

National Aeronautics and Space Admin.

§ 1261.317

of the NASA Installation receiving the same shall furnish to the U.S. Attorney for the district embracing the place where the action or proceeding is brought and, if appropriate, the Director, Torts Branch, Civil Division, Department of Justice, the following:

(1) Copies of all such process and pleadings in the action or proceeding promptly upon receipt thereof; and

(2) A report containing a statement of the circumstances of the incident giving rise to the action or proceeding, and all data bearing upon the question of whether the employee was acting within the scope of office or employment with NASA at the time of the incident, at the earliest possible date, or within such time as shall be fixed by the U.S. Attorney upon request.

(c) The Assistant General Counsel for Litigation or a Chief Counsel acting pursuant to paragraph (b) of this section shall submit the following documents to the General Counsel, who is hereby designated to receive such documents on behalf of the Administrator:

(1) Copies of all process and pleadings submitted to a U.S. Attorney in accordance with paragraph (b).

(2) In addition, where the action or proceeding is for damages in excess of \$25,000, or where (in the opinion of the Chief Counsel) such action or proceeding involves a new precedent, a new point of law, or a question of policy, copies of reports and all other papers submitted to the U.S. Attorney.

§ 1261.316 Policy.

(a) The National Aeronautics and Space Administration may indemnify a present or former NASA employee, who is personally named as a defendant in any civil suit in state or Federal court, or in an arbitration proceeding or other proceeding seeking damages against that employee personally, for any verdict, judgment, appeal bond, or other monetary award which is rendered against such employee, provided that the conduct giving rise to the verdict, judgment, appeal bond, or award was taken within the scope of his or her employment and that such indemnification is in the interest of the National Aeronautics and Space Administration, as determined by the Administrator or designee.

(b) The National Aeronautics and Space Administration may settle or compromise a personal damage claim against a present or former NASA employee by the payment of available funds, at any time, provided the alleged conduct giving rise to the personal damage claim was taken within the employee's scope of employment and that such settlement or compromise is in the interest of the National Aeronautics and Space Administration, as determined by the Administrator or designee.

(c) Absent exceptional circumstances as determined by the Administrator or designee, the agency will not entertain a request either to agree to indemnify or to settle a personal damage claim before entry of an adverse verdict, judgment, or award.

(d) A present or past NASA employee may request indemnification to satisfy a verdict, judgment, or award entered against that employee. The employee shall submit a written request, with appropriate documentation including copies of the verdict, judgment, appeal bond, award, or settlement proposal to the General Counsel, who shall make a recommended disposition of the request. Where appropriate, the agency shall seek the views of the Department of Justice. The General Counsel shall forward the request, the accompanying documentation, and the General Counsel's recommendation to the Administrator for decision.

(e) Any payment under this section either to indemnify a National Aeronautics and Space Administration employee or to settle a personal damage claim shall be contingent upon the availability of appropriated funds of the National Aeronautics and Space Administration.

[53 FR 27482, July 21, 1988]

§ 1261.317 Attorney-client privilege.

(a) Attorneys employed by the National Aeronautics and Space Administration participate in the process utilized for the purpose of determining whether the agency should request the Department of Justice to provide representation to a present or former agency employee sued, subpoenaed, or charged in his/her individual capacity,