§ 6309. Reimbursement of defense costs incurred by or on behalf of community college trustees, officers and employees. 1. As used in this section, unless the context otherwise requires, the term "employee" shall mean any person holding a position by appointment or employment in the service of a community college, whether or not compensated, or a volunteer expressly authorized to participate in a community college sponsored volunteer program, but shall not include an independent contractor. The term employee shall include a former employee, his or her estate, or judicially appointed personal representative.

2. (a) Upon compliance by the employee with the provisions of subdivision three of this section, and subject to the conditions set forth in paragraph (b) of this subdivision, it shall be the duty of the local sponsor of a community college to pay reasonable attorneys' fees and litigation expenses incurred by or on behalf of an employee in his or her defense of a criminal proceeding in a state or federal court arising out of any act which occurred while such employee was acting within the scope of his or her public employment or duties, upon his or her acquittal, or upon the dismissal of the criminal charges against him or her, or reasonable attorney's fees incurred in connection with an appearance before a grand jury which returns no true bill against the employee where such appearance was required as a result of any act which occurred while such employee was acting within the scope of his or her public employment or duties unless such appearance occurs in the normal course of the public employment or duties of such employee.

(b) Upon the application for reimbursement of reasonable attorneys' fees or litigation expenses, or both, made by or on behalf of an employee as provided in subdivision three of this section, the local sponsor shall determine, based upon its investigation and its review of the facts and circumstances, whether such reimbursement shall be paid. The local sponsor shall notify the employee in writing of such determination. Upon determining that such reimbursement should be provided, the local sponsor shall so certify to its chief fiscal officer. Upon such certification, reimbursement shall be made for such fees or expenses, or both, upon the audit and warrant of the chief fiscal officer. Any dispute with regard to entitlement to reimbursement or the amount of litigation expenses or the reasonableness of attorneys'

fees shall be resolved by a court of competent jurisdiction upon appropriate motion or by way of a special proceeding.

3. Reimbursement of reasonable attorneys' fees or litigation expenses, or both, by the local sponsor as prescribed by this section shall be conditioned upon (a) delivery to the local sponsor at its main business office by the employee of a written request for reimbursement of expenses together with, in the case of a criminal proceeding, the original or a copy of an accusatory instrument within ten days after the employee is arraigned upon such instrument or, in the case of a grand jury appearance, written documentation of evidence of such appearance and (b) the full cooperation of the employee in defense of any action or proceeding against the community college or local sponsor based upon the same act, and in the prosecution of any appeal.

4. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate, or restrict any immunity available to or conferred upon any unit, entity, officer, or employee of the sponsor or any other level of government, or any right to defense and/or indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provisions of state or federal statutory or common law.

5. If any provision of this section or the application thereof to any person or circumstance by held unconstitutional or invalid in whole or in part by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this section or the application of any such provision to any other person or circumstances.