

**Burlington County Insurance Pool Joint Insurance Fund**

**Bylaws**

**Effective Date November 20, 1996**

**Adopted By Board Of Trustees  
November 20, 1996**

**BURLINGTON COUNTY INSURANCE POOL JOINT INSURANCE FUND**

**BYLAWS**

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**Burlington County Insurance Pool Joint Insurance Fund**  
**Bylaws**

**ARTICLE I**

**Name**

The name of this group shall be the **Burlington County Insurance Pool Joint Insurance Fund**, hereinafter called the "joint insurance fund." The joint insurance fund lists its principal office annually in its risk management program. Incorporated in 1984, the joint insurance fund commenced operations on July 1, 1984, with thirteen charter members - (N.J.A.C./ 11:15-4.6(a)1.) and (N.J.A.C./ 11:15-4.6(c)1.).

**ARTICLE II**

**Purposes**

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

The purposes of the joint insurance fund are:

1. To allow two or more boards of education and all other boards of education joining the joint insurance fund to make a more efficient use of their powers and limited resources by cooperating on a basis that will be of mutual long-term economic 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 joint insurance fund board of trustees, as defined herein, to act as executive director, to carry out the policies established by the joint insurance fund trustees and to otherwise administer and provide day-to-day management of the joint insurance fund. The administrator may also be the lead agency employee of the fund, a fund member, or an independent contractor.

**"Allocated claims expense"** means attorney's 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 term for any line of insurance coverage shall be the definition in the excess insurance policy purchased by the joint insurance fund and/or the definition provided in any joint insurance fund coverage document and/or Excess Liability Joint Insurance Fund coverage document, in which joint insurance 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 joint insurance fund and/or the definition provided in any joint insurance fund coverage document and/or Excess Liability Joint Insurance Fund coverage document, in which the joint insurance fund participates, which is reinsured by a qualified reinsurer.

**"Board of trustees"** means the governing body for the joint insurance 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. The Chairman is also the President of the Burlington County Insurance Pool, Inc..

**"Commissioner"** means the Commissioner of the Department of Banking and Insurance.

**"Delegate"** means the representative of a member board of education to the joint insurance fund as provided for by these Bylaws and defined in N.J.S.A. 18A:18B-5.

**"Department"** means the Department of Banking and Insurance of the State Of New Jersey.

**"Employer's liability"** means the legal liability of a member board of education 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 member board of education, which is not covered by workers' compensation law. The exact definition of "Employer's Liability" or similar terms shall be the definition used in the excess insurance policy purchased by the joint insurance fund and/or the definition provided in any joint insurance fund coverage

document and/or Excess Liability Joint Insurance Fund coverage document, in which the joint insurance 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 joint insurance 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 moneys 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 board insurance groups' retention/s, risk management programs, and/or related services.

**"Fund"** - see “Joint insurance fund”.

**"Fiscal Year” or “Fund Year"** means the joint insurance fund fiscal year July 1 through June 30.

**"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 and certain equipment liability. The exact definition of **"General liability"** or similar terms is the definition used in the excess insurance policy purchased by the joint insurance fund and/or the definition provided in any joint insurance fund coverage document and/or Excess Liability Joint Insurance Fund coverage document, in which the joint insurance 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 joint insurance 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 joint insurance fund and/or the definition provided in any joint insurance fund coverage document and/or Excess Liability Joint Insurance Fund coverage document, in which the joint insurance 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 joint insurance fund under which each agrees to jointly and severally assume and discharge the liabilities of each and every party to such agreement arising from their participation in the joint insurance 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.

**“Intertrust 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.

**“Interyear fund transfer”** means the transfer of funds from a Claim or Loss Retention Trust Account for a fiscal year, to a Claim or Loss Retention Trust Account of similar risk or liability for a different fiscal year.

**“Joint insurance fund” or “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 moneys 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 purposes of these bylaws, joint insurance fund refers to the Burlington County Insurance Pool Joint insurance fund, a.k.a., BCIPJIF, a.k.a., Burlington County Insurance Pool, Inc., a.k.a., Burlington County Insurance Pool, a.k.a. (BCIP).

**"Manual premium"** means the premium computed by the Excess Insurance Carrier, by line of coverage as modified by the board of trustees to reflect the experience or other applicable item of consideration for the joint insurance fund as a whole or any individual member or members.

**"Member" or "Member board "** 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 moneys 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 joint insurance 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 joint insurance fund and/or the definition provided in any joint insurance fund coverage document and/or Excess Liability Joint Insurance Fund coverage document, in which the joint insurance fund participates, which is reinsured by a qualified reinsurer.

**"Official or employee of the joint insurance fund"** means all individuals, officers, or trustees of the joint insurance fund for whom the joint insurance fund is obligated by law or contract to provide indemnification or reimbursement of legal or other expense for claims or demands as may from time to time be made or arise from the individuals', officers', or trustees' actions pertaining to the operation of the joint insurance fund.



**"Probable net cost"** means the estimated ultimate cost of claims incurred during joint insurance fund year plus the cost of allocated claims expense and other costs of operating the joint insurance fund until all claims incurred during the joint insurance fund year are settled. For purposes of computing the probable net cost, losses within the deductible of member school boards and future investment income on outstanding loss reserves held by the joint insurance 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 boards.

**"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, on property; motor vehicles, equipment, or apparatus owned by the member school board 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 joint insurance fund and/or the definition provided in any joint insurance fund coverage document and/or Excess Liability Joint Insurance Fund coverage document, in which the joint insurance fund participates, which is reinsured by a qualified reinsurer.

**"Retained official"** means an individual, partnership, association or corporation, that has contracted with the joint insurance fund to provide, on the joint insurance 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 joint insurance fund and are therefore listed separately from servicing organizations.

**"Reinsurance"** means the contractual assumption of risk by an insurance company of all or part of the risk obligations assumed by the Burlington County Insurance Pool Joint Insurance 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 joint insurance fund to provide, on the joint insurance 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 joint insurance 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 joint insurance fund.

**"Trustee"**. An individual elected to serve as a member of the board of trustees and having the qualifications, powers, and duties outlined in these bylaws and in N.J.S.A. 18A:18B-1 et seq., and N.J.C.A. 11:15-4.6(b)1.-8..

**"Trustees"** means the board of trustees established pursuant to the bylaws of the joint insurance 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 joint insurance fund net of any recoverable per occurrence or aggregate excess insurance or reinsurance for a particular joint insurance 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 Joint Insurance Fund**

1. Membership in the joint insurance 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. Initial and subsequent membership in the joint insurance fund shall be for a specific renewable term of three (3) years -(N.J.A.C. 11:15-4.3(b)).
3. Any school board seeking membership in the joint insurance fund shall submit an application for membership to the joint insurance fund that is acceptable to the Commissioner - (N.J. A.C. 11:15-4.9(a)).. The application shall include - (N.J.A.C. 11:15-4.3(b)):
  - a. an executed Indemnity and Trust Agreement;
  - b. a resolution to join, conditioned upon final acceptance of the contribution/assessment offer, which shall provide for execution of a written agreement specifically providing for acceptance and adoption of the joint insurance fund's bylaws - (N.J.A.C. 11:15-4.3(b));
  - c. a certification that the school board 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));
  - d. an application fee, if required by the board of trustees, which will cover the costs to the joint insurance fund associated with evaluating the applicant with respect to attitudes toward risk management and safety programs, physical exposure to risk and in having the actuary determine the appropriate contribution/assessment offer; and
  - e. declaring the full extent of membership in the joint insurance fund (N.J.A.C. 11:15-4.3(b)).

