

BERGEN MUNICIPAL EMPLOYEE BENEFITS FUND
Court Plaza North
25 Main Street
Hackensack, New Jersey 07601-7015

BYLAWS

October 15, 1993

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BYLAWS

Draft Dated: 10/15/93

WHEREAS, The communities in Bergen County are experiencing large increases in the cost of health insurance; and

WHEREAS, N.J.S.A. 40A:10-36 et. seq. has been amended to permit joint insurance funds to provide group health insurance to member local units;

NOW, THEREFORE, in consideration of the premises and in order to create said fund to be known as the Bergen Municipal Employee Benefits Fund, hereinafter called "Fund", it is mutually understood and agreed as follows:

Article I
DEFINITIONS

The Bylaws adopt the definitions set forth in N.J.A.C. 11:15 - 3.2 by reference. For the purposes of these Bylaws, unless the context requires otherwise, the following words and phrases shall have the meanings indicated:

"ACTUARY" in the case of health insurance means a fellow in good standing of the Society of Actuaries or the Casualty Actuarial Society with at least three (3) years recent experience in health insurance pricing and reserving engaged by the Fund to perform actuarial services. Actuary in the case of life insurance means a fellow in good standing of the society of Actuaries with at least three (3) years recent experience in life insurance pricing and reserving.

"ADMINISTRATOR" or **"EXECUTIVE DIRECTOR"** means a person, partnership, corporation or other legal entity engaged by the Fund to act as executive director, to carry out the policies established by the commissioners or executive committee and to otherwise administer and provide day-to-day management of the Fund.

"EMPLOYEE BENEFITS CONSULTANT" means a person, partnership, corporation or other legal entity engaged by the Fund to provide the specific, technical, employee benefits expertise to the Fund, its servicing organizations and constituent members.

"FUND" means the Bergen Municipal Employee Benefits Fund.

"FUND YEAR" means the Fund's fiscal year of January 1st through December 31st.

"HEALTH INSURANCE" means health insurance as defined pursuant to N.J.S.A. 17b:17-4; service benefits as provided by health service corporations, hospital service corporations or medical service corporations authorized to do business in the state, including basic health care services and/or supplemental health care services provided by health maintenance organizations, or dental care services provided by dental plan organizations and dental service corporations.

"PRODUCER", **"LOCAL PRODUCER"** means a person, partner, associates, or corporation licensed by the State of New Jersey as a "producer" as said term is used and interpreted in insurance law. A local producer is such a person or entity under contract to a present or prospective member local unit concerning the placement or administration of employee benefit coverages.

"SERVICING ORGANIZATION" (also referred to as **"SERVICE PROVIDER"**) means one or more individual, partnership, association or corporation, other than the Administrator, that has contracted with the Fund to provide, on the Fund's behalf, any functions as designated by the Fund Commissioners including, but not limited to, actuarial services, claims administration, cost containment services, legal services, auditing services, financial services, compilation and maintenance of the Fund's underwriting file, coordination and preparation of plan documents, employee booklets and other documents, risk selection and pricing, stop-loss or reinsurance producer services which include producer negotiations on behalf of the Fund for stop-loss or reinsurance from an insurer, member assessment and fee development, report preparation pursuant to N.J.S.A. 40A:10-36 et. seq. or this subchapter, and such other duties as designated by the Fund. This term shall refer, by way of example, to auditors, law firms, employee benefit consultants and others.

"STOP-LOSS INSURANCE" or **"REINSURANCE"** means insurance, purchased from an insurer authorized or admitted in the State of New Jersey, covering losses in excess of an amount established between the joint insurance fund and the insurer up to the limits of coverage set forth in the insurance contract on a specific per occurrence, per individual or annual aggregate basis.

"THIRD PARTY ADMINISTRATOR (TPA)" means a person, partnership, corporation or other legal entity engaged by the Fund to act as the claim administration and claim adjudication company as one of the "servicing organizations" of the Fund.

Article II

MEMBERSHIP

A. Agreement to Join the Fund

1. Pursuant to N.J.S.A. 40A:10-36, the governing body of a local unit shall by resolution or ordinance, as appropriate, agree to join the Fund.
 - a. The resolution or ordinance shall provide for execution of a written agreement specifically providing for acceptance of the fund's Bylaws as approved and adopted pursuant to N.J.S.A. 40A:10-36.
 - b. The Agreement shall specify the extent of the local unit's participation in the Fund with respect to the types of insurance coverage to be provided by the Fund and shall include the duration of Fund membership, which in no event shall exceed three (3) years pursuant to N.J.S.A.40A:11-15(6). The Agreement shall also specify that the Fund members have never defaulted on claims if self-insured, and, if not self-insured, have never been canceled for non-payment of insurance premiums for a period of not less than two (2) years prior to application.
2. The Agreement shall include an executed Indemnity and Trust Agreement.

B. Initial Membership

Any local unit which participated in the feasibility study may be a part of the Fund's initial application of approval by the Commissioner of Insurance and Department of Community Affairs.

C. Subsequent Membership

1. Any local unit seeking membership shall submit an application for membership to the Fund on a form approved by the Commissioner of Insurance. The application shall include an executed Indemnity and Trust Agreement and other documentation required under Section A above.
2. The Commissioners/Executive Committee may approve the application by two-thirds (2/3) vote of the full authorized membership if the applicant's claims experience, plan design, and personnel practices are compatible with the Fund's objectives and the applicant meets other criteria established by the Fund.

3. Any application approved by the Fund shall be concurrently filed with the Department of Insurance and the Department of Community Affairs and shall be accompanied by a revised budget with assessment detail, the name of the new member's insurance fund commissioners and alternates in accordance with N.J.A.C. 11:15-3.6(e), amendments to the Fund's Bylaws and Plan of Risk Management as may be necessary, and any other information the Commissioner may deem necessary.
4. No new membership in the Fund shall become effective until the application and accompanying amendments to the Fund's Bylaws and Plan of Risk Management are approved by the Commissioner and the Commissioner of the Department of Community Affairs.
5. If a non-member local unit is not approved for membership, the fund shall set forth in writing the reasons for disapproval and send the reasons for disapproval to the non-member local unit. The fund shall retain a copy of all disapprovals for five (5) years.

