

Chapter 24

DEFENSE AND INDEMNIFICATION

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[HISTORY: Adopted by the Township Committee of the Township of Mansfield by Ord. No. 9-82 (§ 2-14 of the 1975 General Ordinances). Amendments noted where applicable.]

§ 24-1. Definition.

As used herein, "official" or "Township official" shall mean a present or former employee, appointee, official, elected official or member of the various boards, agencies and commissions of the Township of Mansfield, Warren County, New Jersey.

§ 24-2. Civil actions.

- A. The Township is hereby authorized to provide for the defense of actions brought against its officials and to indemnify such officials to the extent hereinafter set forth, and to save harmless and protect such persons from any financial loss resulting from litigation.
- B. The obligation of the Township to defend and indemnify its officials for acts or omissions arising out of or in the course of the performance of the duties of that person shall be limited to those circumstances under which the Township itself would be liable for the acts of its officials under the doctrine of respondeat superior.

§ 24-3. Criminal actions.

- A. The Township shall defray the costs of defending any criminal action against any official, provided:
 - (1) It is authorized by state statute, municipal ordinance or by resolution, and provided the criminal proceedings have been dismissed, or result in a final disposition in favor of the official.
 - (2) The Township Committee determines that there is no good cause to dismiss the official arising out of the incident or related incidents of the criminal proceedings.
- B. The Township shall provide for the defense of any criminal action against any official, provided that it is authorized by state statute, municipal ordinance or by resolution and such defense is not herein otherwise limited.

§ 24-4. Limitations.

The Township Committee shall not approve indemnification of the defense of any action if:

- A. The act or omission complained of was not within the scope of employment or authority.
- B. The act or omission complained of was because of actual fraud, willful misconduct or actual malice.

- C. The defense of the action or proceeding would create a conflict of interest between the Township and the official involved.
- D. There exist policies of insurance, either obtained by the Township or by another, by virtue of which the official is entitled to a defense of the action in question from the insurer.
- E. The Township official has failed to deliver to the Township Committee within 10 days of the time (s)he is served with any summons, complaint, process, notice, demand or pleading, the original or copy of such document, or thereafter fails to cooperate with the Township in the defense of the matter.
- F. The official fails to request the defense of any action.
- G. If the action was brought by the Township.

§ 24-5. Defense of actions.

- A. If the Township Committee determines to provide a defense as authorized in this section, it may:
 - (1) Use the services of the Township attorney.
 - (2) Hire an attorney of its choice and pay such attorney directly.
 - (3) Reimburse the Township official for reasonable attorney's fees expended or obligated to be expended by such official in the defense of the act.
- B. In addition to the provisions hereof, all officials of the Township shall be entitled to the defense and indemnification as provided in N.J.S.A. 59:10-1 et seq.¹

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).