

**Atlantic and Cape May Counties School Business Officials
Joint Insurance Fund**

Bylaws

Effective Date July 16, 1997

**Adopted By Board of Trustees
July 16, 1997**

**ATLANTIC AND CAPE MAY COUNTIES SCHOOL BUSINESS
OFFICIALS JOINT INSURANCE FUND**

BYLAWS

TABLE OF CONTENTS

	Page(s)
Name	1
Purposes	1-2
Definitions	
Actuary	2
Administrator	2
Allocated Claims Expense	2
Automobile and Equipment Liability	2
Board of Trustees	2
Chairman	2
Commissioner	2
Department	2
Employer's Liability	3
Excess Carrier	3
Excess Insurance	3
Excess Liability Joint Insurance Fund	3
Fiscal Year or Fund Year	3
Fund or Joint Insurance Fund.....	3
Fund Commissioners	3
General Liability	3
Hazardous Financial Condition	3
Incurred Claims	3-4
Indemnity And Trust Agreement	4
Insolvent Fund	4
Insurer	4
Inter-trust Fund Transfer	4
Inter-year Fund Transfer	4
Joint Insurance Fund or Fund	4
Manual Premium	4
Member or Member District	4
Net Current Surplus or Surplus	4
Occurrence	4
Official Or Employee Of The Fund	5
Probable Net Cost	4-5
Probable Total Cost	5
Producer	5
Property Damage	5

Adopted Revisions - July 16, 1997

Retained Official	5
Reinsurance or Excess Insurance	5
Risk Management Program	5
Secretary	5
Servicing Organization	5
Trustees	5
Unpaid Claims or Unpaid Losses	5
Workers' Compensation.....	5
Membership	
Agreement To Join The Fund	6
Initial Membership	6
Subsequent Membership	6-7
Conditions of Membership or Membership Standards.....	7-8
Risk Management Consultants.....	8
Membership Renewals.....	9
Termination and/or Withdrawal of Fund Members	9-10
Organization	
Fund Commissioners	10-11
Appointment	10
Fund Commissioners	10
Special Commissioners.....	10
Terms of Office and Vacancy	10-11
Responsibilities	11
Trustees	12-13
Chairperson.....	12
Vice Chairperson	12
Secretary	12
Alternate Trustees	13
Retained Officials	13-16
Treasurer/Custodian of Funds	13
Administrator	14-15
Auditor	15
Attorney	15
Vacancy of Retained Official	15-16
Disclosure	16
Indemnification Of Officers And Employees	16-17
Safety Committee	
Membership	17
Organization	17
Duties	17-18
Operation Of The Fund	
General Operation	18
Risk Management Program.....	18-19
Servicing Organizations	19-20
Financial Statement And Reports	20-21
Coverages	21

Adopted Revisions - July 16, 1997

Table Of Contents

Meetings And Rules Of Order	
Meetings	
Annual Organization Meeting	22
Monthly Business Meetings	22
Special Meetings	22
Quorum	22
Conduct Of Meetings	22
Amendments To The Bylaws	22-23
Budgets	
Budget Preparation	23
Final Budget Adoption	23-24
Amendments	24
Contributions/Assessments	
Annual Contribution/Assessment	24-25
Supplemental Contributions/Assessments	25
Failure Or Refusal To Provide Required Contributions/Assessments	25
Insolvency and/or Bankruptcy of Fund Members	26
Refunds Of Surplus	26-27
Excess Insurance and/or Reinsurance and Aggregate Excess Insurance	27-30
General.....	27
Specific Excess.....	28
Aggregate Excess.....	28-30
Commercial Aggregate Excess	28
Aggregate Excess Loss Contingency Fund	28
Combined Aggregate Excess.....	28-29
Full Commercial Coverage and Funded Aggregate	29
Partial Commercial Coverage and Funded Aggregate	29-30
Section Definitions and Conditions	30
Budgeted Losses	30
Cumulated Budgeted Losses	30
Trust Fund Accounts, Investments And Disbursements	
Establishment Of Trust Fund Accounts	30-31
Investments	31
Disbursements	31-32
Conflict Of Interest	32-33
Voluntary Dissolution Of The Fund	33
Claims Handling Procedure	
Registration of Claims	33
Claims Response	33
Claims Acknowledgment and Initial Evaluation	34
Periodic Review of Claim Status	34
Notice of Settled Claims	34
Notice of Intended Settlement.....	34
Approval of Payments and Settlements	34
Complaint Handling Procedure	34
Other Conditions	

Adopted Revisions - July 16, 1997

Inspection And Audit	35
Notice Of Injury	35
Notice of Claim or Suit	35
Assistance And Cooperation Of The Member District	35
Action Against The Fund	35
Subrogation	36
Conformance With Statute	36
Ownership And Maintenance Of Records.....	36-37
General Records.....	36
Claim and Financial Records.....	36
Meeting Minutes	36
Quarterly Reporting	36
Record Surrender	37
Examination Of The Fund	37-39
Power to Examine	37
Examination Procedures	37-39
Disapproval Of Bylaws And Risk Management Program	39
Revocation Of Approval Of Bylaws And Risk Management Program	39-40

Adopted Revisions - July 16, 1997

Table Of Contents

**Atlantic and Cape May Counties School Business Officials
Joint Insurance Fund**

Bylaws

ARTICLE I

Name

The name of this group shall be the ATLANTIC & CAPE MAY COUNTIES SCHOOL BUSINESS OFFICIALS JOINT INSURANCE FUND, hereinafter called the "FUND." The FUND lists its principal office annually in its risk management program. The FUND commenced operations on July 1, 1991, with sixteen charter members. (N.J.A.C. 11:15-4.6(a)1 and N.J.A.C. 11:15-4.6(c)1). The charter members are:

Atlantic City Board of Education, 1809 Pacific Avenue, Atlantic City, NJ, 08401; Avalon Board of Education, Ocean Drive & 32nd Street, Avalon, NJ, 08202; Buena Regional Board of Education, Harding Highway, Buena, NJ, 08310; Egg Harbor City Board of Education, 527 Philadelphia Avenue, Egg Harbor City, NJ, 08215; Estell Manor Board of Education, 128 Cape May Avenue, Estell Manor, NJ, 08319; Folsom Board of Education, 1357 Mays Landing Road, Folsom, NJ, 08037; Greater Egg Harbor Regional High School District, 1824 Vienna Avenue, Mays Landing, NJ, 08330; Hammonton Board of Education, P.O. Box 308, Hammonton, NJ, 08037; Mullica Township Board of Education, P.O. Box 318, Elmer, NJ, 08217; North Wildwood Board of Education, 100 Anglesea Drive, Suite 9, North Wildwood, NJ, 08260; Northfield Board of Education, 1000 Burton Avenue, Northfield, NJ, 08225; Ocean City Board of Education, 801 Asbury Avenue, Ocean City, NJ, 08226; Pleasantville Board of Education, 115 West Decatur Avenue, Pleasantville, NJ, 08232; Somers Point Board of Education, Jordan Road, Somers Point, NJ, 08244; Stone Harbor School Board Administration, c/o Pittsgrove Township, RD #1, Box 341-C, Elmer, NJ, 08318-8903; and Weymouth Township Board of Education, P.O. Box 231, Dorothy, NJ, 08317.

ARTICLE II

Purposes

(N.J.A.C. 11:15-4.6(a)1)

The purposes of the FUND are:

1. To allow two or more districts and all other Boards of Education joining herein to make a more efficient use of their powers and limited resources by cooperating on a basis that will be of mutual long-term advantage. (N.J.A.C. 11:15-4.3(a) and N.J.S.A. 18A:18B1-10 et seq.); and
2. To provide a procedure for the development, administration, and provision of Risk Management Programs, a Joint Self-Insurance Fund or Funds, Joint Insurance Purchases and related services for members and their employees for the following: (N.J.A.C. 11:15-4.3(c)):
 - a. Any loss or damage to a member's property, real or personal, motor vehicles, equipment or apparatus.

- b. Any loss or damage from liability resulting from the use or operation of motor vehicles, equipment or apparatus owned or controlled by the member.
- c. Any loss or damage from liability for the member's acts or omissions and for acts or omissions of its officers, employees or servants arising out of and in the course of the performance of their duties, including but not limited to, any liability established by the New Jersey Tort Claims Act N.J.S.A. 59:1-1 et seq or any federal or other law.
- d. Loss or damage from liability as established by Chapter 15 of Title 34 of the revised statute, Labor and Workmen's Compensation (RS 34:15-1 et seq).
- e. Expenses of defending any claim against the board, district, officer, employee or servant arising out of and in the course of the performance of their duties, whether or not liability exists on the claim, except that no defense will be provided to a person or persons whose actions were criminal, or to the defense of an administrative matter.

ARTICLE III

DEFINITIONS

(N.J.A.C. 11:15-4.2)

“ACTUARY” means a person who is a fellow in good standing of the Casualty Actuarial Society with three years recent experience in loss reserving or an associate in good standing of the Casualty Actuarial Society with five years recent experience in loss reserving.

“ADMINISTRATOR” means a person, partnership, corporation or other legal entity engaged by the FUND trustees, as defined herein, to act as Executive Director to carry out the policies established by the Trustees and to otherwise administer and provide day-to-day management of the FUND. The administrator may also be the lead agency employee of the fund, a fund member, or an independent contractor.

“ALLOCATED CLAIMS EXPENSE” means attorneys' fees, expert witness fees (i.e. engineering, physicians, etc.), medical reports, professional photographers' fees, police reports and other similar expenses. The exact definition of **“ALLOCATED CLAIMS EXPENSE”** or similar terms for any line of insurance coverage shall be the definition in the excess insurance policy purchased by the FUND and/or the definition provided in any FUND coverage document and/or Excess Liability FUND document, in which the FUND participates, which is reinsured by a qualified reinsurer.

“AUTOMOBILE AND EQUIPMENT LIABILITY” means liability resulting from the use of or operation of motor vehicles, equipment or apparatus owned by or controlled by the member or owned by or under the control of any subdivisions thereof including its departments, boards, agencies, commissions or other entities which the member may provide coverage for under applicable State law or regulation. The exact definition of **“Automobile and Equipment Liability”** shall be the definition used in the excess insurance policy purchased by the FUND and/or the definition provided in any FUND coverage document and/or Excess Liability Joint Insurance Fund coverage document, in which the FUND participates, which is reinsured by a qualified reinsurer.

“BOARD OF TRUSTEES” means the governing body for the FUND as provided for by N.J.S.A. 18A:18B-5 and these bylaws. (see also **“Trustees”** in definitions).

“CHAIRMAN” means the chairman of the board of trustees as may be elected or designated by the trustees.

“COMMISSIONER” means the Commissioner of the Department of Banking and Insurance.

“DEPARTMENT” means the Department of Banking and Insurance of the State of New Jersey.

“EMPLOYERS’ LIABILITY” means the legal liability of public employer to pay damages because of bodily injury or death by accident or disease at any time resulting therefrom sustained by an employee arising out of and in the course of his or her employment by the employer, which is not covered by a workers’ compensation law. The exact definition of **“EMPLOYERS’ LIABILITY”** or similar terms shall be the definition used in the excess insurance policy purchased by the FUND and/or the definition provided in any FUND coverage document and/or Excess Liability FUND coverage document, in which the FUND participates, which is reinsured by a qualified reinsurer.

“EXCESS CARRIER” means an insurer that provides excess insurance or reinsurance to a fund.

“EXCESS INSURANCE” means insurance purchased from an insurance company authorized or admitted in the State of New Jersey or deemed eligible by the Commissioner of Insurance as a surplus lines insurer, covering losses in excess of an amount established between the FUND and the insurer up to the limits of coverage set forth in the insurance contract on a specific per occurrence, per accident,-or annual aggregate basis.

“EXCESS LIABILITY JOINT INSURANCE FUND” means a joint self-insurance fund established by two or more school board insurance group joint insurance funds pursuant to N.J.S.A. 18A:18B-1, et seq., which is a fund of public monies from contributions made by affiliated member school board insurance group joint insurance funds for the purpose of jointly securing insurance protection excess of the affiliated member school district insurance groups’ retention/s, risk management programs, and/or related services.

“FISCAL YEAR” or FUND YEAR” means the FUND’s fiscal year of July 1 through June 30.

“FUND” or “JOINT INSURANCE FUND” means a joint self-insurance fund established by a school board insurance group pursuant to N.J.S.A. 18A:18B-1 et seq. The joint self-insurance fund is a fund of public monies from contributions made by members of a school board insurance group for the purpose of securing insurance protection, risk management programs, or related services as authorized by N.J.S.A. 18A:18B-1 et seq. For the purpose of these bylaws, FUND refers to the Atlantic and Cape May Counties School Business Officials Joint Insurance Fund, a.k.a. ACCASBOJIF, a.k.a. ACCASBO.

“FUND COMMISSIONER” an individual appointed by a member school board having the qualifications, powers, and duties outlined in these Bylaws.

“GENERAL LIABILITY” means any and all liability which may be insured under the laws of the State of New Jersey, excluding workers’ compensation, employers’ liability, motor vehicular , school board legal liability and equipment liability. The exact definition of **“GENERAL LIABILITY”** or similar terms is the definition used in the excess insurance policy purchased by the FUND and/or the definition provided in any FUND coverage document and/or Excess Liability FUND coverage document, in which the FUND participates, which is reinsured by a qualified reinsurer.

“HAZARDOUS FINANCIAL CONDITION” means that, based on its present or reasonably anticipated financial conditions, a fund, although not yet financially impaired or insolvent, is unlikely to be able:

1. To meet obligations to claimants with respect to known claims and reasonably anticipated claims; or
2. To pay other obligations in the normal course of business.

