

PROFESSIONAL LIABILITY INSURANCE REIMBURSEMENT (PLIR)



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COMMANDANT INSTRUCTION 12800.1B

Subj: PROFESSIONAL LIABILITY INSURANCE REIMBURSEMENT (PLIR)

Ref: (a) Treasury and General Government Appropriations Act, 2000, Pub. L. 106-58
(b) Reimbursements Relating to Professional Liability Insurance, 5 U.S.C. § 5941
(c) DHS Directive, Instruction No. 254-05 revision 1, Reimbursement for Professional Liability Insurance, April 02, 2018

1. PURPOSE. This Instruction establishes the Professional Liability Insurance Reimbursement (PLIR) policy in accordance with Reference (a) so that Coast Guard Civilian employees may seek reimbursement for a portion of their out-of-pocket expenses.
2. ACTION. All Coast Guard unit commanders, commanding officers, officers-in-charge, deputy/assistant commandants, chiefs of headquarters directorates must comply with the policies contained in this Instruction.
3. AUTHORIZED RELEASE. Internet release is authorized.
4. DIRECTIVES AFFECTED. Professional Liability Insurance Reimbursement (PLIR), COMDTINST 12800.1A is hereby cancelled.
5. DISCUSSION. When an employee is sued while acting in the scope of the employee's job responsibilities, the U.S. Department of Justice (DOJ) assigns an attorney at no cost to the employee. However, in certain limited circumstances, DOJ may determine that defending the employee is not in the best interest of the Government, and therefore, may refuse to defend the employee. In such instances, an employee would be responsible for the payment of the employee's own defense, making the PLIR program useful to an employee.
6. DISCLAIMER. This guidance is not a substitute for applicable legal requirements, nor is it itself a rule. It is intended to provide administrative guidance for Coast Guard personnel and is not intended nor does it impose legally-binding requirements on any party outside the Coast Guard.
7. MAJOR CHANGES. None.

8. SCOPE AND AUTHORITIES. The Professional Liability Insurance Reimbursement Policy applies to civilian Law Enforcement Officers, Supervisors, and Management Officials whose decisions have an impact on civilian employees. Civilians covered by this policy are those paid from Appropriated Funds. Non- Appropriated Fund (NAF) civilian employees are not covered.
9. IMPACT ASSESSMENT. This Instruction is not expected to have any impact on existing operations. No additional resources are necessary to carry out this tasking.
10. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS. The Office of Environmental Management, Commandant (CG-47) reviewed this Commandant Instruction and the general policies contained within, and determined that this policy falls under the Department of Homeland Security (DHS) categorical exclusion A3. This Commandant Instruction will not result in any substantial change to existing environmental conditions or violation of any applicable federal, state, or local laws relating to the protection of the environment. It is the responsibility of the action proponent to evaluate all future specific actions resulting from this policy for compliance with the National Environmental Policy Act (NEPA), other applicable environmental requirements, and the U.S. Coast Guard Environmental Planning Policy, COMDTINST 5090.1 (series).
11. DISTRIBUTION. No paper distribution will be made of this Instruction. An electronic version will be located in the Coast Guard Directives System Library internally, and if applicable on the Internet at www.dcms.uscg.mil/directives .
12. RECORDS MANAGEMENT CONSIDERATIONS. Records created as a result of this Instruction, regardless of format or media, must be managed in accordance with the records retention schedules located on the Records Resource Center SharePoint Online site: <https://uscg.sharepoint-mil.us/sites/cg61/CG611/SitePages/Home.aspx> .
13. EFFECTIVE DATE AND NOTIFICATION REQUIREMENT. By law, the effective date of this policy was October 1, 1999. All qualified employees were originally notified of this policy and the opportunity for reimbursement and provided the appropriate program information. Reference (b) provides the DHS policy.
14. DEFINITIONS. The definitions contained within 5 U.S.C. 7103 are incorporated by reference into this Instruction where not inconsistent with the following defined terms.
 - a. The term "supervisor" means an individual employed by an agency having the authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a

Preponderance of their employment time to exercising such authority. Determinations on employee eligibility for liability insurance reimbursement as a supervisor must be consistent with the determinations on supervisory status for labor relations purposes.

- b. The term "management official" means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency. Determinations on employee eligibility for liability insurance reimbursement as a management official must be consistent with determinations on management official status for labor relations purposes.
- c. The term "law enforcement officer" (LEO) means an employee, the duties of whose position are primarily the investigation, apprehension, prosecutions or detention of individuals suspected or convicted of offenses under the criminal laws of the United States, including any law enforcement officer under section 8331(20) or 8401(17) of Title 5, U.S.C., or under Section 4823 of Title 22, U.S.C.
- d. The term "qualified employee" means an agency employee whose position is that of a law enforcement officer, supervisor, or management official.
- e. The term "professional liability insurance" means insurance which provides coverage for:
 - (1) legal liability for damages due to injuries to other persons, damage to their property, or other damage or loss to such other persons (including the expenses of litigation and settlement) resulting from or arising out of any tortuous act, error, or omission of the covered individual (whether common law, statutory, or constitutional) while in the performance of such individual's official duties as a qualified employee; and
 - (2) the cost of legal representation for the covered individual in connection with any administrative or judicial proceeding (including any investigation or disciplinary proceeding) relating to any act, error, or omission of the covered individual while in the performance of such individual's official duties as a qualified employee, and other legal costs and fees relating to any such administrative or judicial proceeding.

