I. PURPOSE:
To provide policy, procedure and guidance in presenting a claim for damages against the New Hampshire Department of Corrections.

II. APPLICABILITY:
To any person who has a claim for damages against any employee of the Department of Corrections.

III. POLICY:
It is the policy of the Department of Corrections (NHDOC) to:
A. Provide a mechanism for those persons who believe they have been damaged in a monetary way by the negligence of employees of the Department of Corrections in keeping with RSA 541-B, (Attachment 3).
B. Reimburse individuals for property damages suffered by a state employee or official during the performance of their duties while on state business where compensation is appropriate under the principles of equity and good conscience.
C. Substantially follow the administrative rules adopted by the New Hampshire Board of Claims (Attachment 4) to the extent that said rules are applicable to the Department of Corrections and as may be modified by RSA 541-B as amended.

IV. PROCEDURES:
A. The Commissioner of the NHDOC shall appoint a departmental employee, suitably qualified, as a Claims Officer (currently the Professional Standards Director) to preside over claims of less than $500 pursuant to RSA 541-B. Additionally, departmental Hearings Officers may also be appointed to hear claims.
B. A person who has a claim against DOC for an amount less than $500.00 shall file, in writing, a complaint with the Department of Corrections requesting monetary relief for bodily injury, death or property damages caused by the failure of DOC, its officers, officials or employees, to follow the appropriate standard of care when that duty was owed to the person making the claim. As used in this section, claims shall include any right of action for money damages which either expressly or by implication arises from any law, unless another remedy for such claim is expressly provided by law.
C. All claimants shall make their claims against DOC pursuant to RSA 541-B; and shall advance their claim pursuant to administrative rules adopted by the New Hampshire Board of Claims to the extent said rules are applicable to DOC.

1. Individuals of departmental facilities must complete a New Hampshire Board of Claims Form A (attachment 1) for all claims under $500.00; a New Hampshire Board of Claims Form B (attachment 2) for all claims over $500.00 and forward it to the Warden/designee at the time of the incident.

2. If a claim is received from the Secretary of State's Office, Claims Board or other source that originated from an individual under DOC custody; the claim will be forwarded to the Warden/designee.

3. Non-individuals under DOC supervision may file their claim, in writing, to the Commissioner.

4. A submitted claim shall contain the following:
   a. The name and address of the claimant;
   b. The time, place and other facts which support the allegation that the agency should be held liable, including names of witnesses;
   c. The name and address of the agency involved;
   d. The dollar amount of the claim supported by documentation as to proof of value.

Proof of value includes receipts or other documentation such as catalog prices.

5. When a claim has been received by the Warden/designee that does not comport with paragraph C.4. above, a request shall be made to the claimant to provide additional documentation. The claimant has the option of responding to the request.

6. In all cases, once the claimant has submitted the claim and provided the information requested in paragraph C.4., if any, the Warden/designee shall log the claim and ensure that a proper investigation of the facts and circumstances surrounding said claim is completed within 30 days of receipt. A Claims Investigation Summary (Attachment 4 or 5) shall be completed and forwarded to the Professional Standards Director for review. The Professional Standards Director shall authorize payment of the claim or set a hearing date for the claim.

D. When the New Hampshire Board of Claims rules are not applicable to DOC, the Claim Hearings Officer shall, upon motion of either party or by the Claims Officer, make a ruling resolving any such issue so long as such decision is in keeping with RSA 541-B.

E. NHDOC shall have exclusive jurisdiction to investigate, conduct hearings, make decisions, and render or deny awards on claims against the Department when the amount involved is less than $500.00. For claims over $500.00, NHDOC will file the claim with the Secretary of State, investigate the claim and provide the Attorney General with the results of the investigation.

F. When a claim has been filed with the NHDOC; the Commissioner shall make or cause to make a preliminary investigation.

G. The Professional Standards Director/Designee shall assign a docket number that will reflect the year in which the claim was filed and a sequential number and the initials DOC, for example: number 87-123-DOC.

H. The Professional Standards Director/Designee shall determine whether the claim is contested or uncontested.

1. In uncontested cases, the Professional Standards Director shall review all transmitted documentation and shall transmit by intra-departmental memorandum to the Secretary of State's Office the following: "Claims Officer for the New Hampshire Department of Corrections regarding Prison claim(s) order payment in the amount of (dollar amount) regarding an uncontested claim filed by (claimant). The Director of Professional Standards/designee shall send all claimants in contested cases the following notice: 'Please be advised that your claim against the Department of Corrections (87-123-DOC) has been received by the Department of Corrections' Claims Officer and as such a
hearing will be held at the (state location of hearing) on (month, day) at (time) regarding (claimant's name) v. New Hampshire State Prison. "If you are unable to attend said hearing, you may either prosecute your claim in absentia, request a continuance until such time that you can be present or, should you fail to appear, have your claim adjudicated based on the evidence submitted with the claim and the results of the investigation."

