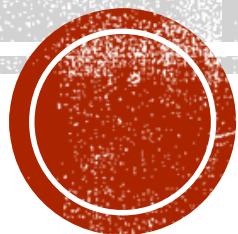


# **GDOE & GOVERNMENT CLAIMS**



**August 2017**

# CHANGES IN THE LAW

- Guam Public Law 24-142:11 Free Medical Expenses for Injured Pupils.
  - If a pupil of any of the public or private schools of Guam is injured during school hours on school property, while traveling directly between his home and school in public school buses, while participating in or attending any regularly approved, supervised activity of the school during school hours or, after school hours; if the school activity is under direct school supervision, or while traveling in public school buses to and from such school activity as a member of group which is under the school's supervision, all medical expenses incurred as a result of such injury **shall be borne by each District Board**, except that if the student is covered by insurance, then each District Board shall bear only expenses, in excess of the insurance payments (1998).

## **▪REPEALED!!!**



# **ALL CLAIMS MUST GO THROUGH THE GOVERNMENT CLAIMS ACT**

- Title 17 Guam Code Annotated (GCA) Chapter 6 Pupils, §6112 Medical Expenses for Injured Pupils:
  - All injuries and all medical expenses incurred as a result of such injury within school hours, property, school functions, etc. shall be covered pursuant to the provisions of the Government Claims Act.



# GOVERNMENT CLAIMS ACT

- Title 5 of Guam Code Annotated (GCA) Chapter 6: Government Claims Act
  - Government of Guam waives immunity from suit, but only as hereinafter provided:....
  - §6105(b) Waiver of Immunity: for claims in tort, arising from the negligent acts of its employees acting for and at the direction of the government of Guam, even though occurring in an activity to which private persons do not engage.



# DEFINITIONS

- **Tort:** Is an act or omission that gives rise to injury or harm to another and amounts to a civil wrong for which courts impose liability. (intentional tort [hitting], negligent tort [causing an accident by failing to obey traffic rules], and strict liability tort [liability for making and selling defective products]).
- **Negligence:** A failure to behave with the level of care that someone of ordinary prudence would have exercised under the same circumstances. The behavior usually consists of actions, but can also consist of omissions when there is some duty to act. Primary factor to consider in ascertaining whether the person's conduct lacks reasonable care are the foreseeable likelihood that the person's conduct will result in harm, the foreseeable severity of harm that may ensue, and the burden of precautions to eliminate or reduce the risk of harm. Negligent conduct may consist of either an act, or an omission to act when there is a duty to do so.

# GOVERNMENT CLAIMS ACT CONTINUED..

- §6106 Limitation on Actions Filing: 18 months from date claim arose
- §6203 Investigations. Claims shall cause each claim to be investigated to determine its merits
- § 6206 and 6210 Settlement of Claims
- §6208.1 Rejecting a claim.....
- §6301 Maximum Limits of Government Liability....



# 5 GCA §6208.1 REJECTING A CLAIM

- When a government Claims Officer rejects a claim pursuant to §6208(a), the notice of rejection shall set forth the grounds therefore, including:
  - the findings of fact,
  - the legal basis relied on for such denial,
  - and any **investigative reports** reviewed by the Claims Officer or initiated by that office during the pendency of the investigative period.



# §6301 GOVERNMENT LIABILITY

- (b) The government of Guam, in the case of line agencies, shall be liable in tort for not more than \$100,000 in an action for wrongful death, nor for more than \$300,000 in any other tort action.
- (d)(2) Government Health Professionals performing services in government facilities other than those operated by the Guam Memorial Hospital Authority shall be considered Agents of the line department or autonomous agency they serve.
- (3) A Government Health Professional is any person who is licensed or certified to practice a healing art in Guam
- (4)(b) Any award against the government employer (GDOE) as herein provided bars further award from the Health Professional or the government employee in the same cause of action for injuries arising out of the same acts or omissions unless:  
**(B) the court finds that the agent or government employee was acting outside the scope of her/his employment.**



# WHAT GOES INTO A GOVERNMENT CLAIM

- Claim Dollar Amount
- All Incident Reports by the School
- Injury Report Form by School Nurse School Health Counselor
- Final decision by GDOE whether to accept or reject claim based on investigation and all reports.



# EXAMPLES OF CLAIMS

- Ex 1: Student A was playing blocks in class with another student. Student A then threw his body onto the floor. Student A while on the ground then tried to turn a table in front of him around and the table then fell on him causing a laceration to his face. Student A was brought to the nurse's office by a GDOE employee \_\_\_\_\_ . Student Health Counselor informed Student A's mother and recommended the child be taken to a doctor or clinic as soon as possible.
- Ex 2: Reports prepared by School Health Counselor stated that Student B was playing basketball when she bumped into another child, lost her balance, and sustained a fall onto her left wrist. School Health Counselor observed the injury, provided a detailed recollection and immediately called Student B's parents.



# 2016 CASE

Sixteen-year-old boy recently joined a high school football team, and was sitting on the sidelines without his helmet when a few teammates began to throw footballs at him. A few of the footballs hit him in the head. Shortly after this incident, he went to see the school nurse. He informed her that he had been hit in the head with more than one football and that he now has a headache and double vision. He mentioned to her that he was worried that he might have a concussion. The nurse attempted to contact the house number but no one answered.

After his first visit to the school nurse, the student continued to go to practice over the course of the next two weeks. He returned to the nurse on multiple occasions, complaining once again that he was suffering from headaches and double vision. The nurse did get in contact with the boy's grandmother but only discussed that the boy had a pinkeye.

Several days after the phone call, the boy was at home with his grandmother and began to complain of head pain, neck pain, and issues with his vision and balance. She rushed him to the ER where doctors saw a large mass on the images they took of his head. A blood clot formed near the boy's brain stem.



# RECOMMENDATION FOR INJURY REPORTS

- A thorough medical documentation:
  - Describing injury in detail
  - Any and all treatment provided
  - Document the time of relevant actions (time of injury, time treated, called parents, etc.)
  - Can include the statement of the injured party
  - Print as well as sign the name and position at the end of the report.



# QUESTIONS?