D. Local Producer

As a condition of membership, each local unit shall (subject to ¶ b. herein) appoint an Insurance Producer, as defined under N.J.S.A. 17:22, who shall not be a Fund commissioner, or otherwise employed by or under contract by the Fund provided:

- a. The Insurance Producer shall be appointed by the local unit in conformance with the Local Public Contracts Law.
- b. If the local unit performs the services of the Insurance Producer itself, it is exempt from this requirement; however, it shall agree to indemnify and hold harmless the Fund, Fund Commissioners, appointed officials and other Fund servants, agents and employees from any and all claims and additional costs arising from its decision to act in such manner.
- c. The local unit shall inform the Fund in writing of the manner in which it will provide for an Insurance Provider prior to the effective date or renewal date of its coverage for the ensuing Fund year.
- d. The Insurance Producer's specific responsibilities to the town shall include, but not be limited to:
 - i. Evaluation of the local unit's exposure.

- ii. Explanation of the various coverages available from the Fund and assisting the local unit in the selection of proper coverage.
 - iii. Preparation of applications, etc., required by the Fund.
 - iv. Review of the local unit's assessment and assisting in the preparation of the local unit's insurance budget.
 - v. Assistance in the claims settlement process.
 - vi. Assistance to the local unit with respect to negotiating and communicating benefit design with bargaining units and employees.
 - vii. Attendance at the majority of meetings of the Fund Commissioners/Executive Committee and the performance of such other services as required by the local unit or the Fund.
- e. The fees for the Insurance Producers shall be charged to the local unit through the local unit's assessment and disbursed by the Fund at a rate established by the Executive Committee consistent with the Producer's duties.

E. Membership Renewals

1. Members may renew their participation by execution of a new agreement to join the Fund adopted in accordance with the procedures set forth in N.J.A.C. 11:15-3.3(b) affirmed by resolution as provided for in Section 'A', above, ninety (90) days prior to the expiration of the term period.
2. The Fund Commissioners/Executive Committee must act on any renewal application no later than forty-five (45) days prior to the expiration of the term period. Otherwise, the renewal application is automatically approved.
3. In order to deny a renewal application, the Fund must find, by a majority vote, that the applicant has failed to fulfill its responsibilities as a member or no longer meets the Fund's written standards or other objective criteria as duly adopted.
4. If a member's renewal application is rejected, the Fund shall comply with subsection F.2, 3 and 4 below.

5. Non-renewal of a Fund member does not relieve the member of responsibility for claims incurred during its period of membership.

F. Termination and/or Withdrawal of Fund Members

1. A participating local unit may be terminated before the end of its membership by a majority vote of the Fund Commissioners or a two-thirds (2/3) vote of the Executive Committee. Termination may occur for non-payment of assessments or continued non-compliance, after written notice to comply, with these Bylaws, risk management or underwriting standards or for other reasons subject to the prior approval of the Commissioner of Insurance as to reasons for termination. However, such participating local unit shall not be deemed terminated until:
 - a. The Fund gives, by registered mail to the member, written notice of its intention to terminate the member in ten (10) days; and
 - b. Like notice shall be filed with the Department of Insurance and Department of Community Affairs, together with a certified statement that the notice provided for above has been given; and
 - c. Ten (10) days have elapsed after the filing required by "b" above.
2. A participating local unit may withdraw from the Fund before the end of its membership by sending the Fund a certified resolution adopted by the local unit's governing body. The Fund shall adopt a standard withdrawal resolution satisfactory to the Commissioner of Insurance, and the local unit shall use this standard withdrawal resolution. The certified resolution must be received by the fund at least sixty (60) days before the date of withdrawal.
3. A member of the Fund that does not desire to continue as a member after the expiration of its membership term shall give written notice of its intent ninety (90) days before the expiration of the term period. The Fund shall immediately notify the Department of Insurance and the Department of Community Affairs that the member has given notice to leave the Fund.

4. A member that has been terminated or does not continue as a member of the Fund shall nevertheless share in any surplus in the appropriate trust accounts for that Fund Year and remain jointly and severally liable for claims incurred by the Fund and its members during the period of its membership, including, but not limited to, being subject to and liable for supplemental assessments.
5. Prior to the conclusion of the Fund's current fiscal year, the Fund shall provide written notification to a member that has been terminated by or withdrawn from the Fund, of the estimated surplus or estimated supplemental assessment for which the member may share or be liable pursuant to 4 above.
6. The Fund shall immediately notify the Department of Insurance and the Department of Community Affairs if the termination or withdrawal of a member causes the Fund to fail to meet any of the requirements of P.L. 1983, c.372 or any other law or regulation of the State of New Jersey. Within fifteen days (15) of such notice, the Fund shall advise the Department of Insurance and the Department of Community Affairs of its plan to bring the Fund into compliance.
7. A Fund member is not relieved of the claims incurred during its period of membership except through payment by the Fund or member of those claims.
8. The Fund shall only cover claims incurred by a member local unit's covered: Employees, retirees, and individuals covered under COBRA and conversion options during the period the local unit was a member of the Fund.

Article III
ORGANIZATION

A. Commissioners

1. Appointment:
 - a. Commissioners: In the manner generally prescribed by law, each participating local unit shall appoint one (1) commissioner to the Fund. Each participating local unit shall select either a member of its governing body or one of its employees.

- b. Alternate Commissioner: Each participating local unit may also appoint an alternate insurance fund commissioner who shall either be a member of its governing body or one of its employees.
- c. Special Commissioner: In the event that the number of participating local units is an even number, one (1) additional commissioner shall be appointed annually by a participating local unit on a rotating basis determined alphabetically.

The local unit's privilege to appoint the special commissioner shall remain with that local unit for one (1) entire Fund Year and the subsequent admission to the Fund of a local unit with a preceding alphabetical prefix shall not deprive any local unit already a member of the Fund of its prerogative to appoint a special commissioner during a current local unit Fund Year.

