

Contact: Susan Anderson

SEMI-ANNUAL CLAIMS ACTIVITY REPORTS: JANUARY 1 – JUNE 30, 2005

Action Requested: Receive the semi-annual claims activity reports for the period of January 1 through June 30, 2005.

Executive Summary: In May 2004, the Audit and Compliance Committee directed the Board Office to obtain reports of claims activity at the five institutions and consolidate the reports for semi-annual review by the Committee. The first report covering the period of July 1 through December 31, 2004, was presented in February 2005. At that time, the Committee requested an additional report for semi-annual claims activity for the Board Office.

These are newly formulated reports for the January 1 to June 30, 2005, period originally scheduled to be presented to the Committee at its August 2005 meeting. The reports were rescheduled for presentation at the November 2005 meeting in order for the institutions to reconcile their reports with information submitted by the Office of the Attorney General.

The reports are designed to address eight categories of pending claims – (1) lawsuits; (2) tort and contract claims not yet lawsuits; (3) complaints filed with administrative agencies other than workers' compensation; (4) workers' compensation claims; (5) internal discrimination complaints/investigations; (6) faculty and P&S grievances and disciplinary measures; (7) internal grievances/claims/investigations of AFSCME-covered staff; and (8) other matters which may be unique to the institution.

The institutions have submitted reports for each category and have prepared executive summaries highlighting significant issues, trends, areas for improvement, and initiatives to address any identified problem areas. The executive summaries submitted by the institutions are attached to this memorandum.

Office of the Board of Regents, State of Iowa

Executive Summary:

The following table summarizes claims from the last report in December 2004.

| Type of Claim Pending | 12-04 | 6-05 |
|--|--------------|-------------|
| 1. Litigation | 0 | 0 |
| 2. Contract and Tort Claims | 0 | 0 |
| 3. Administrative Agencies | 0 | 0 |
| 4. Workers' Compensation | 0 | 0 |
| 5. Internal Discrimination Complaints | 0 | 0 |
| 6. Faculty and P&S Grievances and Discipline | 0 | 0 |
| 7. Merit Grievances | 0 | 0 |

8. **Other**
No claims have been reported.

State University of Iowa

Executive Summary

Our figures for the period of January 1, 2005 through June 30, 2005 are below.

| Type of Claim Pending | 7/1/04 - 12/31/04 | 1/1/05 - 6/30/05 |
|--|-------------------|------------------|
| 1. Litigation | 7 ¹ | 9 |
| 2. Contract & Tort Claims | 12 | 29 |
| 3. Administrative Agencies | 11 | 12 |
| 4. Workers' Compensation | 745 | 748 |
| 5. Internal Discrimination Complaints | 21 | 18 |
| 6. Faculty and P & S Grievances and Discipline | 1 ² | 1 |
| 7. Merit Grievances and GRIP/Arbitration | 2 | 6 |
| 8. UIHC Tort Claims | 32 | 53 |
| 9. UIHC Lawsuits | 43 | 29 |

1. Litigation

Developments. This figure has remained fairly steady; the oral argument in the *Johnson* case (re: family leave) was held on September 12, 2005, and the decision from the 8th Circuit Court of Appeals is pending. Otherwise, the cases and figures have been reconciled with the Attorney General's litigation report.

Trends and Reasons for Occurrence. There is no significant change from the first reporting period.

2. Contract and Tort Claims

Developments. There is an increase shown in the figures above. It is due in part to a clarification of how to report these claims. This period's report is a more accurate indication of the claims being filed.

Trends and Reasons for Occurrence. Many of these claims are for very small amounts (20 of 29 listed are for damages of \$2,000 or less). For the most part, the filings represent damage to personal property.

¹ The Attorney General report includes one lawsuit that was dismissed some time ago (*NEC, Inc. v. Hillbrand Construction*) and we have corrected our report to include three lawsuits which inadvertently were omitted in the last report (*Phi Delta Theta, et al. v. State of Iowa, et al., Tilley v. 1836 Country Store, and Nixon et al v. State of Iowa* ["stuttering case"]). In addition, we have included two lawsuits in which UI is the plaintiff which were not included in our last report (*University of Iowa v. Aly, and University of Iowa v. Pat Palmer*).

² This is a case in which the University filed an ethics complaint against a faculty member. As of July 1, 2005, there were no grievances pending by faculty or P & S staff at the University of Iowa.

3. Administrative Agencies

Trends and Reasons for Occurrence. These figures have remained steady over the past 12 months, and we find no discernible trend.