I. Ex-parte communications with the Director of Professional Standards or Claims Hearings Officer is prohibited. See Cla 204.05.

J. Notices shall also be posted on a common bulletin board at the DOC facility where the hearings will be held that shall state the following:

NOTICE OF PUBLIC HEARING
Notice is hereby given that the New Hampshire Department of Corrections' Claims Officer pursuant to powers granted under RSA 541-B will hold a special meeting on (date) at the (name hearing site) beginning at (time) for the purposes of hearing certain claims.

Claims Officer
NH Department of Corrections

K. On the date contained within the notices regarding the claims, hearing(s) will be conducted by the Claims Hearings Officer. Upon the request of any party, in the interests of fairness by the Claims Hearings Officer, the Claims Hearings Officer may continue any hearing until a later date so that any party may perform necessary and adequate discovery or for good cause.

L. Upon conclusion of the hearing regarding any claim, the Claims Officer shall transmit to the Secretary of State by intra-departmental memorandum an order indicating the Claims Hearings Officer's decision with copies to the claimant, the Attorney General's Office and the Warden/Director of the Institution/Division cited in the claim.

REFERENCES:
Standards for the Administration of Correctional Agencies
Second Edition Standards

Standards for Adult Correctional Institutions
Fourth Edition Standards

Standards for Adult Community Residential Services
Fourth Edition Standards

Standards for Adult Probation and Parole Field Services
Third Edition Standards

Other
RSA 541-B
NH Board of Claims Administrative Rules

FORBES/lb

Attachments
FORM A

NEW HAMPSHIRE BOARD OF CLAIMS

This is a form to be filled out by all persons wishing to make a claim against the NH Department Of Corrections pursuant to New Hampshire RSA 541-B for property loss or damages under the amount of $500.00. This form is to be filled out completely to include attaching supporting documents e.g. receipts, bills, etc. Incomplete forms will be returned to you and can delay the claims process. Completed forms are filed as follows:

Inmates: Facility Warden/designee

Others: Office of the Commissioner

Name and address of claimant:  

_____________________________________________

_____________________________________________

Phone Number: ________________________________

Name of State Agency: _________________________

Phone Number: ________________________________

Date of Incident: ______________________________

Amount of Claim: ($500.00 or Less)

_____________________________________________

PLEASE STATE THE CIRCUMSTANCES SURROUNDING YOUR CLAIM - ATTACH COPIES OF ALL RELEVANT BILLS, RECEIPTS OR OTHER DOCUMENTS.
THEORY OF LIABILITY (State briefly why you think the state should pay the damages requested)

I hereby certify that this claim has been submitted to the __________________________ (state agency against whom I am making a claim) at the following address: __________________________

DO NOT CERTIF THAT YOU HAVE FILED THE CLAIM WITH THE SECRETARY OF STATE'S OFFICE. The Secretary of State’s Office is not the agency against whom you are making the claim.

Date __________________________ Claimant or Attorney for Claimant

Revised 11-2010
FORM B

NEW HAMPSHIRE BOARD OF CLAIMS

This is a form to be filled out by all persons wishing to make a claim against the NH Department of Corrections pursuant to New Hampshire RSA 541-B for amounts over $500.00. The form should be completed with supporting documentation (bills, receipts, etc.) attached and filed as follows:

Inmates: Facility Warden/designee
Others: Office of the Commissioner

NAME AND ADDRESS OF CLAIMANT:

________________________________________

________________________________________

________________________________________

________________________________________

ATTORNEY FOR CLAIMANT (if applicable):

________________________________________

________________________________________

________________________________________

NAME & ADDRESS OF AGENCY INVOLVED:

________________________________________

________________________________________

________________________________________

DATE OF INCIDENT:

________________________________________

AMOUNT OF CLAIM: _______________________

PLEASE STATE THE CIRCUMSTANCES SURROUNDING YOUR CLAIM - ATTACH COPIES OF ALL RELEVANT BILLS, RECEIPTS OR OTHER DOCUMENTS

_________________________________________________________________________________________________________________________________________________________
THEORY OF LIABILITY (State briefly why you think the state should pay the damages requested)

I hereby certify that this claim has been submitted to the __________________________________________ (state agency against whom I am making a claim) at the following address: ______________________________________________________

DO NOT CERTIFY THAT YOU HAVE FILED THE CLAIM WITH THE SECRETARY OF STATE’S OFFICE. The Secretary of State’s Office is not the agency against whom you are making the claim.