“INCURRED CLAIMS” means claims which occur during a Fund year including claims reported or paid during a later period. The exact definition of **“INCURRED CLAIMS”** or any similar term is the definition used in the excess insurance policy purchased by the FUND and/or the definition provided in any FUND coverage document and/or Excess Liability Joint Insurance Fund coverage document, in which the FUND participates, which is reinsured by a qualified reinsurer.

“INDEMNITY AND TRUST AGREEMENT” means a written contract signed by and duly adopted by the members of the FUND under which each agrees to jointly and severally assume and discharge the covered liability of each and every party to such agreement arising from their participation in the FUND.

“INSOLVENT FUND” means a joint insurance fund which has been determined by a court of competent jurisdiction to be unable to pay its outstanding lawful obligations as they mature in the regular course of business, as may be shown either by an excess of its required reserves and other liabilities over its assets or by its not having sufficient assets to reinsure all of its outstanding liabilities after paying all accrued claims owed by it, or for which, or for the assets of which, a receiver or liquidator, however entitled, has been appointed by a court of competent jurisdiction and authority, after the effective date of this subchapter.

“INSURER” means any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd’s insurer or other person engaged in the business of insurance pursuant to Subtitle 3 of Title 17 of the Revised Statutes.

“INTER-TRUST FUND TRANSFER” means an actual transfer of funds from one Claim or Loss Retention Fund Account in a fiscal year to another account within the same fiscal year.

“INTER-YEAR FUND TRANSFER” means the transfer of funds from a Claim or Loss Retention Account for a fiscal year to a Claim or Loss Retention Account of similar risk or liability for a different fiscal year.

“JOINT INSURANCE FUND” see **“FUND”**.

“MANUAL PREMIUM” means the premium computed by the Excess Insurance Carrier, by line of coverage as modified by the Trustees to reflect the experience or other applicable item of consideration for the FUND as a whole or any individual member or members.

“MEMBER” OR “MEMBER DISTRICT” means a school board within the meaning of N.J.S.A. 18A:18B-1 et seq., which is a member of a school board joint insurance fund.

“NET CURRENT SURPLUS” OR “SURPLUS” means that amount of monies in a trust account established pursuant to N.J.A.C. 11:15-4.6(b)10 that is in excess of all costs, earned investment income, refunds made pursuant to N.J.A.C. 11:15-4.21, incurred losses and loss adjustment expenses and incurred but not reported reserves, including the associated loss adjustment expenses attributed to the FUND net of any per occurrence or aggregate excess insurance or reinsurance for a particular year.

“OCCURRENCE” means a single event. The exact definition of **“OCCURRENCE”** or any similar terms shall be the definition used in the excess insurance policy purchased by the FUND and/or the definition provided in any FUND coverage document and/or Excess Liability Joint Insurance Fund coverage document, in which the FUND participates, which is reinsured by a qualified reinsurer.

“OFFICIAL OR EMPLOYEE OF THE FUND” means such individuals, Officers, Fund Commissioners or Trustees of the Fund for whom the Fund is obligated by law or contract to provide indemnification or reimbursement of legal or other expense for such claims or demands as

may from time to time be made or arise from such individuals', Officers', FUND Commissioners', or Trustees' actions pertaining to the operation of the Fund.

“PROBABLE NET COST” means the estimated ultimate cost of claims incurred during a Fund year plus the cost of allocated claims expense and other costs of operating the FUND until all claims incurred during the Fund year are settled. For purposes of computing the probable net cost, losses within the deductible of member school districts and future investment income on outstanding loss reserves held by the FUND shall not be taken into consideration.

“PROBABLE TOTAL COST” means the probable net cost plus the estimated ultimate cost of losses incurred within the deductible of member school districts.

“PRODUCER” means any person engaged in the business of an insurance agent, insurance broker, or insurance consultant as defined in N.J.S.A. 17:22A-1 et seq.

“PROPERTY DAMAGE” means any loss or damage, however caused, to property, motor vehicles, equipment, or apparatus owned by the member school district or owned by or under the control of any of its departments, boards or agencies. The exact definition of **“PROPERTY DAMAGE”** or similar terms shall be the definition in the excess insurance policy purchased by the FUND and/or the definition provided in any FUND coverage document and/or Excess Liability Joint Insurance FUND coverage document, in which the FUND participates, which is reinsured by a qualified insurer.

“RETAINED OFFICIAL” means an individual, partnership, association or corporation, that has contracted with the FUND to provide, on the FUND's behalf, specific functions as defined in these bylaws and limited to an administrator, attorney, auditor and treasurer. These functional positions are considered to be essential roles in the successful operation of the FUND and are therefore listed separately from servicing organizations.

“REINSURANCE” or “EXCESS INSURANCE” means the contractual assumption of risk by an insurance company of all or part of the risk obligations assumed by the FUND, Excess Liability Joint Insurance Fund, or both.

“RISK MANAGEMENT PROGRAM” means a plan and activities carried out under the plan, by a joint insurance fund to reduce risk of loss with respect to a particular line of insurance protection or coverage provided by a fund pursuant to N.J.S.A. 18A:18B-1 et seq., including safety engineering and other loss prevention and control techniques. Risk management program also includes the administration of one or more funds, including the processing and defense of claims brought against or on behalf of members of the fund.

“SECRETARY” means the secretary of the board of trustees as may be designated by the trustees.

“SERVICING ORGANIZATION” means an individual, partnership, association or corporation, other than the administrator, that has contracted with the FUND to provide, on the FUND's behalf, any function as designated by the trustees including, but not limited to, actuarial services, claims administration, cost containment services, loss prevention/safety engineering services, compilation and maintenance of the FUND's underwriting file, coordination and preparation of coverage documents, risk selection and pricing, excess insurance or reinsurance producer services, which include producer negotiations on behalf of the FUND for excess insurance or reinsurance from an insurer, member assessment and fee development, report preparation pursuant to N.J.S.A. 18A:18B-1 et seq. and this subchapter, and such other duties as designated by the FUND.

“TRUSTEES” means the board of trustees established pursuant to the bylaws of the FUND to govern or manage the risk management programs, joint self-insurance fund or funds and related services of the group.

“UNPAID CLAIMS” or “UNPAID LOSSES” means case reserves and reserves for Incurred But Not Reported (IBNR) claims attributed to the FUND net of any recoverable per occurrence or aggregate excess insurance or reinsurance for a particular coverage or Fund year.

“WORKERS’ COMPENSATION” means the provisions of N.J.S.A. 34:15-7 et seq.

ARTICLE IV

MEMBERSHIP

(N.J.A.C. 11:15-4.3)

A. AGREEMENT TO JOIN THE FUND

1. Membership in the FUND shall be open to all New Jersey School Boards pursuant to N.J.S.A. 18A:18B1-10 et seq. The Boards may apply for membership by resolution of their respective Boards of Education. (N.J.A.C. 11:15-4.3(a)).
2. The resolution shall provide for execution of a written agreement specifically providing for acceptance of the FUND’s Bylaws as approved, adopted and/or amended by the Trustees of the FUND. (N.J.A.C. 11:15-4.3 (b)).
3. Initial and subsequent membership in the FUND shall be for a period not to exceed three (3) years. (N.J.A.C. 11:15-4.3(b) and N.J.S.A. 18A:18A-42e).
4. All applicants to the FUND must also include a statement certifying that the school district has never defaulted on a claim, and has not been canceled for non-payment of insurance premiums for a period of at least two (2) years prior to the date of application. (N.J.A.C. 11:15-4.3(b)).
5. The Trustees may require an application fee, which will cover the costs to the FUND associated with evaluating the applicant with respect to risk management and safety programs, physical exposure to risk and in having the actuary determine the appropriate contribution/assessment offer.
6. The application shall declare the full extent of membership in the FUND. (N.J.A.C. 11:15-4.3(b)).

B. INITIAL MEMBERSHIP

Any school district which participated in the initial feasibility study may be a part of the FUND’s initial application for approval by the Commissioner.

C. SUBSEQUENT MEMBERSHIP

1. Any school district seeking membership after the FUND’s initial approval by the Commissioner shall submit an application for membership to the FUND that is acceptable to the Commissioner. (N.J.A.C. 11:15-4.9(a)). The application shall include an executed Indemnity and Trust Agreement and other documentation required under Section A above.
2. The Trustees may approve the application by majority vote based on the following criteria:
 - a. The applicant’s claims history, (five years preferred), shows safety performance consistent with the FUND’s objectives and the applicant’s

- safety performance and condition of physical location/s indicates a prospective likelihood of satisfactory future claim performance.
- b. A safety inspection and evaluation conducted by the FUND's safety consultant shows the applicant meets the FUND's safety standards.
 - c. The FUND actuary has established an appropriate loss fund requirement and provided a certification for same.
 - d. The FUND has the administrative capability to absorb additional memberships without undue inconvenience or strain.
3. If the application is approved by the FUND, it shall be filed with the Department within 15 days of such approval and shall be accompanied by a revised budget with contribution/assessment detail, if otherwise required pursuant to N.J.A.C. 11:15-4.4(e), an actuarial statement regarding the adequacy of the member's assessment to cover anticipated losses, and any amendments to the FUND's bylaws and risk management program as may be necessary. The FUND shall file only the specific changes to the bylaws or risk management program in effect for the current fund year. Where the FUND purchases direct insurance, or where an actuary has determined a "per capita" rate for the member's assessment to cover anticipated losses which has been previously filed with the Department, actuarial certification of the adequacy of these same rates for each new member is not required. The Commissioner may nevertheless require actuarial certification of a per capita rate for the new member's assessment to cover anticipated losses if, in his or her opinion, the new member will impose an extraordinary impact on the exposure of the FUND. In addition, the FUND shall file the following information in the form prescribed by the Department and known as NEW JERSEY DEPARTMENT OF INSURANCE NEW MEMBER STATEMENT FOR THE ATLANTIC AND CAPE MAY COUNTIES SCHOOL BUSINESS OFFICIALS JOINT INSURANCE FUND, within 15 days after approval of a new member.
- a. The name and address of the new member;
 - b. The effective date of coverage;
 - c. The name of the new member's risk manager;
 - d. The name of the new member's Fund Commissioner;
 - e. The lines of coverage for which the new member participates;
 - f. The amount of assessment, if not otherwise provided; and
 - g. An affirmative statement from the FUND that in accepting the new member, an application has been filed, the FUND has adhered to its bylaws and risk management program, and the agreement to participate and indemnity and trust agreement have been filed with the FUND. (N.J.A.C. 11:15-4.9(b)1-7).
4. No new membership in the FUND shall become effective until the application and any accompanying amendments to the FUND's Bylaws, budget and Risk Management Program are approved as required by these Bylaws and, where applicable, state law or regulation. (N.J.A.C. 11:15-4.9(a)).
5. If a non-member is not approved for membership, the FUND shall set forth in writing the reasons for disapproval and send the reasons for disapproval to the non-

member. The FUND shall retain a copy of all disapprovals for five years. (N.J.A.C. 11:15-4.9(c)).

D. CONDITIONS OF MEMBERSHIP or MEMBERSHIP STANDARDS (N.J.A.C. 11:15-4.6(a)5).

As a condition of membership, each school district shall:

1. Form a safety committee and actively participate in all FUND sponsored safety programs.
2. Participate in all the major lines of coverage offered by the FUND (N.J.A.C. 11:15-4.6(c)1), it being understood that FUND retentions and individual member retentions may vary from fiscal year to fiscal year and shall be detailed in the risk management program of the FUND according to N.J.A.C. 11:15-4.6(f)1-11.
3. Promptly pay all contributions/assessments, supplemental contributions/assessments, fees, charges or other obligations arising out of or related to the districts' participation in the Fund, recognizing however, that contributions/assessments must be collected in full by February 1st. (N.J.A.C. 11:15-4.15(a)).
4. Actively participate in all Fund sponsored or directed meetings, programs or activities so as to ensure successful operation of the Fund.
5. Comply with the risk management program and the policies and procedures adopted by the Trustees for the management of the FUND.

E. RISK MANAGEMENT CONSULTANTS

1. Each member district shall provide for the services of an individual or firm to serve as the district's Risk Management Consultant. The Risk Management Consultant may be an employee of the district. If the Risk Management Consultant is other than a district employee, the Risk Management Consultant shall not be a Fund Commissioner or Trustee. The Risk Management Consultant shall advise the district on matters relating to the Fund's operation and coverages. The Risk Management Consultant shall, in addition to such items as may be included in such individuals' contract or agreement with the district, be governed by the following:
 - a. The Risk Management Consultant shall be retained by the Board of Education in conformance with applicable State Law or regulation.
 - b. Risk Management Consultants, who are not district employees, shall be paid by the FUND a fee to be established annually by the Board of Trustees. The fee shall be paid within thirty (30) days from receipt by the FUND of the member's assessment.
 - c. The Risk Management Consultant's specific responsibilities shall include, but not be limited to:
 1. The evaluation of the district's exposures.
 2. The explanation of the various coverages available from the FUND.
 3. The preparation of applications, statements of values, etc., required by the FUND.
 4. The review of the school district's assessment and assisting in the preparation of the district's insurance budget.

5. The review of losses and engineering reports and providing assistance to the school district's safety committee.
 6. Attendance at the majority of meetings of the Trustees and the performance of such other services as required by the school district or the FUND.
- d. The Risk Management Consultant shall be a New Jersey licensed Property/Casualty Insurance Producer who has demonstrated prior experience in the management of public insurance risks.