4. The board of trustees and member delegates may, by majority vote at any regular meeting of the board of trustees, recommend approval of the application based on the following criteria:
  - a. The applicant's claims history, (five years preferred), shows safety performance consistent with the joint insurance fund and the applicant's attitudes toward safety and condition of physical location/s indicates a prospective likelihood of satisfactory future claim performance.
  - b. A safety inspection and evaluation conducted by the joint insurance fund safety consultant shows the applicant meets the joint insurance fund safety standards.
  - c. The joint insurance fund actuary has established an appropriate loss fund requirement and provided a certification for same.
  - d. The joint insurance fund has the administrative capability to absorb additional memberships without undue inconvenience or strain.
  
5. If the application is approved by a quorum of the delegates and board of trustees present at said meeting, it shall be filed with the Department of Insurance 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 joint insurance fund bylaws and risk management program as may be necessary. The joint insurance fund shall file only the specific changes to the bylaws or risk management program in effect for the current year. Where the joint insurance fund has purchased direct insurance, or where an actuary has determined a "per capita" rate for the member's contribution/assessment to cover anticipated losses which has been previously filed with the Department, actuarial certification of the adequacy of these same rates is not required. The Commissioner may nevertheless require actuarial certification of a per capita rate for the new member's contribution/assessment to cover anticipated losses, if in his or her opinion, the new member will impose an extraordinary impact on the exposure of the joint insurance fund. In addition, the joint insurance fund shall file the following information in the form proscribed by the Department and known as NEW JERSEY DEPARTMENT OF INSURANCE NEW MEMBER STATEMENT FOR THE BURLINGTON COUNTY INSURANCE POOL 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, if any;
  - d. The name of the new member's delegate/trustee;
  - 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 joint insurance fund that in accepting the new member, an application has been filed, the joint insurance 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 joint insurance fund - (N.J.A.C. 11:15-4.9(b)1.-7.).

6. No new membership in the joint insurance fund shall become effective until the application and any accompanying amendments to the joint insurance fund bylaws, budget and risk management program are approved as required by these bylaws and, where applicable, state law or regulation - (N.J.A.C. 11:15-4.3(b)).
7. If a non-member is not approved for membership, the joint insurance fund shall set forth in writing the reasons for disapproval and send the reasons for disapproval to the non-member. The joint insurance fund shall retain a copy of all disapproval's for five years - (N.J.A.C. 11:15-4.9(c)).

**B. Conditions Of Membership or Membership Standards - (N.J.A.C. 11:15-4.6(a)5.).**

As a condition of membership, each member school board shall:

1. Participate in all the major lines of coverage offered by the joint insurance fund - (N.J.S.A. 11:15-4.6(c)1.), it being understood that joint insurance 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 joint insurance fund according to N.J.A.C. 11:15-4.6(f)1.-11.
2. Pay all contributions/assessments, supplemental contributions/assessments, fees, charges or other obligations arising out of or related to the members' participation in the Fund within thirty [30] days of the due date fixed by the board of trustees, recognizing however, that annual contributions/assessments must be collected in full by February 1st - (N.J.A.C. 11:15-4.15(a)).
3. Actively participate in joint insurance fund meetings, programs or activities established by the board of trustees, to ensure the successful operation of the joint insurance fund.
4. Actively participate in joint insurance fund sponsored safety programs, including the formation of an active Safety Committee, as required by the board of trustees.
5. Comply with the risk management program and the policies and procedures adopted by the board of trustees for the management of the joint insurance fund.
6. A member board may, but is not required to, retain the services of an individual or firm to serve as a insurance consultant to the board.
  - [1] The insurance consultant shall not be a joint insurance fund trustee.
  - [2] All fees and expenses of the insurance consultant shall be the responsibility of the board appointing the insurance consultant.
7. The joint insurance fund administrator shall, on receipt of written authorization from a member board and a signed confidentiality agreement from the insurance consultant, provide the insurance consultant with the same information provided to the trustee from that board with respect to the budget and operations of the joint insurance fund.

8. The joint insurance fund administrator and any insurance consultants hired by member districts shall be experienced in risk management and insurance matters as they relate to school districts. Both the joint insurance fund administrator and any insurance consultants hired by member boards shall be licensed Insurance Producers in New Jersey if so required by N.J.S.A. 18A:18B-1 et. seq., or New Jersey State Licensing Laws.

**C. Membership Renewals**

1. Members may renew their participation by execution of a new agreement to join the joint insurance fund as provided for in Section A above which must be filed with the joint insurance fund, concurrent with the date declared annually by the Commissioner of the Department of Education for producing school board budgets and filing same with their respective County's Superintendent Of Schools.
2. The board of trustees shall act upon any renewal application no later than forty-five (45) days following the date declared annually by the Commissioner of the Department of Education for producing school board budgets and filing same with their respective County Superintendent of Schools. If the board of trustees shall fail to act within the required time, the renewal application shall be deemed to be automatically approved.
3. In order to deny a renewal application the board of trustees shall find, by majority vote, that the applicant has failed to fulfill its responsibilities as a member or no longer meets the joint insurance fund written safety standards or other objective criteria duly adopted by the board of trustees.
4. If a member's renewal application is rejected, the joint insurance fund shall comply with the provisions of these bylaws relating to termination and/or withdrawal of joint insurance fund members.
5. Non-renewal of a joint insurance fund member shall not relieve the member of responsibility for claims incurred during its period of membership, either collectively through the joint insurance fund's retention within a line or lines of coverage by joint insurance fund year, or individually associated with an individual member deductible or retention within a line or lines of coverage by joint insurance fund year.

**D. Termination and/or Withdrawal of Fund Members**

1. A member school board must remain in the joint insurance fund for the full term of membership unless earlier terminated by a two-thirds vote of the delegates present at a regular meeting of the board of trustees, after recommendation of such action by the board of trustees, for nonpayment of assessments, noncompliance with the joint insurance fund bylaws, risk management or underwriting standards, or other reason(s) subject to prior approval by the Commissioner as causes for expulsion. However, the member school board shall not be deemed terminated 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 joint insurance 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 for 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 joint insurance fund that does not desire to continue as a member after the expiration of its current membership, as provided in the joint insurance fund's bylaws, must give written notice of its intent to withdraw on or before the date declared annually by the Commissioner of the Department of Education for producing school board budgets and filing same with their respective County Superintendent of Schools. Failure to provide such notice shall serve as an affirmative desire to renew the member board's participation for a new three year term. A member of the joint insurance fund that did not approve any amendment of the joint insurance fund bylaws approved pursuant to N.J.S.A. 18A:18B-4, and desiring to withdraw from the joint insurance fund pursuant to N.J.S.A. 18A:18B-4b(8)(d), shall provide written notice of its intent to withdraw within ten working days of the Bylaw amendment adoptions becoming effective. Failure to provide such notice shall serve as an affirmative desire to renew the member board's participation for a new three year term. The joint insurance fund shall immediately notify the Department of all members that have given notice of withdrawal from the joint insurance 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 joint insurance fund shall nevertheless share in any surplus in the appropriate trust accounts for that joint insurance fund year and shall remain jointly and severally liable for claims incurred by the joint insurance 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 joint insurance fund shall immediately notify the Department if termination or withdrawal of a member causes the joint insurance 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 the notice, the joint insurance fund shall advise the Department of its plan to bring the joint insurance fund into compliance - (N.J.A.C. 11:15-4.10(d)).
  5. A joint insurance fund member is not relieved of the claims incurred during its period of membership, either collectively through the joint insurance fund's retention within a line or lines of coverage by joint insurance fund year, or individually associated with an individual member deductible or retention within a line or lines of coverage by joint insurance fund year, except through payment by the joint insurance fund or member of those claims.
  6. A member board that has been terminated or that has withdrawn from membership in the joint insurance 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 board of trustees.

