INTERNAL MANAGEMENT POLICY & PROCEDURE

Kansas Department of Corrections

Applicability: _ ADULT Operations Only _ JUVENILE Operations Only X DEPARTMENT-WIDE

IMPP #: 01-117D

ADMINISTRATION: Claims Procedure for Department Employees and the General Public

Original Date Issued: 03-30-16 **Replaces IMPP Issued: 03-02-18** **CURRENT EFFECTIVE DATE: 12-8-21**

Approved By: , **Secretary** **Next Scheduled Review:** 03/2027

POLICY

Claims for personal injury or property damage or loss may be paid to employees and/or members of the general public in a manner that is consistent with applicable statutes. The purpose of this policy is to establish uniform guidelines for addressing and resolving employee and other non-offender claims of property damage or loss or personal injury caused by the negligence of the Department or any agency, officer, or employee thereof. All claims are to be investigated and processed within reasonable time limits.

Residents who wish to file a claim are to be permitted to do so in accordance with IMPP 01-118D, Resident Claims Procedure for Property Damage/Loss or Personal Injury.

DEFINITIONS

Departmental Personnel: All Department of Corrections personnel, excluding contract personnel.

General Public: All other persons who are not departmental personnel.

Joint Committee on Special Claims Against the State: The joint committee of the Kansas Legislature that hears claims against the State for which there is no other recourse to receive payment.

PROCEDURES

I. Claim Initiation

A. Departmental personnel and members of the general public may file a claim alleging property damage/loss or personal injury (Attachment A, Form #01-117D-001) with the Secretary of Corrections.

1. Persons filing a claim with the Secretary of Corrections are to complete Section I of the Staff/Citizen Property/ Personal Injury Claim form (Attachment A, Form #01-117D-001).

a. The warden/superintendent is to ensure that claim forms (Attachments A and B) are available to staff and the general public interested in filing a claim against the state and/or the Department of Corrections.

b. The warden/superintendent is to ensure that staff provide assistance to departmental personnel and the general public in submitting a claim by providing information and any necessary claims forms.

c. All claims are to be made under oath and notarized.

d. Claimants asserting claims for work-related injuries are to be referred to the facility's or office's Human Resource Manager for assistance in filing the appropriate Workers' Compensation forms.

2. Those filing a claim with the Secretary are to submit the completed form and any supporting documentation to the warden/superintendent, parole director, or Central Office division supervisor at the office or facility where the loss, damage, or injury is alleged to have occurred (or where the allegedly negligent employee works, in situations where the loss, damage, or injury is not alleged to have occurred on facility or office grounds).

3. Each claim is to be assigned a unique number, which is to be shown on the form.

a. Each facility and office is to establish and maintain a claims log showing the unique number assigned to the claim and the date the number was assigned.

4. The warden/superintendent or designee is to enter such claims into the applicable Management Information System.

5. The Secretary of Corrections is not authorized to make payment in excess of $1,000 on any claim.

a. The Secretary may attempt to resolve claims in excess of $1,000 by offering payment at an amount equal to or less than this maximum amount.

(1) The claimant is to have the right to accept this offer or pursue the claim with the Joint Committee on Special Claims Against the State.

b. Property damage/loss or personal injury claims that cannot be resolved for an award of $1,000 or less may be filed with the Joint Committee on Special Claims Against the State if the claimant elects to do so.

B. In lieu of or subsequent to filing a claim with the Secretary of Corrections, departmental personnel and members of the general public may file a property damage/loss or personal injury claim with the Joint Committee on Special Claims Against the State using the form provided by the committee for that purpose (Attachment B, Form # 01-117D-002; also available at http://www.kslegresearch.org/KLRD-web/Committees/Committees-Claims-Resources.html).

1. Any person whose claim is denied by the Secretary of Corrections, or who rejects an offer of settlement, may file the claim with the Legislative Joint Committee on Special Claims Against the State.

2. Claims to the Joint Committee on Special Claims Against the State are to be filed with the committee directly.

II. Inquiry and Decision

A. The warden/superintendent, Parole Director, or Central Office division supervisor is to assign the claim for inquiry as soon as possible.

1. Requests for inquiry by the Enforcement, Apprehensions, and Investigations Division are to be handled as set forth in IMPP 22-103.

2. The following actions may be taken in the inquiry of all claims:

a. When possible, interview and obtain a statement from the person making the claim;

b. Interview officers and employees who may be involved or have information regarding the claim;

c. Interview other witnesses who may have information regarding the claim;

d. Review appropriate records, reports, and logs pertaining to the claim; and

e. Submit copies of all records, reports, logs, and statements with the report on the claim. to the warden/superintendent, parole director, or Central Office division supervisor, or designee.