2. Terms of Office and Vacancy:

- a. All terms of office shall expire on January 1st or until a successor is duly appointed and qualified.
- b. Commissioners shall hold office for two (2) years or for the remainder of their terms as elected officials, whichever shall be less, except that those Commissioners who are employees of the member local unit shall serve at the pleasure of the appointing authority.
- c. The unexpired term of a Commissioner shall be filled by the appointing local unit in the manner generally prescribed by law or as provided in its bylaws.
- d. Any Fund Commissioner can be removed from office for cause by two-thirds (2/3) vote of the full membership of the Fund Commissioners. Upon such a vote it shall be incumbent upon the member municipality to replace the Commissioner.

3. Responsibilities:

- a. The Commissioners are required, authorized and empowered to operate the Fund in accordance with these Bylaws and appropriate state laws and regulations.
- b. Each Commissioner shall have one vote.

- c. Each Commissioner shall be responsible to monitor all Fund activities through attendance at meetings and/or examination of the monthly minutes and reports.

B. Officers

1. As soon as possible after the beginning of each year, the Commissioners shall meet to elect the officers of the Fund from their own membership. Fund officers shall serve until January 1st of the following year, or until a successor is duly elected and qualified.
 - a. Chairperson: The Chairperson shall preside at all meetings of the Commissioners and shall perform such other duties provided for in these Bylaws and the laws and regulations of the State of New Jersey.
 - b. Secretary: The Secretary shall preside over the meetings of the Commissioners in the absence of the Chairperson, maintain minutes of the meetings, and retain all books, records, files, other documents of the Fund, and these Bylaws.

The Secretary shall maintain the books and records of the Fund at the office of the Fund as from time to time designated by the Fund Commissioners, to which office the Secretary shall have free access.

2. In the event of a vacancy in any of the officer positions caused by other than the expiration of the term of office, the Commissioners/ Executive Committee shall by majority of vote fill the vacancy for the unexpired term.
3. Any officer can be removed without cause at any time by a two-thirds (2/3) vote of the full membership of the Fund Commissioners. In this event, the full membership of the Fund Commissioners shall fill the vacancy for the unexpired term.
4. The Chairperson and the Secretary shall serve without compensation.

C. Fund Professionals/ Servicing Organizations

As soon as possible after the beginning of each year, the Commissioners/Executive Committee shall meet and select persons to serve in the following professional positions. These persons shall serve until January 1st of the following year, or until a successor

is duly appointed and qualified. No professional nor any employee, officer or director, or beneficial owner thereof, shall be a Commissioner of the Fund.

1. Treasurer: The Treasurer shall have the following duties and responsibilities:
 - a. The Treasurer shall be the custodian of the Fund's assets and shall maintain the various trust funds.
 - b. The Treasurer shall approve all payments, shall accept and deposit receipts in accordance with applicable statutes, and shall prepare and maintain all underlying Fund records pertaining to same.
 - c. The Treasurer shall prepare the Fund's cash management plan and shall invest all available balances.
 - d. The Treasurer shall perform such other duties as specified by the Executive Committee in its manual of operations, and to discharge the duties of office as set forth in the New Jersey Statutes and Administrative Regulations.

2. Administrator:
 - a. The Administrator shall be experienced in risk management matters.
 - b. The Administrator, its employees, officers or directors, shall not be an employee, officer or director of, or have either a direct or indirect financial interest in a servicing organization or any organization which acts as an insurance producer for member local units or the insurance producer appointed by the Fund pursuant to N.J.A.C.11:15-3.6(e)15.
 - c. The Administrator shall have the following duties and responsibilities:
 - i. Prepare for approval of the Executive Committee and implement the Fund's operations manual and policy procedures manual.
 - ii. Prepare the Fund's budget, compile and bill the monthly assessments.

- iii. Meet with and advise various subcommittees established by the Fund for purposes of plan design and cost containment and prepare written reports concerning the deliberation of these subcommittees.
- iv. Prepare written specifications for review by the Executive Committee for HMOs, PPOS, conversion benefits, COBRA, TPAs, managed care and cost containment providers, reinsurance and, at the request of the Executive Committee, negotiate on behalf of the Fund for these services.
- v. Maintain the Fund's general ledger, accounts payable and accounts receivable functions.
- vi. Coordinate the Fund's meeting agendas, minutes, elections, contracts as well as maintain the Fund's official records and office.
- vii. When requested or required by regulation, prepare a written report to the Executive Committee and the Executive Director concerning the compliance of the various Service Providers with respect to the written specifications.
- viii. Prepare all filings required by state regulators.
- ix. Attend all meetings of the Executive Committee.
- x. Maintain a complaint log, review each month the complaint log prepared by the TPA and the TPA's compliance with the disputed claims procedure. Prepare a written report each month to the Executive Committee and the Executive Director and deliver the complaint log at the end of each quarter to the Executive Director for inclusion in the Fund's official records. Prepare a written recommendation to the Executive Committee of disputed claims which are referred to the Executive Committee for decision.
- xi. Assume overall Executive responsibility for the operations of the Fund except that the Administrator shall not be responsible for the errors and omissions of any other servicing organization except as to generally monitor the compliance of said organizations with the directives of the Executive Committee, their

service provider contracts, or the applicable statutes and regulations as to the form and timeliness of said undertakings.