## **ARTICLE V**

### **Organization**

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

- A.** The joint insurance fund is member owned, organized and managed. It is a cooperative, regional effort by school boards to provide a long-term and stable insurance financing mechanism. As the delegates appointed to represent their respective boards' interests in the fund are all busy professional school administrators, the joint insurance fund provides for the hiring of risk management professionals who attend to the daily operations of the joint insurance fund. This section describes the roles that member delegates, joint insurance fund officers and trustees, and hired professionals play in the organization.
- B. Members' Delegates**
1. **Appointment.** In the manner generally prescribed by law, each member school board shall appoint one (1) delegate to the joint insurance fund. The delegate shall be the School Business Administrator, or other individual as provided in N.J.S.A. 18A:18B-1, et seq.
  2. **Terms of Office and Vacancy**
    - a. Delegates shall be appointed for a term concurrent with the term of membership of the appointing school board. The delegate shall serve at the pleasure of the school board appointing the delegate.
    - b. In those cases where a vacancy is created by reason of separation of the delegate from member school board employment, the delegate may, at the option of the appointing school board, continue to serve for a period not to exceed ninety days (90) from the effective date of separation from employment.
    - c. The unexpired term of a delegate shall be filled by the appointing school board in the manner generally prescribed by law and these bylaws.
    - d. Delegates shall serve without compensation from joint insurance fund.
  3. **Responsibilities**
    - a. The delegates shall, at the annual meeting, elect trustees in accordance with these bylaws.
    - b. Each delegate representing a member school board in good standing shall have one vote.
- C. Board of Trustees**

1. At the annual meeting of the members, the delegates shall, by majority vote of those present and voting, elect the members of the board of trustees of the joint insurance fund from their own membership.
2. There shall be seven [7] trustees, unless the number of member school boards shall be less than seven, in which case the number of trustees shall be equal to the number of member school boards. If the total number of member school boards exceeds thirty [30], the board of trustees shall consist of a total of nine [9] members.
3. Trustees shall be elected to staggered terms of three [3] years. The terms of office of the trustees holding office at the adoption of these amended bylaws shall continue and all future elections of trustees shall be staggered so that the terms of the trustees shall be uniformly spread over three years.
4. Each trustee shall, as provided by N.J.S.A. 18A:18B-5, be a natural person 18 years of age or older who is a resident of the State of New Jersey. A majority of the board of trustees shall be members or employees of member boards of education, provided that any trustee that ceases to be a member or employee of a board of education may be allowed to serve for not more than 90 days following cessation without violating this provision.
5. Each year the chairman shall appoint a nominating committee consisting of representatives from at least three member school boards. The nominating committee shall meet and shall file a report with the board of trustees on or before May 1st of each year. The report shall consist of a recommendation for nominations to fill vacancies in the board of trustees to be elected at the annual meeting. The report of the nominating committee shall be furnished to all member school boards. Additional nominations may be received at the annual meeting.
6. Any trusteeship not filled at the annual meeting and any vacancy, however caused, occurring in the board of trustees shall be filled by the affirmative vote of the remaining trustees, even though less than a quorum of the board. A trustee elected by the board shall hold office until the next succeeding annual meeting and until a successor is elected and qualified.
7. Any trusteeship to be filled by reason of an increase in the number of trustees shall be filled by election at the annual meeting or at a special meeting of the members called for that purpose.
8. The board of trustees shall, within sixty (60) days after the annual meeting, elect, from among the trustees, the following officers, who shall hold office for a term of one [1] year or until a successor is elected and qualified and who shall have the specified duties:
  - a. **Chairman:** The chairman shall be the chief executive officer of the joint insurance fund and shall preside at all meetings of the board of trustees and of the members and shall perform such other duties as required by law or as provided for in these bylaws.
  - b. **Vice Chairman:** The vice chairman shall exercise the responsibilities of the chairman in the absence of the chairman.



- c. **Secretary:** The secretary shall preside over the meetings of the board of trustees in the absence of the chairman, vice chairman. Unless the responsibility is delegated to joint insurance fund administrator by the board of trustees, the secretary shall have the responsibility to maintain written minutes of the meetings and shall retain all books, records, files and other documents of the joint insurance fund, and shall perform such other duties as provided by law or in these Bylaws. When record keeping responsibility has been delegated to the joint insurance fund administrator, the administrator shall maintain the records at a location known to and approved by the joint insurance fund and the secretary shall, at all reasonable times, have access to the records.
9. Each member of the board of trustees shall have one vote. A trustee who was absent for all or part of a meeting where a particular item was discussed shall be eligible to vote on the matter notwithstanding his or her absence, provided that the member has available to him or her the transcript or recording of the meeting or portion of a meeting from which he or she was absent, and certifies in writing that he or she has read the transcript or listened to the recording.
10. Any trustee can be removed without cause at any time by a two-thirds vote of the full membership of the board of trustees. In the event of the removal of a trustee, a meeting of the delegates shall be called within 30 days to fill the vacancy for the unexpired term.
11. The members of the board of trustees shall serve without compensation from the joint insurance fund except as provided by law.
12. The board of trustees is authorized and empowered to operate the joint insurance 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.S.A. 11:15-4.6(b)1.);
  - b. To invest moneys held in trust under any fund in investments which are approved by regulation of the State Investment Council for surplus moneys of the State or, at the discretion of the board, to transfer moneys 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 moneys 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.S.A. 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.S.A. 11:15-4.6(b)3.);
- d. To collect and disburse all money due to or payable by the joint insurance fund, or authorize such collection and disbursement - (N.J.S.A. 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 purposes of the joint insurance fund - (N.J.S.A. 11:15-4.6(b)5.);
- f. To purchase and serve as the master policyholders, if desired, for any insurance, including excess insurance and reinsurance - (N.J.S.A. 11:15-4.6(b)6.);
- g. To prepare, or cause to be prepared, a risk management program for the joint insurance fund - (N.J.S.A. 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 joint insurance fund pursuant to N.J.S.A. 18A:18B-4, N.J.A.C. 11:15-4.6 et seq. and Article X of these bylaws - (N.J.S.A. 11:15-4.6(b)8.); and
- i. To do all other things necessary and proper to carry out the purposes for which the joint insurance fund is established - (N.J.S.A. 11:15-4.6(b)9.);

**D. Alternate Trustees**

- 1. The delegates shall designate two (2) alternate trustees from among the delegates. 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 board of trustees of the joint insurance fund in which the absence causes the number of trustees to fall below that which is required for a quorum. Alternate trustees shall exercise the full authority of a trustee during any meeting of the joint insurance fund at which their services are required.
- 3. Alternate trustees shall be designated with a specific numerical order at the time of election as "alternate no. 1," and "alternate no. 2."
- 4. Alternate trustees may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular trustee.
- 5. A vote shall not be delayed in order that a regular trustee may vote instead of an alternate trustee.
- 6. In the event that a choice must be made as to which alternate trustee is to vote, the alternate trustee with the lowest designated number shall vote, i.e. alternate no. 1 shall vote before alternate no. 2.