3. This inquiry is to be completed within ten (10) calendar days after receipt of the claim.

a. The inquiry may be extended by the warden/superintendent, parole director, Central Office division supervisor, or designee for an additional twenty (20) calendar days for good cause.

b. The claimant is to be notified in writing of the reason for any extension.

4. Upon receipt of the report, the warden/superintendent, parole director, or Central Office division supervisor is to make a recommendation to the Secretary of Corrections regarding the disposition of the claim.

a. Final action on all claims is to be made by the Secretary.

B. For claims alleging damage, loss, or injury occurring at another facility or office, the warden/superintendent parole director, or Central Office division supervisor or designee of the facility where the claim was filed is to, within two (2) calendar days of receipt of the claim, forward a copy of the claim to the warden/superintendent, parole director, or Central Office division supervisor of the facility where the alleged damage, loss, or injury occurred. Any documentation that would reasonably be assumed to be relevant to the inquiry of the claim is to accompany the claim.

1. The warden/superintendent, parole director, or Central Office division supervisor of the facility or office where the alleged damage, loss, or injury occurred is to then process the claim as the administrator/supervisor would process all other claims received.

III. Notification of Decision

A. Upon reaching a decision, the Secretary is to return the original claim form to the appropriate warden/superintendent, parole director, or Central Office division supervisor for processing as follows:

1. If the claim is denied, the original is to be returned to the claimant, and a copy is to be retained by the warden/superintendent, parole director, or Central Office division supervisor.

2. If a settlement is approved-by the Secretary, the original of the claim is to be sent to the claimant with instructions to sign Section V as an indication of acceptance and return it to the facility of origin. The claimant must also supply his or her social security number so that the claim may be processed by the Division of Accounts and Reports.

IV. Approval/Denial and Payment Processing

A. If the settlement is rejected by the claimant, a copy of the claimant's rejection statement is to be maintained in the facility or office file.

1. The claimant is to be advised of his/her right to pursue the claim through the Legislative Joint Committee on Special Claims Against the State, and the appropriate form (Attachment B) is to be provided upon request.

B. Approved claims accepted by the claimant are to be promptly paid from operating funds budgeted for the correctional facility or office at which the damage, loss or injury occurred.

C. For approved claims for which payment is to be made from facility operating funds, the facility or office business manager is to submit the appropriate voucher in SMART, the statewide accounting system, to the Office of the Chief Financial Officer for payment.

V. Claims Limitations and Responsible Parties

A. Payments are not to be made to employees if they themselves were negligent in the damage/loss of property or personal injury;

B. Payments are not to be made to insurers who make claims as subrogates for amounts paid to insured parties.

C. Claimants will be reimbursed only for actual costs incurred that are not covered by insurance policies.

D. The Department may deny any claim for which documentation of claim value (receipts, repair estimates, etc.) is not provided.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff, residents and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees, residents or offenders, or an independent duty owed by the Department of Corrections to employees, residents, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure are not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS

None.

REFERENCES

IMPP 01-118D; 22-103

HISTORY

03-30-16 Original
03-02-18 Revision 1
12-08-21 Revision 2
06-07-24 Statement of Review

ATTACHMENTS

Attachments	Title of Attachments	Page Total
A	Staff/Citizen Property/Personal Injury Claim Form	2 pages
B	Joint Committee on Special Claims Against the State Claim Form	6 pages

STAFF/CITIZEN PROPERTY/ PERSONAL INJURY CLAIM FORM

Section I

Filed **AT** Facility No.:	Facility Initials:
Filed **AGAINST** Facility No.:	Facility Initials:

(Refer to PLC coding manual for facility no. & initials)

Name of Claimant (Last, First, MI):

Type of Claim (circle one) : Lost Property Damaged Property Injury

Amount of Claim: | Date of Loss Damage, or Injury (MO/DAY/YR):

Where Loss, Damage, or Injury Occurred:

NATURE OF CLAIM (Set forth detailed facts, including date of loss, damage or injury, how it occurred, place of occurrence, how you claim institution or employee was negligent, and amount of the claim.):

I am aware that presenting a false claim may result in penalties (under K.S.A. 75-7501 et seq., etc.), and I declare (or verify, certify or state) that the foregoing is true and correct to the best of my knowledge, understanding, and belief.