- xii. Communicate coverage changes as required to the TPA, the excess carrier, and actuary, and New Jersey Department of Insurance.
 - xiii. Assume responsibility for the negotiation and timely purchase of reinsurance or stop-loss insurance policies meeting the requirements of the Risk Management Plan, the New Jersey Statutes and Administrative Regulations. If and when approved by resolution of the Executive Committee, the Administrator may secure the services of an insurance producer licensed in the State of New Jersey (who may also be the T.P.A.) to assist in the negotiation and placement of said coverages. The Administrator shall, prior to the commencement of each year or policy period, certify in writing to the Executive Committee that the foregoing coverages have been placed and are in full force and effect.
 - xiv. Perform such other duties specified by the Executive Committee in its manual of operations pertaining to the Executive Director.
- d. The Administrator shall be bonded in a form and amount acceptable to the Commissioner of Insurance.
 - e. The Administrator shall be covered by Errors and Omissions insurance as provided by N.J.A.C. 11:15-3.6(e)7 and/or supplements or amendments pertaining thereto. Said coverage is to be paid for by the Fund.
 - f. Maintain the Fund's underwriting files including census data, prepare new member submissions for review by the Executive Committee, and supply underwriting data to other Fund professionals as needed unless this duty is contractually delegated by the Executive Committee to another Professional.
 - g. Provide information and assistance regarding technical aspects of employee benefits to the member local units, Executive Committee, and Fund Professionals unless this duty is contractually delegated by the Executive Committee to another Professional.

- h. Resolve coverage, claims and service questions for employees and bargaining units unless this duty is contractually delegated by the Executive Committee to another Professional.
- i. Advise member local units through their Risk Managers concerning plan design changes, present such changes to the Executive Committee for approval in accordance with the Fund's procedures and coordinate all appropriate revisions to documents necessitated by such changes unless this duty is contractually delegated by the Executive Committee to another Professional.
- j. Prepare employee communications documents concerning initial enrollment and the annual open enrollment, and coordinate the enrollment process between the member local units and other Fund Professionals unless this duty is contractually delegated by the Executive Committee to another Professional.
- k. Assist local insurance producer and the Fund in evaluating a local governmental unit's health benefits exposure unless this duty is contractually delegated by the Executive Committee to another Professional.
- l. Assist the local insurance producer and the Fund in explaining the various coverages and procedures offered by the Fund unless this duty is contractually delegated by the Executive Committee to another Professional.
- m. Assist the local insurance producer and the Fund in preparing membership applications required by the Fund unless this duty is contractually delegated by the Executive Committee to another Professional.
- n. Review the Fund's assessment with its provider or local governmental unit unless this duty is contractually delegated by the Executive Committee to another Professional.
- o. Assist the Fund in achieving its objectives, which include but are not limited to cost containment efforts, employee communication, and problem resolution unless this duty is contractually delegated by the Executive Committee to another Professional.

3. Auditor:

The Auditor shall be an independent certified public accountant (CPA) and a registered municipal accountant (RMA).

The Auditor shall conduct the annual audit of the Fund and shall perform such other duties as provided by the Fund Commissioners, these Bylaws and the laws and regulations of the State of New Jersey.

4. Attorney: The Attorney shall have the following responsibilities:

a. The Attorney shall advise the Fund on legal matters and the appropriateness of claim settlements recommended by the Claims Administrator.

b. The Attorney shall be available to assist the member local units through their attorneys in negotiation with bargaining units concerning benefit plan designs, coverage, etc.

c. The Attorney shall advise the Commissioners on the selection of outside counsel to represent the Fund in litigation matters, as and when appropriate.

d. The Attorney shall perform such other duties as provided for by the Fund Commissioners, these Bylaws and the laws and regulations of the state of New Jersey, including representation of the Fund as Attorney of Record in legal proceedings where appropriate.

5. Actuary:

The Actuary shall certify the actuarial soundness of the Fund and shall report to the Commissioners/Executive Committee in a manner and at such times established by them. The Actuary shall certify loss reserves, reserves for "Incurred But Not Reported" (IBNR) losses and unearned assessments. He/she shall also compute the probable net cost for each Fund Year and shall review and comment on the adequacy of the budget and do such other services as required by N.J.S.A. 40A:10-36 et. seq., N.J.A.C. 11:15-3 and the Fund's Bylaws.

6. Employee Benefit Consultant:

a. The Fund may employ, on an annual basis or for special projects as it sees fit, an Employee Benefit Consultant who shall be experienced in health insurance matters and, unless waived by resolution of the Executive Committee

for good cause, shall be a licensed producer in the State of New Jersey. The Employee Benefit Consultant shall have those particular responsibilities and duties as may be detailed in the resolution of appointment or the "servicing organization" contract entered into with said Consultant. In general, an Employee Benefit Consultant shall serve as a resource for technical-medical-insurance-benefits expertise for the Executive Committee, the Administrator or such other Fund professional or servicing organization as the Executive Committee may direct.

7. Additional Servicing Organizations/Consultants

The Executive Committee may, in its discretion, appoint or retain such additional servicing organizations or professionals as it may deem necessary or prudent for the conduct of the Fund's business.

8. In the event of a vacancy in any of the professionals caused by other than the expiration of the term of office, the Commissioners/Executive committee shall by majority vote fill the vacancy for the unexpired term. In the event that any of the professionals are incapacitated, the Commissioners/Executive Committee shall by majority vote appoint an acting official.

All professionals shall be retained on a contractual basis. Said contracts shall be approved by the Commissioners/Executive Committee and submitted to the Commissioner of Insurance and the Department of Community Affairs.

D. Executive Committee

1. The members of the Executive Committee shall possess the power and the obligation to exercise, as a governmental unit, all of the duties, powers and responsibilities of the self insurance fund, it being understood that upon election by the Commissioners, the Executive Committee operates the Fund. The individual members of the Executive Committee and the Committee as a unit are expected to oversee the day to day operations of the Fund through the critical monitoring of the Service Providers and the exercise of such of their powers as may, from time to time, be appropriate, all in accordance with these Bylaws and applicable statutes and regulations.