**E. Retained Officials**

The board of trustees shall annually select, in conformance with Public Schools Contracts Law (N.J.A.C. 11:154.6(d)10), individuals or firms to serve in the following retained positions. These individuals shall serve for a period of one [1] 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 joint insurance 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. Administrator**

- a. The administrator shall be experienced in risk management matters and shall not be a trustee of the joint insurance fund.
- b. Except with prior notice to the board of 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 joint insurance 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 board of trustees and all member boards - (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 board of trustees and to otherwise administer the day-to-day management of the joint insurance fund.
  2. The administrator shall advise the board of trustees on risk management matters and shall prepare a draft risk management program for consideration by the board of trustees.
  3. The administrator shall maintain underwriting data and assist the joint insurance fund in the purchase of group insurance purchase(s), excess insurance(s), or reinsurance(s), provided, however, that the joint insurance fund administrator shall not act in the capacity of insurance producer with respect to the placement of the joint insurance fund's group insurance purchase(s), excess insurance(s), or reinsurance(s), unless expressly authorized to do so by the board of 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 joint insurance fund.

6. The administrator shall prepare a draft budget for review by the board of trustees.
  7. The administrator shall, on not less than a quarterly basis, provide the board of trustees and member delegates with a joint insurance fund status report including but not limited to the minutes of joint insurance fund meetings, a summation of joint insurance 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 joint insurance fund.
  9. The administrator shall perform such other duties as provided by law or as determined by the board of trustees which shall be detailed in the joint insurance fund's minutes or these bylaws - (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 & omissions insurance.

**2. Attorney**

- a. The attorney shall be an individual licensed to practice law in the State of New Jersey. A law firm may be appointed, with a specific individual who is licensed to practice law in the State of New Jersey designated as the responsible attorney within the law firm.
- b. The attorney shall have the following responsibilities:
  1. The attorney shall advise the board of 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 board of trustees and shall monitor and supervise the efforts of the designated defense attorneys.
  3. Neither the attorney nor any member of the attorney's law firm shall defend any claim which is the responsibility of the joint insurance fund, unless specifically authorized and directed to do so by the board of trustees.
  4. The Attorney shall perform such other duties as may be determined by the board of trustees or these bylaws, which duties shall be recorded in the joint insurance fund minutes and provided for by an amendment to the contract between the Attorney and the joint insurance fund.

**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 of the joint insurance fund. The auditor shall conduct the annual audit of the joint insurance fund and shall perform such other duties as provided for by the board of 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 joint insurance fund.

4. **Treasurer/Custodian Of Funds:** The treasurer shall have the following duties and responsibilities:

- a. The treasurer shall be the custodian of the joint insurance 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 joint insurance fund's Cash Management Plan and shall invest all balances in accordance with joint insurance fund's Cash Management Plan and consistent with the statutes and regulations governing the investment of surplus public moneys of the State and these bylaws.
- d. The treasurer shall perform such other duties as provided for by the board of trustees, these bylaws and in the laws and regulations of the State of New Jersey.
- e. The treasurer shall be bonded in a form and amount acceptable to the Commissioner. The treasurer shall also be covered by Errors & Omissions insurance, unless the requirement is waived by the board of trustees.

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 board of 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 board of 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 board of trustees and submitted to the Commissioner.
- c. Retained officials shall be compensated for their services in accordance with written fee guidelines submitted annually and approved by a majority of the board of trustees. The written fee schedule shall be part of the official's contract.
- d. The board of 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 joint insurance fund board of trustee's 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. 11:154.6(d)10) , or their employees, officers or directors shall have either a direct or indirect financial interest in the administrator of the joint insurance 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 officials who is not the administrator, or a servicing organization, or a producer appointed pursuant to (N.J.A.C. 11:154.6(d)10) , of the joint insurance 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 board of trustees.
- B.** The board of trustees, shall require the auditor, treasurer, joint insurance 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 joint insurance fund shall indemnify any past, present or future the joint insurance fund trustee, official or employee of the joint insurance fund for claims arising from an act or omission of the joint insurance fund trustee, official or employee within the scope of the performance of the individuals' duties as trustee, official or employee. The indemnification shall include reasonable cost and expenses incurred in defending the claims. Nothing contained herein shall require the joint insurance fund to pay punitive damages or exemplary damages or damages arising from the commission of a crime by an individual and the joint insurance fund shall not be required to provide for the defense or indemnification of 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 the individual or in the event of a

claim against such an individual by the State of New Jersey or if the joint insurance fund 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 the board of 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 the employee or appointed official.

- D.** A present, past or future trustee, official or employee of the joint insurance fund shall not be entitled to a defense or indemnification from the joint insurance fund unless:
1. Within fourteen (14) 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 joint insurance fund attorney together with a request that the joint insurance 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 joint insurance fund to handle the matters, the past, present or future trustee, official or employee shall agree that the joint insurance 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 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 joint insurance fund shall be in addition to and not in restriction or limitation of any other privilege or power which the joint insurance fund may lawfully exercise with respect to the indemnification or reimbursement of a trustee, official or employee; except that in no event shall a trustee, official or employee receive compensation in excess of the full amount of a claim and reasonable costs and expense incurred in defending the claim.

## **ARTICLE VII**

### **Committees**

- A. Establishment:** The board of trustees may establish advisory committees as it deems appropriate for the efficient management of the joint insurance fund.
- B. Appointment:** All committees shall be appointed by the president. The president and the administrator shall serve, ex officio, as members of all committees.
- C. Duties:** All committees shall be advisory in nature only and shall report to the board of trustees.
- D. Minutes:** All committee's shall maintain written minutes.

**ARTICLE VIII**

**Operation Of The Joint Insurance Fund**

**A. General Operation**

1. The joint insurance 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 applicable regulations of the State Investment Council governing the investment of surplus public moneys of the State, and the "Public Schools Contracts Law" (N.J.S.A. 18A:18A1-59 et seq.) and (N.J.A.C. 11:15-4.4(a)).
2. The joint insurance 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 joint insurance fund shall be operated in accordance with accepted and sound actuarial practices, and any and all expenditure of moneys shall be in the furtherance on the joint insurance fund's purpose - (N.J.A.C. 11-15-4.6(a)10) and (N.J.A.C. 11-15-4.6(a)11).
4. The joint insurance fund shall be operated with sufficient aggregate financial strength and liquidity to assure that all obligations will be promptly met. The joint insurance fund shall prepare an annual financial statement on a form acceptable to the Commissioner showing the financial ability of the joint insurance fund to meet its obligations.
5. The board of trustees may, upon majority vote, request the Commissioner to order an examination of any joint insurance fund member which the board of trustees, in good faith believes may be in a financial condition detrimental to other joint insurance fund members or to the public - (N.J.A.C. 11:15-4.25(b)).
6. The joint insurance fund further recognizes the Commissioner's right to order an examination of the joint insurance 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 joint insurance fund recognizes that costs for such investigations are to be borne by the joint insurance fund.
7. The joint insurance fund shall annually adopt a resolution designating a public depository or depositories for its moneys. Such resolution shall also designate a person to be custodian of funds for the joint insurance 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 board of trustees at least quarterly on investment and interest income - (N.J.A.C. 11:15-4.4(d)).

