

# School Liability and Insurance Overview



**For North Dakota. For Local Government. For You.**  
[www.ndirf.com](http://www.ndirf.com)



**Brennan Quintus**  
**CEO**

# Agenda

- What is the NDIRF?
- COVID-19 Liability Issues
  - Negligence
  - Employer Liability
  - NDIRF Liability Coverage
- Violent Event Coverage
- Fire and Tornado Fund Coverage
- North Dakota Public Health Insurance Trust (NDPHIT) Update

# What is the NDIRF?

- The North Dakota Insurance Reserve Fund (NDIRF) is a not-for-profit self-insurance pool owned by its members with a goal of providing a stable source of risk services to North Dakota's political subdivisions. The NDIRF offers Liability, Automobile, and Public Assets Coverage.
- Located in Bismarck, ND
- Began in 1986
- Today, the NDIRF lists over \$58 million in assets and receives over \$17 million in contributions per year
- The NDIRF has given back nearly \$65 million to its members through the conferment of benefits program
- Over 2,550 of ND's political subdivisions participated in the NDIRF in 2019

# What is the NDIRF?

- We are your liability and property coverage provider
- Contact us for assistance with safety and loss control initiatives
  - Defensive Driving Courses
  - On-site Property Valuation Surveys
  - Member-Specific Training
- Online training located at [www.ndirf.com](http://www.ndirf.com)

# COVID-19 Liability Issues



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# Disclaimer

This presentation is provided as a general description of various legal concepts and NDIRF coverage. Refer to the appropriate memorandum of coverage for exact coverage, conditions, exclusions, and other relevant information. Coverage forms can be viewed and downloaded from our website at [www.ndirf.com](http://www.ndirf.com).

This presentation should in no way be construed as legal advice. Contact an attorney to discuss your specific situation.

# COVID-19: Negligence

## Governmental Liability in North Dakota

- N.D.C.C. § 32-12.1 allows for a political subdivision to be liable for money damages when injuries are proximately caused by the negligence or wrongful act or omission of any employee acting within the scope of their employment.
  - "Employee" means any officer, employee, board member, volunteer, or servant of a political subdivision, whether elected or appointed and whether or not compensated.
- Liability under this section is capped at \$250,000 per person and \$1 million per occurrence.
- Liability is eliminated under this section for various claims scenarios, which might be applicable under a COVID-19 related issue. (N.D.C.C. § 32-12.1 (3))

# COVID-19: Negligence

## Elements of a Negligence Claim

- The claimant must prove that the school district owed them a duty.
- The claimant must prove that the school district breached that duty.
- The claimant must prove that they suffered an injury caused by the school district's breach.
- The claimant must show that they incurred damages as a result.



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# COVID-19: Negligence

## Does a school district owe a duty to protect from COVID-19?

- Duty is a question of law to be decided by a court. Courts will weigh various factors, including:
  - The relationship between the school and claimant
  - The foreseeability of the harm to the claimant
  - The burden on the school district to prevent the harm
  - Whether the school district knew or should have known that a student, teacher, or other faculty member had COVID
  - Generally, there is a duty to act as a reasonable, prudent person would under the same or similar circumstances. That could include looking to what is generally known about COVID-19 and how it spreads, what guidance has been provided by state or federal officials, and what other schools are doing to prevent the spread of the virus.

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# COVID-19: Negligence

## Did the school district breach their duty?

- Was there a regulation or statute providing a standard of care?
- Did the school district fail to act in a reasonable and prudent manner, especially when compared to other school districts?
- Again, courts will look at the foreseeability, probability, and gravity of the harm and weigh that against the burden on school districts to prevent that harm.

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# COVID-19: Negligence

Was the school district's breach the proximate cause of the harm?

- Was the harm the natural and probable result of the school district's breach?
- Was the harm a foreseeable result of the school district's breach?
- Bottom line: with the prevalence of COVID-19 throughout North Dakota, will a claimant be able to show that they became ill solely because of the school district?

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# COVID-19: Negligence

## Can the claimant show damages?

- How severe was the illness?
- Did the claimant receive medical treatment?
- Is the claimant subject to comparative fault?
  - Did they fail to take precautions?
  - Did they “assume the risk”?
  - The risk of COVID-19 is well-known, and, in many cases, all are aware that they could be subject to infection by interacting with others.