2. If the total number of commissioners exceed seven (7), as soon as possible after the beginning of the year, the Fund Commissioners shall meet and elect five (5) Commissioners to serve with the Chairperson and the Secretary as the Executive Committee of the Fund. During their term of office, members of the Executive Committee shall exercise the full power and authority of the Commissioners except as otherwise provided. Wherever the term "Commissioners/Executive Committee" appears in these Bylaws, that term shall be interpreted to mean "Executive Committee", except in those cases where the express language and content of these Bylaws or applicable statutes dictate otherwise.
3. The Executive Committee shall serve co-terminously with their underlying local office until January 1st of the following year, or until their successors are duly elected and qualified.
4. In the event that the Commissioners shall elect an Executive Committee as provided for above, they shall also elect two (2) commissioners to serve as alternate members of the Executive Committee. An alternate, or alternates, serving in the absence of a member, or members, of the Executive Committee shall exercise the full power and authority of that absent member or members.
 - a. Alternates shall serve in established priority order, designated as alternate #1 and alternate #2. Alternate #1 shall serve in the absence of one member of the Executive Committee or in the absence of alternate #1, alternate #2 may serve. Alternates #1 and 32 shall serve in the absence of two or more Executive Committee members.
5. In the event of a vacancy on the Executive Committee caused by a reason other than the expiration of the term of office, the Commissioners/Executive Committee shall by a majority vote fill the vacancy for the unexpired term.

F. Indemnification of Officers and Employees

1. The TPA, Administrator and Employee Benefit Consultant and such others as are required by regulation to do so shall provide Errors & Omissions coverage in a form satisfactory to the Commissioner of Insurance.
2. The Executive Committee, in its discretion may, but shall not be required to, have the Auditor, Actuaries, Treasurer,

Attorneys, or other servicing organizations produce evidence of Errors and Omissions coverage, and such other coverage as they deem advisable, as a condition of employment.

3. Except to the extent covered by Errors and Omissions Insurance as may be required, as set forth above, the Fund shall indemnify any past, present or future Fund Commissioner and may indemnify such other officials or service provider or professional as the Executive Committee determines, for claims arising from an act or omission of such Fund Commissioner, official or employee within the scope of the performance of such individual's duties as Fund Commissioner, official or employee. Such indemnification shall include reasonable cost and expenses incurred in defending such claims. Nothing contained herein shall require the Fund to pay punitive damages or exemplary damages arising from the commission of a crime by such an individual and the Fund shall not be required to provide for the defense or indemnification of such an individual when the act or omission which caused the injury was the result of actual fraud, actual malice, gross negligence or willful misconduct of such individual, or in the event of a claim against such an individual by the State of New Jersey or if such Fund Commissioner, 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 Fund's Commissioners/Executive Committee. Nothing herein contained is intended to shield any employee or appointed official from liability for any act, omission or wrong-doing which would not customarily be covered by Errors & Omissions insurance if same had been required of said employee or appointed officials.
4. A present, past or future Fund Commissioner, official or service provider of the Fund shall not be entitled to a defense or indemnification from the Fund unless:
 - a. Within ten (10) calendar days of the time he or she is served with the summons, complaint, process, notice or pleadings, he or she delivers the original or exact copy to the Fund attorney, selected by the Fund to handle such matters, together with a request that the Fund provide for his or her defense; and
 - b. He or she cooperates in the preparation and presentation of the defense with the attorney selected to defend the case; and

- c. Except in those instances where a conflict of interest exists, as determined by an attorney selected by the Fund to handle such matters, the past, present or future Fund Commissioner, official or employee shall agree that the Fund and its counsel shall have exclusive control over the handling of the litigation.
5. The foregoing right of indemnification shall not be exclusive of any other rights to which any Fund Commissioner, official or employee may be entitled as a matter of law or which may be lawfully granted to him or her; and the right to indemnification hereby granted by this Fund shall be in addition to and not in restriction or limitation of any other privilege or power which the Fund may lawfully exercise with respect to the indemnification or reimbursement of any Fund Commissioner, official or employee; except that in no event shall a Fund Commissioner, official or employee receive compensation in excess of the full amount of a claim and reasonable costs and expense incurred in defending such claim.
6. Expenses incurred by any Fund Commissioner, official or employee in defending an action, suit or proceeding may be paid by the Fund in advance of final determination of such action, suit or proceeding as authorized by the Fund in a specific case upon receipt of an undertaking by or on behalf of such member or officer to repay such amount in the event of an ultimate determination that his or her conduct was such as to fall outside the scope of coverage under this indemnification provision.

Article IV
OPERATION OF THE FUND

A. General Operation

1. The Commissioners shall meet annually and elect an Executive Committee. The Executive Committee, during its tenure, possesses the power and responsibility to take all actions required to operate the Fund.
2. The Fund shall be subject to, and operate in compliance with, the provisions of the "Local Fiscal Affairs law" (N.J.S.A. 40A:5-1, et. seq.), the "Local Public Contracts Law" (N.J.S.A. 40A:11-1 et. seq.), regulations (N.J.A.C. 5:34) and the various statutes authorizing the investment of public funds,

including, but not limited to, N.J.S.A. 40A:10-10(b), 17-12B-241 and 17:16I-1 et. seq.

3. The Fund shall be considered a local unit for purposes of the "Local Public Contracts Law" (N.J.S.A. 40A:11-1 et. seq..) and shall be governed by the provisions of that law in the purchase of any goods, materials, supplies and services.
4. The Fund shall be operated with sufficient aggregate financial strength and liquidity to assure that all obligations will be promptly met. The Fund shall prepare a financial statement on a form acceptable to the Commissioner of Insurance showing the financial ability of the Fund to meet its obligations. In consultation with the Fund Actuary, the Fund shall establish actuarially sound policies and claim reserves and shall include the methodologies and assumptions for the calculation for such reserves in the plan of Risk Management. The members may, upon majority vote, request that the Commissioner of Insurance order an examination of any Fund member which the Fund Commissioners or Executive Committee, if any, in good faith believes may be in a financial condition detrimental to other Fund members or to the public.

B. Risk Management Plan

1. The Commissioners shall prepare or cause to be prepared a plan of Risk Management for the Fund pursuant to N.J.A.C. 11:15-3.6(d).
2. The Risk Management Plan and all amendments must be approved by the Commissioner of Insurance and the Commissioner of the Department of Community Affairs before taking effect.

