Office of Risk Management will send correspondence to the Claimant at this address.

Claimant's Email Address:

Does the Claimant have an email address? If so, please list the email address here. This is not a required field. This space may be left blank if there is no email address.

Is Claim Work Related?:

If the Claimant is employed by the State of Nebraska, and this claim is related to the Claimant's work, answer yes. If this claim is not work-related, answer no.

Is Claimant a State Employee?:

Is the Claimant employed by the State of Nebraska? If so, select YES. If the Claimant is not an employee of the State of Nebraska, select NO.

If Yes, What Is Agency Name?:

If the Claimant is an employee of the State of Nebraska and this claim is work-related, in what State agency is the Claimant employed?

Is Claimant Medicare Eligible? *:

If the Claimant is Medicare eligible, select YES. If not, select NO.

Date of Occurrence *:

This is the date that the incident listed on the claim occurred. When did the loss occur? When did the incident happen?

Total Amount of Claim *:

This is the total dollar amount the Claimant is seeking to replace the cost of this claim's alleged loss. This figure includes all payments made that cover the alleged loss the Claimant has experienced.

Place of Occurrence:

Where did this incident occur? This is not a required field, but this information will help the investigation of the claim.

Do You Have Insurance Covering This Claim?:

Is there an insurance company that has investigated this claim? If so, select YES.

Deductible:

What is the deductible as deemed by the Claimant's insurance policy?

Name and Address of Insurance Company & Insurance Policy Number:

What is the name of the Claimant's insurance company? What is the mailing address of the Claimant's insurance company? Please list this information here.

What is the number of the Claimant's insurance policy? Please list this information here.

Name, Address, and Phone Number of Attorney, if any:

If the Claimant is represented by an attorney, list the name and mailing address of the attorney.

Itemization of All Known Facts/Circumstances/Damages Leading to Your Claim *:

In the space provided, please list a detailed itemization of all known facts, circumstances, or damages leading to this claim. Identify all property, places, and people involved. Include names, addresses, and phone numbers of witnesses, if any.

Attach additional paper, if needed, to complete this field. This is an important field that describes in detail the circumstances of the event that lead to the claim. This information will help the investigation.

The information provided herein, along with the findings of the investigating agency, will form the basis of any decision. Investigation of this claim can take up to six months, and may take longer in some circumstances.

Claimant Signature*:

This is the Claimant's signature. Claims cannot be processed without the Claimant's signature.

Date*:

This is the date that the Claimant is signing the form. Claims cannot be processed without the date of signature.

Only completed and signed Claim Forms will be accepted. Please retain copies of all enclosed documents, including this claim form.

Claimant must provide the necessary documentation to substantiate their claim. Examples of documents to submit include, but are not limited to, Photos, Invoices, Receipts, Police Reports, Estimates, Medical Bills, Expense Reports, etc. Do not send originals; **send copies only**. This information will help the investigation of the claim.

Once the Claim Form has been completed it needs to be submitted to the Office of Risk Management. It is recommended that the form be submitted electronically, however it can also be submitted by mail, fax, or in-person.

To Submit Your Claim Electronically:

Please email the completed, signed, and dated form as well as any supporting documents to:

as.riskmanagement@nebraska.gov

If submitting electronically, keep in mind that a typed signature is legally binding and equivalent to a handwritten signature.

To Submit Your Claim by Mail:

Please mail the completed, signed, and dated form as well as any supporting documents to:

**Office of Risk Management
PO Box 94974
Lincoln, NE 68509-4974**

To Submit Your Claim by Fax:

Please fax the completed, signed, and dated form as well as any supporting documents to:

402-471-2800

To Submit Your Claim in Person:

Please bring the completed, signed, and dated form as well as any supporting documents to:

**Office of Risk Management
1526 K Street, Suite 220
Lincoln, NE 68508**

What Happens Next?

Claims under \$5,000.00:

Once filed, a letter of acknowledgement confirming that the claim has been received will be mailed to the Claimant and the appropriate agency will be notified. After the investigation is complete, the Risk Manager will then approve or deny the claim, based upon the available information.

If approved, a release will be sent to the Claimant. The original release needs to be signed, in the presence of a public notary, and returned to the Office of Risk Management exactly as instructed in the accompanying letter. Once the signed and notarized release has been received, the claim will be processed for payment.

The acceptance by the Claimant of award shall be final and conclusive on the Claimant's part. Acceptance shall constitute a complete release by the Claimant of any claim against the State or against the employee of the State whose act or omission gave rise to the claim.

If denied, a denial letter will be sent to the Claimant and the claim will be closed.



If a Claimant is dissatisfied with the Risk Manager's decision, whether approved or denied, a request that the State Claims Board review the claim may be submitted. A request for appeal, submitted in writing, is required to be sent to the Office of Risk Management within 60 days of the date on the Risk Manager's approval or denial letter. The claim will then be heard by the State Claims Board (please see below).

Claims \$5,000.00 to \$50,000.00 and Appeals (State Claims Board):

Appealed claims and those ranging from \$5,000.00 to \$50,000.00 must be approved or denied by the State Claims Board. Claimants will be notified by mail of the hearing date and time. The hearing dates are posted in the Office of Risk Management and also under the [State Claims Board](#) tab at the [Office of Risk Management](#) website. Claimants may attend the hearing, but it is not required. If a Claimant wishes to attend, they must notify the Office of Risk Management, in writing, at least one week prior to the hearing. Once the claim has been heard by the State Claims Board, the Claimant will be notified of the action taken on the claim within ten days of the hearing.

Claims above \$50,000.00:

Claims recommended for approval that are above \$50,000.00 must be approved by the Nebraska State Legislature. The Legislature meets once per year, beginning in January. If approved by the Nebraska State Legislature, the signature of the Governor of Nebraska is required in order to process the claim for payment.

State Claims Board Hearings:

The State Claims Board shall have the power and authority to receive, investigate, and otherwise carry out its duties with regard to:

- All claims under the [State Tort Claims Act, Nebraska Revised Statutes §§ 81-8,209 to 81-8,235](#).
- All claims under the [State Miscellaneous Claims Act, Nebraska Revised Statutes §§ 81-8,294 to 81-8,301](#).
- All claims under [Nebraska Revised Statutes §§ 25-1802 to 25-1807](#),
- All claims under the [State Contract Claims Act, Nebraska Revised Statutes §§ 81-8,302 to 81-8,306](#),
- All requests on behalf of any department, board, or commission of the state for waiver or cancellation of money or charges when necessary for fiscal or accounting procedures, and
- All claims filed under section [66-1531](#). ([See Nebraska Revised Statute § 81-8,297](#)).

The Director of Insurance, Commissioner of Labor, and Director of Administrative Services shall constitute the State Claims Board which shall be part of the Risk Management Program created by section [Nebraska Revised Statute § 81-8,239.01](#). The Attorney General shall be its legal advisor. (See [Nebraska Revised Statute § 81-8,220](#))

The State Claims Board meets quarterly. The dates of the hearings are posted in Office of Risk Management and also under the [State Claims Board](#) tab at the [Office of Risk Management](#) website. The hearings are informal pursuant to the [Open Meetings Act, Nebraska Revised Statutes §§ 84-1407 to 84-1414](#). The Claimant does not need to be present for the claim to be heard. Claims will be heard before the Nebraska Legislature once per year.

Please call the Office of Risk Management at (402) 471-2551, Monday – Friday, 8 AM to 5 PM, if there are any questions.

It is important to keep copies of all documentation submitted to the Office of Risk Management, State of Nebraska.