



**Commonwealth of Massachusetts**

Executive Office of Technology Services and Security (EOTSS)

Legal Office

## Settlement Policy

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## 1. Preamble

The Commonwealth seeks to encourage the amicable settlement of civil actions involving agencies and/or employees of the executive department. The Executive Office of Technology Services and Security (EOTSS) is hereby establishing a policy that requires the settlement process to be consistent, fair and transparent.

This policy will promote the efficient use of taxpayer funds, promote confidence in government, and avoid disruption in public services.

## 2. Definitions

- 2.1. **Agency:** The Executive Office of Technology Services and Security (EOTSS).
- 2.2. **Settlement Agreement:** An agreement between an agency and another party, or parties, to resolve actual or threatened litigation.
- 2.3. **Non-disclosure:** A term or condition in a settlement agreement that would prevent a claimant from disclosing or discussing the underlying facts and circumstances of their claim or the existence of a settlement.
- 2.4. **Non-publication:** A term in a settlement agreement that the union, employee, or the agency will not publish, advertise or publicly display an agreement made on behalf of an employee or group of employees.

## 3. General Provisions

- 3.1. All agencies are required to adhere to the requirements of the Executive Department Settlement Policy issued on January 27, 2025, appended hereto.
- 3.2. A settlement agreement shall include a provision that the agreement will be considered a public record in its entirety. Agencies may consider settlement language agreeing to limited redactions only when: (i) required by statute; or (ii) the language is requested by a claimant to address a significant privacy or safety concern, the language is approved by the General Counsel of EOTSS, and the claimant's preference for the language is memorialized in the settlement agreement.
- 3.3. A settlement agreement shall not include a non-disclosure term or condition. Non-publication clauses are permissible in agreements where the parties include EOTSS and the union.
- 3.4. A settlement agreement on behalf of an employee that does not fully resolve all claims related to a dispute against the agency shall require the approval of the EOTSS General Counsel, or designee.
- 3.5. EOTSS shall follow the Secretary of State's Statewide Records Retention Schedule related to the retention of settlement agreements.

- 3.6. No settlement term shall be agreed upon that would amend or supersede a term of a collective bargaining agreement.
- 3.7. No settlement term shall make a representation about an employee's entitlement to retirement, the group insurance commission or the tax treatment of a settlement.
- 3.8. This policy does not apply to settlements of union grievances or unfair labor practice charges.

#### 4. Required Approvals for Settlement

- 4.1. For settlement agreements obligating the Commonwealth to pay \$20,000 or more in total, other than workers compensation settlement agreements, the agency must obtain the advance approval of: (i) the General Counsel of EOTSS; and (ii) the Executive Office for Administration and Finance (A&F).
- 4.2. After approval is received by the General Counsel of EOTSS, the settlement shall be provided to the General Counsel of A&F. The submission shall include: (i) a written settlement recommendation, including the procedural status of the case and a summary of why settlement is appropriate; and (ii) the controlling complaint if the matter is in litigation, and the most pertinent judicial decision, if applicable.
- 4.3. For settlement agreements obligating the Commonwealth to pay less than \$20,000 in total, and that do not involve a workers' compensation claim, the agency must obtain the advance approval of the Secretary or their designee.
- 4.4. For workers' compensation settlement agreements obligating the Commonwealth to pay \$100,000 or more the agency must obtain the advance approval of: (i) the General Counsel of HRD; (ii) the General Counsel of EOTSS; and (iii) the Executive Office for Administration and Finance. After approval is received by the General Counsel of HRD and the General Counsel of EOTSS, the General Counsel of the Executive Office for Administration and Finance shall be provided with a written settlement recommendation, including the procedural status of the case and a summary of why settlement is appropriate.
- 4.5. For workers' compensation settlement agreements obligating the Commonwealth to pay less than \$100,000, the agency must have the advance approval of the Secretary or their designee and the Director of the Human Resources' Workers Compensation Litigation unit.
- 4.6. Where an agency is represented by the Attorney General's Office or by a Special Assistant Attorney General, the agency may agree to settle litigation only with the approval of the Attorney General's Office. In addition, settlements over

\$2,500 and arising under G.L. c. 258 require the approval of the Attorney General's Office regardless of representation.

- 4.7. EOTSS shall adhere to the requirements of the Office of the Comptroller and shall establish a process for submitting settlement agreements to the Office of the Comptroller for payment in a timely manner.

## 5. Procedures

- 5.1. EOTSS shall track settlement agreements that result in any payment to an identified Executive Department employee. The agency's tracking shall include: (i) the claimant's name; (ii) the date of settlement; (iii) the amount of settlement; and (iv) the type of claim alleged by the claimant. The tracker shall be treated as a public record.
- 5.2. EOTSS may not rely on the Human Resources Division to track or maintain its records relating to settlement agreements.
- 5.3. For any settled matter, EOTSS General Counsel's Office shall maintain a file, subject to the applicable records retention period, containing the following records: (i) the underlying claim or complaint; (ii) the settlement agreement; (iii) any settlement recommendation memoranda and attachments; (iv) all documentation submitted or received from the Office of the Comptroller under 815 CMR 5.00 et seq., and the Comptroller's Settlements and Judgments Policy; (v) documentation of all required approvals; and (vi) documentation of payment of the claim.
- 5.4. EOTSS is responsible for responding to public records requests for settlement agreements and shall apply the personnel records exemption where applicable. The General Counsel for EOTSS, or designee shall be notified of a public record or media request for settlement agreements involving agency employee(s).

## 6. Related Policies or Procedures

- Executive Department Settlement Policy, 1/27/25
- Secretary of State's Statewide Records Retention Schedule
- [815 CMR 5.00 et seq. - Settlements and Judgments](#)
- [G. L. c. 4, § 7, cl. 26\(c\)](#)
- *Globe Newspaper Co., Inc v. Exec. Office of Admin. & Fin.*, 2013 Mass. Super. LEXIS 2947 (2013)

## 7. Contact

The owner of this document is the EOTSS General Counsel's Office (or their designee). It is the responsibility of the document owner to maintain, update and communicate the content of this document. Questions regarding this document must be submitted to the document owner by sending an email to [thomas.b.myers2@mass.gov](mailto:thomas.b.myers2@mass.gov).

## 8. Document Change Control

Version No.	Revised by	Effective Date	Description of Changes
1.0	EOTSS Legal Office	4/25/25	Initial document