______________________________  ______________________________
Date  Claimant or Attorney for Claimant

Revised 04-2012
541-B:1 Definitions. – In this chapter:
I. "Agency" means all departments, boards, offices, commissions, institutions, other instrumentalities of state government, including but not limited to the Pease development authority, division of ports and harbors, the New Hampshire housing finance authority, the New Hampshire energy authority, and the Pease development authority, and the general court, including any official or employee of same when acting in the scope of his or her elected or appointed capacity, but excluding political subdivisions of the state.
II. "Board" means the board of claims established by RSA 541-B:2.
II-a. "Claim" means any request for monetary relief for either:
(a) Bodily injury, personal injury, death or property damages caused by the failure of the state or state officers, trustees, officials, employees, or members of the general court to follow the appropriate standard of care when that duty was owed to the person making the claim, including any right of action for money damages which either expressly or by implication arises from any law, unless another remedy for such claim is expressly provided by law; or
(b) Property damages suffered by a state employee or official during the performance of that employee’s or official’s duties while on state business where compensation is appropriate under principles of equity and good conscience.
III. "Claimant" means any person who files a claim pursuant to this chapter.
IV. [Repealed.]
V. "Person" means any individual, partnership, association, corporation or political subdivision.
VI. "Political subdivision" means any village district, school district, town, city, county or unincorporated place in the state.

541-B:2 Board Established. – There is hereby organized, constituted and established a 5 member board of claims for the state.

Section 541-B:3

541-B:3 Appointment and Qualifications of Board Members. –
I. The governor shall appoint 2 competent persons to serve as board members; preferably each shall be a member of the New Hampshire Bar Association.
II. The chief justice of the New Hampshire supreme court shall appoint the chairman of the board. The chairman shall be a judicial referee, if one is available, but if not, then the chairman shall be a member of the New Hampshire Bar Association.
III. The president of the senate shall appoint one member of the senate, and the speaker of the house of representatives shall appoint one member of the house of representatives, to serve as board members.
IV. All members shall be residents of the state and if any member ceases to be a resident of this state a vacancy is created.

541-B:4 Term. –
I. Each board member except the legislative members shall serve a 6-year term. The 2 legislative members shall serve a term which is co-terminous with their terms as legislators; provided, however, that at the expiration of a
term of 6 years, a legislative member may be reappointed to serve as a board member for an additional 6-year term.
II. (a) In the event of a vacancy on said board for any reason which is created by the 2 members appointed pursuant to RSA 541-B:3, I, the provisions of RSA 21:33-a shall apply.
(b) If the position of chairman of the board becomes vacant, the provisions of RSA 21:33-a shall apply except that the appointment shall be by the chief justice of the New Hampshire supreme court.
(c) A vacancy on the board for any reason which is created by either of the 2 legislative members appointed pursuant to RSA 541-B:3, III, shall be filled by the president of the senate or the speaker of the house of representatives, as appropriate, pursuant to RSA 541-B:3, III.


541-B:5 Disqualification of Board Member. — A board member may disqualify himself relative to any matter before the board or if the board votes that any member has or may have a conflict of interest in any matter before the board, that member shall be disqualified to sit as a board member on that particular matter. In the event of any disqualification, the governor by the authority of RSA 21:33-a, the chief justice of the supreme court by the authority of RSA 541-B:3, II, the president of the senate or the speaker of the house of representatives, as appropriate, by the authority of RSA 541-B:3, III, shall appoint an interim member to the board to serve only as to that matter. The interim member shall have the same qualifications as the disqualified member.


541-B:6 Removal. — The governor may at any time remove a board member for cause, including malfeasance, misfeasance, inefficiency in office or incapacity or unfitness to perform his duties. The attorney general or chief justice of the superior court may petition for such removal, setting forth the grounds and reasons therefor. No board member shall be removed without a public hearing before the governor and council upon such petition, giving the member due notice thereof not less than 30 days before the hearing.

Source. 1977, 595:2, eff. July 1, 1977

541-B:7 Compensation. — Each non-legislative member shall not receive more than $65 and his reasonable expenses in each quarter; the legislative board members shall be entitled to legislative mileage only. Any interim board member appointed shall be compensated in like manner while serving on the board.

Source. 1977, 595:2, eff. July 1, 1977

541-B:8 Quorum. — A majority of the board shall constitute a quorum to conduct hearings and a vote of at least a majority of the quorum is required to adopt and approve any matter considered by it.