Claimant Signature: | Date:

Subscribed and sworn to before me this _____ day of _____, 20___.

_____
Notary Public

My Commission Expires: _____

Received from Claimant: Date: Time:

Received by: Name (print): | Signature:

Section II

Date Received by Warden/Superintendent/Parole Director/Central Office Division Supervisor (MO/DAY/YR): | Facility Log No. Assigned:

Investigation Report:

Date (MO/DAY/YR):	Investigator Name (print):	Investigator Signature:

Section III

Findings of Warden/Superintendent/Parole Director/Central Office Division Supervisor:

Recommendation of Warden/Superintendent/Parole Director/Central Office Division Supervisor:

(circle one)
01-Approved for same amount
02-Approved for lesser amount of _____
03-Disapproved
04-Claim Withdrawn

Date (MO/DAY/YR):	Signature - of Warden/Superintendent/Parole Director/Central Office Division Supervisor or designee

Section IV

Date Received by Central Office (MO/DAY/YR):

Secretary's Response:

Secretary's Recommendation: (circle one)
01-Approved for same amount
02-Approved for lesser amount of _____
03-Disapproved
04-Claim Withdrawn
10-Held pending submission of supplemental data

Date (MO/DAY/YR):	Signature - Secretary or Designee

Section V

Offer of Settlement (STAFF USE ONLY):

_____

_____

CLAIMANT MUST COMPLETE THE FOLLOWING IF PAYMENT IS TO BE AWARDED

I agree to accept the above offer as full and final settlement of this claim against the State of Kansas and any individual, employee or agent thereof, and I waive any claims against the State, its agencies or employees arising out of this incident.

Date:	Claimant Signature:	Social Security No.:

NOTE: This claim cannot be processed and paid by the Division of Accounts and Reports unless the claimant has disclosed his/her social security number.

Action by Accounts & Reports: **Paid** _____ **Not Paid** _____

JOINT COMMITTEE ON SPECIAL CLAIMS AGAINST THE STATE

INSTRUCTIONS FOR CLAIMANTS

- Fill out the claim form completely. Incomplete or unreadable forms will not be accepted, and the form will be returned to the claimant (person making claim). Claimants are encouraged to submit claims as early as possible.

- Claim forms must be received on or before November 1 in order to be heard by the Joint Committee on Special Claims Against the State prior to the next legislative session. Forms received after November 1 st will be held by staff and not considered by the Committee until the following calendar year, from June to December.

- Any information provided in or accompanying a claim form will be considered part of the claim file. Documents in a claim file are subject to the Kansas Open Records Act and may be released to persons outside the Committee or staff upon proper request. Additionally, any documents received by the Committee or staff will be considered part of the claim file. Original documents submitted by claimants will not be returned.

- The Joint Committee on Special Claims Against the State is intended as a venue to hear claims for which there is no other recourse to receive payment. The Committee is a place of last resort when there is no other way to appropriate money to pay a claim against the state. The Claims Committee does not act as a court or as an administrative hearing. Claims heard by the Committee are not subject to the Rules of Civil Procedure or the Rules of Civil Procedure for Limited Actions and small claims. The claims heard by the Committee also are not subject to the Administrative Procedures Act.

- The Joint Committee on Special Claims Against the State can only recommend payment to one individual or entity. If there is more than one claimant on an individual claim, you will need to designate which individual is to receive payment. If payment is to be made to an entity, including an open estate of a deceased person, you will need to designate the proper payee and contact person for an entity or estate.

- The Joint Committee submits recommendations for the claims it has heard in the form of a bill presented to the Legislature at the start of each session. Payment for claims that are approved by the Legislature and signed into law by the Governor are paid by the Division of Accounts and Reports. Prior to such payment being made, claimants are required to sign a release. Payments are generally made prior to June 1 st. When an inmate owes an outstanding unpaid amount of restitution ordered by a court, money received by the inmate from the state as a settlement of a claim against the state is withdrawn from the inmate's trust account as a set-off per KSA 46-920.

JOINT COMMITTEE ON SPECIAL CLAIMS AGAINST THE STATE

CLAIM FORM

(For Committee Staff Use)

Claim No. _____

Filed _____

In the matter of the claim of:

Claimant's Name_____ Inmate #_____

Address _____

_____
(city) (state) (zip)

Telephone (Home) _____ (Work) _____

Claimant's Attorney (if any) _____

Address _____

_____
(city) (state) (zip)

Telephone _____

If payment of the claim is recommended, payment should be made to _____ .
(One individual or Entity Only)

NOW, on this _____ day of _____, _____, comes the
(Month) (Year)

undersigned and makes a claim against _____
(State Agency Name)

in the amount of $_____, by virtue of: (Check the provision applicable to claim.)