**B. Risk Management Program - (N.J.A.C. 11:15-4.6(e)) & (N.J.A.C. 11:15-4.6(f))**



1. The board of trustees shall prepare or cause to be prepared a risk management program for the joint insurance fund. The program shall include, but not be limited to:
  - a. The perils or liability to be insured against;
  - b. Limits of coverage, whether self-insurance, direct insurance purchased from a commercial or reinsurance;
  - c. The amount of risk to be retained by the joint insurance 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 joint insurance 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 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.S.A. 11:15-4.6(a)10.;
  - k. List the principal office of the joint insurance fund - N.J.A.C. 11:15-4.6(c)1, and
  - l. Such other items required by law, regulation, or the board of trustees.
2. The risk management program and all amendments thereto must be approved by the board of trustees and the Commissioner before it takes effect.
3. Whenever the risk management program of the joint insurance 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

No retained official or servicing organization of a fund or producer appointed pursuant to (N.J.A.C. 11:154.6(d)10) , or their employees, officers or directors shall have either a direct or indirect financial interest in the administrator of the joint insurance 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))

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. 11:154.6(d)10), of the joint insurance fund, unless notice of such interest has been provided to the trustees and members - (N.J.A.C. 11:15-4.26(b))

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 joint insurance fund shall contract to have services performed including but not limited to the following:
  - Actuarial Services
  - Claims Adjusting and Administration Services
  - Safety Consulting
  - Other services as determined by the Board of Trustees
3. Each service contract providing claims adjustment and administration services shall include a clause stating: "unless the board of trustees otherwise permit, 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 board of 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 joint insurance fund board of trustee's believe that the particular service is no longer necessary - (N.J.A.C. 11:15-4.26(d)).

#### **D. Financial Statements And Reports**

1. The joint insurance fund shall provide its members with periodic reports concerning the activities and status of the joint insurance fund for the reporting period. The

reports shall be made at least quarterly and may be made more frequently at the discretion of the Board of Trustees.

2. A sworn annual report in a form prescribed by the Commissioner of Insurance shall be prepared by the joint insurance fund, filed with the Department of Insurance, and made available to each joint insurance 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 joint insurance 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 joint insurance 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 board of trustees that periodic reports were made to the joint insurance 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 reported submitted; - N.J.A.C. 11:15-4.24(a)4; and,
  - e. Such other information as may be requested by the Department of Insurance of the joint insurance fund - N.J.A.C. 11:15-4.24(a)5.
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 by line of coverage, fund year and cumulatively over the years of each particular member's membership with the joint insurance fund - (N.J.A.C. 11:15-4.14).

**E. Coverages**

The joint insurance 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:

1. Workers' Compensation and Employers' Liability
2. Liability other than motor vehicles
3. Property Damage
4. Motor Vehicle Liability
5. School Board Legal Liability (Errors & Omissions)

6. Other coverages permitted by Law and approved by the board of trustees, pursuant to N.J.S.A. 18A:18B-1 et. seq. and N.J.A.C. 11:15-4.6 et seq.

The exact terms, conditions, retentions and coverages shall be as defined by the risk management program and any or all primary, excess or reinsurance policies purchased by the joint insurance fund or through an Excess Liability Joint Insurance Fund in which the joint insurance fund is a member and as provided by law, however, nothing can restrict the coverage for workers' compensation to less than that provided in N.J.S.A. 34:15-7 et seq.

## **ARTICLE IX**

### **Meetings And Rules Of Order**

#### **A. Meetings**

1. **Annual Meeting of Members** - The annual meeting of the members shall be held on such date within the month of June as shall be fixed by the board of trustees. At the annual meeting, the delegates shall meet to elect members of the board of trustees and conduct such other business as is necessary. The time and place for the meeting shall be established by the board of trustees, and the secretary or the administrator shall send written notice to the delegates of member school boards/districts at least two (2) weeks in advance of the scheduled meeting.
2. **Special Meetings of Members** - Special meetings of the members may be called by the chairman or the board of trustees or by not less than thirty percent (30%) of the members by notifying the secretary and the administrator. The secretary or the administrator shall notify the delegates of the member school board/districts in writing of the date, time, place and purpose of the special meeting at least ten (10) days in advance of the meeting.
3. **Meetings of the Board of Trustees** - The board of trustees shall establish a schedule of monthly meetings to conduct the business of the joint insurance fund. All delegates may attend open or closed sessions of the trustees.
4. **Special Meetings of the Board of Trustees** - The chairman or three (3) trustees may call a special meeting by notifying the secretary and the administrator at least three (3) days in advance. The secretary or the administrator shall notify the trustees by telephone. If the secretary or the administrator is unable to reach a trustee or trustees forty-eight (48) hours before the meeting, the secretary or the administrator shall telephone one or more alternate trustees, in the order specified for voting by alternate trustees, as may be required to achieve a quorum.
5. **Quorum** - The quorum for a meeting of the members shall be a simple majority of the delegates representing the member school boards. The quorum for a meeting of the board of trustees shall be a simple majority of the board of trustees.

#### **B. Conduct Of Meetings**

1. All meetings of the board of trustees shall be subject to the Open Public Meetings Act.

2. Unless otherwise provided by law or by these bylaws, the current edition of "Robert's Rules of Order" shall govern the conduct of all meetings.

## **ARTICLE X**

### **Amendments To The Bylaws**

- A. Any delegate may propose an amendment to the bylaws by filing the proposed amendment in writing with the secretary.
- B. Upon receipt of a proposed amendment, the secretary shall notify the chairman who shall schedule a hearing by the board of trustees to be held not more than forty-five (45) days from the date the amendment was filed. The secretary shall notify in writing all delegates of the hearing date and shall send a copy of the proposed amendment to each delegate.
- C. At the conclusion of the public hearing, the board of trustees shall submit the proposed amendment, with a recommendation in favor of or against the adoption of the proposed amendment, to the member school boards.
- D. The amendment is adopted when the boards of education of three-fourths of the member school boards 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 boards, the secretary shall notify the board of trustees that time has expired for the adoption of the amendment.
- E. In the event that an amendment is adopted which a member school board determines to be incompatible with its continued membership in the joint insurance fund, that member school board may initiate a voluntary withdrawal from the joint insurance fund by giving notice, within ten (10) days of the effective date of the amendment, in accordance with the procedures established in Article IV, Section D-2. If the effective date of the amendment falls within ninety [90] days of the end of the joint insurance fund year, the board of trustees may approve a withdrawal under this section to be effective with the end of the joint insurance fund year, notwithstanding that less than ninety [90] days notice has been given. The joint insurance fund shall immediately notify the Department of all members that have given notice of withdrawal from the joint insurance fund - (N.J.A.C. 11:15-4.10(b)).
- F. 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. 11:15-4.10(b), 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 office, the amendment to the bylaws shall be deemed approved.

## **ARTICLE XI**

### **Budgets**

- A. **Budget Preparation - Proposed Budget**
  1. The board of trustees shall annually prepare not later than the time required by law for the preparation of the budget for school boards, the proposed budget for the joint insurance fund's subsequent fiscal year. The budget shall identify proposed items

and amounts of expenditure for its operations in the aggregate and 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 joint insurance fund - (N.J.A.C. 11:15-4.4(e)).

