

**ERIE COUNTY WATER AUTHORITY
HR Policies/Procedures**

Re: DEFENSE & INDEMNIFICATION

Policy No.: 94.0

Application: Authority Wide

Adopted: 03/26/19

PURPOSE

To establish the policy for the defense and indemnification of members, officers and employees of the Erie County Water Authority.

POLICY

Pursuant to Public Authorities Law § 1071, neither members of the Erie County Water Authority (the “Authority”) nor any person or persons acting in its behalf, while acting within the scope of its authority shall be subject to any personal liability resulting from the erection, construction, reconstruction, maintenance or operation of the properties or any of the improvements or from carrying out any of the powers expressly given to the Authority in Article 5, Title 3 of the Public Authorities Law. Although § 1071 gives statutory immunity to Authority members and employees, the section sets forth no provision relating to defense.

Public Authorities Law § 2824(1)(f) directs board members of any state or local public authority to “adopt a defense and indemnification policy and disclose such plan to any and all prospective board members.”

Public Officers Law § 18 established a comprehensive defense and indemnification policy for any public authority whose governing body has agreed by resolution, rule or regulation to confer the benefits of that section upon its members, officers and employees and to be held responsible for the costs incurred under the provisions of Public Officers Law § 18.

Consistent with the provisions of the Public Authorities Law, the Authority elects to make the provisions of Public Officers Law § 18 applicable to its members, officers, and employees. Nothing contained in this policy or within the general provisions of state law shall be deemed to extend the provisions of Public Officers Law § 18 to any independent contractor with whom the Authority may have contracted.

For purposes of this policy, the term “members” means the Commissioners, duly appointed pursuant to Public Authorities Law § 1053(1). The term “members” also includes “ad hoc members” who are appointed to serve as non-voting committee members pursuant to the Authority’s Amended and Restated By-Laws.