C. Servicing Organizations

1. The fund may contract to have the following services performed:
 - Claims adjusting, adjudication and administration.
 - Compilation of statistics and the preparation of assessment, loss and expense reports.
 - Preparation of reports required pursuant to PL 1983, c.372 or any regulations and/or rules of the New Jersey Department of Insurance, including but not limited to, N.J.A.C. 11:15-3.
 - Development of members assessments and fees.
 - Actuarial services.
 - Internal auditing services.

- Such other services as the Commissioners/Executive Committee may deem necessary to properly manage the Fund.
- 2. Except with the approval of the Commissioner of Insurance, no servicing organization, or producer appointed by the Fund pursuant to N.J.A.C. 11:15-3.6(e)15, or its employees, officers or directors shall have either a direct or indirect financial interest in an Administrator or be an employee, officer or director of an Administrator.
- 3. Each service contract shall include a clause stating "unless the Commissioner of Insurance otherwise permits, the servicing organization (or Program Manager, as applicable) shall handle to their conclusion all claims and other obligations incurred during the contract period."
- 4. Each servicing organization, if required pursuant to N.J.A.C.11:15-3.6(e)6, shall provide a surety bond and Errors & Omissions coverage in a form and amount acceptable to the Commissioner of Insurance and as provided elsewhere in these Bylaws.

D. Financial Statement and Reports

- 1. The Fund shall provide its members with periodic reports covering the activities and status of the fund for the reporting period. The reports shall be made at least quarterly and may be made more frequently at the discretion of the Fund Commissioners and shall include, but not be limited to, the minutes, the Administrator's report and a summation of Fund activity, including comments on previously reported claims and newly reported claims, and any other information required by the Fund Commissioners.
- 2. A sworn annual report in a form prescribed by the Commissioner of Insurance shall be prepared by the Fund, filed concurrently with the Department of Insurance and the Department of Community Affairs, and made available to each Fund member not later than one hundred twenty (120) days after the end of the year. The report shall be accompanied by:
 - a. An annual audited statement of the financial condition of the Fund prepared by the Auditor and performed in accordance with generally accepted accounting principles and N.J.S.A. 40A:10-46.
 - b. Reports of outstanding liabilities showing the number of claims, amounts paid to date and current reserves for

losses, claims and unearned assessments, as certified by an actuary.

3. Such other information as may be required by the Department of Insurance pursuant to N.J.A.C. 11:15-3.24.

E. Coverages

The Fund shall offer health insurance coverages to the members. Upon a majority vote of the Fund Commissioners, and the approval of the Commissioner of Insurance, the Fund may also offer other employee benefits permitted pursuant to N.J.S.A. 40A:10-36, et. seq. At least thirty (30) days prior to the beginning of each Fund Year renewal, the Fund shall notify the Commissioner of Insurance of any changes in coverage and benefit levels as may be determined and specified by the Fund and its members along with copies of written notice to affected persons.

Article V MEETING AND RULES OF ORDER

A. Meetings

1. **Annual Organization Meeting:** As soon as possible after the beginning of the year, the Commissioners shall meet to elect officers and Executive Committee, if any, to appoint officials and to conduct such other business as is necessary. The time and place for the meeting shall be established by the Chairperson, and the Secretary shall send written notice to the clerks of participating local units at least two (2) weeks in advance.
2. **Regular Meeting:** The Commissioners/Executive Committee shall establish a schedule of regular meetings to conduct the business of the Fund, which shall be at least quarterly. All Commissioners may attend open or closed sessions of the Executive Committee.
3. **Special Meeting:** The chairperson, or three (3) Commissioners may call a special meeting by notifying the Secretary at least three (3) days in advance. The Secretary shall notify the Commissioners (or members of the Executive Committee) by telephone. If the Secretary is unable to reach a member as of forty-eight (48) hours before the meeting, the Secretary shall

telephone another official of the local unit using the following order: Clerk, Mayor, Police Department.

4. **Quorum:** The quorum for a full Commissioners meeting shall be as follows:
 - a. A majority of the total Commissioners unless the total number exceeds 25.
 - b. If the total number of Commissioners exceeds 25 in number, then a quorum shall be 13 plus a sum equal to 20% of the number of members in excess of 25 rounded to the next highest number.
 - c. A quorum for Executive Committee meetings shall be a majority of the full committee (four persons).

B. Conduct of Meeting

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

C. Amendments to the Bylaws

1. Any Commissioner may propose an amendment to the Bylaws by filing the proposed amendment in writing with the Secretary.
2. Upon receipt of a proposed amendment, the Secretary shall notify the Chairperson who shall schedule a hearing to be held not more than forty-five (45) days from the date the amendment was filed. The Secretary shall notify in writing all Commissioners of the hearing date and shall send all Commissioners a copy of the proposed amendment.
3. The amendment is adopted by the Fund when the governing bodies of three-fourths (3/4) of the member local units approve the amendment within six (6) months of the hearing on the amendment. If after six (6) months, the Secretary has not received written notice of approval from three-fourths (3/4) of the member local units, the Secretary shall notify the members that time has expired for the adoption of the amendment.

4. If adopted, the amendment shall not take effect until approved by the Commissioner of Insurance and the Department of Community Affairs.
5. Within ninety (90) days after the effective date of any amendment to the Bylaws, a member local unit which did not approve the amendment may withdraw from the Fund provided it shall remain liable for its share of any claims or expenses incurred by the Fund during its period of membership.

Article VI BUDGETS

A. Budget Preparation

1. Each year, not later than sixty (60) days prior to the beginning of the Fund's subsequent fiscal year, the Fund shall prepare the budget for the next fiscal year. The budget shall identify the proposed items and amounts of expenditure for its operations, the anticipated amounts and sources of assessments and other income to be received during the fiscal year and the status of the self-insurance or loss retention accounts.
2. The budget shall be reviewed by an actuary who shall comment on its adequacy and shall recommend changes, as appropriate prior to the budget introduction.