# COVID-19: Employer Liability

- Generally, workers' compensation will provide relief for those injuries arising out of and in the course of employment.
- However, a COVID-19 related illness may not fit the definition of “compensable injury” in N.D.C.C § 65-01. In particular, “ordinary diseases of life to which the general public outside of employment is exposed” are not included.
- If there was a negligence action that could be allowed due to the “compensable injury” definition, the concepts previously discussed could come into play.

# COVID-19: NDIRF Coverage

Generally, the NDIRF Liability Memorandum of Coverage (MOC) would respond to a COVID-related claim, subject to the terms and conditions of the MOC.

## I. COVERAGE

Subject to the terms and conditions contained in this Liability Memorandum of Coverage, we will pay those sums that a "covered party" becomes legally obligated to pay as damages, except punitive or exemplary damages, because of:

**COVERAGE A – "PERSONAL INJURY" AND "PROPERTY DAMAGE" LIABILITY;**

**COVERAGE B – "MEDICAL PAYMENTS"; or**

**COVERAGE C – "GOVERNANCE LIABILITY"**

caused by an "occurrence."

P. "Personal injury" means:

1. Bodily injury, sickness, disease, shock, mental anguish or mental injury sustained by a person, including death resulting from any of these at any time;

N. "Occurrence" means:

1. As respects "personal injury" liability and "property damage" liability, an event including continuous and repeated exposure to the same general harmful conditions, which results during the memorandum period or on or after any applicable retroactive date in "personal injury" or "property damage" a "covered party" neither expected or intended.

# COVID-19: Recommendations

- A negligence action would target the practices of the school district in relation to what was being recommended by authorities, what is reasonable given the circumstances and what is known about the virus, and what other similarly situated schools were doing.
- Follow the recommendations of federal and state authorities
- Follow your own policies and procedures

# Violent Event Coverage



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# Violent Event Coverage

## VIOLENT EVENT COVERAGE

This endorsement modifies the following:

### LIABILITY MEMORANDUM OF COVERAGE

With respect to this endorsement, the provisions of the LIABILITY MEMORANDUM OF COVERAGE apply unless modified by this endorsement. Coverage provided by this endorsement is subject to the following:

Per Person Limit	\$25,000
Per Event Limit	\$250,000
Aggregate Limit	\$250,000

For the purposes of this endorsement only, SECTION I. COVERAGE is amended to include the following:

### I. COVERAGE

The following coverage applies to a “violent event” that occurs during the Coverage Period specified in the Declarations.

#### “Violent Event” Coverage

Subject to the terms and conditions contained in this Memorandum of Coverage, we will pay “response expenses” arising out of a “violent event”.

# Violent Event Coverage

“Response Expenses” means reasonable and necessary expenses incurred by an “affected individual(s)”, arising out of a “violent event”, for the following:

1. First Aid and Other medical payments;
2. Ambulance or other medical transportation;
3. Funeral expenses;
4. Counseling services; and
5. Counseling services for immediate family members of “affected individual(s)”.

“Affected Individual(s)” means your student(s), employee(s), volunteer(s), and anyone else occupying your premises with your permission who sustains injury or death as a result of a “violent event”. “Affected individual(s)” does not include the perpetrator(s) of the “violent event.”

“Violent Event” means an event that is caused by an intentional act or a series of related intentional acts and involves the use of a physical object, instrument, device, tool, or weapon, other than the human body, for the purpose of injury or death to “affected individual(s)” and results in one or more “affected individual(s)” sustaining injury or death on your premises.

# North Dakota Fire and Tornado Fund



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# NDFT Transition to NDIRF

- **Year One:** Understand operation and process.
- **Year Two:** Target immediate changes (valuations, coverage issues, rating).
- **Year Three:** Update coverage forms, rating, and valuation/inspection processes.

After Year Three, NDFT will look like an NDIRF product.



# NDFT Coverage Forms

[f](#) [t](#) [in](#) [m](#) 1 800 421 1988

[Home](#) [FAQ](#) [Contact Us](#)



[NDIRF Info](#) [Member Services](#) [Claims](#) [Reference Section](#) [News](#) [Events](#) [Blog](#) [Training](#)

[Home](#) » [Member Services](#) » [ND State Fire & Tornado](#) »

## F & T COVERAGE FORMS AND APPLICATIONS

To view, print, or download a form, click on the form number next to the form name. [Adobe Acrobat Reader](#) software is needed to take advantage of these options and is free to download for use across all major computing platforms.

[Click here](#) to view our NDFT Renewal FAQ.

The coverage forms and applications are included here for you to browse, print, or download.