2. In May of each year, the board of 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 contributions/assessments and other income to be received during the fiscal year and the status of the self-insurance or loss retention accounts.
3. The budget shall be reviewed by an actuary who shall comment on its adequacy and shall recommend changes as appropriate by May 15.
4. A copy of the joint insurance fund's proposed budget or any amendments thereto shall be made available to each member of the joint insurance 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 joint insurance 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 board of trustees shall adopt by majority vote the budget for the joint insurance fund's operation for the subsequent fiscal year - (N.J.A.C. 11:15-4.4(e)2.).
2. A copy of the joint insurance fund's final budget (as changed to reflect the actuary's report) shall be sent to each member school board 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 boards 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 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 board of trustees after giving the member school boards 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 board and the Commissioner - (N.J.A.C. 11:15-4.4(e)5.).
3. A copy of any amendment to the joint insurance fund budget shall be filed with the Commissioner within 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 XII**

### **Contributions/Assessments**

#### **A. Annual Contribution/Assessment**

1. By March 15 of each year, the actuary shall compute the probable net cost for the upcoming joint insurance fund year by line of coverage.
2. The annual contribution/assessment of each member school board shall be established by the board of trustees after consideration of the probable net costs for the upcoming year for each line of coverage as computed by the actuary together with the administrative and operating budget of the joint insurance 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 board of trustees by May 31 to the governing body of each member school board - (N.J.A.C. 11:15-4.15(c)).
4. The annual contribution/assessment shall be paid to the joint insurance fund within thirty (30) days of the due date fixed by the board of trustees and shall under no circumstances be paid any later than February 1 - (N.J.A.C. 11:15-4.15(a)).
5. In the event the final adopted budget necessitates any increase in the annual contribution/assessment, the member boards' shall be billed for the additional contribution/assessment, which shall be paid within thirty [30] days.
6. Each member's contribution/assessment shall be deposited into the appropriate accounts including the administrative account, and the claim or loss retention trust fund account.
7. If a school board becomes a member of the joint insurance fund after the start of the joint insurance fund year, the member board's contribution/assessment and supplemental contribution/assessment shall be adjusted in proportion to that part of the year which has elapsed.
8. Unless otherwise approved by the Commissioner, the annual contribution/assessment of each joint insurance fund member providing for the self-insurance of workers' compensation and employers' liability coverages shall be based upon the Experience Rating Plan provided for 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 board of 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 board of trustees shall levy upon the member school boards' additional contributions/assessments wherever necessary for the safe and efficient management of the joint insurance fund or when ordered to do by the Commissioner, to supplement the joint insurance fund's claim or loss retention or administrative accounts to assure payment of the joint insurance fund's obligations, including payment of 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 board by applicable joint insurance fund year and shall be apportioned by each board's proportional share of loss funds as they relate to the total loss funds - (N.J.A.C. 11:15-4.15(a)1.).
  - b. All school boards shall be given thirty (30) days advance written notice of the joint insurance fund's intention to charge an additional contribution/assessment, and the joint insurance fund shall conduct a hearing before adopting the supplemental contribution/assessment.
  - c. School boards shall have thirty (30) days to pay joint insurance fund from the date any supplemental contribution/assessment is adopted.
  - d. School boards shall provide such additional 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 joint insurance fund shall submit to the Commissioner a report of the causes of the joint insurance fund's insufficiency, if any, the contributions/assessments necessary to replenish it and the steps taken to prevent a recurrence of such circumstances - (N.J.A.C. 11:15-4.15(b)).

**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 joint insurance fund fail to assess funds required to meet its obligations, the chairman of the board of trustees, if any, or in the event of his or her failure to do so, the custodian of the joint insurance fund's assets, shall notify the Commissioner in writing. Upon such notification, the Commissioner shall order the joint insurance fund or member to take such remediation action as he or she deems necessary. Past due contributions/assessments shall bear interest at the rate established annually by the board of trustees - (N.J.A.C. 11:15-4.17).

**D. Insolvency and/or Bankruptcy of Joint Insurance Fund Members**

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

**ARTICLE XIII**



### **Refunds Of Surplus**

- A.** Any moneys for a joint insurance 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 joint insurance fund no less than twenty-four (24) months after the end of the fiscal year - (N.J.S.A. 11:15-4.21(a)).
- B.** The joint insurance fund may seek approval from the Commissioner to make refund payments from a claims or loss retention joint insurance 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, assessment, claims, and expense detail; actuarial certification that the loss expense reserves are adequate for the joint insurance fund to have an overall surplus in that fiscal year; and such other information that the Commissioner may require. The initial and any subsequent refund for any year from a 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. Joint insurance 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. 11:15-4.31; - (N.J.A.C. 11:15-4.21(b)1.).
  - 2. Joint insurance 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 year - (N.J.A.C. 11:15-4.21(b)3.).
- C.** Subsequent refunds may be made at the discretion of the board of 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 joint insurance fund for such year. Payment of a refund on a previous year shall not be contingent on the member's continued membership in the joint insurance 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 joint insurance fund and applied towards the member's next annual assessment - (N.J.A.C. 11:15-4.21(e)).
- F.** The joint insurance fund may seek approval from the Commissioner to make interyear fund transfers from a 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 joint insurance 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 XIV**

##### **Excess Insurance and/or Reinsurance and Aggregate Excess Insurance**

- A. General** - In order to minimize the financial risk which catastrophic claims present to the members, the joint insurance 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 joint insurance 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 joint insurance fund also seeks to cede this risk to a commercial insurer or reinsurer through the purchase of aggregate excess or stop loss insurance.

The policies of excess insurance and/or reinsurance issued to the joint insurance fund shall provide single accident (single occurrence) excess insurance and/or reinsurance, and aggregate excess insurance and/or reinsurance, in accordance with this Article XIV and (N.J.A.C. 11:15-4.23(b)) All such insurances purchased by the joint insurance 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 joint insurance 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 Board Of Trustees for each joint insurance fund year, and as approved by the Department, for each line of coverage in which the joint insurance 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 joint insurance 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 Board Of 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 joint insurance fund to obtain required excess insurance or reinsurance - (N.J.A.C. 11:15-4.23(a)1.).
3. If the joint insurance 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 joint insurance 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 joint insurance 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 joint insurance fund has different specific per occurrence/accident retentions for different lines, the joint insurance fund shall use the highest specific occurrence/accident retention it has in determining the aggregate excess funding needed. Additionally, if the joint insurance 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 joint insurance 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 joint insurance fund's aggregate self-insured retention for any individual joint insurance 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 joint insurance fund may establish and provide for the funding of an aggregate excess loss contingency fund. The joint insurance fund shall make annual contributions to the loss contingency fund, the amount of which shall be based on the joint insurance 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 joint insurance 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 joint insurance fund has different specific per occurrence/accident retentions for different lines, the joint insurance 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 joint insurance fund shall interpolate the appropriate percentage from the percentages indicated. For any joint insurance fund year, the loss contingency fund shall include the required annual contribution for the current joint insurance fund year and for the joint insurance fund year immediately preceding. Such contingency fund may be utilized solely for the replenishment of a claim or loss retention joint insurance fund account in excess of losses for a joint insurance fund year. The joint insurance fund shall notify the Department within 30 days of the transfer of moneys from the aggregate excess loss contingency fund to a claim or loss retention account. Annual contributions for the second preceding joint insurance fund year, and joint insurance fund years prior to the second preceding joint insurance fund year, which have not been utilized to replenish a claim or loss retention joint insurance fund account, may be released without restriction. The joint insurance 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 joint insurance 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 joint insurance fund year. For lines of coverage not covered by commercial excess or reinsurer, the joint insurance fund shall provide a loss contingency fund pursuant to item 2. above. For purposes of determining the annual contribution, the joint insurance 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 joint insurance fund seeks to purchase aggregate excess insurance and/or reinsurance, but such coverage is only available at a retention greater than 125 percent, the joint insurance 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 XIV,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 XIV,B.3.b., above, be required to be greater than that required to be established pursuant to Article XIV,B.1. and Article XIV, 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 joint insurance fund’s budget for losses anticipated for a particular joint insurance fund year, as annually certified by an actuary. (N.J.A.C. 11:15-4.23(g)1.)
2. **“Cumulated budgeted losses”** - means the joint insurance fund’s budgeted losses for the current joint insurance fund year plus the four joint insurance fund years immediately preceding. (N.J.A.C. 11:15-4.23(g)2.)
3. The joint insurance fund shall meet the obligations of this Article XIV by July 1, 1997. (N.J.A.C. 11:15-4.23(h))
4. Nothing shall prohibit the joint insurance 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 XV**