F. MEMBERSHIP RENEWALS

1. Members may renew their participation by execution of a new agreement to join the FUND as provided for in Section A above ninety (90) days prior to the expiration of the term period. Failure of the member district to provide such notice shall serve as the member district's intention to withdraw from the FUND and not be renewed for the subsequent Fund year.
2. The Trustees must act upon any renewal application no later than forty-five (45) days prior to the expiration of the term period. Otherwise, the renewal application is automatically approved.
3. In order to deny a renewal application the FUND shall find, by majority vote of the Trustees, that the applicant has failed to fulfill its responsibilities as a member or no longer meets the FUND's written safety standards or other objective criteria duly adopted.
4. If a member's renewal application is rejected, the FUND shall comply with the provisions of these bylaws relating to termination and/or withdrawal of FUND members.
5. Non-renewal of a FUND member does not relieve the member of responsibility for claims incurred during its period of membership either collectively through the FUND's retention within a line or lines of coverage by fund year, or individually associated with an individual member deductible or retention within a line or lines of coverage by fund year.

G. TERMINATION AND/OR WITHDRAWAL OF FUND MEMBERS

1. A member school district must remain in the FUND for the full term of membership unless earlier terminated by a two-thirds vote of the Trustees for nonpayment of assessments or continued noncompliance after written notice to comply with the FUND's Bylaws, Risk Management or underwriting standards, or other reason(s) subject to prior approval by the Commissioner as causes for expulsion. However, such member school district shall not be deemed terminated for any reason until (N.J.A.C. 11:15-4.10(a)):
 - a. After 30 days, written notice of the intention to terminate the member has been given by the FUND to the member, which notice shall state the reasons for termination and shall be given by registered mail or certified mail, return receipt requested (N.J.A.C. 11:15-4.10(a)1);
 - b. Like notice shall have been filed with the Department, together with a certified statement that the notice provided by 1.a. above has been given (N.J.A.C. 11:15-4.10(a)2); and
 - c. 30 days have elapsed after the filing required by 1.b. above has been made (N.J.A.C. 11:15-4.10(a)3).

2. A member of the FUND that does not desire to continue as a member after the expiration of its membership term shall give written notice of its intent to withdraw ninety (90) days before the expiration of the term period. Failure of the member district to provide such notice shall serve as the member district's intention to withdraw from the FUND and not be renewed for the subsequent Fund year. A member of the FUND that did not approve any amendment of the FUND bylaws approved pursuant to N.J.S.A. 18A:18B-4, and desiring to withdraw from the FUND pursuant to N.J.S.A. 18A:18B-4b(8)(d), shall provide written notice of its intent to withdraw 90 days prior to its withdrawal. This notice shall not relieve the member district from its pro-rata responsibility for general expenses through the current budget year. The FUND shall immediately notify the Department of all members that have given notice of withdrawal from the FUND. (N.J.A.C. 11:15-4.10(b)).
3. A member that has been terminated by or does not continue as a member of the FUND shall nevertheless share in any surplus in the appropriate trust accounts for that fund year and shall remain jointly and severally liable for claims incurred by the FUND and its members during the period of its membership, including, but not limited to being subject to and liable for supplemental assessments. (N.J.A.C. 11:15-4.10(c)).
4. The FUND shall immediately notify the Department if the termination or withdrawal of a member causes the FUND to fail to meet any of the requirements of N.J.S.A. 18A:18B-1 et seq. or N.J.A.C. 11:15-1 et seq. Within fifteen (15) days of such notice, the FUND shall advise the Department of its plan to bring the FUND into compliance. (N.J.A.C. 11:15-4.10(d)).
5. A FUND member is not relieved of the claims incurred during its period of membership, either collectively through the FUND's retention within a line or lines of coverage by fund year, or individually associated with an individual member deductible or retention within a line or lines of coverage by fund year, except through payment by the FUND or member of those claims.
6. A member district that has been terminated or that has withdrawn from membership in the FUND may be considered for new membership after a period of three [3] years from the date of termination or withdrawal, and upon meeting such conditions and standards for membership as may be established by the Trustees.

ARTICLE V

ORGANIZATION

(N.J.A.C. 11:15-4.6(a)2)

A. FUND COMMISSIONERS

1. Appointment

- a. **Fund Commissioners:** In the manner generally prescribed by law, each member school district shall appoint one (1) Fund Commissioner to the FUND. The Fund Commissioner shall be the School Business Administrator, or other individual as provided in N.J.S.A. 18A:18B-1, et seq.
- b. **Special Commissioner:** In the event that the number of member school districts is an even number, one (1) additional Fund Commissioner shall be appointed annually by a member school district on a rotating basis determined alphabetically.

The school district's privilege to appoint the Special Commissioner shall remain with that school district for one entire Fund year and the subsequent admission to the FUND of a school district with a preceding alphabetical prefix shall not deprive any school district already a member of the FUND of its prerogative to appoint a Special Commissioner during a current Fund Year.

2. Terms of Office and Vacancy

- a. All terms of office shall expire on June 30 or until a successor is duly appointed and qualified.
- b. A Fund Commissioner, other than the Special Commissioner, shall hold office for the remainder of his/her employment with the member district, provided however, that in those cases wherein a vacancy is created by reason of separation of the Fund Commissioner from school district employment, such Fund Commissioner may serve for a period not to exceed ninety days (90) from the effective date of separation from employment. The decision as to whether a Fund Commissioner who has separated from district service shall continue in their capacity as provided herein shall remain with the member district.
- c. Fund Commissioners shall hold office at the pleasure of the school district and can be removed by the Board of Education at any time without cause provided, however, that any replacement Fund Commissioner subsequently appointed by the member board meet all of the qualifications for Fund Commissioners as established by these Bylaws.
- d. The Special Commissioner, if any, shall serve until June 30 of the year following, provided however, that the Special Commissioner may be removed by the appointing school board at any time without cause.
- e. The unexpired term of a Fund Commissioner other than the Special Commissioner, shall be filled by the appointing school board in the manner generally prescribed by law and these Bylaws.
- f. In the event of a vacancy of the Special Commissioner caused by reason other than the expiration of the term of office, the school board which appointed the Fund Commissioner shall appoint the replacement for the unexpired term.
- g. Any Fund Commissioner can be removed from office for cause by two-thirds vote of the full membership of the Board of Trustees. Upon such a vote, it shall be incumbent upon the member school board to replace the Fund Commissioner.
- h. Fund Commissioners shall serve without compensation from the FUND except as provided by law.

3. Responsibilities

- a. The Fund Commissioners shall, as soon as possible after the beginning of the Fund year, meet to elect a Board of Trustees who shall be charged with operating the FUND in accordance with these Bylaws and applicable State Law and Regulation.
- b. Each Fund Commissioner shall have one vote provided, however that the Special Commissioner, if any, shall only vote in the event of a tie.

B. TRUSTEES

1. As soon as possible after the beginning of each Fund year, the Fund Commissioners shall meet to elect the Trustees of the FUND from their own membership. Trustees shall serve until June 30 of the following year, or until a successor is duly elected and qualified.
 - a. **Chairperson:** The Chairperson shall preside at all meetings of the Trustees and shall perform such other duties provided for in these Bylaws and the laws and regulations of the State of New Jersey.
 - b. **Vice Chairperson:** The Vice Chairperson shall exercise the responsibilities of the chairperson in such person's absence.
 - c. **Secretary:** The Secretary shall preside over the meetings of the Trustees in the absence of the Chairperson and Vice Chairperson. Unless such responsibility is delegated to the Fund Administrator by the Trustees, the Secretary shall have the responsibility to maintain minutes of the FUND's meetings and retain all books, records, files and other documents of the FUND, and shall perform such other duties as provided for in these Bylaws and the laws and regulations of the State of New Jersey. The Secretary shall maintain the books and records of the FUND at the office of the FUND as from time to time designated by the Fund Trustees. When record keeping responsibility has been delegated to the Fund Administrator, the Administrator shall maintain said records at a location known to and approved by the FUND and the Secretary shall, at all reasonable times, have access to the records.
2. If the total number of Fund Commissioners exceeds seven (7), the Fund Commissioners shall, at the same time as they elect the Chairperson, Vice Chairperson, and Secretary, elect four (4) additional Trustees from among the membership of the Commissioners. These four additional Trustees shall serve with the Chairperson, Vice Chairperson, and Secretary as the Board of Trustees for the FUND.
3. In the event of a vacancy in any of the Trustee positions caused by other than the expiration of the term of office, the Trustees shall by majority of vote fill the vacancy for the unexpired term.
4. Any Trustee can be removed without cause at any time by a two-thirds vote of the full membership of the Fund Commissioners. In this event, the full membership of the Fund Commissioners shall fill the vacancy for the unexpired term.
5. The Trustees shall serve without compensation from the FUND except as provided by State Law.
6. The Trustees are hereby authorized and empowered to operate the FUND in accordance with N.J.S.A. 18A:18B-1 et seq., these Bylaws and N.J.A.C. 11:15-4.6 et seq., which includes, but is not limited to, the following:
 - a. To determine and establish contributions and rates, loss reserves, surplus, limits of coverage, limits of excess insurance or reinsurance, coverage documents, refunds and other financial and operating policies of the group or fund (N.J.A.C. 11:15-4.6(b)1);

- b. To invest monies held in trust under any fund in investments which are approved for investment by regulation of the State Investment Council for surplus monies of the State or, at the discretion of the board, to transfer monies held in trust under any fund to the Director of the Division of Investment in the Department of the Treasury for investment on behalf of the board in accordance with the standards governing the investment of other funds which are managed under the rules and regulations of the State Investment Council. However, any monies transferred to the Director for investment may not thereafter be withdrawn except upon withdrawal of a member from the group or a fund or termination of the group or a fund or in specific amounts in payment of specific claims, administrative expenses or member dividends upon affidavit of the director or other chief executive officer of the group (N.J.A.C. 11:15-4.6(b)2);
- c. To purchase, acquire, hold, lease, sell and convey real and personal property, all of which property shall be exempt from taxation under N.J.S.A. 54:4-1 et seq. (N.J.A.C. 11:15-4.6(b)3);
- d. To collect and disburse all money due to or payable by the FUND or authorize such collection and disbursement (N.J.A.C. 11:15-4.6(b)4);
- e. To enter into contracts with other persons or with public bodies of this State for any professional, administrative or other services as may be necessary to carry out the purpose of the FUND (N.J.A.C. 11:15-4.6(b)5);
- f. To purchase and serve as the master policyholders, if desired, for any insurance, including excess insurance or reinsurance (N.J.A.C. 11:15-4.6(b)6);
- g. To prepare, or cause to be prepared, a risk management program for the FUND (N.J.A.C. 11:15-4.6(b)7);
- h. As the need arises, from time to time, to amend the bylaws and risk management program of the FUND pursuant to N.J.S.A. 18A:18B-4, N.J.A.C. 11:15-4.6 et seq. and Article IX C 1.-4. of these bylaws (N.J.A.C. 11:15-4.6(b)8); and
- i. To do all other things necessary and proper to carry out the purposes for which the FUND is established. (N.J.A.C. 11:15-4.6(b)9).

C. ALTERNATE TRUSTEES

- 1. The Trustees shall, immediately upon assuming their responsibilities each Fund year, designate three Alternate Trustees from among the Fund Commissioners. The Alternate Trustees shall retain their status as Alternate Trustees until June 30 of the following year according to the same terms and conditions established for Trustees.
- 2. Alternate Trustees shall serve in the absence of a Trustee or Trustees during any meeting of the FUND during which such absence causes the number of Trustees present to fall below that which constitutes a quorum as provided by these Bylaws.
- 3. Alternate Trustees shall, during any meeting of the FUND at which their services are required, exercise the full authority granted to a Trustee by these Bylaws.

D. RETAINED OFFICIALS

As soon as possible after the beginning of each Fund year, the Trustees shall meet and select, in conformance with Public Schools Contracts Law, (N.J.A.C. 11:15-4.6(d)10), by majority vote, individuals or firms to serve in the following retained positions. These individuals shall serve until June 30 of the following year, or until a successor is duly retained. It being understood that the positions of administrator and attorney are not required by law but are instead considered necessary to the successful operation of the FUND. (N.J.A.C. 11:15-4.26(e)).

All retained officials shall be required to provide evidence of errors and omissions insurance coverage. (N.J.A.C. 11:15-4.6(d)5).

1. **Treasurer/Custodian of Funds:** The Treasurer shall not be a Trustee or Commissioner. The Treasurer shall have the following duties and responsibilities:

- a. The Treasurer shall be the custodian of the FUND's assets and shall maintain the various trust funds.
- b. The Treasurer shall maintain on a daily basis all receipts, payments and financial records including a comprehensive general ledger.
- c. The Treasurer shall prepare the FUND's Cash Management Plan and shall invest all balances in accordance with the FUND's Cash Management Plan and consistent with the statutes and regulations governing the investment of surplus public monies of the State and these bylaws.
- d. The Treasurer shall perform such other duties as provided for by the Trustees, these Bylaws and in the laws and regulations of the State of New Jersey.
- e. The Treasurer shall provide a fidelity bond protecting the FUND's assets in a form and amount to be determined annually by the Trustees and acceptable to the Commissioner. The Treasurer shall also be covered by Errors and Omissions insurance.

2. **Administrator**

- a. The Administrator shall be experienced in Risk Management matters and shall not be a Trustee or Fund Commissioner of the FUND.
- b. Except with prior notice to the Trustees and members, the Administrator, its employees, officers and/or directors shall not be an employee, officer or director of or have either a direct or indirect financial interest in a retained official, insurance producer as defined in N.J.A.C. 11:15-4.6(g), or servicing organization of the FUND (N.J.A.C. 11:15-4.26(b)), nor shall any retained official, insurance producer as defined in N.J.A.C. 11:15-4.6(g), or servicing agent be an employee, officer or director of or have either a direct or indirect financial interest in the administrator without first disclosing any and all such interests to the Trustees and all member school districts. (N.J.A.C. 11:15-4.26(a)).
- c. The Administrator shall have the following duties and responsibilities:
 1. The Administrator shall act as the Executive Director to carry out the policies established by the Trustees and to otherwise administer and provide for the day-to-day management of the FUND.

