



INTERNAL MANAGEMENT POLICY & PROCEDURE


Applicability: ADULT Operations Only JUVENILE Operations Only DEPARTMENT-WIDE

IMPP #: 01-118D

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ADMINISTRATION: Resident Claims Procedure for Property Damage/Loss or Personal Injury

Original Date Issued: 03-30-16 Replaces IMPP Issued: 12-21-21 **CURRENT EFFECTIVE DATE: 03-18-22**

Approved By: , Secretary Next Scheduled Review: 03/2024

POLICY

The purpose of this policy is to establish uniform guidelines for addressing and resolving resident claims of property damage or loss or personal injury caused by the negligence of the Department or any agency, officer, or employee thereof. These procedures are to be strictly followed, and all claims are to be processed in accordance with the time limits established in this IMPP.

Offenders who are on parole or otherwise serving a period of post incarceration supervision who wish to file a claim are to be permitted to do so in accordance with IMPP 01-117D, Claims Procedure for Department Employees and the General Public.

DEFINITIONS

Abandoned property: Property left by an escaped resident or property left at a facility 90 days or more past a resident's release.

Donated property: Item(s) given freely to the Department of Corrections that would enhance the services provided or would be compatible with Department of Correction's goals. Donated items are to be reviewed and approved by the Secretary of Corrections or Designee.

Properly confiscated: Item(s) taken under control of Facility/Staff and properly stored for chain of custody purposes or placed in identified resident property. This includes items found during inspections of cells, common areas, work areas or delivered to staff by a reporting party. To be considered properly confiscated, a Disciplinary Report, Narrative Report, or Cell Inspection/Search Form (IMPP 12-103D, Attachment B) must be included with the property containing the following information: brief description of item(s), who confiscated it, who item(s) was confiscated from, location, law or regulation violated and chain of custody.

Stolen property: Property obtained by being unlawfully taken from the rightful owner.

PROCEDURES

I. Notice and Mitigation

- A. Every resident shall report immediately every loss of or damage to the resident's own property.
- B. Every resident shall report any personal injury or medical problem immediately, according to procedures established by written order of the warden/superintendent.

1. If a loss or damage is likely, the report is to be made as soon as possible after the injury or medical problem is known or should be known with reasonable effort.
2. Residents shall seek medical care whenever needed to help prevent or lessen loss or damage due to injury or medical problems.
3. The warden/superintendent or designee is to inquire into the facts of the incident as soon as possible whenever loss or damage appears likely as a result of an injury or medical problem.

II. Claim Initiation

- A. Claims for property loss or damage shall be submitted within 15 working days of the discovery of the loss.
 1. The warden/superintendent is not to be required to accept any property loss or damage claim unless it is made within fifteen (15) working days of the discovery of the loss.
 2. The warden/superintendent is not to be required to accept any claim at all if both of the following conditions are met:
 - a. The claim is submitted later than one year and one day after the date of the loss, regardless of when the loss was discovered; and
 - b. The resident could have discovered the loss by exercising reasonable effort to know the status of the resident's property.
- B. Claims for personal injury shall be submitted within ten (10) calendar days of the claimed personal injury.
- C. Claims for property loss or damage or personal injury may be submitted to the facility and Secretary of Corrections.
 1. No reimbursement payment for an amount of more than \$500 is to be made on any claim.
 2. The Secretary may attempt to resolve claims in excess of \$500 by offering payment at an amount equal to or less than this maximum amount.
- D. The "Property Damage/Loss or Personal Injury Claim Form" (Attachment A, Form #01-118D-001) is to be used for all claims in which the resident claims property damage or loss or personal injury.
 1. The warden/superintendent is to ensure that claim forms are available to all residents through unit team personnel.
 2. A resident filing a claim with the Secretary of Corrections is to obtain a claim form from the unit team, complete Section I of the appropriate form, and return the form to the unit team.
 3. The warden/superintendent is to ensure that the unit team assists the resident in submitting a claim by providing information and any necessary claims forms.
 4. The unit team is to provide the resident with a receipt or a copy of the form indicating on it who received it, from whom, and the date received. The resident is to initial that the information is correct.
- E. The completed form and any supporting documentation is to be submitted to the warden/superintendent or designee within forty-eight (48) hours of receipt, excluding Saturdays, Sundays and holidays.
- F. Each claim is to be assigned a unique number, which is to be shown on the form.