**Trust Fund Accounts, Investments And Disbursements**

**A. Establishment Of Trust Fund Accounts**

1. By resolution of the board of trustees, the joint insurance fund shall designate a public depository or depositories for its money from a list approved by the State of New Jersey. Such resolution shall also designate a person to be custodian of funds for the joint insurance fund, who shall be the treasurer of the joint insurance fund, and shall authorize the custodian to invest the temporary free balances of any claim/trust or administrative accounts periodically as authorized by law. The custodian shall report to the board of trustees at least quarterly - (N.J.A.C. 11:15-4.4(d)).
2. The joint insurance fund shall establish two separate trust fund accounts from which money shall be disbursed solely for the payment of claims, allocated claim expenses and excess insurance premiums for each line of coverage in which the joint insurance fund maintains a self-insured retention. The accounts shall be designated as Claims

or Loss Retention Fund Accounts and shall be used to pay claims over two distinct periods in the life of the joint insurance fund, as follows:

- for the period July 1, 1984 through June 30, 1993, when the joint insurance fund provided only workers' compensation insurance coverage with a self-insured retention, and
  - for the period beginning July 1, 1993, when the joint insurance fund transitioned to general liability, automobile liability, and property insurance coverages in addition to workers' compensation coverage on a self-insured retention basis.
3. Other than for claims, allocated claims expense, 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 joint insurance fund fiscal year, may be conducted by the joint insurance 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 joint insurance fund account during that joint insurance fund year - (N.J.A.C. 11:15-4.13(a)1.).
  4. The joint insurance fund shall also establish an administrative account which shall be utilized for payment of the joint insurance fund's general operating expenses, purchases of commercial insurances on behalf of the members in which the joint insurance fund has no retention, loss prevention activities, data processing services, and general legal expenses.
  5. The joint insurance 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 joint insurance 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 (N.J.A.C. 11:15-4.14).

## **B. Investments**

1. The free balance of any account maintained by the joint insurance 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 joint insurance fund's cash management plan and consistent with the statutes and regulations of the State Investment Council governing the surplus public moneys 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 investment of the assets of each claim or loss retention fund account shall be allocated to each such account by joint insurance fund year.
3. The investment and interest income earned by investment of the assets of the administrative account shall be allocated to that account by joint insurance fund fiscal year.

**C. Disbursements**

1. Prior to any commitment or agreement requiring the expenditure of funds by the joint insurance fund, the custodian of the joint insurance 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 joint insurance fund whether for administrative expenses or for claims purposes must be approved by a majority vote of the board of 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 board of trustees may designate the joint insurance fund's administrator, retained official or servicing organization as a "certifying and approving officer." The certifying and approving officer may be authorized by the board of trustees to approve for payment any, or specified types of, claims in an amount not to exceed the amount as approved by the Commissioner in its risk management program. The authority of the certifying and approving officer may be conditioned or restricted by the board of 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 board of trustees may deem appropriate. The authority of the certifying and approving officer may be revoked or modified at any time by the board of 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 joint insurance - (N.J.A.C. 11:15-4.22(b))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 board of trustees at their next scheduled meeting. The board of trustees shall review and approve the actions of the certifying and approving officer. In the event a claim approved by the certifying and approving officer is not approved by the board of trustees, they shall direct appropriate action to be taken - (N.J.A.C. 11:15-4.22(b)2.).
5. All requests for payments shall 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 joint insurance fund having knowledge of the facts that the goods have been received by, or the services rendered to the joint insurance fund. In the case of claims or losses to be charged against any loss fund, joint insurance 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)).

6. All claims shall be paid by check. The checks shall be signed by two persons designated by the board of trustees, one of which shall be the chairman or treasurer of the joint insurance fund. Payment of claims may be made in such other manner as provided in the joint insurance fund's bylaws as approved by the Commissioner - (N.J.A.C. 11:15-4.22(d)).
7. All claims or other disbursements approved for payment by the board of trustees or certifying and approving officer shall be recorded in a claims register and general register maintained by the custodian of the joint insurance fund's assets - (N.J.A.C. 11:15-4.22(e)).

## **ARTICLE XVI**

### **Conflict Of Interest**

The board of trustees shall establish a conflict of interest policy for all officials of the joint insurance fund.

All school officials, members of the board of trustees, and members of their immediate 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, trustees, officers or employees of school boards - (N.J.A.C. 11:15-4.27).

## **ARTICLE XVII**

### **Voluntary Dissolution Of The Joint Insurance Fund**

- A. If the board of trustees deem it in the best interest of the members to dissolve the joint insurance 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 joint insurance fund and its members, including all incurred but not reported losses, as certified by an actuary, before any assets of the joint insurance fund or the trust fund accounts may be used for any other purpose - (N.J.A.C. 11:15-4.12(2)). The plan of dissolution shall contain a statement of the joint insurance fund's current financial condition computed both on a statutory basis and according to GAAP as attested to by an independent certified public accountant - (N.J.A.C. 11:15-4.12(3)).
- C. Upon completion of the plan, the chairman shall call a meeting of the full fund membership which shall review the plan and make any appropriate amendments. By majority vote, the full fund membership may recommend that the joint insurance fund be dissolved in accordance with the plan of dissolution - (N.J.A.C. 11:15-4.12(1)).



- D. 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 joint insurance 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(4.)).
- E. The joint insurance 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).

## **ARTICLE XVIII**

### **Other Conditions**

#### **A. Member Inspection And Audit**

The joint insurance fund shall be permitted but not obligated to inspect, at any reasonable time, the workplaces and operations of each member board 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 board or others to determine or warrant that the workplaces, operations, are safe or healthful, or are in compliance with any law, rule or regulation.

The joint insurance fund shall conduct an annual payroll audit and shall be permitted to examine and audit the member board's 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.

#### **B. Notice Of Injury, Claim or Suit**

When an injury occurs, or when a claim or suit is initiated against a member board, prompt written notice shall be given by the member board to joint insurance fund in accordance with procedures established by the board of trustees.

#### **C. Assistance And Cooperation Of The Member Board**

The member board shall cooperate with the joint insurance fund, shall follow claims handling procedures established by the board of trustees and, upon the joint insurance 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 board 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.