2. The Administrator shall advise the Trustees on Risk Management matters and shall prepare a draft Risk Management Program for consideration by the Trustees.
3. The Administrator shall maintain underwriting data and assist the FUND in the purchase group insurance purchase(s), excess insurance(s), or reinsurance(s), provided, however, that the FUND administrator shall not act in the capacity of the FUND producer with respect to the placement of the FUND's group insurance purchase(s), excess insurance(s), or reinsurance(s), unless expressly authorized to do so by the Trustees in writing.
4. The Administrator shall prepare draft bid specifications for services including but not limited to claims administration, safety engineering, and actuarial projections.
5. The Administrator shall monitor the performance of the other retained officials and service organizations retained by the FUND.
6. The Administrator shall write a draft budget for review by the Trustees.
7. The Administrator shall, on not less than a quarterly basis, provide the Trustees with a FUND status report including but not limited to the minutes of FUND meetings, a summation of FUND activity and comments on previously and newly reported claims.
8. The Administrator shall serve as the agent in New Jersey to receive service of process on behalf of the FUND.
9. The Administrator shall perform such other duties as provided for by the Fund Trustees, these Bylaws, and the laws and regulations of the State of New Jersey which shall be detailed in the Fund minutes and provided for by an amendment to the contract between the Administrator and the FUND. (N.J.A.C. 11:15-4.26(a)).
- d. The Administrator shall be bonded in a form and amount acceptable to the Commissioner. The Administrator shall also be covered by Errors and Omissions insurance.

3. **Auditor**

The Auditor shall be an independent Certified Public Accountant (CPA) or Registered Municipal Accountant (RMA) who shall hold an uncanceled registration license as a Public School Accountant for New Jersey as described under N.J.S.A. 18A:23-8 through 11, but shall not be a Trustee or Fund Commissioner of the FUND. The Auditor shall conduct at a minimum, an annual audit of the FUND according to Generally Accepted Accounting Principles and shall perform such other duties as provided for by the Trustees, these Bylaws and the laws and regulations of the State of New Jersey. The Auditor shall not serve as Treasurer/Custodian of Funds for the FUND.

4. **Attorney**

- a. The Attorney shall be admitted to the New Jersey Bar but shall not be a Trustee or Fund Commissioner of the FUND.
- b. The Attorney shall have the following responsibilities:
 1. The Attorney shall advise the Trustees on legal matters and the appropriateness of claim settlements recommended by the claims administrator.

2. Whenever there is need for the defense of a claim, the Attorney shall assign the defense to one of the attorneys or law firms approved by the Trustees and shall monitor and supervise the efforts of the designated defense attorneys.
3. The Attorney shall advise the Trustees on the selection of counsel to represent the FUND in the defense of claims. However, the Attorney or any member of the Attorney's law firm shall not defend any claim which is the responsibility of the FUND, unless specifically authorized and directed to do so by the Trustees.
4. The Attorney shall perform such other duties as provided for by the Trustees, these Bylaws, and the laws and regulations of the State of New Jersey, which duties shall be recorded in the FUND minutes and provided for by an amendment to the contract between the Attorney and the FUND.

5. **Vacancy of Retained Official**

- a. In the event of a vacancy in any one of the retained positions caused by other than the expiration of the contract, the Trustees shall by majority vote fill the vacancy for a period not-to-exceed the unexpired term of the official's contract period. In the event that any of the retained officials are incapacitated, the Trustees shall by majority vote appoint an acting official in accordance with Public Schools Contracts Law for a period not-to-exceed the remainder of the retained official's contract period.
- b. All retained officials shall be retained on a contractual basis which shall be approved by the Trustees and submitted to the Commissioner.
- c. Retained officials shall be compensated for their services pursuant to written fee guidelines submitted annually and approved by a majority of the Trustees. The written fee schedule shall be part of the official's contract.
- d. The Trustees shall notify the Department within 10 days of any determination to terminate or nonrenew any agreement with a retained official. The notification shall include a detailed statement that sets forth the manner and method by which claims handling and other obligations performed by the retained official will be provided or a statement that sets forth the reasons why the FUND's Trustees believe that the particular service is no longer necessary. (N.J.A.C. 11:15-4.26(d)).

6. **Disclosure**

- a. No retained official or servicing organization of a fund or producer appointed pursuant to N.J.A.C. 11:15-4.6(d)10, or their employees, officers or directors shall have either a direct or indirect interest in the administrator of the FUND, or be an employee, officer or director of the administrator, unless notice of such interest has been provided to the Trustees and members. (N.J.A.C. 11:15-4.26(a)).
- b. No administrator of a fund or its employees, officers or directors shall be an employee, officer or director of, or have either a direct or indirect financial interest in, a retained official who is not the administrator, or a servicing organization, or a producer appointed pursuant to N.J.A.C. 11:15-4.6(d)10, of the FUND, unless notice of such interest has been provided to the Trustees and members. (N.J.A.C. 11:15-4.26(b)).
- c. Any employee, officer or director of an administrator, servicing organization, retained official, or producer appointed pursuant to N.J.A.C. 11:15-4.6(d)10, shall disclose to the Trustees and members any direct or indirect financial interest such employee, officer or director has in any other administrator, servicing organization, retained official or insurance producer. (N.J.A.C. 11:15-4.26(f)).

ARTICLE VI

INDEMNIFICATION OF OFFICERS AND EMPLOYEES

- A. The Administrator shall provide Errors & Omissions coverage in a form satisfactory to the Trustees.
- B. The Board of Trustees shall require the Auditor, Treasurer, Fund Attorney and Defense Attorneys to produce evidence of Errors & Omissions coverage, and such other coverages as they deem advisable, as a condition of appointment.
- C. Except to the extent covered by Errors & Omissions insurance as may be required, as set forth above, the FUND shall indemnify any past, present or future Fund Commissioner, Trustee, official or employee of the FUND for claims arising from an act or omission of such Fund Commissioner, Trustee, official or employee within the scope of the performance of such individuals' duties as Fund Commissioner, Trustee, official or employee. Such indemnification shall include reasonable cost and expenses incurred in defending such claims. Nothing contained herein shall require the FUND to pay punitive damages or exemplary damages or damages arising from the commission of a crime by such an individual and the FUND shall not be required to provide for the defense or indemnification of such an individual when the act or omission which caused the injury was the result of actual fraud, actual malice, gross negligence or willful misconduct by such individual or in the event of a claim against such an individual by the State of New Jersey or if such Fund Commissioner, Trustee, official or employee is either covered, or required to be covered by Errors & Omissions liability insurance. The determination as to whether an individual's conduct falls within any of the above exceptions shall be made by a majority vote of the Trustees. Nothing herein contained is intended to shield any employee or appointed official from liability for any act, omission or wrongdoing which would not customarily be covered by Errors & Omissions insurance if same had been required of said employee or appointed official.
- D. A present, past or future Fund Commissioner, Trustee, official or employee of the FUND shall not be entitled to a defense or indemnification from the FUND unless:
 - 1. Within ten (10) calendar days of the time he or she is served with the summons, complaint, process, notice or pleading, he or she delivers the original or exact copy to the Fund attorney together with a request that the FUND provide for his or her defense.
 - 2. He or she cooperates in the preparation and presentation of the defense with the attorney selected to defend the case.
 - 3. Except in those instances where a conflict of interest exists, as determined by an attorney selected by the FUND to handle such matters, the past, present or future Fund Commissioner, Trustee, official or employee shall agree that the FUND and its counsel shall have exclusive control over the handling of the litigation.
- E. The foregoing right of indemnification shall not be exclusive of any other rights to which any Fund Commissioner, Trustee, official or employee may be entitled as a matter of law or which may be lawfully granted to him or her; and the right to indemnification hereby granted by this FUND shall be in addition to and not in restriction or limitation of any other privilege or power which the FUND may lawfully exercise with respect to the indemnification or reimbursement of a Fund Commissioner, Trustee, official or employee; except that in no event shall a Fund Commissioner, Trustee, official or employee receive compensation in excess of the full amount of a claim and reasonable costs and expense incurred in defending such claim.
- F. Expenses incurred by any Fund Commissioner, Trustee, official or employee in defending an action, suit or proceeding may be paid by the FUND in advance of final determination of

such action, suit or proceeding as authorized by the FUND in a specific case upon receipt of an undertaking by or on behalf of such member or officer to repay such amount in the event of an ultimate determination that his or her conduct was such as to fall outside the scope of coverage under this indemnification provision.

ARTICLE VII

SAFETY COMMITTEE

- A. **Membership:** Each member districts' Fund Commissioner shall appoint a district employee to serve on the FUND's Safety Committee. Each districts' Fund Commissioner shall also select an alternate, and each member and alternate on the Safety Committee shall serve at the pleasure of the appointing Fund Commissioner. The Committee may also request additional members to join the Committee.
- B. **Organization:** At the beginning of each year, the Safety Committee shall select a Chairperson, a Vice Chairperson, and a Secretary.
- C. **Duties:** The Safety Committee shall meet according to the schedule established by the Chairperson and shall have the following duties or responsibilities:
 - 1. Work with the safety engineering service organization to develop a comprehensive safety and loss control program.
 - 2. Review all accident reports and monitor accident trends and frequencies.
 - 3. Coordinate the annual safety inspections and identify locations requiring more frequent inspections.
 - 4. Conduct safety education programs.
 - 5. Review the activities of each school district's Safety Committee and notify the Trustees if any school district is not conducting an active safety program.
 - 6. Perform such other duties that are requested by the Trustees, or are provided for by State regulation and law.

ARTICLE VIII

OPERATION OF THE FUND

A. GENERAL OPERATION

- 1. The FUND shall be subject to and operate in compliance with the provisions of the "Schools Fiscal Affairs Law" (N.J.S.A. 18A:4-14 and N.J.A.C. 6:20-2.1 et seq), the "Public Schools Contracts Law" (N.J.S.A. 18A:18A1-59 et seq), and the applicable regulations of the State Investment Council governing the investment of surplus public monies of the State. (N.J.A.C. 11:15-4.4(a)).
- 2. The FUND shall be considered a local unit for purposes of the "Public Schools Contracts Law" (N.J.S.A. 18A:18A1-59 et seq) and shall be governed by the provisions of that law in the purchase of any goods, materials, supplies and service. (N.J.A.C. 11:15-4.4(c)).
- 3. The FUND shall be operated in accordance with accepted and sound actuarial practices, and any and all expenditure of monies shall be in furtherance of the FUND's purpose. (N.J.A.C. 11:15-4.6(a)10).
- 4. The FUND shall be operated with sufficient aggregate financial strength and liquidity to assure that all obligations will be promptly met. The FUND shall prepare

a financial statement on a form acceptable to the Commissioner showing the financial ability of the FUND to meet its obligations. The Trustees may, upon majority vote, request the Commissioner to order an examination of any FUND member which the Trustees, in good faith believes may be in a financial condition detrimental to other FUND members or to the public.

5. The FUND further recognizes the Commissioner's right to order an examination of the FUND pursuant to N.J.A.C. 11:15-4.25(a) and N.J.A.C. 11:15-4.6(g), any person or the business of any person pursuant to N.J.A.C. 11:15-4.6(g)1, or any of its officers, directors, and agents pursuant to N.J.A.C. 11:15-4.6(g)2. The FUND recognizes the costs for such investigations are to be borne by the FUND.
6. The FUND shall annually adopt a resolution designating a public depository or depositories for its monies. Such resolution shall also designate a person to be custodian of funds for the FUND and shall authorize the custodian to invest the temporarily free balances of any claim/trust or administrative accounts periodically as authorized by law. The custodian shall report to the Trustees at least quarterly on investment and interest income. The Custodian's report shall include all of the costs of the investment program, i.e., all commissions and fees paid to make or redeem investments, custodial fees, advisor's fees and interest income foregone through any compensating balance arrangements, etc. (N.J.A.C. 11:15-4.4(d)).

B. RISK MANAGEMENT PROGRAM (N.J.A.C. 11:15-4.6(e)(f))

1. The Trustees shall prepare or cause to be prepared a Risk Management Program for the FUND. The Program shall include, but not be limited to:
 - a. The perils of liability to be insured against.
 - b. Limits of coverage, whether self-insurance, direct insurance purchased from a commercial carrier or reinsurance.
 - c. The amount of risk to be retained by the FUND.
 - d. The amount of unpaid claims to be established.
 - e. The proposed method of assessing contributions to be paid by each member of the FUND.
 - f. Procedures governing loss adjustment and legal fees.
 - g. Coverage to be purchased from a commercial insurer, if any.
 - h. Reinsurance to be purchased, if any, and the amount of the premium therefore.
 - i. Procedures for the closure of fund years including the maintenance of all relevant accounting records.
 - j. The assumptions and methodology used for calculation of appropriate reserves required to be established, maintained and administered in accordance with sound actuarial principles pursuant to N.J.A.C. 11:15-4.6(a)10.
 - k. List the principal office of the FUND. (N.J.A.C. 11:15-4.6(c)1.
 - l. Such other items required by state law, regulation, or the Fund Trustees.
2. The Risk Management Program and all amendments thereto must be approved by the Trustees and the Commissioner before it takes effect. (N.J.A.C. 11:15-4.7).