B. Budget Adoption

1. Not later than November 30th of each year, the Fund Commissioners/Executive Committee shall adopt by majority vote the budget for the Fund's operation for the coming fiscal year.
2. A copy of the Fund's proposed budget (as changed to reflect the actuary's report) shall be sent to each participating local unit 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 participating local units the opportunity to present comments or objections.
3. An adopted budget may be amended by majority vote after giving the participating local units two (2) weeks' written notice and conducting a hearing on the proposed amendment.

4. A copy of the adopted budget shall be filed within thirty (30) days of its adoption with the governing body of each participating local unit, the Commissioner of Insurance and the Department of Community Affairs.
5. A copy of any amendment to the Fund budget shall be filed quarterly with the governing body of each member local unit.
6. A copy of any amendment to the Fund budget shall be filed with the Commissioner of Insurance and the Commissioner of the Department of Community Affairs within thirty (30) days of the adoption of any budget amendment which either singly or cumulatively with other adopted budget amendment changes the total budget five (5%) percent from the original or latest filed amended budget.

Article VII
ASSESSMENTS

A. Monthly Assessment (Employee Benefits)

1. Base Monthly Assessment

By November 1st of each year, the Actuary shall compute the probable net cost for the next Fund year, and the Executive Director shall prepare a draft budget for review by the Executive Committee. Each member's base monthly assessment shall be one-twelfth (1/12) of its pro rata share of the probable net cost based on its actuarial rates. The Executive Committee may also adopt a capping formula which distributes the increase in the base monthly assessments so that no member's per employee rates increase by more than the average Fund-wide increase plus a percentage specified by the Executive Committee. Each member's base monthly assessment shall be certified by majority vote of the Fund Commissioners (or Executive Committee, as applicable) to the governing body of each participating local unit at least one (1) month prior to the beginning of the next fiscal quarter. For budget purposes, the Fund will also compute and communicate each member local unit's maximum cost based on the Fund's aggregate stop loss excess insurance (if any).

2. Adjusted Monthly Assessment

- a. With the approval of the Executive Committee, the Executive Director shall modify the base monthly assessment for each member unit to reflect changes in the plan of benefits and employee census. The Executive Director shall use a rating structure approved by the actuary. The rating structure shall take into consideration whether claims incurred by a member unit prior to membership are to be covered by the Fund.
 - b. The Treasurer shall deposit each member's assessments into the applicable accounts including the Administrative Account, Contingency Account and the Claim or Loss Retention Trust Fund Account by Fund Year.
3. In the event the Fund directly bills retirees, and individuals covered pursuant to COBRA and conversion options, the member local unit shall be assessed for any delinquency in said payments.

B. Supplemental Assessments

1. The Fund Commissioners/Executive Committee shall by majority vote levy on the participating local units additional assessments, whenever needed or so ordered by the commissioner of Insurance, to supplement the Fund's Claim Loss Retention or Administrative Accounts to assure the payment of the Fund's obligations. No retiree, or individual billed directly by the Fund for coverage under COBRA or conversion options shall be subject to supplemental assessment and any such deficits shall be assessed to the appropriate member local units.
2. All supplemental assessments shall be charged to the participating member local units by applicable Fund year, and shall be apportioned by that year's assessments for that line of coverage.
3. All local units shall be given thirty (30) days advance written notice of the Fund's intention to charge an additional assessment, and the Fund shall conduct a hearing before adopting the supplemental assessment.
4. Local units shall have thirty (30) days to pay the Fund from the date any supplemental assessment is adopted.
5. The Fund shall submit to the Commissioner of Insurance and the Department of Community Affairs a report of the causes of the insufficiency, the assessments necessary to replenish it and the steps taken to prevent a recurrence.

C. Failure or Refusal to Provide Required Assessments

Should any member fail or refuse to pay its assessments or supplemental assessments, or should the Fund fail to assess funds required to meet its obligations, the Chairperson, or in the event by his or her failure to do so, the custodian of the Fund's assets shall notify the Commissioner of Insurance and the Commissioner of Community Affairs. Past due assessments shall bear interest at the rate of interest established annually by the Commissioners/ Executive Committee. The Fund Attorney or such other attorney selected by the Executive Committee shall endeavor to collect past due assessments and any accrued interest in an action in the Superior Court, Law Division, State of New Jersey: And in the event such action is successful, the Fund shall also be entitled to reasonable attorney fees and costs.

D. Insolvency and/or Bankruptcy of Fund Members

Insolvency or bankruptcy of a member does not release the Fund, or any other member, of joint and several liability for the payment of any claim incurred by the member during the period of its membership, including, but not limited to, being subject to and liable for supplemental assessments.

Article VIII
REFUNDS

- A.** Any monies for a Fund Year in excess of the amount necessary to fund all obligations for that Fund Year as certified by an actuary, may be declared to be refundable by the Fund in accordance with the regulations promulgated by the New Jersey Department of Insurance. No retiree or other individual directly billed by the Fund for coverage including COBRA and conversion shall be eligible for refunds.
- B.** A refund for any Fund Year shall be paid only proportion to the member's participation in the Fund for such year. Payment of a refund for a year is not contingent on the member's continued membership in the Fund after that year.
- C.** At the option of the member, the refund may be retained by the Fund and applied toward the member's next assessment.

- D. The Commissioners or Executive Committee may appropriate a portion of any refund with the appropriate contingency account subject to the provision of N.J.A.C. 11:15-3.13(b).

Article IX

STOP-LOSS INSURANCE AND/OR REINSURANCE

- A. Where self-insured, the Fund shall provide a plan for specific and/or aggregate stop-loss insurance or reinsurance in a form and amount acceptable to the Commissioner of Insurance from an insurer authorized or admitted in the state.
- B. If due to condition in the commercial insurance market, specific and/or aggregate insurance or reinsurance is either not available or the pricing is such that, or for other valid reasons, in the judgment of the Fund Commissioners/Executive Committee, it would be in the best interest of the Fund not to carry such specific and/or aggregate insurance or reinsurance, and if the Fund's actuary certifies that the retention is in accordance with sound actuarial principles, the Fund Commissioners/Executive Committee may apply to the Commissioner of Insurance for a waiver of the requirements of N.J.A.C. 11:15-3.23.
- C. If the waiver referred to in B above is granted by the Commissioner of Insurance and results in a revision(s) and/or amendment(s) of either the Plan of Risk Management or the Budget, they shall not be effective until they have been approved by the commissioner of Insurance and the Commissioner of the Department of Community Affairs.
- D. Certificates of stop-loss insurance and/or reinsurance showing policy limits and other information shall be available for inspection of each member and shall be filed with the Commissioner.
- E. Any proposed change in the terms or limits of stop-loss insurance and/or reinsurance shall be submitted to the Department of Insurance and the Department of Community Affairs for approval at least thirty (30) days prior to the effective date of the proposed change.

