

(3) AS TO A JUDGMENT, IT WAS RENDERED BY A COURT OF COMPETENT JURISDICTION;

(4) AS TO AN APPLICANT FOR WHOM THE ATTORNEY GENERAL APPEARED UNDER SUBTITLE 3 OF THIS TITLE, THE ATTORNEY GENERAL FILES A WRITTEN REPORT AND RECOMMENDATION;

(5) ON THE BASES OF THE HEARING AND ANY REPORT AND RECOMMENDATION, THE BOARD FINDS THAT:

(I) WHEN THE ACT OR OMISSION WAS MADE, THE APPLICANT WAS PERFORMING A DUTY WITHIN THE SCOPE OF THE EMPLOYMENT OF THE APPLICANT;

(II) THE ACT OR OMISSION WAS NOT MALICIOUS; AND

(III) THE ACT OR OMISSION WAS NOT GROSSLY NEGLIGENT; AND

(6) IF THERE IS ANY QUESTION WHETHER THE APPLICANT IS STATE PERSONNEL FOR PURPOSES OF THIS SUBTITLE, THE BOARD FINDS THAT, REGARDLESS OF THE METHOD, SOURCE, OR AMOUNT OF COMPENSATION, THE APPLICANT IS STATE PERSONNEL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 78A, § 16C(d)(3) and (b)(3)(i) through (iii), the first sentence of (4), and the reference to a court in (1).

In item (4) of this section, the word "recommendation" is added to clarify the reference to a report. This addition conforms to practice.

The introductory language of item (5) of this section, "on the bases of the hearing ... and recommendation," is added for clarity.

Defined term: "State personnel" § 12-401

12-406. APPROVAL OR DISAPPROVAL.

(A) SOURCES AND FORM OF PAYMENT.

(1) THE BOARD OF PUBLIC WORKS MAY PAY A SETTLEMENT OR JUDGMENT FROM:

(I) THE GENERAL EMERGENCY FUND;

(II) MONEY APPROPRIATED FOR THAT PURPOSE IN THE STATE BUDGET; OR

(III) MONEY APPROPRIATED TO THE STATE INSURANCE TRUST FUND FOR THAT PURPOSE.