☐ **Personal Injury**

Complete all questions on pages 3 and 4. No "see attached" allowed. Failure to fill out these pages completely will result in rejection of the claim.

☐ **Property Damage or Loss**

Complete all questions on pages 3 and 4. No "see attached" allowed. Failure to fill out these pages completely will result in rejection of the claim.

☐ **Refused bill or voucher not presented in proper fiscal year.**

Attach the bill or voucher and a statement setting forth full explanation for delay in presenting voucher.

☐ **Refund of fees or other payments to state in excess of amount due.**

Attach a statement setting forth full explanation for overpayment.

☐ **Motor fuel tax refund.**

Permit No. _____

FEIN/Social Security No. _____

Attach affidavits, tickets, receipts and verification of motor-fuel tax payments made.

Legislative Claims will be reduced by 10% or $15.00 which ever is greater and deducted from the total refund amount requested.

REFUND GALLONS CLAIMED

Diesel: _____ @ $. ____ Rate

Diesel: _____ @ $. ____ Rate

Gasoline: _____ @ $. ____ Rate

Gasoline: _____ @ $. ____ Rate

Gasohol: _____ @ $. ____ Rate

Gasohol: _____ @ $. ____ Rate

E-85: _____ @ $. ____ Rate

E-85: _____ @ $. ____ Rate

☐ **Sales tax refund--tax exempt project.**

Attach a statement setting forth the nature of the project and the basis under which the project is tax exempt and receipts for the materials and services for which taxes were paid and a refund is claimed.

☐ **Other.**

Attach a statement setting forth in detail the basis for the claim, together with any receipts, documents, or exhibits which support the claim and complete questions on page 4.

Items 1 through 3—For Personal Injury/Property Damage or Property Loss Only

1. Describe accident or occurrence in detail. Submit any accident or incident reports prepared at the time of the accident or occurrence (for example: motor vehicle accident reports, other law enforcement reports, report to employer, etc.) and any witness statements.

_____
_____
_____
_____
_____
_____
_____

2. Describe the personal injuries or property damage or loss sustained by claimant in detail. Attach any reports prepared by third parties concerning the personal injuries or property damage or loss (for example: attending physician's assessment, other medical records, estimates of property damage made by adjuster, etc.)

_____
_____
_____
_____
_____
_____
_____

3. List in detail the monetary losses sustained or expenses incurred by claimant as a result of the accident or occurrence. Attach any property valuation statements or repair estimates.

_____
_____
_____
_____
_____
_____
_____

4. Did the claimant or any other party have insurance which covered or might have covered the accident or occurrence or the personal injuries or property damage or loss? List all such insurance policies by owner of the policy (name, address, telephone), insurance company, policy number and insurance agent (name, address, telephone).

_____

_____

_____

_____

_____

_____

_____

5. Has any claim been made or lawsuit filed by the claimant or any other party against any insurance company or party based on the accident or occurrence? Describe in detail each such claim or lawsuit including when it was made or filed, for what amount, who was it claimed or filed against (name, address, and telephone), is it still pending, what amount was recovered, if any, and if denied, what was the reason for denial? Attach a copy of each such claim form or legal petition.

_____

_____

_____

_____

_____

_____

_____

6. Claimant ☐ **does** ☐ **does not** (check one) desire to appear in person, **by phone**, or by authorized agent or attorney before the Committee for a hearing when this claim is considered by the Committee. By making this request for a hearing, claimant agrees to appear in person, **by phone**, or by authorized agent or attorney at the time and place of the meeting designated in the notice to the claimant. Claimant is advised that a hearing in person may be requested by the Committee and the claimant or the claimant's attorney will be required to be present at such hearing upon notification thereof.

_____
(Signature of Claimant)

_____
(Name typed or printed)

CLAIM VERIFICATION

STATE OF KANSAS,

COUNTY OF _____

_____, being first duly sworn, states that he or she has read the instructions provided and the above and foregoing claim, including attachments, and knows the contents thereof and that the same are true and correct.

_____
(Signature)

Subscribed and sworn to before me, a Notary Public, this _____ day of _____, _____.
(Month) (Year)

My Commission expires _____

Mail completed forms to:

Joint Committee on Special Claims Against the State
c/o Kansas Legislative Research Department
300 S.W. Tenth Avenue—Room 68-W
Topeka, Kansas 66612-1504