3. Whenever the risk management program of the FUND requires the members or a member to retain a specified amount of risk, potential liability, or incurred losses, the participant shall provide for such liability, or incurred losses:
 - a. As a deductible to be charged to the operating expenses of the incurring participant; or
 - b. Through a separate item of appropriation for the loss year in its annual budget. (N.J.A.C. 11:15-4.18 - Individual loss reserve funds).

C. **SERVICING ORGANIZATIONS**

1. Disclosure
 - a. No retained official or servicing organization of a fund or producer appointed pursuant to N.J.A.C. 11:15-4.6(d)10, or their employees, officers or directors shall have either a direct or indirect financial interest in the administrator of the FUND, or be an employee, officer or director of the administrator, unless notice of such interest has been provided to the Trustees and members. (N.J.A.C. 11:15-4.26(a)).
 - b. No administrator of a fund, or its employees shall be an employee, officer or director of, or have either a direct or indirect financial interest in, a retained official who is not the administrator, or a servicing organization, or a producer appointed pursuant to N.J.A.C. 11:15-4.6(d)10, of the FUND, unless notice of such interest has been provided to the Trustees and members. (N.J.A.C. 11:15-4.26(b)).
 - c. Any employee, officer or director of an administrator, servicing organization, retained official, or producer appointed pursuant to N.J.A.C. 11:15-4.6(d)10 shall disclose to the Trustees and members any direct or indirect financial interest such employee, officer or director has in any other administrator, servicing organization, retained official or insurance producer. (N.J.A.C. 11:15-4.26(f)).
2. The FUND may contract to have services performed including but not limited to the following:
 - a. Claims Administration
 - b. Safety Consultant
 - c. Compilation of statistics and the preparation of assessments, loss and expense reports.
 - d. Preparation of reports required pursuant to P.L. 1983, c.108 or any regulations and/or rules of the New Jersey Department of Insurance.
 - e. Development of members assessments and fees.
 - f. Actuarial Services.
 - g. Other services as determined by the Trustees.
3. Each service contract providing claims adjustment and administration services shall include a clause stating “unless the Board of Trustees otherwise permits, the servicing organization shall handle to their conclusion all claims and other obligations incurred during the contract period.” (N.J.A.C. 11:15-4.26(c)).
4. A surety bond for the claims administrator, or any other servicing organization, retained official or producer appointed pursuant to N.J.A.C. 11:15-4.6(d)10 deemed necessary by the Commissioner in a form and amount acceptable to the

Commissioner, and a surety bond for any other servicing organization, retained official or producer appointed pursuant to N.J.A.C. 11:15-4.6(d)10 deemed appropriate by the Trustees in a form and amount acceptable to the Trustees is required. (N.J.A.C. 11:15-4.6(d)4).

5. The Trustees shall notify the Department within 10 days of any determination to terminate or nonrenew any agreement with a servicing organization. The notification shall include a detailed statement that sets forth the manner and method by which claims handling and other obligations performed by the servicing organization will be provided or a statement that sets forth the reasons why the FUND's Trustees believe that the particular service is no longer necessary. (N.J.A.C. 11:15-4.26(d)).

D. FINANCIAL STATEMENT AND REPORTS

1. The FUND shall provide its members with periodic reports concerning the activities and status of the FUND for the reporting period. Such reports shall be made at least quarterly and may be made more frequently at the discretion of the Trustees. In addition to the annual audit performed by the Fund Auditor, the FUND shall file with the Department, semi-annual unaudited statements within 60 days after the end of each six month period. The semi-annual report covering the six-month period ending June 30 shall include a compilation of the results reported in the semi-annual report for the period ending December 31 immediately preceding. (N.J.A.C. 11:15-4.24(b)).
2. A sworn annual report in a form prescribed by the Commissioner shall be prepared by the FUND, filed with the Department, and made available to each FUND member. The report shall include (N.J.A.C. 11:15-4.24(a)):
 - a. An annual audited statement of the financial condition of the FUND prepared by an independent certified public accountant, the Auditor and performed in accordance with generally accepted accounting principles, which shall include a statement of the organization of the FUND indicating the persons who perform each function for the FUND and the relationship and interdependency of each function, and including its balance sheet and receipts and disbursements for the preceding year, and in accordance with P.L. 1983, c.108;
 - b. Reports of outstanding liabilities by line of coverage showing the number of claims, amounts paid to date and current reserves for unpaid losses, claims and unearned assessments as certified by an Actuary;
 - c. A certification by the presiding officer of the Trustees that periodic reports were made to the FUND members in the form and manner required by N.J.A.C. 11:15-4.4(h) and N.J.A.C. 11:15-4.24(a)3;
 - d. Any material changes in information from that previously submitted. (N.J.A.C. 11:15-4.24(a)4); and,
 - e. Such other information as may be requested by the Department from the FUND. (N.J.A.C. 11:15-4.14).
3. A Treasurer's report which shall account for each Fund year and line of coverage separately, and shall allocate periodic investment earnings on a proportional basis among lines of insurance and Fund years as they relate to the whole. These reports will be further detailed on an annual basis to show the net position of each member

byline of coverage, Fund year and cumulatively over the years of each particular member's membership with the FUND. (N.J.A.C. 11:15-4.14).

E. COVERAGES

1. The FUND shall offer the following coverages to the members, which may be through a group purchase of a policy or policies or on a partially self-insured basis or on a fully self-insured basis:
 - a. Workers' Compensation and Employers' Liability. The Workers' Compensation benefits levels will equal those required by the Workers' Compensation law and other applicable statutes.
 - b. Liability other than motor vehicles.
 - c. Property Damage.
 - d. Motor Vehicle Liability.
 - e. School Board Legal (Errors & Omissions).
 - f. Other coverages permitted by law and approved by the Trustees, pursuant to N.J.S.A. 18A:18B-1 et seq. and N.J.A.C. 11:15-4.6 et seq.
2. The exact terms and conditions of coverage shall be as defined by the risk management program and any or all primary, excess or reinsurance policies purchased by the FUND or through an Excess Liability Joint Insurance Fund in which the FUND is a member and as provided by law, however, nothing can restrict the coverage for workers' compensation to less than provided in N.J.S.A. 34:15-7 et seq.

ARTICLE IX

MEETINGS AND RULES OF ORDER

A. MEETINGS

1. **Annual Organization Meeting** - as soon as possible after the beginning of the year, the Fund Commissioners shall meet to elect a Board of Trustees comprised of a Chairperson, Vice Chairperson, Secretary, and (if applicable) four (4) additional Trustees to appoint officials and conduct such other business as is necessary. The time and place for the meeting shall be established by the Chairperson, and the Secretary shall send written notice to the Fund Commissioners of member school districts at least two (2) weeks in advance.
2. **Monthly Business Meetings** - the Trustees shall establish a schedule of monthly meetings to conduct the business of the FUND. All Fund Commissioners may attend open or closed sessions of the Trustees.
3. **Special Meetings** - the chairperson or three (3) Trustees may call a special meeting by notifying the Secretary at least three (3) days in advance. The Secretary shall notify the Trustees by telephone. If the Secretary is unable to reach a Trustee or Trustees forty-eight (48) hours before the meeting, the secretary shall telephone one or more Alternate Trustees as may be required to achieve a quorum as defined by these Bylaws. The Alternate Trustees shall be called in alphabetical order.
4. **Quorum** - the quorum for a full meeting of the Trustees shall be a simple majority of the Trustees.

B. CONDUCT OF MEETINGS

1. All meetings of the FUND shall be subject to the rules and regulations of the Open Public Meetings Act.
2. Unless otherwise provided in these Bylaws, or in the laws or regulations of the State of New Jersey, "Robert's Rules of Order" shall govern the conduct of all meetings.

C. AMENDMENTS TO THE BYLAWS

1. Any Fund Commissioner may propose an amendment to the Bylaws by filing the proposed amendment in writing with the Secretary.
2. Upon receipt of a proposed amendment, the Secretary shall notify the Chairperson who shall schedule a hearing to be held not more than forty-five (45) days from the date the amendment was filed. The Secretary shall notify in writing all Trustees and Fund Commissioners of the hearing date and shall send a copy of the proposed amendment to each Fund Commissioner and Trustee.
3. The amendment is adopted by the FUND when the Boards of Education of three-fourths of the member school district approve the amendment within ninety (90) days of the hearing on the amendment. If after ninety (90) days the Secretary has not received written notice of approval from sufficient school districts, the Secretary shall notify the Trustees and Fund Commissioners that time has expired for the adoption of the amendment.
4. In the event an amendment is adopted which a member school district determines to be incompatible with its continued membership in the FUND, that member school district may initiate a voluntary withdrawal from the FUND by giving notice, within 90 days prior to its withdrawal, in accordance with the procedures established in Article IV, Section G-2. This notice shall not relieve the member district from its pro-rata responsibility for general expenses through the current budget year. If the effective date of the amendment falls within ninety [90] days of the end of the Fund year, the Trustees may approve a withdrawal under this section to be effective with the end of the Fund year, notwithstanding that less than ninety [90] days notice has been given. The FUND shall immediately notify the Department of all members that have given notice of withdrawal from the FUND. (N.J.A.C. 11:15-4.10(b)).
5. If adopted, the amendment shall not take effect until approved by the Commissioner. In accordance with the provisions of N.J.S.A. 18A:18B-7 and N.J.A.C. 11:15-4.7, if the Commissioner fails to approve or disapprove the Amendment to the bylaws within sixty [60] days following filing of the amendment to the bylaws in his/her office, the amendment shall be deemed approved.

ARTICLE X

BUDGETS

A. BUDGET PREPARATION

1. The Trustees shall annually prepare not later than the time required by law for the preparation of the budget for school districts, the proposed budget for the FUND's subsequent fiscal year which shall be reviewed by an Actuary who shall comment on its adequacy and recommend changes if appropriate. The budget shall identify the proposed items and amounts of expenditure for its operations in the aggregate and allocated by member; the anticipated amounts and sources of contributions/assessments and other income to be received during the fiscal year; and

the status of the self-insurance or loss retention trust accounts maintained by the FUND. (N.J.A.C. 11:15-4.4(e)).

2. In May of each year, the Trustees shall prepare the final budget for the upcoming fiscal year. The budget shall identify the proposed items and amounts of expenditure for its operations, the anticipated amounts and sources of assessments and other income to be received during the fiscal year and the status of the self-insurance or loss retention accounts.
3. A copy of the FUND's proposed budget or any amendments thereto shall be made available to each member of the FUND at least two weeks prior to the time scheduled for its adoption. No budget or amendment shall be adopted until a hearing has been held giving all members of the FUND the opportunity to present comments or objections. (N.J.A.C. 11:15-4.4(e)1).

B. FINAL BUDGET ADOPTION

1. Not later than June 30 of each year the Trustees shall adopt by majority vote the budget for the FUND's operation for the subsequent fiscal year. (N.J.A.C. 11:15-4.4(e)2).
2. A copy of the FUND's final budget (as changed to reflect the Actuary's report) shall be sent to each member school district at least two (2) weeks prior to the time scheduled for its adoption. No budget or amendment shall be adopted until a hearing has been held giving all member districts the opportunity to present comments or objections. (N.J.A.C. 11:15-4.4(e)1).
3. A copy of the adopted budget shall be filed with the governing body of each participating member and the Commissioner within thirty (30) days of its adoption, including a certification by an actuary that the budget is actuarially sound with respect to funding for the claim or loss retention trust accounts. (N.J.A.C. 11:15-4.4(e)3).

C. AMENDMENTS

1. An adopted budget may be amended by majority vote of the Trustees after giving the member school districts two [2] weeks advance written notice and conducting a hearing on the proposed amendment. (N.J.A.C. 11:15-4.4(e)4).
2. A copy of the adopted budget and any amendment shall be filed within thirty [30] days of its adoption with the board of education of each member school district and the Commissioner. (N.J.A.C. 11:15-4.4(e)5).
3. A copy of any amendment to the FUND budget shall be filed with the Commissioner within thirty [30] days of its adoption of any budget amendment which either singly or cumulatively with other adopted budget amendments changes the total budget five percent from the original budget or latest filed amended budget. (N.J.A.C. 11:15-4.4(e)6).

ARTICLE XI

CONTRIBUTIONS/ASSESSMENTS

A. ANNUAL CONTRIBUTION/ASSESSMENT

1. By March 15 of each year, the Actuary shall compute the probable net cost for the upcoming Fund year by line of coverage and for each prior Fund year. The Actuary shall include all budget items in these computations.
2. The annual contribution/assessment of each member school district shall be its pro-rata share of the probable net cost for the upcoming year for each line of coverage as computed by the Actuary together with the administrative and operating budget of the FUND, and shall consist of an amount allocated for the administrative account, contingency trust fund account where appropriate, plus a specific contribution/assessment to establish and/or replenish the claim or loss retention trust fund account for each type of coverage provided by the FUND and in which the member participates. (N.J.A.C. 11:15-4.15(b)).
3. The total amount of each member's annual contribution/assessment shall be certified by majority vote of the Trustees to the governing body of each member school district at least one (1) month prior to the beginning of the next fiscal year. (N.J.A.C. 11:15-4.15(c)).
4. The annual contribution/assessment shall be paid to the FUND in two (2) installments, to be paid not later than July 15 and November 15 of each Fund year as determined by the Trustees.
5. In the event the final budget passed in June necessitates changes in the annual contribution/assessment, the second installment shall be adjusted to reflect this difference.
6. The Treasurer shall deposit each member's contribution/assessment into the appropriate accounts including the administrative account, and the claim or loss retention Trust Fund account by Fund year for each type of coverage.
7. If a school district becomes a member of the FUND after the start of the Fund year, such member district's contributions/assessments and supplemental contributions/assessments shall be reduced in proportion to that part of the year which has elapsed.
8. Unless otherwise approved by the Commissioner, the annual contribution/assessment of each FUND member providing for the self-insurance of workers' compensation and employers' liability coverages shall be based upon the Experience Rating Plan provided for it in the New Jersey Workers' Compensation and Employers' Liability Insurance Manual on file with the Commissioner. The Commissioner may withdraw his or her approval of any contribution/assessment if he or she finds that such contribution/assessment is unreasonable or inadequate for the members of the joint insurance fund to which it applies. In taking any action under this section, the Commissioner may require that the Trustees, administrator, retained official, any servicing organization or agent of the joint insurance fund provide such information as he or she deems necessary. (N.J.A.C. 11:15-4.15(d)).