541-B:9 Jurisdiction. —
I. Claims under this chapter shall be brought solely in accordance with the provisions of this chapter.
II. The board shall have original and exclusive jurisdiction to investigate, conduct hearings and make decisions, and render or deny awards on all claims under this chapter not exceeding $5,000 against any agency, except those claims arising under workers' compensation, unemployment compensation, eminent domain proceedings, RSA 110-B:73, RSA 207:23-a, RSA 228:29, and RSA 491:8.
III. The board shall have concurrent jurisdiction to investigate, conduct hearings and make decisions, and render or deny awards, except those claims arising under workers' compensation, unemployment compensation, eminent domain proceedings, RSA 110-B:73, RSA 207:22-25, RSA 228:29 and RSA 491:8, with the superior court on all claims in excess of $5,000, but not exceeding $50,000, against any agency.
IV. Except as otherwise provided, the superior court shall have original and exclusive jurisdiction of all claims in excess of $50,000 against any agency.
V. Notwithstanding paragraph II, the department of corrections shall have exclusive jurisdiction to investigate, conduct hearings and make decisions, and render or deny awards on claims against the department of corrections when the amount involved is less than $500.
V-a. Notwithstanding paragraph II, the department of health and human services shall have exclusive jurisdiction to investigate, conduct hearings and make decisions, and render or deny awards on claims against New Hampshire
hospital when the amount involved is less than $500.
VI. The board of claims may authorize payment of uncontested claims based upon a review of the record, without holding a hearing.

541-B:9-a Claims Filed Against the State and Its Agent. – When a claim filed pursuant to this chapter is against both the state and an agent, official or employee of the state, the court shall determine whether the state is responsible for the actions of the agent, employee or official. If the court determines that the state is responsible for the actions of the agent, employee or official; the agent, employee or official shall be dismissed as a defendant and the plaintiff shall proceed solely against the state.

541-B:11 Procedure. – The procedure for the filing and adjudication of claims is as follows:
I. The claimant shall first file the claim in writing with the agency involved.
II. When a claim has been filed with any agency, the head of the agency shall make or cause to be made a preliminary investigation and provide the attorney general with the results of such investigation.
III. Any person initiating a claim with the board under the provisions of RSA 541-B:9, II or III shall file the claim with the secretary of state, who shall forward the claim to the board.
IV. The secretary of state shall notify the agency, the attorney general, and the claimant of the next scheduled quarterly meeting of the board and of the pertinent information as to when the claim has been scheduled for a hearing. The claimant, attorney general, and agency shall have at least 10 days' written notice of the date, time and place of the hearing.
V. When a claim is forwarded to the board by the secretary of state, the board shall schedule such claim for a hearing no later than the next succeeding quarterly meeting of the board, if the board has met in the current quarter or not enough time is left within said quarter to comply with the notice required pursuant to paragraph IV. Upon the request of any party, the board may continue any claim until a succeeding quarterly meeting in order that the party may perform necessary and adequate discovery.
VI. The claimant may represent himself or he may be represented by an attorney. The claimant may subpoena witnesses and compel their attendance, and also may require the production of books, papers and documents. The attorney general shall represent the agency.
VII. All hearings before the board shall be subject to the provisions of RSA 91-A.

541-B:11-a Annual Report. – The secretary of state shall provide annually to the bureau of risk management a copy of the annual report for the board.

541-B:13 Payment of Claims. – Whenever the board by majority vote finds that payment to a claimant is justified, or a judgment by the superior court becomes final, the governor shall draw his warrant for said payment out of any money in the treasury not otherwise appropriated, and said sums are hereby appropriated.
541-B:14 Limitation on Action and Claims. –
[Paragraph I effective until January 1, 2004; see also paragraph I set forth below.]

I. All claims arising out of any single incident against any agency for damages in tort actions shall be limited to an award not to exceed $250,000 per claimant and $2,000,000 per any single incident, or the proceeds from any insurance policy procured pursuant to RSA 412:3, whichever amount is greater; except that no claim for punitive damages may be awarded under this chapter.
[Paragraph I effective January 1, 2004; see also paragraph I set forth above.]

II. All claims arising out of any single incident against any agency for damages in tort actions shall be limited to an award not to exceed $250,000 per claimant and $2,000,000 per any single incident, or the proceeds from any insurance policy procured pursuant to RSA 507-B, whichever amount is greater; except that no claim for punitive damages may be awarded under this chapter.

II. If a claim is filed against the state for time unjustly served in the state prison when a person is found to be innocent of the crime for which he was convicted, such a claim shall be limited to an award not to exceed $20,000.

III. The payment of interest shall be granted on any award authorized under this chapter at the rate provided in RSA 336:1 in the same manner as is provided for in civil actions generally.

IV. Any claim submitted under this chapter shall be brought within 3 years of the date of the alleged bodily injury, personal injury or property damage or the wrongful death resulting from bodily injury. As a condition precedent to commencement of the action, the agency shall be provided written notice within 180 days after the time of the injury or damage as to the date, time, and location the injury or damage occurred. The lack of written notice shall not bar a claim unless the agency can show by a preponderance of the evidence that its ability to defend against the action was substantially prejudiced thereby. Such notification may be made either by the claimant or an appropriate representative of the claimant.