1. Each facility is to establish and maintain a claims log showing the unique number assigned to the claim and the date the number was assigned.
- G. The warden/superintendent or designee is to enter such claims into the applicable adult or juvenile Offender Management Information System.

III. Inquiry Instructions

- A. The warden/superintendent is to assign the claim for inquiry as soon as possible. Supervisory staff are to be assigned the responsibility of handling the inquiry, engaging appropriate staff, to include counselling staff, in the fact-finding processes to arrive at an appropriate disposition to the claim.
- B. The following actions may be taken in the inquiry of all claims:
1. Interview the resident making the claim;
 2. Interview officers and employees who may be involved or have information regarding the claim;
 3. Interview other witnesses who may have information regarding the claim;
 4. Review appropriate records, reports, and logs pertaining to the claim; and
 5. Submit copies of all records, reports, logs, and statements with the report on the claim inquiry.
- C. This inquiry is to be completed within thirty (30) calendar days after receipt of the claim.
1. The inquiry may be extended by the warden/superintendent for an additional twenty (20) calendar days for good cause.
 2. The resident is to be notified in writing of the reason for any extension.
- D. For claims alleging damage, loss, or injury occurring at another facility, the warden/superintendent or designee of the facility where the claim was filed is to, within five (5) days, excluding Saturdays, Sundays and holidays, forward the original claim to the warden/superintendent of the facility where the alleged damage, loss, or injury occurred. Any documentation that would reasonably be assumed to be relevant to the claim is to accompany the claim.
1. The procedures set forth in Sections III. A. through III. C. above are to then be followed at the facility where the alleged damage, loss, or injury occurred.
 2. The warden/superintendent or designee, is to maintain a log of all claims forwarded to another facility for investigation, and a copy of the forwarded claim, until the claim is resolved.
- E. For claims involving property that is lost or damaged during transport, the sending facility is to be responsible for reimbursement of approved claims.

IV. Approval/Denial Procedures

- A. Upon receipt of the report, the warden/superintendent is to make either a decision or a recommendation regarding the disposition of the claim.
1. The warden/superintendent is to serve as the Secretary's approving authority (designee) for claims for which payment of fifty dollars (\$50.00) or less is authorized and claims that are withdrawn.

- a. These claims are not to be submitted to Central Office and are to be logged and processed at the facility level.
 2. For all approved claims equal to or less than fifty dollars (\$50.00), the warden/superintendent, upon reaching a decision, is to establish a permanent file of the claim.
 - a. If approved at this level, the claimant is to be required to sign Section V on the original claim form, providing his/her Social Security number and waiving any claims against the State, its agencies or employees arising out of the claimed incident.
 - b. A copy of the approved claim form is to be provided to the facility business office for processing of payment.
 - c. Approved claims at this level, and supporting documents, are to be electronically filed.
 3. If the claim is in excess of fifty dollars (\$50), and the recommendation of the warden/superintendent is an approval of the claim, the facility, prior to forwarding to the designee, is to complete section V of the original claim form, including the resident's signature of approval and Social Security number, waiving any claims against the State, its agencies or employees arising out of the claimed incident.
- B. For all claims in excess of fifty dollars (\$50) or a recommendation of denial, the warden/superintendent's recommendation, the claim, and the report with attachments are to be submitted to the Deputy Secretary of Facility Management, who is to serve as the Secretary's approving authority (designee) for a decision.
1. The Deputy Secretary of Facility Management or designee is to review the claim and all supporting documentation. A decision on the claim is to be made within thirty (30) day after receipt of the claim.
 - a. If granted, the claim is to be paid promptly according to procedures prescribed elsewhere within this document.
 - b. If the claim is denied, the original is to be returned to the claimant. A copy of the Secretary's determination is to be retained in the claim file.
 2. For all claims up to \$500, the Deputy Secretary of Facility Management is to, upon reaching a decision, establish a permanent file of the claim, which is to be retained at the facility for three (3) fiscal years, then destroyed.