4. Workers' Compensation

Trends and Reasons for Occurrence. Again, these figures are steady over the past 12 months, and no trend is identifiable.

5. Internal Discrimination Complaints

Trends and Reasons for Occurrence. There has been no significant change in these numbers.

6. Faculty and P & S Grievances and Discipline

Trends and Reasons for Occurrence. There are no new cases in this category. We believe the policies and procedures for handling internal faculty and P & S staff grievances are in part responsible for the lack of grievances in these categories. In addition, the Office of General Counsel works closely with departments, colleges and other units to address faculty and staff concerns as early as possible when they surface.

7. Merit Grievances and Arbitration Matters

Developments. One AFSCME termination was overturned and back pay was ordered in arbitration. The non-renewal of a graduate assistant was upheld in arbitration.

Trends and Reasons for Occurrence. There are so few arbitration cases that there are no identifiable trends to report.

8. UIHC Tort Claims

Developments. The Tort Claims Report lists 53 claims. During the period between January 1, 2005, and June 30, 2005, 17 of those claims were denied or withdrawn, and in six of those cases, litigation was initiated.

Trends and Reasons for Occurrence. The number of pending claims in this period is consistent with the previous six-month period. There are no clear trends indicated from these numbers.

9. UIHC Lawsuits

Developments. The Litigation Report lists 29 lawsuits, down from 43 listed for the previous 6 months. Six of those were settled in the January 1, 2005–June 30, 2005 period; one was dismissed by the plaintiff, and another was dismissed by summary judgment.

Trends and Reasons for Occurrence. Six new lawsuits were filed during this six-month period. Those numbers do not indicate any identifiable trends.

Iowa State University

Executive Summary:

Since the last report in December, the number of reported claims has dropped in most areas. The only area of significant increase has been in tort claims, where a single pipe breakage added twenty claims. The following table summarizes case numbers from the last report in December 2004.

| <u>Type of Claim Pending</u> | <u>12-04</u> | <u>6-05</u> |
|--|---------------------|--------------------|
| 1. Litigation | 9 | 8 |
| 2. Contract and Tort Claims | 26 | 49 |
| 3. Administrative Agencies | 9 | 8 |
| 4. Workers' Compensation | 262 ² | 221 |
| 5. Internal Discrimination Complaints | 4 | 0 |
| 6. Faculty and P&S Grievances and Discipline | 14 | 12 |
| 7. Merit Grievances | 6 | 8 |

Last December, the Board Office reported that a Policy Administrator position was created as part of an effort to improve our policies and to oversee institutional compliance. Sheryl Rippke, former Director of Internal Audit, has been hired for this position. Sheryl's familiarity with Iowa State University should be advantageous for this effort.

1. Litigation

Developments. Earlier in the spring, the Court of Appeals reversed a summary judgment in favor of the University (*Tabbara v. Iowa State University*). On June 15, ISU was dismissed from the Herbarium suit (*Horton v. UI and ISU*). A decision was issued in state court on June 16 ordering disclosure of records and awarding partial attorneys fees (*Gannon v. ISU Foundation and Board of Regents*). Finally, the \$3 million sexual harassment award in *McElroy v. ISU* was reversed by the Iowa Supreme Court and remanded back to the District Court on June 17, 2005.

Trends and Reasons for Occurrence. The total number of cases dropped from 9 to 8. No significant recent trends are evident in the cases.

2. Torts and Contract Claims

Trends and Reasons for Occurrence. The number of tort and contract claims rose from 26 to 49. The increase resulted from a burst water pipe in Larch Hall (20 claims). The number of contract claims dropped from 3 to 2.

3. Complaints filed with Administrative Agencies

Trends and Reasons for Occurrence. The number of pending claims dropped from 9 to 8. However, a change is occurring in the Iowa Civil Rights Commission's (ICRC) handling of claims in that they are scheduling almost all claims for investigation rather than issuing "no probable cause" findings. In the past it was rare for these cases to be scheduled for

² This number does not match the number provided in our December 2004 Report. In preparing this report, a discrepancy was discovered and Sedgwick was asked to re-check. Sedgwick CMS determined that the information provided for the December 2004 Report was inaccurate. See text under section 4 below.

investigation. Because of this, the number of pending cases is likely to increase, because it often takes two years for cases to be investigated.

4. Workers' Compensation Claims

Correction of December 2004 Report. Because of a discrepancy, legal counsel requested that Sedgwick Claims Management Service review the information provided on Worker's Compensation. They determined that the information provided us for the December 2004 Report was inaccurate. Therefore, a revised December 2004 report together with data for the last six months is attached.