541-B:15 Claimants' Rights Against Others. – The adjudication by the board or the superior court on any claim before it shall not deprive the claimant of any other legal rights he may have against another party.


541-B:16 Settlement. – Any payment made pursuant to this chapter shall be in full settlement of any liability on behalf of the agency which was subject to the claim and no further action may be instituted in any court of law for recovery of damages against that agency on any matter arising out of that particular claim.


541-B:17 Fees. – The board is authorized to establish reasonable fees not to exceed any comparable fees authorized for the superior court for the filing of claims, providing copies of the proceedings, transcripts or records or other documents which may be required by the board.


541-B:18 Attorneys' Fees. – No attorney representing a claimant shall charge or collect fees for legal services rendered to the claimant unless the fees have been approved by the board or the superior court, as the case may be. In determining the amount of allowable fees, the board or the superior court shall consider, among other things, the nature, length, and complexity of the services performed, the usual and customary charge for work of like kind, and the benefits resulting to the claimant as a result of the legal services performed.

541-B:19 Exceptions. –
I. Without otherwise limiting or defining the sovereign immunity of the state and its agencies, the provisions of this chapter shall not apply to:
(a) Any claim which is based upon the exercise of a legislative or judicial function.
(b) Any claim based upon an act or omission of a state officer, employee, or official when such officer, employee, or official is exercising due care in the execution of any statute or any rule of a state agency.
(c) Any claim based upon the exercise or performance or the failure to exercise or perform a discretionary executive or planning function or duty on the part of the state or any state agency or a state officer, employee, or official acting within the scope of his office or employment.
(d) Any claim arising out of an intentional tort, including assault, battery, false imprisonment, false arrest, intentional mental distress, malicious prosecution, malicious abuse of process, libel, slander, misrepresentation, deceit, invasion of privacy, interference with advantageous relations, or interference with contractual relations, provided that the employee whose conduct gives rise to the claim reasonably believes, at the time of the acts or omissions complained of, that his conduct was lawful, and provided further that the acts complained of were within the scope of official duties of the employee for the state.

541-B:20 Right to Jury Trial. – In any action in the superior court pursuant to this chapter there shall be a right to a jury trial and the action shall be tried to a justice of the superior court in the ordinary course.

541-B:21-a Claims Arising From the Clinical Services Provided to the Department of Corrections. –
I. Without otherwise limiting or defining the sovereign immunity of the state and its agencies, this chapter shall apply to all claims against any nonprofit entity, or any employee, trustee, or director of such nonprofit entity when acting in the scope of such person's elected or appointed capacity, providing clinical services of psychiatrists, other medical doctors, or psychiatric/mental health nurse practitioners in accordance with any contract limited to such services entered into by the department of corrections.
II. The limitations on awards provided in RSA 541-B:14 shall not be increased by the proceeds from any insurance policy procured by a nonprofit entity, or any employee of such entity, included under RSA 541-B:21-a, I.
III. This section shall apply only to claims arising out of incidents occurring after the effective date of this section.
Rules of the Board of Claims

Chapter
100. Organizational Statements
200. Rules of Practice and Procedure

CHAPTER 100

Organizational Statements

Part 101. Purpose and Scope

Statutory Authority: RSA 541-B:10

PART 101
Purpose and Scope

101.01. Description and Jurisdiction
101.02. Intent of Rules
101.03. Waiver of Rules

Source and effective dates: This part was adopted by document #5481, effective November 1, 1002 and expires November 1, 1998. Subsequent amendments affecting particular rules appear in source notes following the text of the affected rule.

Cla 101.01. Description and Jurisdiction

(a) The New Hampshire board of claims is a professional fact finding board established to hear and decide claims against the state. The board has original and exclusive jurisdiction over claims not exceeding $5,000. The board has concurrent jurisdiction with the superior court for claims between $5,000 and $50,000. The superior court has exclusive jurisdiction of claims exceeding $50,000. The jurisdiction of the board specifically excludes certain claims against the state as enumerated in RSA 541-B:9 and claims against the state prison which are less than $500.00.

(b) Proceedings before the board are governed by RSA 541-B:1 et seq. and these rules.

Cla 101.02. Intent of Rules

These rules shall govern the proceedings before the New Hampshire board of claims. They are intended to provide a prompt and impartial determination of claims.

Cla 101.03. Waiver of Rules

A rule may be waived by a majority vote of the board in the interest of fairness for good cause shown unless mandatory under RSA 541-B.
CHAPTER 200
Rules of Practice and Procedure

Part
201. Definitions
202. Claims
203. Hearing Procedure
204. Hearing
205. Orders

Statutory Authority: RSA 541-B:10

PART 201
Definitions

201.01. Board
201.02. Proceeding
201.03. Chairman

Source and effective dates: This part was adopted by document #5481, effective November 1, 1992 and expires November 1, 1998. Subsequent amendments affecting particular rules appear in source notes following the text of the affected rule.