B. SUPPLEMENTAL CONTRIBUTIONS/ASSESSMENTS

1. The Trustees shall by majority vote levy upon the member school districts' additional contributions/assessments wherever needed or so ordered by the Trustees or the Commissioner of Insurance to supplement the FUND's claim, loss retention or administrative accounts to assure the payment of the FUND's obligations, including payment of benefits under the workers' compensation law. (N.J.A.C. 11:15-4.16(a)).
 - a. All supplemental contributions/assessments shall be charged to the member school district by applicable Fund year, and shall be apportioned by each

district's proportional share of loss funds as they relate to the total loss funds. (N.J.A.C. 11:15-4.16(a)1).

- b. All school districts shall be given thirty (30) days advance written notice of the FUND's intention to charge an additional contribution/assessment, and the FUND shall conduct a hearing before adopting the supplemental contribution/assessment.
 - c. School Districts shall have thirty (30) days to pay the FUND from the date any supplemental assessment is adopted.
 - d. School districts shall provide such additional contributions/assessments in accordance with the provisions of N.J.S.A. 18A:22-1 et seq., any other applicable law, and N.J.A.C. 11:15-4.16. (N.J.A.C. 11:15-4.16(c)).
2. The FUND shall submit to the Commissioner a report of the causes of the FUND's insufficiency, if any, the assessments necessary to replenish it and the steps taken to prevent a reoccurrence of such circumstances.

C. FAILURE OR REFUSAL TO PROVIDE REQUIRED CONTRIBUTIONS/ASSESSMENTS

Should any member fail or refuse to pay its contributions/assessments or supplemental contributions/assessments, or should the FUND fail to assess funds required to meet its obligations, the chairperson or in the event of his or her failure to do so, the custodian of the FUND's assets, shall notify the Commissioner in writing. Upon such notification, the Commissioner shall order the FUND or member to take such remediation action as he or she deems necessary. Past due contributions/assessments shall bear interest at the rate of interest to be established annually by the Trustees. (N.J.A.C. 11:15-4.17).

D. INSOLVENCY AND/OR BANKRUPTCY OF FUND MEMBERS

The insolvency or bankruptcy of a member does not relieve the FUND, or any other member, of joint and several liability for the payment of any claim incurred by the member during the period of its membership, including, but not limited to, being subject to and liable for supplemental assessments. (N.J.A.C. 11:15-4.11).

ARTICLE XII

REFUNDS OF SURPLUS

- A. Any monies for a Fund year in excess of the amount necessary to fund all obligations for that fiscal year as certified by an Actuary may be declared to be refundable by the FUND no less than twenty-four (24) months after the end of the fiscal year. (N.J.A.C. 11:15-4.21(a)).
- B. The FUND may seek approval from the Commissioner to make refund payments from a claims or loss retention FUND account remaining from any year which has been completed at least 24 months by submitting a written notification to the Department with accompanying documentation as set forth in this subsection, at least 30 days prior to the proposed refund. If the Commissioner does not disapprove, in writing, the request to make the refund within the 30 day period, the request shall be deemed approved. The Commissioner may also affirmatively approve the request prior to the expiration of the 30 day period. The written notification shall be accompanied by appropriate documentation including, but not limited to, contribution/assessment, claims, and expense detail; actuarial certification that the loss and loss expense and such other information that the Commissioner may require. The initial and any subsequent refunds from Claim or Loss Retention Trust Account may be in any

amount subject to the limitation that after the refund, the remaining net current surplus in the account from which the refund is made must equal or exceed the surplus retention requirement to be calculated as follows (N.J.A.C. 11:15-4.21(b)):

1. Fund year paid losses shall be multiplied by the appropriate paid loss factor for the line of coverage and duration of maturity set forth in the current exhibit for the purpose in N.J.A.C. 11:15-4.21(b)1.
 2. Fund year unpaid claim reserves, excluding reserves for incurred but not reported claims, shall be multiplied by the appropriate unpaid claim factor for the line of coverage and duration of maturity set forth in the current exhibit for the purpose in N.J.A.C. 11:15-4.31. Unpaid claim reserves, excluding incurred but not reported claims, shall be established at full value and not discounted. (N.J.A.C. 11:15-4.21(b)2).
 3. The greater of the results from the calculation set forth in B.1. and 2. above shall then be reduced by the amount of outstanding losses reported, including incurred but not reported claims, as certified by an actuary. The result of this calculation, but not less than zero, shall be the surplus retention requirement for that Fund year. (N.J.A.C. 11:15-4.21(b)3).
- C. Subsequent refunds may be made at the discretion of the Trustees following the initial refund provided that a full and final refund of net current surplus will not be allowed until all case reserves and all unpaid claims reserves are closed. (N.J.A.C. 11:15-4.21(c)).
- D. A refund for any fiscal year shall be paid only in proportion to the member's participation in the fund for such year. Payment of a refund on a previous year shall not be contingent on the member's continued membership in the FUND after that year. (N.J.A.C. 11:15-4.21(d)).
- E. At the option of the member the refund may be retained by the FUND and applied towards the member's next annual assessment. (N.J.A.C. 11:15-4.21(e)).
- F. The FUND may seek approval from the Commissioner to make interyear fund transfers from a claims or loss retention trust account from any year not sooner than 24 months after the end of that year by submitting a written notification to the Department with appropriate documentation as set forth in B. above at least 30 days prior to the proposed transfer. If the Commissioner does not disapprove, in writing, the request to make the refund within the 30 day period, the request shall be deemed approved. The Commissioner may also affirmatively approve the request prior to the expiration of the 30 day period. The interyear fund transfer may be in any amount subject to the limitation that after the transfer, the remaining net current surplus in the account from which the transfer is made must equal or exceed the surplus retention requirement determined pursuant to B. above for that account for the fiscal year. The membership for each fiscal year involving interyear fund transfers must be identical between fiscal years. The Commissioner shall waive the identical membership requirement provided the FUND demonstrates to the Department that it maintains records of each member's pro rata share of each claim or loss retention fund account, and that the transfer shall be made so that any potential dividend shall not be reduced for a member that did not participate in the year receiving the transfer. (N.J.A.C. 11:15-4.21(f)).

ARTICLE XIII

EXCESS INSURANCE and/or REINSURANCE and AGGREGATE EXCESS INSURANCE

A. GENERAL

1. In order to minimize the financial risk which catastrophic claims present to the members, the FUND seeks to secure protection against claims that cost more than the members are able or willing to bear. This is done through the analysis of loss patterns by an actuary to determine how much money would be needed to safely finance various self-insured retentions. Once completed, the FUND then seeks to cede the financial risk of loss above its retention/s to a commercial insurer through the purchase of specific or single occurrence/accident excess or reinsurance policies. Secondly, because the members also bear the risk of accumulated losses adding up to more than they had set aside in loss funds within their retention/s, the FUND also seeks to cede this risk to a commercial insurer or reinsurer through the purchase of aggregate excess or stop loss insurance.
2. The policies of excess insurance and/or reinsurance issued to the FUND shall provide single accident (single occurrence) excess insurance and/or reinsurance, and aggregate excess insurance and/or reinsurance, in accordance with this Article XIII and N.J.A.C. 11:15-4.23(b). All such insurances purchased by the FUND shall be recorded on certificates of excess insurance and/or reinsurance which will show policy limits, specific and aggregate retentions, and other information, and shall be made available to the members and filed with the Commissioner. (N.J.A.C. 11:15-4.23(c)). Losses in excess of the established self-insurance retention/s, on either specific excess or aggregate excess insurance policies, shall be borne by the excess carrier/s according to the terms and conditions of the excess contract/s. (N.J.A.C. 11:15-4.23(d)). Any proposed change in the terms or limits of excess insurance and/or reinsurance shall be submitted to the Department for approval at least 30 days prior to the effective date of the proposed change. (N.J.A.C. 11:15-4.23(e)).

B. SPECIFIC EXCESS

1. Consistent with N.J.A.C. 11:15-4.6(a)6, the FUND shall secure specific excess insurance or reinsurance in a form, in an amount and by an insurer, or other entity authorized to provide such coverage in the State pursuant to law, acceptable to the Commissioner, if commercially available and not unreasonably priced, as determined by the Trustees for each Fund year, and as approved by the Department, for each line of coverage in which the FUND provides primary or underlying coverage on a self-insured or commercially insured basis. (N.J.A.C. 11:15-4.23(a)).
2. Any approval by the Department pursuant to (A) above not to purchase excess insurance or reinsurance, shall be for a period not to exceed either the longer of 12 months from the date of approval or the end of the current joint insurance fund year. If the FUND seeks to extend the period of the approval, it shall notify the Department not later than 45 days prior to the expiration of the approval. The notification shall specify the basis upon which the Trustees determined that excess insurance or reinsurance required pursuant to (A) above is not commercially available or is not reasonably priced, and shall include all actions taken by the FUND to obtain required excess insurance or reinsurance. (N.J.A.C. 11:15-4.23(a)1).
3. If the FUND's limit of liability as set forth in its risk management program is equal to or less than its single occurrence/accident self-insured retention as approved by the Department, then it may not purchase specific excess insurance. (N.J.A.C. 11:15-4.23(f)1).

C. AGGREGATE EXCESS

1. **Commercial Aggregate Excess** - The FUND shall maintain a minimum cap for aggregate excess insurance in the appropriate amount depending upon the specific per occurrence/per accident retention and the size of the FUND's cumulated budgeted losses as determined in accordance with the current N.J.A.C. 11:15-4.31 Aggregate Excess Criteria Schedule - Maximum Attachment Point. To the extent that the FUND has different specific per occurrence/accident retentions for different lines, the FUND shall use the highest specific occurrence/accident retention it has in determining the aggregate excess funding needed. Additionally, if the FUND's highest specific occurrence/accident retention is not shown on the current N.J.A.C. 11:15-4.31 Aggregate Excess Criteria Schedule - Maximum Attachment Point, then the FUND shall use the next highest applicable specific per occurrence retention set forth in the N.J.A.C. 11:15-4.31 Aggregate Excess Criteria Schedule - Maximum Attachment Point. (N.J.A.C. 11:15-4.23(b)1).

The FUND's aggregate self-insured retention for any individual FUND year shall be no greater than 125 percent of its budgeted losses. (N.J.A.C. 11:15-4.23(b)2).

2. **Aggregate Excess Loss Contingency Fund** - In lieu of maintaining aggregate excess insurance as provided above, the FUND may establish and provide for the funding of an aggregate excess loss contingency fund. The FUND shall make annual contributions to the loss contingency fund, the amount of which shall be based on the FUND's cumulated budgeted losses and specific per occurrence/accident retention, and determined in accordance with the current N.J.A.C. 11:15-4.31 Aggregate Excess Criteria Schedule - Aggregate Excess Loss Contingency Fund As A Percentage Of Budgeted Losses. The required contribution for a FUND year shall be the current year's budgeted losses,

multiplied by the appropriate factor in the current N.J.A.C. 11:15-4.31 Aggregate Excess Criteria Schedule - Aggregate Excess Loss Contingency Fund As A Percentage Of Budgeted Losses. To the extent the FUND has different specific per occurrence/accident retentions for different lines, the FUND shall utilize the highest specific occurrence/accident retention. To the extent the specific occurrence/accident retention is not specified in the current N.J.A.C. 11:15-4.31 Aggregate Excess Criteria Schedule - Aggregate Excess Loss Contingency Fund As A Percentage Of Budgeted Losses, the FUND shall interpolate the appropriate percentage from the percentages indicated. For any FUND year, the loss contingency fund shall include the required annual contribution for the current FUND year and for the FUND year immediately preceding. Such contingency fund may be utilized solely for the replenishment of a claim or loss retention FUND account in excess of losses for a FUND year. The FUND shall notify the Department within 30 days of the transfer of monies from the aggregate excess loss contingency fund to a claim or loss retention account. Annual contributions for the second preceding FUND year, and FUND years prior to the second preceding FUND year, which have not been utilized to replenish a claim or loss retention FUND account, may be released without restriction. The FUND, however, shall notify the Department in writing within 30 days any release or prior contributions. (N.J.A.C. 11:15-4.23(f)2).