Trends and Reasons for Occurrence. In comparing the numbers from the revised December report to this report, the total number of claims dropped from 262 to 221, and the total average medical benefits declined from \$587 to \$275. There has also been a decrease in expenditures and lost workdays. We believe that training/prevention and education related to accident prevention and early return-to-work efforts have made a significant impact.

5. Internal Discrimination

Trends and Reasons for Occurrence. The number of internal complaints dropped from 4 to none. The reason for the reduction is unclear.

6. Faculty and P&S Grievances and Disciplinary Cases

Trends and Reasons for Occurrence. The total number of cases has dropped from 14 to 12. There were three new faculty conduct complaints, one of which was resolved informally. Two grievances were resolved through agreement. An initiative to resolve complaints voluntarily or, when possible, informally, has begun. This effort should reduce the number of such cases.

7. Internal Grievances/Claims, Investigations of Merit Employees

Trends and Reasons for Occurrence. The number of merit grievances remains low (increasing from 6 to 8). All of the grievances pending involve employee disciplinary **action**.

8. Other

No claims have been reported.

University of Northern Iowa

Executive Summary:

Since the December 2004 report, the number and type of reported cases, claims, complaints, and grievances at the University of Northern Iowa reveals no apparent trends – there were decreases in most of the listed areas but increases in the tort and workers’ compensation claim areas. The following table summarizes and compares the number of outstanding cases, claims, complaints, and grievances from the December 2004 and June 2005 reports.

| <u>Type of Claim Pending</u> | <u>12/04</u> | <u>6/05</u> |
|---------------------------------------|---------------------|--------------------|
| 1. Litigation | 3 | 3 |
| 2. Tort and Contract Claims | 5 | 11 |
| 3. With Administrative Agencies | 6 | 4 |
| 4. Workers’ Compensation | 95 ³ | 85 |
| 5. Internal Discrimination Complaints | 7 | 3 |
| 6. Faculty and P&S Grievances | 1 | 0 |
| 7. Merit Grievances | 21 | 1 |
| 8. Other | 3 | 1 |

1. Litigation

Developments. In January, the District Court dismissed the nuisance lawsuit against the University (SUH Northern Iowa, L.L.C. v. University of Northern Iowa). In February, the Iowa Supreme Court affirmed the decision of the District Court in favor of the State and University in the Anderson case, a slip and fall case. On June 20, 2005, the Polk County District Court struck UNI from the caption of the AFSCME case involving student employees, leaving the State of Iowa, Department of Personnel as the named defendant.

Trends and Reasons for Occurrence. The total number of cases outstanding at the end of the period remained the same. No significant trends are evident in the cases.

2. Tort and Contract Claims

Developments. During the six month period ending June 30, 2005, the University was informed by the Attorney General’s Office that three claims were denied and one claim was withdrawn. In addition, two claims were filed since the last report that are larger than prior claims.

Trends and Reasons for Occurrence. The number of tort and contract claims outstanding at the end of the period increased from five to eleven. Six of the eleven claims relate to one specific accident, which basically resulted in the increased number of claims during the period. The larger claims received during the period are unlike each other and any other UNI-related claims, past or present; therefore, no significant trends are evident in these rather unique claims.

3. Complaints filed with Administrative Agencies

Trends and Reasons for Occurrence. The number of complaints filed with administrative agencies (other than workers’ compensation claims), outstanding at the end of the period,

³ This number is not the same as the number originally reported with the December 2004 data. Sedgwick subsequently provided more accurate information. See section number 4. below.

decreased from six to four. No significant University issues or recent trends appear to be reflected by the complaints.

4. Workers' Compensation Claims

Correction of December 2004 Report. Sedgwick Claims Management Service provided more accurate information relating to the December 2004 report. A revised December 2004 workers' compensation report is provided along with the June 2005 information.

Trends and Reasons for Occurrence. There was a decrease in the number of workers' compensation claims. There were 85 claims during the time period ending June 30, 2005, as compared to 95 for the six months ending December 2004. The number of claims with missed time for those time periods increased from four (for the six months ending December 31, 2004) to seven (six months ending June 30, 2005). In a somewhat corresponding fashion, the number of missed days increased from 178 to 416; and the total weekly lost time benefits increased from \$10,351 to \$20,553. There are no significant trends evident by these numbers, from only two time periods. However, at the same time, the University continues to attempt to limit unnecessary costs.