Fire and Tornado Coverage Forms	Forms	File Size
Commercial Property Coverage	<a href="#">CP 01 14 10 99</a>	105 KB
Aggregate Limit of Loss & Priority of Payments	<a href="#">FT A11 07 01 18</a>	28 KB

[Coverage Applications](#)

[Coverage Forms](#)

[Checklists and Agreements](#)


[Manuals](#)

[F & T COVERAGE FORMS AND APPLICATIONS](#)

NDFT coverage forms and applications are available on [NDIRF.com](#) » [Member Services](#) » [F&T Forms and Applications](#).



# Equipment Breakdown

 **COMMERCIAL BUILDING AND PERSONAL PROPERTY SCHEDULED INSURANCE COVERAGE DECLARATION A**

North Dakota State Fire and Tornado Fund PO Box 2258 Bismarck, ND 58502 701-224-1988 or Toll Free: 800-421-1988	<b>Memorandum Number</b> FT-####-##	<b>Coverage Period</b> From 7/1/2020 To 7/1/2021
<b>Named Member</b>	<b>Agent #</b> .10000	
<b>MEMBER NAME</b> <b>CONTACT NAME</b> <b>ADDRESS</b>	<b>AGENT INFORMATION</b>	

The Schedule of Property (FORM FT 50 01) containing a description of each location and the specific limit that applies to each type of property at each location is attached and a part of the Declarations. The deductible listed is per occurrence.

**Coinurance: 90%** | **Type of Coverage:**  Special Form |  **Equipment Breakdown**

**Mortgagee/Loss Payee:** SEE FORM FT 20 01

Building Property (BP) - Refer to Schedule Of Property for limit per location  
Business Personal Property (PP) - Refer to Schedule Of Property for limit per location  
Outdoor Property (OP) - Refer to Schedule Of Property for limit per location  
Trailer Property (TP) - Refer to Schedule Of Property for limit per location

**Special Limits - See Policy:**

Debris Removal Expense	\$10,000	Form FT CP 07 01 18 - Pages 2 and 3 of 12
Electronic Data	\$2,500	Form FT CP 07 01 18 - Page 4 of 12
Pollutant Cleanup and Renewal	\$25,000	Form FT CP 07 01 18 - Page 4 of 12
Personal Property of Others	\$5,000	Form FT CP 07 01 18 - Page 5 of 12
Personal Property of Students	\$500	Form FT CP 07 01 18 - Page 5 of 12
Valuable Papers and Records	\$25,000	Form FT CP 07 01 18 - Page 5 of 12
Sewer Backup	\$10,000	Form FT SF 07 01 18 - Page 2 of 9
Money	\$5,000	Form FT CP 07 01 18 - Page 4 of 12
Ordinance or Law - Demolition	\$250,000	Form FT OL 07 01 12 - Page 1 of 2
Ordinance or Law - Increased Cost of Construction	\$250,000	Form FT OL 07 01 12 - Page 1 of 2
Additional Ordinance or Law - Demolition	\$500,000	(\$250,000 limit included)
Additional Ordinance or Law - Increased Cost of Construction	\$500,000	(\$250,000 limit included)
Extra Expense	\$250,000	Form FT EE 07 01 14 - Page 1 thru 4
Additional Extra Expense	\$250,000	(\$250,000 limit included)

<b>Property Premium:</b>	\$1,145
<b>Equipment Breakdown Premium:</b>	19A
<b>TOTAL Premium Due:</b>	\$1,145


**FORMS APPLICABLE TO THIS POLICY:**

IL 00 17 15 88	FT PC 07 01 14	FT CP 07 01 18	FT SF 07 01 18	FT OL 07 01 12
IL 09 13 03 306	CP 01 14 05 99	IL 02 24 09 07	IL 00 03 09 07	
FT TW 07 01 20	FT ALL 07 01 18	* Terrorism Risk Insurance Act (TRIA) Form	FT TE 07 01 12	

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE STATED IN THIS POLICY.

*J. Cho*  
Authorized Representative

FT 50 01 (07/20)

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Trailer Property (TP) - Refer to Schedule Of Property for limit per location

Equipment Breakdown coverage protects your school's mechanical, electrical, and computer equipment should an unexpected breakdown occur.

# On-site Property Surveys

Page 4 Reference Guide

### Regional Valuation Calculations

After identifying your property's construction type (page 2) and occupancy valuation calculations to generate an estimate of your property's value. Do property, so you'll simply multiply the total square-footage of your property

#### West/Northwest/North Central

	ISO - 1			ISO - 2			ISO - 3		
	Min	Avy	Max	Min	Avy	Max	Min	Avy	Max
<b>Municipal</b>									
Aircraft Hangar	\$81	\$73	\$85	\$70	\$62	\$77	\$69	\$64	\$84
Army	\$102	\$18	\$150	\$118	\$138	\$178	\$83	\$108	\$138
City Hall	\$168	\$38	\$241	\$142	\$215	\$278	\$142	\$187	\$217
Community Service	\$138	\$40	\$208	\$187	\$184	\$238	\$122	\$144	\$187
Courthouse	\$187	\$231	\$301	\$227	\$248	\$287	\$177	\$238	\$271
Fire Station - Staffed	\$138	\$40	\$212	\$168	\$187	\$243	\$124	\$168	\$188
Fire Station - Volunteer	\$81	\$17	\$140	\$108	\$124	\$181	\$83	\$87	\$138
Garage - Multi-Vehicle	\$81	\$88	\$123	\$83	\$108	\$142	\$73	\$88	\$111
Garage - Storage	\$68	\$81	\$138	\$70	\$83	\$121	\$47	\$73	\$84
Jail/Correction	\$238	\$240	\$315	\$238	\$277	\$385	\$181	\$218	\$285
Office Building	\$121	\$142	\$188	\$138	\$181	\$215	\$108	\$138	\$188
Police Station	\$138	\$217	\$285	\$215	\$240	\$288	\$187	\$188	\$288
Post Office	\$81	\$108	\$138	\$108	\$120	\$158	\$81	\$88	\$124
<b>School</b>									
Elementary School	\$181	\$181	\$281	\$138	\$220	\$288	\$108	\$171	\$238
Middle School	\$168	\$187	\$241	\$188	\$218	\$285	\$142	\$188	\$218
High School	\$181	\$181	\$248	\$187	\$218	\$288	\$168	\$173	\$231
Storage Building	\$84	\$88	\$138	\$86	\$115	\$148	\$78	\$88	\$118
Tire Storage Garage	\$28	\$33	\$38	\$28	\$34	\$44	\$21	\$27	\$38

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Page 5 Reference Guide Property Valuation

### Occupancy Descriptions

Occupancy Type	Description
Aircraft Hangar	Used to house and park Metal, non-combustible flooring.
Army	A building designed for simulation area for law municipal government
City Hall	Defined as the admin/ meeting areas, courts, focused on conformed
Community Service Building	A building used for group gatherings, direct with a regional area.
Courthouse	Primarily found within ornamental structures, valued with the building added to the primary along with large office include the operations
Fire Station - Staffed	Staffed fire stations as well as living quarters areas are typical areas
Fire Station - Volunteer	Volunteer stations are commonly in rural communities and built with an adjacent office

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Page 6 Reference Guide Property Valuation

### Construction Type

Construction Type	Description
ISO-1 Frame/Combustible	Exterior walls, but supports, are no grade metal has as wood or metal.
ISO-2 Jointed Masonry	Exterior walls on brick, concrete, roof are of wood
ISO-3 Non-Combustible (Pre-Engineered Metal)	Exterior walls are roofing or sande
ISO-4 Masonry Non-Combustible	Structural/Beam, decking or concrete frame, fire resist
ISO-5 Modified or Semi-Fire Resistant	Structural/Beam, fire rating of not
ISO-6 Fire Resistant	Structural/Beam, place reinforced

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**NDIRF** NORTH DAKOTA INSURANCE RESERVE FUND  
Reference Guide Property Valuation

### Getting Started


This guide is designed to help you generate a starting point for property value estimates for North Dakota Fire and Tornado Fund (NDTF) coverage administered by the North Dakota Insurance Reserve Fund (NDIRF).

The key factors in determining a property's value estimate include:

- Construction Type
- Occupancy
- Location
- Square Footage

If you need help determining the construction or occupancy type of your property, please contact NDIRF Director of Member Services, Corey Olson for assistance. Corey can be reached at 701-751-6107 or corey.olson@ndirf.com.

Please submit information regarding historic property and/or property listed on the National Register of Historic Places to NDIRF's underwriting team at underwriting@ndirf.com. The NDIRF has a specific process for valuing these types of properties.



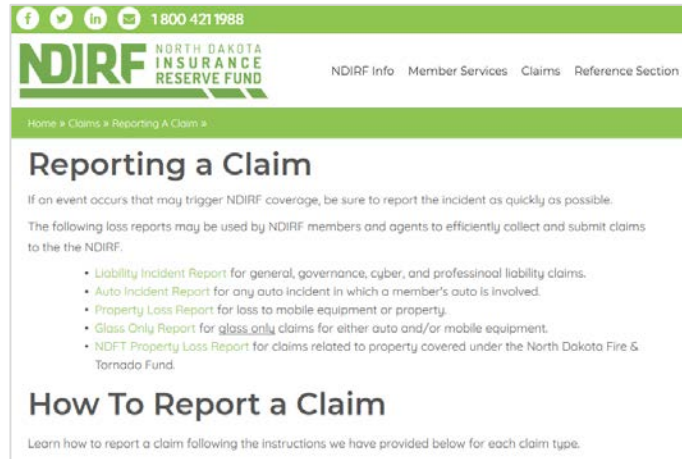
If you have a building that is listed on the National Register of Historic Places, please submit property information to underwriting@ndirf.com.

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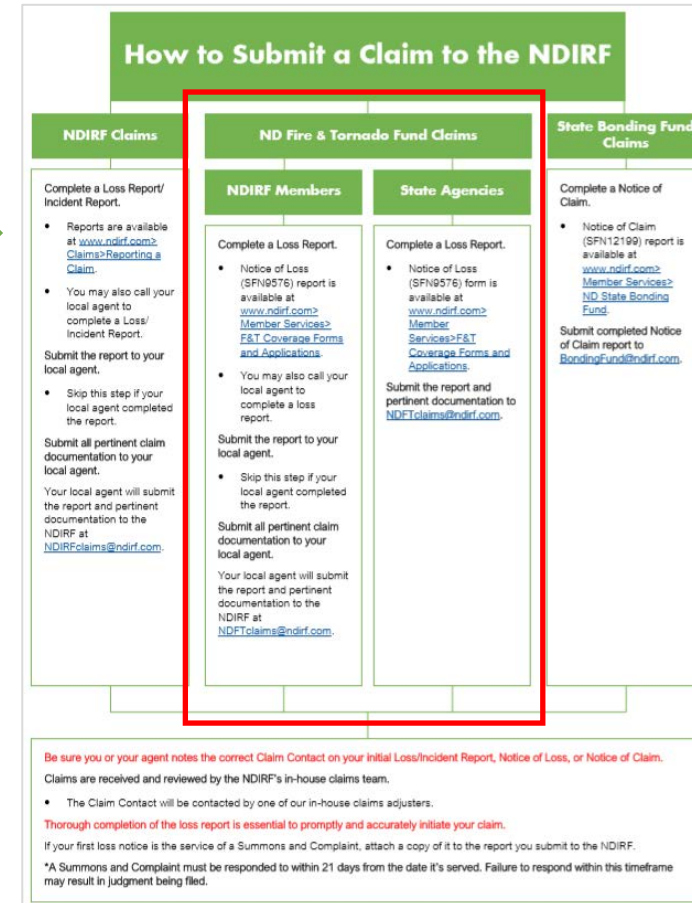
Contact Director of Member Services Corey Olson to schedule an on-site property survey.



# Claim Reporting Process



The screenshot shows the NDIRF website header with social media icons and the phone number 1 800 421 1988. The main navigation includes 'NDIRF Info', 'Member Services', 'Claims', and 'Reference Section'. The breadcrumb trail is 'Home > Claims > Reporting A Claim >'. The page title is 'Reporting a Claim'. The text states: 'If an event occurs that may trigger NDIRF coverage, be sure to report the incident as quickly as possible. The following loss reports may be used by NDIRF members and agents to efficiently collect and submit claims to the the NDIRF.' A list of report types is provided: 'Liability Incident Report' for general, governance, cyber, and professional liability claims; 'Auto Incident Report' for any auto incident in which a member's auto is involved; 'Property Loss Report' for loss to mobile equipment or property; 'Glass Only Report' for glass only claims for either auto and/or mobile equipment; and 'NDFT Property Loss Report' for claims related to property covered under the North Dakota Fire & Tornado Fund. Below this is a section titled 'How To Report a Claim' with the instruction: 'Learn how to report a claim following the instructions we have provided below for each claim type.'



The flowchart is titled 'How to Submit a Claim to the NDIRF'. It is organized into a grid with three main columns: 'NDIRF Claims', 'ND Fire & Tornado Fund Claims', and 'State Bonding Fund Claims'. The 'ND Fire & Tornado Fund Claims' column is further divided into 'NDIRF Members' and 'State Agencies'. The 'State Bonding Fund Claims' column is further divided into 'NDIRF Members' and 'State Agencies'. A red box highlights the 'ND Fire & Tornado Fund Claims' section.

NDIRF Claims	ND Fire & Tornado Fund Claims	State Bonding Fund Claims
<b>Complete a Loss Report/ Incident Report.</b> <ul style="list-style-type: none"><li>• Reports are available at <a href="http://www.ndirf.com?Claims&gt;Reporting a Claim">www.ndirf.com?Claims&gt;Reporting a Claim</a>.</li><li>• You may also call your local agent to complete a Loss/ Incident Report.</li></ul> <b>Submit the report to your local agent.</b> <ul style="list-style-type: none"><li>• Skip this step if your local agent completed the report.</li></ul> <b>Submit all pertinent claim documentation to your local agent.</b> <p>Your local agent will submit the report and pertinent documentation to the NDIRF at <a href="mailto:NDIRFclaims@ndirf.com">NDIRFclaims@ndirf.com</a>.</p>	<b>NDIRF Members</b> <b>Complete a Loss Report.</b> <ul style="list-style-type: none"><li>• Notice of Loss (SFN9576) report is available at <a href="http://www.ndirf.com?Member_Services&gt;F&amp;T_Coverage_Forms_and_Applications">www.ndirf.com?Member_Services&gt;F&amp;T_Coverage_Forms_and_Applications</a>.</li><li>• You may also call your local agent to complete a loss report.</li></ul> <b>Submit the report to your local agent.</b> <ul style="list-style-type: none"><li>• Skip this step if your local agent completed the report.</li></ul> <b>Submit all pertinent claim documentation to your local agent.</b> <p>Your local agent will submit the report and pertinent documentation to the NDIRF at <a href="mailto:NDFTclaims@ndirf.com">NDFTclaims@ndirf.com</a>.</p>	<b>State Agencies</b> <b>Complete a Loss Report.</b> <ul style="list-style-type: none"><li>• Notice of Loss (SFN9576) form is available at <a href="http://www.ndirf.com?Member_Services&gt;F&amp;T_Coverage_Forms_and_Applications">www.ndirf.com?Member_Services&gt;F&amp;T_Coverage_Forms_and_Applications</a>.</li></ul> <b>Submit the report and pertinent documentation to <a href="mailto:NDFTclaims@ndirf.com">NDFTclaims@ndirf.com</a>.</b>
	<b>State Agencies</b> <b>Complete a Loss Report.</b> <ul style="list-style-type: none"><li>• Notice of Claim (SFN12199) report is available at <a href="http://www.ndirf.com?Member_Services&gt;ND_State_Bonding_Fund">www.ndirf.com?Member_Services&gt;ND_State_Bonding_Fund</a>.</li></ul> <b>Submit completed Notice of Claim report to <a href="mailto:BondingFund@ndirf.com">BondingFund@ndirf.com</a>.</b>	

**Be sure you or your agent notes the correct Claim Contact on your Initial Loss/Incident Report, Notice of Loss, or Notice of Claim.** Claims are received and reviewed by the NDIRF's in-house claims team.

- The Claim Contact will be contacted by one of our in-house claims adjusters.

**Thorough completion of the loss report is essential to promptly and accurately initiate your claim.**

If your first loss notice is the service of a Summons and Complaint, attach a copy of it to the report you submit to the NDIRF.

\*A Summons and Complaint must be responded to within 21 days from the date it's served. Failure to respond within this timeframe may result in judgment being filed.

Visit [NDIRF.com](http://NDIRF.com)>Claims>Reporting a Claim for reports and instructions.

# Claim Handling Process

- Initial coverage verification
- File coding and set-up
- Adjuster assignment
- Independent Adjusters
- Investigation/Inspection
- Coverage Determination
- Estimates
- Proof of Loss
- Payment

# NDPHIT Update



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# Recap

- What is the NDIRF?
- COVID-19 Liability Issues
  - Negligence
  - Employer Liability
  - NDIRF Liability Coverage
- Violent Event Coverage
- Fire and Tornado Fund Coverage
- North Dakota Public Health Insurance Trust (NDPHIT) Update



# Questions?

Email: [Brennan.Quintus@ndirf.com](mailto:Brennan.Quintus@ndirf.com)

Phone: 701-224-1988 or 800-421-1988

Website: [www.ndirf.com](http://www.ndirf.com)



**Brennan Quintus**  
**CEO**

**Thank You!**



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