Cla 201.01. Board

“Board” as used in these rules shall refer to the board of claims established by RSA 541-B:2.

Cla 201.02. Proceeding

For the purpose of these rules, a “proceeding” shall be deemed to have commenced before the board upon the filing of a claim with the secretary of state in accordance with RSA 541-B:11, III.

Cla 201.03. Chairman

“Chairman” as used in these rules includes the chairman of the board of claims appointed pursuant to RSA 541-B:3 or a member of the board designated by the chairman.

PART 202
Claims

202.01. Filing
202.02. Contents and Sufficiency
202.03. Insufficiency of Claim

Source and effective dates: This part was adopted by document #5481, effective November 1, 1992 and expires November 1, 1998. Subsequent amendments affecting particular rules appear in source notes following the text of the affected rule.
Cla 201.01. Filing

The claimant shall first file the claim in writing with the agency involved. RSA 541-B:11, I. The agency shall conduct a preliminary investigation of the claim and provide the attorney general with the results of the investigation. To file the claim with board, the claimant shall file the claim with the secretary of state on a form substantially similar to Form A attached to rules. The secretary of state shall forward a copy of the claim to the board.

Cla 202.02. Contents and Sufficiency

A submitted claim shall contain the following:

(a) The name and address of the claimant.

(b) The time, place and other facts which support the allegations that the state should be held liable.

© A copy of the claim filed with the agency or a statement that the claim has been filed with the agency and the date it was filed.

(d) The amount of the claim supported by available documentation.

Cla 202.03. Insufficiency of Claim

When a claim has been received by the board, the chairman shall examine it to ascertain compliance with Cla 202.02. If the claim is found not to be in compliance with Cla 202.02, the Chairman shall request the claimant to provide additional documentation as to comport with the requirements of Cla 202.02. The failure of the claimant to submit a claim as required by Cla 202.02 may be grounds for dismissal of the claim.

PART 203

Hearing and Procedure

203.01. Pre-Conference Hearing
203.02. Discovery
203.03. Briefs
203.04. Subpoenas

Source and effective dates: This part was adopted by document #5481, effective November 1, 1992 and expires November 1, 1998. Subsequent amendments affecting particular rules appear in source notes following the text of the affected rule.

Cla 203.01. Pre-Conference Hearing

Prior to hearing a claim, the chairman of the board (or a member of the board designated by the chairman) may require the parties, or their authorized representatives, to appear at a prehearing conference. The purpose of this conference is to resolve such matters as the parties may agree upon, determine the nature and quality of evidence each party intends to present at the hearing and determine compliance with discovery requests or orders. Unless agreed to by the parties, statements made at a pre-conference hearing may not be introduced at the formal hearing. In claims where the claimant is represented by legal counsel, the board may require submission of a written pretrial statement.
Cla 203.02. Discovery

The chairman of the board shall have the authority to order such discovery as the fair and expeditious resolution of claims may require. Prior to requesting a discovery order form from the chairman, a party must request such discovery from an opposing party and allow 30 days for compliance with the request, the party may request a discovery order from the chairman by submitting such request in writing by filing it with the secretary of state’s office and mailing a copy to the opposing party. The opposing party shall have ten (10) days from receipt of the request to file a written objection. The chairman may order or deny a discovery request on the basis of the written request and written objection or after a hearing before the chairman if requested by either party.

Cla 203.03. Briefs

Briefs as to facts and law will be received and may be required to be submitted in any proceeding. The day for filing briefs will be designated by special order of the board. An original and four (4) copies of each brief shall be filed with the board and a copy thereof shall be delivered to or mailed to each party of record prior to or simultaneously with delivery or mailing to the board. Certification of such mailing shall be filed with the filing of the briefs.

Cla 203.04. Subpoenas

(a) Issuance. The board may issue a subpoena requiring the attendance of witnesses or the production of books, papers and documents relating to any matter under investigation or to any question before the board. Any party to a proceeding before the board may request the issuance of a subpoena in the name of the board. Parties and/or counsel may also issue subpoenas as otherwise provided by law.

(b) Issuance Fee for Subpoena. When a subpoena is issued upon the motion of a party to the proceeding, the cost of service, witness and mileage fees shall be borne by the party at whose request the subpoena is issued. The cost of such service, witness and mileage fee shall be the same as are paid witnesses in the courts of this state.

(c) Vacation or Modification of Subpoena. Any witness summoned may petition the board to vacate or modify the subpoena issued in its name. The board shall give prompt notice to the party who requested issuance of the subpoena. After investigating the petition, if the board finds that the testimony or evidence subpoenaed is privileged, does not relate to the matter in question, or that the subpoena is unreasonable, oppressive, or otherwise unlawful, the board shall either vacate or modify the subpoena.