3. **COMBINED AGGREGATE EXCESS**

- a. **Full Commercial Coverage and Funded Aggregate** - The FUND may obtain aggregate excess insurance from a commercial excess or reinsurer in accordance with item 1. above for some lines of coverage for a particular FUND year. For lines of coverage not covered by commercial excess or reinsurer, the FUND shall provide a loss contingency fund pursuant to item 2. above. For purposes of determining the annual contribution, the FUND shall utilize its cumulated budgeted losses for all lines to determine the appropriate factor in the current N.J.A.C. 11:15-4.31 Aggregate Excess Criteria Schedule - Aggregate Excess Loss Contingency Fund As A Percentage Of Budgeted Losses, and multiply that factor by the budgeted losses only for those lines of coverage for which the loss contingency fund is established. (N.J.A.C. 11:15-4.23(f)3).
- b. **Partial Commercial Coverage and Funded Aggregate** - If the FUND seeks to purchase aggregate excess insurance and/or reinsurance, but such coverage is only available at a retention greater than 125 percent, the FUND shall establish a modified loss contingency fund at an amount determined as follows (N.J.A.C. 11:15-4.23(f)4):
 1. 125 percent shall be subtracted from the attachment point of the aggregate excess insurance and/or reinsurance purchased (N.J.A.C. 11:15-4.23(f)4.i);
 2. 125 percent shall be subtracted from the minimum reinsurance cap required for the FUND determined by the current N.J.A.C. 11:15-4.31 Aggregate Excess Criteria Schedule - Aggregate Excess Loss Contingency Fund (N.J.A.C. 11:15-4.23(f)4.ii);
 3. The dollar amount of a loss contingency fund, as if established pursuant to Article XIII, B, 2 above, shall be multiplied by 125 percent; and (N.J.A.C. 11:15-4.23(f)4.iii);

4. The amount of the loss contingency fund required shall be equal to the amount obtained by multiplying the result in b, 3 above, by the result in b.1 above, and dividing that result by the result in b,2 above. In no event shall the modified loss contingency fund required by this section Article XIII, B, 3, b, above, be required to be greater than that required to be established pursuant to Article XIII, B, 1 and Article XIII, B, 2 above. (N.J.A.C. 11:15-4.23(f)4.iv).

D. SECTION DEFINITIONS AND CONDITIONS

1. **“Budgeted losses”** - means the amount established in the FUND’s budget for losses anticipated for a particular FUND year, as annually certified by an actuary. (N.J.A.C. 11:15-4.23(g)1).
2. **“Cumulated budgeted losses”** - means the FUND’s budgeted losses for the current FUND year plus the four FUND years immediately preceding. (N.J.A.C. 11:15-4.23(g)2).
3. The FUND shall meet the obligations of this Article XIII by July 1, 1997. (N.J.A.C. 11:15-4.23(h)).
4. Nothing shall prohibit the FUND from establishing an aggregate excess insurance cap or a loss contingency fund, as applicable, in amounts greater than that required in Section 11:15-4.23 of the New Jersey Administrative Code. (N.J.A.C. 11:15-4.23(i)).

ARTICLE XIV

TRUST FUND ACCOUNTS, INVESTMENTS AND DISBURSEMENTS

A. ESTABLISHMENT OF TRUST FUND ACCOUNTS

1. By resolution of the Trustees, the FUND shall designate a public depository or depositories for its monies from a list approved by the State of New Jersey. Such resolution shall also designate a person to be custodian of funds for the FUND, who shall be the treasurer of the FUND, and shall authorize the custodian to invest the temporarily free balances of any claim/trust or administrative accounts periodically as authorized by law. The custodian shall report to the Trustees at least quarterly on investment and interest income. (N.J.A.C. 11:15-4.4(d)).
2. The FUND shall establish a separate Trust Fund Account from which monies shall be disbursed solely for the payment of claims, allocated claim expenses and excess insurance premiums for each line of coverage by Fund year. Such accounts shall be designated as Claims or Loss Retention Fund Accounts.
3. Other than for claims, allocated claims, allocated claims expenses, or excess insurance premiums, no transfers or withdrawals may be made from a claim or loss retention account without the prior written approval of the Commissioner, except for intertrust fund transfers. Intertrust fund transfers, within an individual fund fiscal year, may be conducted by the FUND at any time, by providing 30 days prior written notification to the Commissioner. If the Commissioner does not disapprove of the transfer, in writing, within 30 days after receiving such written notification, the request for intertrust fund transfer(s) shall be deemed approved. Any intertrust fund transfer request must be supported by appropriate assessment and claim and expense documentation, and be accompanied by a certification signed by an actuary that the

amount remaining in the trust fund account after the intertrust fund transfer will be at a level which is reasonable in relation to that account's unpaid losses, along with all documentation in support of such certification. Intertrust fund transfers may be conducted only where each member participates in each and every claim or loss retention fund account during that fund year. (N.J.A.C. 11:15-4.13(a)1).

4. The FUND shall also establish an administrative account which shall be utilized for payment of the FUND's general operating expenses, purchases of commercial insurances on behalf of the members in which the FUND has no retention, loss prevention activities, data processing services, and general legal expenses. (N.J.A.C. 11:15-4.14).
5. The FUND shall maintain a general ledger and accounting system which allows all expenses incurred and paid, and investment earnings accrued and received, to be allocated by line of coverage and fund year. The system will also allow for the appropriate allocation of surplus or deficit share by member and fund year. (N.J.A.C. 11:15-4.13(a)1 and 4.14).

B. INVESTMENTS

1. The free balance of any account maintained by the FUND, whether for claim or loss retention, administrative, or contingency, shall be invested to obtain the maximum interest return practicable. All investments shall be made in accordance with the FUND's Cash Management Plan and consistent with the statutes and regulations of the State Investment Council governing the investment of surplus public monies of the State or otherwise transferred to the Director of the Division of Investment pursuant to N.J.S.A. 18A:18B-4b. (N.J.A.C. 11:15-4.20(a)).
2. The investment and interest income earned by the investment of the assets of each claim or loss retention account shall be allocated to each such account by fund year. (N.J.A.C. 11:15-4.20(b)).
3. The investment and interest income earned by investment of the assets of the administrative account shall be credited to that account. (N.J.A.C. 11:15-4.20(c)).

C. DISBURSEMENTS

1. Prior to any commitment or agreement requiring the expenditure of funds by the FUND, the custodian of the FUND's assets shall certify the availability of sufficient unencumbered funds in the account to fully pay all charges or commitments to be accepted. (N.J.A.C. 11:15-4.19).
2. All disbursements, payments of claims settlements or other expenditure of funds of the FUND whether for administrative expenses or for claims purposes must be approved by a majority vote of the Trustees, unless approved pursuant to 3 below. (N.J.A.C. 11:15-4.22(a)).
3. To allow the expeditious resolution of certain claims, the Trustees may designate the FUND's administrator or servicing organization as a "certifying and approving officer." The certifying and approving officer may be authorized by the Trustees to approve for payment of any or specified types of claims in an amount not to exceed an amount approved by the Commissioner in the risk management program. The authority of the certifying and approving officer may be conditioned or restricted by the Trustees to require prior consultation, limitation as to the types or total amount of claims or payments which may be approved, or such other procedures or restrictions

as the Trustees may deem appropriate. The authority of the certifying and approving officer may be revoked or modified at any time by the Trustees. (N.J.A.C. 11:15-4.22(b)).

- a.. Upon approval, the certifying and approving officer shall certify the amount and particulars of such approved claims to the official having custody of the FUND's assets, who shall be the treasurer, directing that a check for payment be prepared. (N.J.A.C. 11:15-4.22(b)1).
 - b. The certifying and approving officer shall prepare a report of all claims approved by him or her since the last such report, detailing the nature and the amount of the claim, the payee, the reasons supporting payment and any other pertinent information. This report shall be submitted to the Trustees at their next scheduled meeting. In the event a claim approved and paid by the certifying and approving officer is not approved by the Trustees, they shall direct appropriate action to be taken. (N.J.A.C. 11:15-4.22(b)2).
4. All requests for payments must be accompanied by a detailed bill of items or demand, specifying particularly how the bill or demand is made up, with the certification of the party claiming payment that it is correct, and shall be certified by an officer or duly designated agent or employee of the FUND having knowledge of the facts that the goods have been received by, or the services rendered to the FUND. In the case of claims or losses to be charged against any loss fund, the FUND's Claims Administrator, if there be one, shall certify as to the correctness and validity of the claim. (N.J.A.C. 11:15-4.22(c)).
 5. All claims shall be paid by check. The checks shall be signed by two persons designated by the Trustees. Payment of claims may be made in such other manner as provided in the FUND's bylaws as approved by the Commissioner. (N.J.A.C. 11:15-4.22(d)).
 6. All claims or other disbursements approved for payment by the Trustees or certifying and approving officer shall be recorded in a claims register and general ledger maintained by the custodian of the FUND's assets. (N.J.A.C. 11:15-4.22(e)).

ARTICLE XV

CONFLICT OF INTEREST

All school officials and members of their families shall comply with N.J.S.A. 18A:12-21 et seq. (the "School Ethics Act"), and any other applicable law governing the conduct of members, officers or employees of the school districts. (N.J.A.C. 11:15-4.27).

- A. No official or employee of a member school district, of any member(s) of the family of such officials or employees, or any businesses in which such officials, employees or family members have a beneficial interest shall seek to obtain or participate in any contract to be entered into by the FUND for administration, loss control, investment or depository services, insurance coverage or any other service, commodity or material without first fully disclosing in writing the nature and extent of such interest, financial or otherwise, to the Joint Insurance Fund Trustees. It shall be the responsibility of the Trustees to determine if the interest so disclosed is such as to constitute an actual or potential conflict of such degree as to impair the ability of the officer, employee, family member or business from fully and impartially performing the duties required by the FUND. If so, the officer, employee, family member or

business shall be prohibited from entering into such contract until the cause of such conflict is removed.

- B. Any contract entered into between the FUND and any individual, firm, corporation or agency which fails to disclose an actual or potential conflict situation shall be void.
- C. There shall be no collusion or evidence or appearance of collusion between any official or employee of the members or employees of the FUND and any official or employee of any contractor, vendor, insurance company, bank, consultant, brokerage firm or any other profit making or nonprofit firm attempting to solicit a contract with the FUND or awarded a contract by the FUND.

ARTICLE XVI

VOLUNTARY DISSOLUTION OF THE FUND

- A. If the Trustees deem it in the best interest of the members to dissolve the FUND they shall, by majority vote, direct that a written plan of dissolution be prepared.
- B. The plan of dissolution must provide for the payment of all unpaid losses of the FUND and its members, including all incurred but not reported losses, as certified by an Actuary, before any assets of the FUND or the trust fund accounts may be used for any other purpose. (N.J.A.C. 11:15-4.12(a)2).
- C. The plan of dissolution shall contain a statement of the FUND's current financial condition computed both on a statutory basis and according to generally accepted accounting principles as attested to by an independent certified public accountant. (N.J.A.C. 11:15-4.12(a)3).
- D. Upon completion of the plan, the chairperson shall call a general meeting of all Fund Trustees who shall review the plan and make any appropriate amendments. By majority vote, the Trustees may recommend that the FUND be dissolved in accordance with the plan of dissolution.
- E. The plan of dissolution and other such information as may be required, must be filed with and approved in writing by the Commissioner before the dissolution of the FUND is effective. The plan of dissolution shall be filed with the Commissioner not later than 90 days prior to the proposed effective date of dissolution. (N.J.A.C. 11:15-4.12(a)4).
- F. The FUND may not voluntarily dissolve or cease to do business and distribute its assets to its members, unless and until it satisfies the above requirements. (N.J.A.C. 11:15-4.12(a)).

ARTICLE XVII

CLAIMS HANDLING PROCEDURE

A. REGISTRATION OF CLAIMS

Upon receipt of initial notice of claim, whether by service of process, notice of claim, petition or otherwise, the Claims Administrator shall cause each claim to be numbered, and to be included on a monthly report to the Trustees. The monthly report shall set forth the name of the claimant, the nature of the claim, the type of insurance coverage claimed against and, to the extent known, an approximate estimate of the magnitude of the potential loss.

B. CLAIMS RESPONSE

Upon receipt of the initial notice of claim described above, the involved member district shall immediately forward the notice of claim and any other information available to the claims service agency and, where appropriate, to the FUND's defense attorneys for initial contact, investigation, court action or other appropriate response.

C. CLAIMS ACKNOWLEDGMENT AND INITIAL EVALUATION

Upon receipt of an assignment of claim handling, the Claims Administrator and, where appropriate, the defense attorneys shall acknowledge receipt of the claim and within thirty (30) days of receipt, submit a report indicating their initial assessment of the merits and exposure represented by the claim and a summary of the actions taken to date in response to said claim.

D. PERIODIC REVIEW OF CLAIM STATUS

Each claim shall be reviewed at intervals of not greater than ninety (90) days as to their status. In particular, the Trustees shall determine whether the investigation and defense of the claim is adequate, and the adequacy of the reserves posted for the claim.

E. NOTICE OF SETTLED CLAIMS

Where permitted by the Bylaws, and settlements have been concluded without action of the Trustees, a complete report thereof as provided by the Bylaws shall be furnished to the Trustees.

F. NOTICE OF INTENDED SETTLEMENT

Whenever an investigation discloses that the prompt, fair and equitable settlement of a claim is appropriate and possible, the claims service agency shall submit to the administrator for review at a meeting of the Trustees a notice of recommended settlement. This notice shall be on forms approved by the Trustees and shall set forth identifying information concerning the claims recommendations, the legal liability of the FUND, a summary of investigative work concerning the merits of the claim and the reasons underlying the recommended settlement.

G. APPROVAL OF PAYMENTS AND SETTLEMENTS

Whenever the FUND shall make any payment or settlement of any claim, a notation thereof identifying the claim, the amount paid and the reasons underlying the payment shall be approved by the Trustees and entered upon a ledger of claims paid.

ARTICLE XVIII

COMPLAINT HANDLING PROCEDURE

- A. Whenever any interested party shall submit a complaint in writing to the FUND, the Fund Administrator, or any member of the FUND, a copy thereof shall be forthwith communicated to the Trustees for consideration at its next regularly scheduled meeting.
- B. At said meeting, the Trustees shall consider the complaint, and by recorded vote take such action as might be appropriate.
- C. The complaining party, and the Trustee or Fund Commissioner from the member district wherein the complaining party resides (if the complaining party is a resident of a member school district) as well as the Commissioner (upon request) shall receive written notice of the Trustees' findings. The written notice to the complaining party, may where appropriate, include an opportunity for the complaining party to have a hearing concerning their complaint before the full Trustees.