15. QUALIFYING PROFESSIONAL LIABILITY INSURANCE PREMIUMS. In order to receive partial premium reimbursement, the Professional Liability Insurance Policy must provide the following coverage for a qualified employee

- a. A private lawyer to represent the qualified employee during a criminal or administrative investigation.
- b. Representation when facing disciplinary action, such as suspension or removal, until a final decision is rendered by the Merit Systems Protection Board (MSPB); and

- c. Attorney representation and payment of any personal judgement against the qualified employee when standing accused of a constitutional tort.
16. NON-QUALIFYING PROFESSIONAL LIABILITY PREMIUMS. Reimbursement under this Instruction may not be issued for policies that cover:
- a. Representation during arbitration under a collective bargaining agreement.
 - b. Allegations related to matters occurring outside of the scope of an employee's official duties performed for the Coast Guard, for example, a domestic dispute; and
 - c. Any other type of insurance coverage that does not meet the definition of this Professional Liability Insurance Reimbursement policy, as defined within this Instruction.
17. REQUIREMENTS FOR REIMBURSEMENT. To be eligible for reimbursement payments, an individual must be a current employee of the Coast Guard in a position that meets the definition provided by this Instruction of Law Enforcement Officer, Supervisor, or Management Official. Reimbursement may be made only for qualifying professional liability insurance as defined in this Instruction and is authorized only for fully paid annual premiums. Therefore, an employee who chooses to pay their premiums on a quarterly, semi-annual, or other partial basis must wait until the annual premium is fully paid before submitting a request for reimbursement.
18. AMOUNT OF REIMBURSEMENT. The Coast Guard must authorize reimbursement to qualified employees for one-half (50 percent) of the annual premium paid to obtain professional liability insurance, in accordance with References (a) and (b).
19. REIMBURSEMENT REQUEST PROCEDURES. An employee's immediate supervisor, or designee, will serve as an approving official for the reimbursement requests of an employee for professional liability insurance premiums. The supervisor or designee must ensure that the employee meets the requirements for reimbursement, as referenced in Section 17 above. To claim reimbursement, an employee must submit the following documents to the designated Civilian Resource Coordinator (CRC):
- a. a properly completed Claim For Reimbursement For Expenditures on Official Business OF-1164;
 - b. a copy of an insurance policy, other documentation evidencing the purchase of professional liability insurance; and
 - c. proof of full payment of the annual premium for which reimbursement is being sought
 - d. The designated CRC must review the documentation for completeness and ensure the employee resides within the Civilian Employee Financial Resource Official (CEFRO) area. Prior to submitting the request, CRC must endorse request and submit to the Civilian Pay Manager,

Commandant (CG-83) for approval. After reimbursement is approved and certified for payment, the request will be forwarded to Commanding Officer, U.S. Coast Guard Finance Center (FINCEN) for disbursement of payment.

20. INSURANCE POLICY CANCELLATION AND REFUNDS. When either the qualified employee or the insurance carrier cancels a professional liability insurance policy and the qualified employee receives a refund of all or any part of the annual premium, the employee who receives the refund must notify the cognizant CRC for guidance within 30 days of receipt of the refund. The employee must also provide all information requested by the CRC, or other designated officer, to assist in determining the amount of the refund.
- a. Only fully paid professional liability insurance premiums are reimbursed;
 - b. If the annual premium for the professional liability insurance is paid in installments (for example, bi-weekly, quarterly, or semi-annually), reimbursement is made when the premium for a full plan year has been paid;
 - c. If the annual premium for the professional liability insurance is prorated for a partial year of coverage, only one-half of the premium amount paid is reimbursed; and
 - d. The employee repays the agency a prorated share of the reimbursement received if the professional liability insurance coverage is discontinued, the employee separates from the Coast Guard, or otherwise becomes ineligible for reimbursement (for example, by moving to a non-eligible position) during a period covered by the reimbursement.
 - (1) The amount to be repaid to the agency is equal to the number of full months during which the employee is ineligible for reimbursement of professional liability insurance premiums multiplied by monthly reimbursement rate.
 - (2) The monthly reimbursement rate is one-half of the annual premium for the professional liability insurance divided by 12.
21. FORMS/REPORTS. The forms referenced in this Instruction is available on the Coast Guard Standard Workstation or on the Internet: www.dcms.uscg.mil/Our-Organization/Assistant-Commandant-for-C4IT-CG-6/The-Office-of-Information-Management-CG-61/Forms-Management/.
22. SECTION 508. This Instruction adheres to Accessibility Guidelines and Standards as promulgated by the U.S. Access Board. If changes are needed, please communicate with the Coast Guard Section 508 Program Management Office at Section.508@uscg.mil.

23. REQUEST FOR CHANGES. Commandant (CG-122) is the sponsoring office. Recommendations for improvements to the PLIR should be submitted to the USCG Office of Civilian Human Resources at Civilian.HR@uscg.mil

/BLANCA A. SANCHEZ/
SES, U. S. Coast Guard
Director, Civilian Human Resources,
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