V. Claim Withdrawal Procedures and Payment Processing

- A. If the claimant owes no unpaid court-ordered restitution, the warden/superintendent may elect to resolve claims in the following manner:
1. If canteen supplies that have not yet been issued are available at the facility, the warden/superintendent may offer these products in amounts up to fifty dollars (\$50.00).
 - a. There is to be no re-issuing of canteen products that have been issued or provided to a resident; including consumable canteen, hygiene products and/or clothing items.
 2. If the claimant is eligible to have electronics, and if properly confiscated or donated electronics are available at the facility, the warden/superintendent may offer these products in amounts up to the claim amount.

- a. Examples of electronics that may be authorized for issuance include non-altered electronic equipment such as televisions, music players and accessories, lamps, fans, hot pots)
 - b. No property previously reported stolen is to be used to resolve a claim.
 - c. Abandoned property may be used to resolve a claim if the conditions set forth in IMPP 12-120A, section XI. E. 1-2 are met.
3. If the resident claimant accepts electronics or canteen products as settlement the agreement does not need subsequent review or approval by the Secretary's designee:
- a. The designated staff is to describe the accepted canteen or electronics products in Section V on the original claim form;
 - b. The claimant is to be required to sign Section V on the original claim form,
 - c. The designated staff charged with completing this settlement is to be notified; and
 - d. The facility is to maintain a file containing copies of all resident acknowledgments in writing of claims settled through the canteen or electronics receipts associated with the claims. These documents are to be electronically filed.
4. If the claimant refuses to accept canteen products or electronics as payment for a claim, the claimant is to be paid in the same manner as a resident who did not qualify to receive canteen product or electronics on their approved claims.
- B. All other approved claims accepted by the resident claimant are to be promptly paid from operating funds budgeted for the correctional facility at which the negligent employee was employed at the time of the damage, loss or injury.
1. Such funds are to be used to pay any outstanding unpaid court-ordered restitution.
- C. For approved claims for which payment is to be made from facility operating funds, the facility or office business manager is to submit the appropriate voucher in SMART, the statewide accounting system, to the Office of the Chief Financial Officer for payment.
1. Any payments to resident claimants are to be in the form of credits to resident trust fund accounts.
 2. Residents are to complete and submit a W-9 to the facility's business office. No payments are to be made to an account of a resident who fails to supply a valid social security number.
 3. No payments are to be made to an account of a resident who fails to sign Section V on the claim form waiving any claims against the State, its agencies or employees arising out of the claimed incident.
 4. Pursuant to K.S.A. 75-6216, Deficit Reduction Act of 1984, and Debt Collection Improvement Act of 1996, if a resident has delinquent debt owed to a government agency, payment will be applied to the debt through the Kansas Treasury Offset Program (KTOP).
 5. Pursuant to K.S.A. 46-920, if a resident owes an outstanding unpaid amount of court-ordered restitution, the Centralized Inmate Banking is to withdraw from the resident's trust account as a set-off:
 - a. Money received by the resident from the Department as a settlement of a claim pursuant to this IMPP;

- b. Money received by the resident from the State as a settlement of a claim against the State; and,
 - c. Money received by the resident from the State as the result of a settlement or final judgment in a civil action which the State or an employee of the Department was a named defendant, and the State was found to be liable.
6. When more than one State court order of restitution is outstanding and unpaid, moneys are to be applied to and paid for the restitution orders in the order in which the final judgment orders were entered.
7. Moneys collected for payment towards outstanding unpaid restitution are to be forwarded by the facility business office to CIB who then forwards payment to the appropriate district court clerk for disbursement.