#### **D. Action Against The Joint Insurance Fund**

No action shall lie against the joint insurance fund unless, as a condition precedent thereto, the member board shall have fully complied with all the terms of membership as set forth in these bylaws and the obligations set forth in the indemnity and trust agreement. Nothing contained in these bylaws or in the indemnity and trust agreement shall give any person or

organization any right to join the joint insurance fund as a codefendant in any action against the member board to determine the member board's liability.

**F. Subrogation**

In the event of any payment by the joint insurance fund, the rights of recovery of the member board and any person or organization on whose behalf the payment was made shall be subrogated to the rights of the joint insurance fund to recover the amount paid. The member board and any person or organization on whose behalf the payment was made shall execute and deliver all instruments and papers and do whatever else is necessary to secure such rights. The member board shall do nothing after loss to prejudice such rights.

**G. Conformance With Statute**

If any portion of these bylaws shall conflict with any statute or administrative regulation applicable to 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 the statute or regulation shall control to the extent of the conflict.

**ARTICLE XIX**

**Ownership And Maintenance Of Records**

**A. General Records**

All books, records, files, documents and equipment of the joint insurance fund are the property of the joint insurance fund and, except as provided in N.J.A.C. 11:15-4.22(e) and Article V, E.4. of these bylaws, shall be retained by the joint insurance fund administrator or joint insurance fund secretary, if any, at the discretion of the board of 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)1.i.)
2. Until the completion and filing of the next financial condition examination of the joint insurance fund by the Commissioner. (N.J.A.C. 11:15-4.4(f)1.ii.)

**C. Meeting Minutes**

The joint insurance fund shall maintain 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 joint insurance fund shall deliver reports to its members covering the activities and status of the joint insurance fund at each meeting which shall be at least quarterly. Such reports will contain the current financial status of the joint insurance fund, minutes of the last meeting, the joint insurance 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 board of trustees deems appropriate. The joint insurance 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 joint insurance fund, including the administrator, retained officials and servicing organizations of the joint insurance 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 XX**

**Examination Of The Joint insurance 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 joint insurance 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 board of 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 joint insurance 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 joint insurance fund as he or she deems necessary, or at any time the Commissioner has reasonable cause to believe the joint insurance fund may be insolvent or in a financial condition detrimental to its members or the public. It shall be the duty of the joint insurance fund members, trustees and administrator to notify the Commissioner of any information indicating that any joint insurance fund may be

in a financial condition detrimental to the joint insurance 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 joint insurance 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.

**B. Examination Procedures**

1. For the purposes of completing an examination of the joint insurance 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 joint insurance fund - (N.J.A.C. 11:15-4.6(g)1.).
2. The joint insurance 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 joint insurance 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 joint insurance fund, if the joint insurance 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 board of 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.S.A. 11:15-4.28, the Commissioner may issue an order revoking or suspending the joint insurance fund's authority or requiring a person or the joint insurance 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 joint insurance fund has violated any cease and desist order, the Commissioner may revoke his or her approval of the joint insurance 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 board of 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 moneys 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 joint insurance 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 XXI**

### **Disapproval Of Bylaws And Risk Management Program**

- A. If the Commissioner determines that the bylaws or risk management program of the joint insurance 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 joint insurance 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 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 XXII

### Revocation Of Approval Of Bylaws And Risk Management Program

- A.** After a notice and opportunity for a hearing, the Commissioner may suspend or terminate the authority of the joint insurance fund, or direct or take any action deemed necessary for good cause, to enable the joint insurance fund to meet its obligations, cover its expected losses, or to liquidate, rehabilitate or otherwise modify its affairs if the joint insurance 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 joint insurance 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 joint insurance fund or the joint insurance 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 joint insurance 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 joint insurance fund or any of its delegates, 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 joint insurance fund, its delegates, trustees, administrator, retained officials, servicing organizations or agents has misappropriated, converted, illegally withheld, or refused to pay over upon proper demand any moneys 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 XXIII

### Claims Handling - Procedures, Complaint and Dispute Resolution

**A.** Claims Response, Reserving and Settlement

Were the philosophy of the joint insurance fund in these areas to be encapsulated into three sentences, they would read as follows:

1. "The joint insurance fund will thoroughly review and respond to each claim presented so as to pay only that amount (if any) which it is legally bound and obligated to pay.";

2. "Reserves shall be established on each claim presented in a manner which accurately reflects the full, known liability of the joint insurance fund at any given point in time," and,
3. "The joint insurance fund will handle claims to ensure that they are resolved in a fair and equitable manner.

In reviewing each claim presented, the joint insurance fund (operating through its Claims Administrator and Legal Counsel) shall review such claims for coverage, deny those not falling within the purview of coverages offered, aggressively defend those in dispute, pursue to the fullest extent of the law those presented in bad faith, and settle as expeditiously as possible those for which the joint insurance fund is legally liable.

Case reserves, including all types of applicable allocated loss adjusting expenses, will be established with an eye toward identifying the full exposure of the joint insurance fund and its excess insurance carriers at the earliest possible date. Reserves shall be periodically reviewed for accuracy and adjusted as needed. For claims aged eighteen (18) months or more, it is expected that reserves will be not less than 90% accurate. For claims aged thirty (30) months or more 95% accuracy is expected.

Procedures and settlement authority for claims must be tailored to differentiate between the types of claims and to address the unique character of those claims. In addition, the procedures employed must be sensitive to the dynamic learning process and practical constraints inherent to school board enterprise in order to achieve the most highly efficient claim reporting and settlement systems possible. As such the joint insurance fund shall annually adopt specific procedures in its risk management program that define the methods it will employ to integrate the best of internal individual member board procedures and external joint insurance fund procedures all in a constant mission to achieve the joint insurance funds philosophy as expressed in this Article. - (N.J.A.C. 11:15 4.6 (c) 7.)

## **B. COMPLAINT HANDLING PROCEDURES**

While the joint insurance fund intends to always provide a fair and equitable resolution of claims it also recognizes that individual member boards may be dissatisfied with the handling or resolution of a specific claim. It is for this reason that the joint insurance fund sets forth the following procedure for member boards to address these concerns.

1. Any member board who is dissatisfied with the handling or settlement of a claim has the right to have the claim reviewed in Closed Session of the board of trustees at a regularly scheduled meeting of the board of trustees.
2. In order to effectuate this right the dissatisfied member board through its delegate shall:
  - a. Put in writing the specific reasons for their dissatisfaction noting the claimant, claim number, date of loss and narrative discussion of the issues they wish to review and discuss. If desired, their letter shall also list the specific contract retained officials and service providers they wish to be present or not be present at the meeting.
  - b. The letter shall be directed to the joint insurance fund's chair and secretary. The letter shall also be directed to the joint insurance fund's executive

director unless the executive director is at the focus of the dissatisfaction in which case the executive director can be excluded at the option of the dissatisfied member. However, if the executive director is not to be included then the dissatisfied member board must so advise within the letter and it shall then be the responsibility of the joint insurance fund secretary to maintain the records of the complaint separately from the joint insurance fund records maintained by the executive director. This provision shall ensure the confidentiality of the matter.

- c. Upon receipt of the letter complaint by either the chair, secretary or executive director it shall be their joint responsibility to bring the matter up at the next regularly scheduled meeting of the board of trustees in closed session. Recognizing that closed sessions are scheduled by the executive director and that receipt of a letter complaint which excludes distribution to the executive director, it shall then be the joint responsibility of the chair and secretary to ensure that a closed session is held at the next regularly scheduled meeting of the board of trustees.