

RISK MANAGEMENT BULLETIN

Determining Whether an Entity Is a Unit of State or Local Government

Although LGIT allows its members to sponsor certain local public agencies for participation in the Trust, this allowance does not extend to units of State government. Such units include, but are not limited to, a Sheriff's Office, a local department of social services, a State's Attorneys' Office, a board of license commissioners of a county, a health department of a county, a liquor board of a county, a board of supervisors of elections of a county, a circuit or district court, an orphans' court, the Office of the State Fire Marshal, the Office of the Attorney General, or any State board, commission, or similar State entity. There are three main reasons why units of State government are not eligible to participate in the Trust: (1) These units are not defined as local governments in the Local Government Tort Claims Act; and (2) The personnel of these units may be included in the definition of "State personnel" in the Maryland Tort Claims Act; and (3) These units may be participating in the State Insurance Program, and, therefore, covered by the State Insurance Trust Fund.

Although a Sheriff's Office may not be a sponsored entity, LGIT does provide insurance coverage for many sheriffs and their employees. This anomaly arises from State law, specifically Section 9-108 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires counties to provide insurance coverage for sheriffs and their employees for all claims arising from the performance of law enforcement or correctional functions.

The following risk management practices may assist Trust members in lessening confusion as to what is, and what is not, a unit of State government, and, optimistically, in reducing claims which should appropriately be made against units of State, and not local, government.

Recommendation # 1: Make certain that all printed materials made available by the local government, including all publications, charters, codes, booklets, letterheads, bulletins, flyers, etc., do not erroneously identify units of State government as being encompassed by, or as being part of, the local government.

Recommendation # 2: Make certain that all materials made available by the local government electronically, including websites, e-mailings, etc., do not erroneously identify units of State government as being encompassed by, or as being part of, the local government.

Recommendation # 3: Contact the State Treasurer's Underwriting Division to determine if the unit of government is a participant in the State Insurance Program.

Endorsing Organizations



Recommendation # 4: If in doubt about the status of any unit of government, consult your county or municipal attorney and request a formal legal opinion.

If you have questions concerning this issue, please contact our office.

This bulletin is intended to be merely informational and is not intended to be used as the basis for any compliance with federal, state, or local laws, regulations or rules, nor is it intended to substitute for the advice of legal counsel.