- D. The FUND shall keep a separate record of all complaints received and the disposition of same.
- E. If the complaining party is dissatisfied with the Fund Commissioners and/or Board of Trustees' decision, the complaining party may appeal this determination to the American Arbitration Association for binding arbitration.

ARTICLE XIX

OTHER CONDITIONS

A. INSPECTION AND AUDIT

The FUND shall be permitted but not obligated to inspect, at any reasonable time, the workplaces and operations of each member district covered by this Agreement. Neither the right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of or for the benefit of the member district or others to determine or warrant that such workplaces, operations, are safe or healthful, or are in compliance with any law, rule or regulation.

The FUND shall be permitted to examine and audit the member district's payroll records, general ledger, disbursements, vouchers, contracts, tax reports and all other books, documents and records at any reasonable time as far as they show or tend to show or verify the amount of remuneration or other premium basis, or relate to the subject matter of this Agreement.

B. NOTICE OF INJURY

When an injury occurs, written notice shall be given by or on behalf of the member district to the FUND or any of its authorized agents as soon as practicable. Such notice shall contain particulars sufficient to identify the member district and also reasonably obtainable information respecting the time, place and circumstances of the injury, the names and addresses of the injured and of available witnesses.

C. NOTICE OF CLAIM OR SUIT

If claim is made or formal petition or a suit or other proceedings is brought against the member district, the member district shall immediately forward to the FUND every demand, notice, summons or other process received by him or his representative.

D. ASSISTANCE AND COOPERATION OF THE MEMBER DISTRICT

The member district shall cooperate with the FUND, and upon the FUND's request shall attend hearings and trials and shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits or proceedings. The member district shall not, except at its own cost, voluntarily make any payment, assume any obligation or incur any expense other than for such immediate medical and other services at the time of injury as are required by the Workers' Compensation Law.

E. ACTION AGAINST FUND

No action shall lie against the FUND unless, as a condition precedent thereto, the member district shall have fully complied with all the terms of this Agreement, not until the amount of the member district's obligation to pay shall have been finally determined either by judgment against the member district after actual trial or by written agreement of the member district, the claimant and the FUND. Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter

be entitled to recover under this Agreement to the extent of the protection afforded by this Agreement. Nothing contained in this Agreement shall give any person or organization any right to join the FUND as a codefendant in any action against the member district to determine the member district's liability.

F. SUBROGATION

In the event of any payment under the Agreement, the FUND shall be surrogated to all rights of recovery therefore of the member district and any person entitled to the benefits of this Agreement against any person or organization and the member district shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The member district shall do nothing after loss to prejudice such rights.

G. CONFORMANCE WITH STATUTE

In the event any portion of these Bylaws conflict with any statute or administrative regulation covering Joint Insurance Funds established under the authority of N.J.S.A. 18A:18B-1 et seq. and N.J.A.C. 11:15-4.6 et seq., the provision of any such statute or regulation shall control to the extent it conflicts.

ARTICLE XX

OWNERSHIP AND MAINTENANCE OF RECORDS

A. GENERAL RECORDS

All books, records, files, documents and equipment of the FUND are the property of the FUND and, except as provided in N.J.A.C. 11:15-4.22(e) and Article V, D.1. of these bylaws, shall be retained by the FUND administrator or FUND secretary, if any, at the discretion of the Trustees. (N.J.A.C. 11:15-4.4(f)).

B. CLAIM AND FINANCIAL RECORDS

All claims information for a particular FUND year and all financial information shall be retained for a period not less than the longer of either (N.J.A.C. 11:15-4.4(f)1):

1. For financial information, seven years from the date of their creation; for claims information, seven years after all claims for that year have been fully paid; or (N.J.A.C. 11:15-4.4(f)1i)
2. Until the completion and filing of the next financial condition examination of the FUND by the Commissioner. (N.J.A.C. 11:15-4.4(f)1ii).

C. MEETING MINUTES

The FUND shall maintain written minutes of its meetings and shall file such approved, ratified and adopted minutes with the Commissioner within 30 days after such minutes have been approved, ratified and adopted. (N.J.A.C. 11:15-4.4(g)).

D. QUARTERLY REPORTING

The FUND shall deliver reports to its members covering the activities and status of the FUND at each meeting which shall be at least quarterly. Such reports will contain the current financial status of the FUND, minutes of the last meeting, the FUND administrator's report, the treasurer's report, claim administrator's report, any other

service provider's report if tendered, and any other information the Trustees deem appropriate. The FUND will file all minutes with the Commissioner as stated above and will provide any other information the Commissioner may request. (N.J.A.C. 11:15-4.4(h)).

E. RECORD SURRENDER

All officers, employees and agents of the FUND, including the administrator, retained officials and servicing organizations of the FUND, on the final day of their contract or employment shall surrender and deliver to their successors all accounts, funds, property, records, books and any other material relating to their contract or employment. (N.J.A.C. 11:15-4.4(i)).

ARTICLE XXI

EXAMINATION OF THE FUND

A. POWER TO EXAMINE

1. The Commissioner may, at the time of the filing of the bylaws and risk management program and whenever thereafter he deems it expedient, but at a minimum not less frequently than once every five years, make or cause to be made, an examination of the assets and liabilities, financial condition, method of conducting business and all other affairs of the FUND. For the purpose of the examination, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals or specialists as examiners, or may request the Trustees to authorize and employ such person or persons to conduct the same or assist therein as he or she deems advisable. The reasonable expenses of the examination shall be fixed and determined by the Commissioner, and such expenses shall be paid by the FUND to the appropriate entity or person upon presentation of a detailed account. (N.J.A.C. 11:15-4.6(g)).
2. In addition to an examination as described above, the Commissioner may conduct an examination of the FUND as he or she deems necessary, or at any time the Commissioner has reasonable cause to believe the FUND may be insolvent or in a financial condition detrimental to its members or the public. It shall be the duty of the FUND members, trustees and administrator to notify the Commissioner of any information indicating that the FUND may be in a financial condition detrimental to the FUND's members or the public. (N.J.A.C. 11:15-4.25(a)).
3. The members or trustees may, upon majority vote, request that the Commissioner order an examination of any fund member which the Trustees in good faith believe may be in a financial condition detrimental to other members or to the public. (N.J.A.C. 11:15-4.25(b)).
4. Any examination made pursuant to N.J.S.A. 18A:18B-7 and N.J.A.C. 11:15-4.25 and this article shall be conducted in accordance with the procedures set forth in N.J.A.C. 11:15-4.6(g), which are also recorded below. (N.J.A.C. 11:15-4.25(c)).

B. EXAMINATION PROCEDURES

1. For the purposes of completing an examination of the FUND pursuant to N.J.S.A. 18A:18B-7 and this article, the Commissioner may examine or investigate any person, or the business of any person, insofar as such examination or investigation is, in the sole discretion of the Commissioner, necessary or material to the examination of the FUND. (N.J.A.C. 11:15-4.6(g)1).
2. The FUND or person from whom information is sought, including its officers, directors and agents, shall provide the Commissioner or other person appointed as examiner pursuant to this article, timely, convenient, and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the FUND. (N.J.A.C. 11:15-4.6(g)2).
3. The administrator, retained official(s), servicing organization(s), and their officers, directors, employees and agents, or other person, shall facilitate the examination and aid in the examination so far as it is in their power to do so. The Commissioner may, in accordance with the procedures set forth in N.J.A.C. 11:15-4.8 (“Revocation of approval”), suspend or terminate the authority of the FUND, if the FUND, by its administrator, retained officials, servicing organizations, or officers, directors, employees, or agents thereof, refuses to submit to an examination or to comply with any reasonable request of the examiners. (N.J.A.C. 11:15-4.6(g)3).
4. The Commissioner shall be given prior written notice of any proposed suspension, revocation of authority, cease and desist order, or other enforcement action to the Trustees or member as the case may be, or to any person to whom the proposed enforcement action applies specifically. Such notice shall be served personally or by certified or registered mail upon all interested parties, shall set forth the grounds for the proposed enforcement action, and shall inform the interested party of its right to request a hearing on the proposed enforcement action. (N.J.A.C. 11:15-4.28(a)).
5. The interested party shall have 20 days from the mailing of the notice to request a hearing on the proposed enforcement action. Such a hearing shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and Uniform Administrative Procedure Rules, N.J.A.C. 1:1. Failure to mail a request for a hearing within the time prescribed shall result in the suspension, revocation, monetary penalty or cease and desist order becoming effective 30 days from issuance of the original notice. In no event shall any revocation become effective prior to the date that a hearing is scheduled. (N.J.A.C. 11:15-4.28(b)).
6. After notice and opportunity for a hearing, as provided in N.J.A.C. 11:15-4.28, the Commissioner may issue an order revoking or suspending the FUND’s authority or requiring a person or the FUND to cease and desist from engaging in an act or practice found to be in violation of any provision of either N.J.S.A. 18A:18B-1 et seq. or N.J.A.C. 11:15-4.6 et seq. (N.J.A.C. 11:15-4.29(a)).
7. Upon a finding, after notice and opportunity for a hearing, as provided in N.J.A.C. 11:15-4.28, that the FUND has violated any cease and desist order, the Commissioner may revoke his or her approval of the FUND. (N.J.A.C. 11:15-4.29(b)).

8. Upon a finding, after notice and opportunity for a hearing, as provided in N.J.A.C. 11:15-4.28, the Commissioner may issue an order requiring the Trustees to dismiss an administrator, retained official or servicing organization or terminate the contract of an administrator, retained official or servicing organization because of any fraud, material misrepresentation, incompetence or untrustworthiness, misappropriation or conversion of monies or violation of any fiduciary responsibilities by such administrator, retained official or servicing organization, or any of the employees, officers or directors thereof. (N.J.A.C. 11:15-4.29(c)).
9. Effective July 1, 1997, the FUND shall include in all contracts with its administrator, retained officials, and servicing organizations a clause recognizing this article in its entirety, and requiring the administrator, retained officials and servicing organizations to be contractually bound by these provisions.

ARTICLE XXII

DISAPPROVAL OF BYLAWS AND RISK MANAGEMENT PROGRAM

- A. If the Commissioner determines that the bylaws or risk management program of the FUND or any subsequent amendments thereto do not contain all the information set forth in N.J.A.C. 11:15-4.6., are not submitted in the proper format set forth in N.J.A.C. 11:15-4.5, or otherwise do not meet the requirements of N.J.S.A. 18A:18B-1 et seq. or N.J.A.C. 11:15-4.6 through 4.31, the Commissioner shall disapprove the bylaws or risk management program and notify the FUND in writing, which notice shall contain the specific reasons for disapproval, and the requirements to be met before approval may be granted. If not disapproved by the Commissioner within 60 days of receipt of the bylaws and risk management program or any amendments thereto, which contain all of the information and documentation set forth in N.J.A.C. 11:15-4.6, in the format set forth in N.J.A.C. 11:15-4.5, and which meet the requirements of N.J.S.A. 18A:18B-1 et seq. and N.J.A.C. 11:15-4.6 through 4.31, the bylaws and risk management program shall be deemed approved. (N.J.A.C. 11:15-4.7).

ARTICLE XXIII

REVOCAION OF APPROVAL OF BYLAWS AND RISK MANAGEMENT PROGRAM

- A. After notice and opportunity for a hearing, the Commissioner may suspend or terminate the authority of the FUND, or direct or take any action deemed necessary for good cause, to enable the FUND to meet its obligations, cover its expected losses, or to liquidate, rehabilitate or otherwise modify its affairs if the FUND (N.J.A.C. 11:15-4.8(a)):
 1. Is found to be insolvent or has experienced a deterioration in financial condition to the extent that it causes or may cause an adverse affect upon the ability of the FUND to pay expected losses. (N.J.A.C. 11:15-4.8(a)1);
 2. Fails to timely pay any fee or assessment. (N.J.A.C. 11:15-4.8(a)2);
 3. Fails to pay any claim within 30 days after a final judgment is rendered against the FUND or the FUND's obligation for such claim otherwise becomes final. (N.J.A.C. 11:15-4.8(a)3);

4. Fails to comply with any of the provisions of N.J.S.A. 18A:18B-1 et seq. and N.J.A.C. 11:15-4.6 through 4.31, or with any lawful order of the Commissioner within the time prescribed (N.J.A.C. 11:15-4.8(a)4), or;
 5. Fails to follow its approved bylaws or risk management program. (N.J.A.C. 11:15-4.8(a)5).
- B. In addition, the Commissioner may suspend or terminate the FUND's authority if, after notice and opportunity for a hearing, he or she finds that (N.J.A.C. 11:15-4.8(b)):
1. There was a material misrepresentation in any of the information supplied to the Commissioner (N.J.A.C. 11:15-4.8(b)1);
 2. The FUND or any of its trustees, administrator, retained officials, servicing organizations or agents has otherwise shown itself to be untrustworthy or incompetent. (N.J.A.C. 11:15-4.8(b)2), or;
 3. The FUND, its trustees, administrator, retained officials, servicing organizations or agents has misappropriated, converted, illegally withheld, or refused to pay over upon proper demand any monies that belong to a member, an employee of a member, or a person otherwise entitled thereto. (N.J.A.C. 11:15-4.8(b)3).

ARTICLE XXIV

SIGNATURES

THUS DONE, READ AND PASSED in my office in _____,
 State of New Jersey, in the presence of the undersigned competent witnesses, who have hereunto
 signed their names with the parties, and me, said Notary, the day, the month and year first above
 written.

BY: BOARD OF EDUCATION/DISTRICT:

(Name and Title)

(Name and Title)

NOTARY PUBLIC IN AND FOR: