Eighteen years after a class action suit was filed, colleges and universities may soon receive reimbursement for a portion of the millions of dollars spent to remove asbestos from their facilities. Draft guidelines to govern the claims process for distributing more than $50 million in proceeds were shared recently with the higher education community, and the court-appointed steering committee met in April 2005 to finalize its recommendations.

Under the committee’s proposal, institutions that have not opted out of the class action will have six months in which to submit claims for reimbursement of asbestos abatement expenses. The court overseeing the suit may give the go-ahead to open the claims process sometime later this year.

The percentage of each claim that will be covered will depend on the total amount of all claims submitted. Because the total claims are likely to far exceed the funds available, the proposed guidelines do not make any provision for reimbursement of future asbestos abatement expenses.

In a change from the proposed guidelines distributed for comment last February, the steering committee decided at its April meeting to recommend that institutions be given the option of submitting documentation confirming the asbestos content and quantity of material abated without proof of expenses incurred. A set amount based on typical abatement expenses would be imputed based on quantity of asbestos-containing material removed. Alternatively, institutions could submit actual asbestos-related expenses for reimbursement if they wished. The guidelines will specify which costs incurred during an abatement project will be reimbursable.
The percentage of each claim that will be covered will depend on the total amount of all claims submitted. Because the total claims are likely to far exceed the funds available, the proposed guidelines do not make any provision for reimbursement of future asbestos abatement expenses.

**Steps to Take Now**

How can institutions position themselves to recover some of the money spent on asbestos abatement? We urge members to:

- Determine whether your institution opted out of the class action. Class members were given the opportunity to opt out in 1996. More than 200 institutions opted out; to view the full list, go to www.nacubo.org/asbestos.
- Schedule planned abatement work soon so it will be completed before the end of the claims period. Institutions often try to undertake this work during the summer, and summer 2006 may be too late.
- Begin to collect documentation for claims. The steering committee has attempted to minimize the burden placed on colleges and universities to submit paperwork while ensuring a fair and equitable claims process. At a minimum, claimants will have to demonstrate that the product abated contained friable asbestos and indicate how much was removed. If sufficient documentation is available, there is no restriction for how long ago work was completed. Colleges that submitted claims in the Johns Manville bankruptcy in the early 1990s can use those claims as a starting point.

**Resource Link**

The draft proposed guidelines as they were circulated for comment (minus the changes made in April) are available at www.nacubo.org/asbestos. For questions, contact Class Counsel Ed Westbrook at ewestbrook@rpwb.com, or Anne Gross at NACUBO, 202-861-2544 or anne.gross@nacubo.org.