(d) Failure to Comply with Subpoena. Upon the failure of any person to comply with a subpoena issued in the name of the board, any justice of the superior court, upon application by the board or the party who requested the subpoena, may issue an order requiring the attendance of such person or the production of such evidence before the board. Any person’s failure to obey the court’s order may be punished by the superior court for contempt.
PART 204

Hearings

204.01. Practice Before the Board
204.02. Place of Sessions
204.03. Scheduling of Hearings
204.04. Disqualification of a Board Member
204.05. Copies of Communications
204.06. Conduct of Hearings
204.07. Evidence
204.08. Discontinuance of Proceedings by Claimant
204.09. Withdrawal of Pleadings
204.10. Recess and Adjournment
204.11. Uncontested Claims

Source and effective dates: This part was adopted by document #5481, effective November 1, 1992 and expires November 1, 1998. Subsequent amendments affecting particular rules appear in source notes following the text of the affected rule.

Cla 204.01. Practice Before the Board

(a) Any person may appear before the board on his own behalf, or by an attorney authorized to practice in this state. An attorney from another jurisdiction, in good standing there, shall be permitted to participate in proceedings before the board upon satisfying the following condition: such attorney shall show in writing an agreement exists with an attorney authorized to practice in New Hampshire whereby, in the event that the need arises, the New Hampshire attorney shall assume the legal responsibilities of the other.

(b) Nothing in this rule shall be interpreted in such a way as to permit the unauthorized practice of law, nor shall this rule in any way be construed to restrict or limit the right of any person to conduct his own business with or before the board. The board shall have authority to impose such orders as may be necessary to maintain a judicial atmosphere, in accordance with proceedings governing appearance before the superior court.

Cla 204.02. Place of Sessions

To the extent of available space, hearings shall be held in the State House of the Legislative Office Building in Concord or in such other place, accessible to the public as the board shall direct.

Cla 204.03. Scheduling of Hearings

(a) When a claim has been forwarded to the board by the secretary of state, the board shall schedule such claim for a hearing. If the board has already met in the current quarter or insufficient time remains within said quarter to comply with the notice required pursuant to RSA 541-B:11, IV, such hearing shall be scheduled not later than the next succeeding quarterly meeting.

(b) A claim scheduled for a hearing may be postponed by agreement of the parties or their authorized representatives, or at the request of either party and the approval of the chairman of the board, or on motion by any member of the board and concurrence of a majority of the board.
Cla 204.04. Disqualification of a Board Member

A board member may disqualify himself or herself relative to any matter before the board. If the board votes that any member has or may have a conflict of interest in any matter before the board, that member shall be disqualified to sit as a board member on the particular matter. In the event of any disqualification, the governor by the authority of RSA 21:34-a, the chief justice of the supreme court by the authority of RSA 541-B:3, II, the president of the senate or the speaker of the house of representatives, as appropriate, by the authority of RSA 541-B:3, III, shall appoint an interim member of the board to serve only as to that matter. The interim member shall have the same qualifications as the disqualified member.

Cla 204.05. Copies of Communications

Whenever any proceeding shall have commenced before the board, a party writing to or forwarding written material to the board with respect to such proceedings shall, at the same time, forward a copy of such letter or material to every other party of record. Such party shall evidence compliance with this rule by attaching to the letter or material a statement or certificate showing that a copy has been delivered or mailed to every other party of record.

Cla 204.06. Conduct of Hearings

The board shall cause a stenographic recording of its hearings to be made. In the event that a court stenographer is unavailable, a tape recording shall be made. Other recordings, photographs of proceedings and the like shall be allowable only at the discretion of the board. Examination of witnesses appearing before the board shall be controlled by the chairman. Transcripts of the proceedings shall be available to the parties at the expense of the party desiring the transcript.

Cla 204.07. Evidence

Any oral or documentary evidence, which is relevant, material, and not unduly repetitious or cumulative, may be admissible at any hearing before the board. While the board is not bound by the New Hampshire Rules of Evidence, it may apply such rules, or any of them, when in its judgment such application is necessary or appropriate to afford the parties a full and fair hearing and bring about the production of needed and proper evidence. The admissibility of evidence shall be determined by the chairman; however, the ruling may be overturned by a majority of the members present and voting.

Cla 204.08. Discontinuance of Proceedings by Claimant

A proceeding begun before the board shall be discontinued upon the withdrawal of the claim by the claimant. Subsequent to such withdrawal, the board may decide whether the withdrawal operates as bar to future action by the withdrawing party as to that claim.

Cla 204.09. Withdrawal of Pleadings

Any pleading or document filed with the board shall not be withdrawn without the approval of the board.
Cla. 204.10. Recess and Adjournment

A majority vote of the board shall be required to recess and adjourn a board meeting until a definite date and time in the future.