5. Internal Discrimination Complaints/Investigations

Trends and Reasons for Occurrence. The number of discrimination complaints filed internally, within the University, and outstanding at the end of the period decreased from seven to three. Since the last report (December 2004), the UNI Office of Compliance and Equity Management completed and closed seven investigations relating to internal discrimination complaints. No significant trends are evident in the complaints.

6. Faculty and P&S Grievances and Disciplinary Cases

Trends and Reasons for Occurrence. The number of faculty and P&S grievances outstanding at the end of the period decreased from one to zero. During the January-to-June 2005 time period, three faculty grievances were filed – which is not unusual during that evaluation period – however, the grievances were resolved during the period.

7. Internal Grievances/Claims, Investigations of Merit Employees

Trends and Reasons for Occurrence. The number of internal grievances/claims of Merit employees outstanding at the end of the period decreased from 21 to one. To a large degree, this decrease is because most of the 21 outstanding in December 2004 related to the student employment issue, and these were administratively closed during the first half of 2005. The student employment issue is still outstanding as part of the current lawsuit filed by AFSCME (see number 1. Litigation, above).

8. Other

Developments. The number of "other" claims outstanding at the end of the period decreased from three to one. Two of the "other" claims/lawsuits were dismissed by the respective courts during the period.

Trends and Reasons for Occurrence. No significant trends are evident in this "other" category.

Iowa Braille and Sight Saving School

Executive Summary:

Since our last report in December, the number of reported claims has not changed. The following table summarizes case numbers from the last report in December 2004 and this current period of June 2005.

| <u>Type of Claim Pending</u> | <u>12-04</u> | <u>6-05</u> |
|--|---------------------|--------------------|
| 1. Litigation | 0 | 0 |
| 2. Contract and Tort Claims | 0 | 0 |
| 3. Administrative Agencies | 0 | 0 |
| 4. Workers' Compensation | 26 | 15 |
| 5. Internal Discrimination Complaints | 0 | 0 |
| 6. Faculty and P&S Grievances and Discipline | 0 | 0 |
| 7. Merit Grievances | 1 | 0 |

Most of the categories continue to have "none" as the reported claims from the Iowa Braille School. Comments regarding the other categories are below.

4. Workers' Compensation Claims

Developments. The Iowa Braille School had fifteen "First Reports of Injury" filed as workers' compensation claims during the period of January 1, 2005 and June 30, 2005. From these claims there was a total of .5 days of missed work. None of the 15 were contested claims.

Trends. The number of "First Reports of Injury" dropped from 26 in the period of July 1 – December 31, 2004 to 15 in the current period. The current reports were primarily related to falls or lifting. Employees again received training in proper lifting and positioning techniques of people with disabilities.

8. Other

No other claims were reported during this period. There is one former employee with an on-going unresolved workers' compensation claim. There is also one current employee with on-going treatment disputes regarding a workers' compensation claim.

Iowa School for the Deaf

Executive Summary:

Since our last report in December, the number of reported claims has changed slightly. The following table summarizes case numbers from the last report in December 2004.

| Type of Claim Pending | 12-04 | 6-05 |
|--|--------------|-------------|
| 1. Litigation | 0 | 0 |
| 2. Contract and Tort Claims | 0 | 0 |
| 3. Administrative Agencies | 0 | 0 |
| 4. Workers' Compensation | 2 | 8 |
| 5. Internal Discrimination Complaints | 0 | 0 |
| 6. Faculty and P&S Grievances and Discipline | 0 | 0 |
| 7. Merit Grievances | 5 | 2 |

Most of the categories continue to have "none" as the reported claims from Iowa School for the Deaf. Comments regarding the other categories are below.

4. Workers' Compensation Claims

Developments. ISD had eight workers' compensation claims during January – June 2005. None of the injuries occurring during these six months caused any time missed from work. There are three contested workers' compensation claims. All three of these claims involve one employee.

Trends and Reasons for Occurrence. While quadrupling the number of claims appears to be huge increase, the January – June 2005 period was much more typical than the previous six months. Occurrences of workplace injuries are so few that trend analysis is difficult to conduct. Injuries as a result of slip and falls on ice/snow and injuries as the result of student behaviors are the most common injuries sustained at Iowa School for the Deaf. Five of the injuries that occurred during January – June 2005 did fall into these categories.

7. Internal Grievances/Claims, Investigations of Merit Employees

Trends and Reasons for Occurrence. During January – June 2005, Iowa School for the Deaf had two internal grievances related to the AFSCME employee group. Historically, the number of grievances seems to go through cycles, sometimes having extended periods of no grievances and then having a period of several. As of June 30, one of these grievances had been answered at the first step, the other was at the third step.

8. Other

No claims have been reported.