VI. Claims Limitations and Responsible Parties

- A. Any resident may file a claim alleging property damage/loss or personal injury with the Secretary of Corrections, but only those claims may be paid where it is established that the loss or damage was caused by the negligence of the State or any agency, officer, or employee thereof.
- B. The Department's liability for property damage or loss is to be determined in accordance with IMPP 12-120A and/or other applicable facility and agency policies and procedures, taking into account the established value limits set forth therein and the age of the property involved.
 - 1. In determining the depreciated value of property items included in resident claims, the Department is to use the following formula:
 - a. The original value of the item is to be established using the resident's receipt for the purchase of the item or, if registered on the personal property inventory, the declared value, per IMPP 12-120A and/or other applicable facility and agency policies and procedures.
 - b. The age of the item is to be determined from the receipt or initial entry into the resident's property inventory.
 - c. The depreciated value is to be determined by subtracting ten (10%) percent per year, up to a maximum of five years, from the original cost of the item, as follows:
 - (1) No depreciation for items less than 1 year old;
 - (2) 10% depreciation for items 1 year old but less than 2 years old;
 - (3) 20% depreciation for items 2 years old but less than 3 years old;
 - (4) 30% depreciation for items 3 years old but less than 4 years old;
 - (5) 40% depreciation for items 4 years old but less than 5 years old; and
 - (6) 50% depreciation for items 5 years old or older.
 - d. Depreciation is not to be prorated in-between years.
 - 2. Perishable canteen or fundraiser items will be reimbursed at 100% of the original price for ninety (90) days after purchase. After 90 days, such items will be considered to have no value and will not be reimbursed.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff, residents, and offenders and those entities who are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees, residents, or offenders, or an independent duty owed by

the Department of Corrections to employees, residents, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

None.

REFERENCES

K.S.A. 46-920
IMPP [01-117D](#), [12-120A](#)

HISTORY

03-30-16 Original
12-21-21 Revision 1
03-18-22 Revision 2

ATTACHMENTS

Attachment	Title of Attachment	Page Total
A	Property Damage/Loss or Personal Injury Claim Form	2 page(s)

PROPERTY DAMAGE/LOSS OR PERSONAL INJURY CLAIM FORM

Section I

Filed AT Facility No.:	Facility Initials:
Filed AGAINST Facility No.:	Facility Initials:

(Refer to PLC coding manual for facility no. & initials)

Name of Claimant (Last, First, MI):	KDOC Number
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Type of Claim (circle one) :			
Lost Property	Damaged Property	Injury	
Amount of Claim:	Date of Loss Damage, or Injury (MO/DAY/YR):		
Where Loss, Damage, or Injury Occurred:			
If occurred in cellhouse, enter cellhouse/room number: _____			
Otherwise, circle one of the following:	Mailroom	R&D	Central Property
	Laundry	Gym	Dining Room
	Other Location		

NATURE OF CLAIM (Set forth detailed facts, including date of loss, damage or injury, how it occurred, place of occurrence, how you claim institution or employee was negligent, and amount of the claim.):

I am aware that presenting a false claim may result in penalties (under K.S.A. 75-7501 et seq., K.A.R. 44-12-101 et seq., etc.), and I declare (or verify, certify or state) that the foregoing is true and correct to the best of my knowledge, understanding, and belief.

Claimant Signature:	Date:
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Received from Resident/Claimant:	Date:	Time:
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UT Name (print):	UT Signature:	Claimant Initials:
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Section II

Received by Warden/Superintendent on (MO/DAY/YR):	Facility Log No. Assigned:
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Inquiry Report:

Date (MO/DAY/YR):	Investigator Name (print):	UT Member or Investigator Signature:
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Section III

Warden/Superintendent's Findings:

Warden/Superintendent's Recommendation: 01-Approved for same amount
(circle one) 02-Approved for lesser amount of _____
 03-Disapproved
 04-Claim Withdrawn

Date (MO/DAY/YR): | Signature - Warden/Superintendent or Designee

Section IV

Date Received by Central Office (MO/DAY/YR):

Secretary's Response:

Secretary's Recommendation: 01-Approved for same amount
(circle one) 02-Approved for lesser amount of _____
 03-Disapproved
 04-Claim Withdrawn
 10-Held pending submission of supplemental data

Date (MO/DAY/YR): | Signature - Secretary or Designee

Section V

Offer of Settlement (STAFF USE ONLY):

CLAIMANT MUST COMPLETE THE FOLLOWING IF PAYMENT IS TO BE AWARDED

I agree to accept the above offer as full and final settlement of this claim against the State of Kansas and any individual, employee or agent thereof, and I waive any claims against the State, its agencies or employees arising out of this incident.

Date: | Claimant Signature: | Social Security No.:

NOTE: This claim cannot be processed and paid by the Division of Accounts and Reports unless the claimant has disclosed his/her social security number. Any payments to resident claimants is to be in the form of credits to resident trust fund accounts.

Action by Accounts & Reports: **Paid** _____ **Not Paid** _____