Cla 204.11. Uncontested Claims

When payment of a claim is uncontested by the agency involved a majority of the board, without a hearing, may order the payment of such claim. However, the board shall first provide written notice of its intention to order payment of the claim to the claimant and the attorney general. The chairman shall not order payment of the claim and shall schedule the claim for hearing upon receiving an objection within 10 days from any person so notified.

PART 205

Orders

205.01. Orders
205.02. Authorization of Payment
205.03. Motion for Rehearing
205.04. Filing Fees
205.05. Attorney Fees
205.06. Office of Record

Source and effective dates: This part was adopted by document #5481, effective November 1, 1992 and expires November 1, 1998. Subsequent amendments affecting particular rules appear in source notes following the text of the affected rule.

Cla 205.01. Orders

Upon reaching a decision with respect to any claim, the board shall issue a written order. After each quarterly meeting, the board shall also cause a summary of such orders to be sent to the secretary of state. A copy of any such order of the board shall be delivered in all cases to the claimant, the attorney general and the secretary of state.

Cla 205.02. Authorization of Payment

Upon ordering that a claim be paid, the board shall authorize such payment as follows;

(a) When the claim was uncontested, the board shall authorize payment of the claim forthwith.

(b) When the claim was contested, the board shall authorize payment 30 days from the date of the decision.

© When a motion for rehearing is filed within 20 days after an order or decision pursuant to RSA 541:3, the board shall not authorize payment of the claim until and unless the board denies the motion for the rehearing. Upon denial of a motion for rehearing the board shall authorize payment 30 days after the date of the denial of the motion. A party appealing to the New Hampshire supreme court may seek any further suspension of the order authorizing payment from the supreme court pursuant to RSA 541-B.
Cla 205.03. Motion for Rehearing

Within 20 days after a decision has been made by the board, a motion for rehearing may be submitted by any party to the proceedings. The moving party shall state in the motion the grounds for rehearing. The board shall act on the motion for rehearing within 10 days of filing. The board must vote unanimously to rehear the matter.

Cla 205.04. Filing Fees

Any claim submitted to the board in excess of $5,000 shall be accompanied by a filing fee of $25.00.

Cla 205.05. Attorney Fees

When the board has awarded a claim to a claimant represented by an attorney, the attorney’s fee must be approved by the board. Upon receipt of the order awarding the claim, counsel shall submit to the board a statement of the fee charged along with supporting documentation and serve copies on the attorney general’s office. The attorney general’s office is not required to file a written response to the fee request but may object or request a hearing. Unless the board determines that a hearing is necessary, the board shall approve the requested fee without a hearing.

Cla 205.06. Office of Record

The office of the secretary of state shall be considered to be the office of record of the board of claims and any correspondence or documents concerning claims shall be filed with the secretary of state.
State of New Hampshire
Department of Corrections

Claims Investigation Summary Resident

From:  Click here to enter text.  Date:  Click here to enter a date.

Subject:  Claim Investigation

To:  Professional Standards Director

Pursuant to NH Policy and Procedure Directive 1.35, I caused an investigation into the following claim:

Name:  Click here to enter text.  ID No.  Click here to enter text.

Housing Unit:  Click here to enter text.

Based on the evidence available I believe this claim to be:

☐ SUSTAINED  OR  ☐ NOT SUSTAINED

(Check one)

The investigation of this claim was conducted by:  Click here to enter text.

The assigned investigator's type-written summary of their findings to include any evidence or documentation that supports their conclusion is attached.

Respectfully,

__________________________________________
(Chief of Security Signature)

Professional Standards Director’s decision:

[  ] This claim is sustained and I order payment of __________________ in full.

[  ] This claim is not sustained and a hearing is to be scheduled.

__________________________________________  Date:  _______________________

Professional Standards Director

PPD 1.35
State of New Hampshire
Department of Corrections
Claim Investigation Summary - Other

From: Click here to enter text. Date: Click here to enter a date.

Subject: Claim Investigation

To: Professional Standards Director

Pursuant to NH Policy and Procedure Directive 1.35, I caused an investigation into the following claim:

Name: Click here to enter text.

Address: Click here to enter text.

Click here to enter text.

Based on the evidence available I believe this claim to be:

☐ SUSTAINED OR ☐ NOT SUSTAINED

(Check one)

The investigation of this claim was conducted by: Click here to enter text.

The assigned investigator's type-written summary of their findings to include any evidence or documentation that supports their conclusion is attached.

Respectfully,

(Chief of Security Signature)

Professional Standards Director's decision:

[ ] Claim is sustained, and I order payment of _________ in full.

[ ] Claim is not sustained and a hearing is to be scheduled.

__________________________________________ Date: ___________________

Professional Standards Director

PPD 1.35