Article X

TRUST FUND ACCOUNTS, INVESTMENTS AND DISBURSEMENTS

A. Establishment of Trust Fund Accounts

1. By resolution, the Fund shall designate a public depository or depositories for its monies pursuant to N.J.S.A. 40A:5-14.
2. The Fund shall establish a separate Trust Fund Account in accordance with N.J.A.C. 11:15-3.6(b)6 from which monies shall be disbursed solely for the payment of claims, allocated claims expenses and excess insurance premiums. These accounts shall be designated as Claims or Loss Retention Fund Accounts.
 - a. Other than the purposes specified in 2 above, or as otherwise authorized by N.J.A.C. 11:15-3, no transfers or withdrawals may be made from a Claim or Loss Retention account without the prior written approval of the Commissioner of Insurance.
 - b. In the event the Fund directly bills retirees, individuals covered under COBRA or conversion options, or other employee contributions, the Fund shall maintain accounting records of all income and distributions with respect to said contributions, provided that employees, retirees and other individuals directly billed by the Fund shall not be subject to supplemental assessment and/or refunds.
3. The Fund shall establish an Administrative Account which shall be used for payment of the Fund's general operation expenses, loss prevention activities, data processing services and general legal expenses.
4. The Fund may establish by resolution a separate trust fund account for contingencies and may include in the budget an assessment for this account provided, however, that no such assessment shall be included in rates used to directly bill retirees, or individuals covered under COBRA or conversion options.
 - a. The assessment for the contingency account shall not exceed the limits in N.J.A.C. 11:15-3.13.
 - b. The Fund shall maintain accounting records on contingency accounts which shall include:
 - i. The sources of contributions to the contingency account;
 - ii. Transfers from the account to a claims or loss retention trust fund account by Fund Year;

- iii. Interest earned, which shall be allocated by the average balance in the contingency account by Fund Year; and
 - iv. The pro rata share of each member local unit allocable to each member.
- c. In the event a member local unit withdraws or is terminated from the Fund, the Fund shall return to the members its share of the contingency account within the time period provided for in N.J.A.C. 11:15-3.20.

B. Investments

- 1. The balance of any account shall be invested to obtain the maximum interest return practical. All investments shall be in accordance with the Fund's cash management plan and consistent with the statutes and rules governing the investment of public funds by local governments and pursuant to N.J.S.A. 40A:10-10 (b).
- 2. The investment and interest income earned by the investment of the assets of each Claim or Loss Retention Account shall be credited to each account.
- 3. The investment and interest income earned by investment of the assets of the Administrative Account shall be credited to that Account.
- 4. With the prior approval of the Commissioner of Insurance and the Commissioner of Community Affairs, the Fund may join together with other joint insurance funds to implement a joint investment and cash management program as permitted pursuant to N.J.S.A. 40:8A-3.

C. Disbursements

- 1. Prior to any commitment or agreement requiring the expenditure of funds, the custodian of the Fund's assets shall certify the availability of sufficient unencumbered funds.
- 2. All disbursements, payments of claims and expenditures of funds must be approved by a majority vote of the Fund's Commissioners/Executive Committee.
- 3. Notwithstanding subsections 1 and 2 above, the Fund may provide for the expeditious resolution of certain claims by

designating the Fund's Administrator or Service Organization as "certifying and approving officer" pursuant to N.J.S.A. 40A:5-17. The Fund may authorize the "certifying and approving officer" to approve for payment any or specified claims in an amount not to exceed an amount approved by the Commissioner of Insurance. The Fund shall submit to the Commissioner for approval the claim amount the "certifying and approving officer" may approve for payment. The Fund shall establish such other procedures and restrictions on the exercise of this authority as the Fund may deem appropriate.

4. Upon approval, the "certifying and approving officer" shall certify the amount and particulars of such approved claims to the custodian of the Fund's assets directing that a check for payment be prepared.
5. The "certifying and approving officer" shall prepare a report of all claims approved since the last 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 reviewed and approved or rejected by vote of the Fund's Commissioners/Executive Committee at their next regularly scheduled meeting. If any payment is not approved, appropriate action shall be taken.
6. Each request for payment must be accompanied by a detailed bill of items or demand, specifying particularly how the bill or demand is made up, with the certification of the party claiming payment that it is correct, and must carry the certification of some officer, or duly designated agent or employee of the Fund having knowledge of the facts that the goods have been received by or the services rendered to the Fund. In the case of claims or losses to be charged against any loss fund, the Fund's Claim Administrator shall certify as to the claims' correctness and validity.
7. All claims shall be paid by check. Each check shall be signed by two persons designated by the Fund Commissioners/Executive Committee.
8. All claims and other disbursements approved for payment by the Fund shall be recorded in a claims register retained by the custodian of the Fund's assets.

Article XI

CONFLICT OF INTEREST

All officials or employees of a participating local unit or any members of the family of such officials or employees shall comply with N.J.S.A. 40A:9-22.1 et seq. (the "Local Governmental Ethics Laws").

Article XII VOLUNTARY DISSOLUTION OF THE FUND

- A.** If the Fund Commissioners/Executive Committee deem it in the best interest of the members to dissolve the Fund, they shall, by majority vote, direct that a plan of dissolution be prepared.
- B.** The plan of dissolution must provide for the payment of all incurred losses of the Fund and its members, including all incurred, but not reported, losses, as certified by an actuary, before any assets of the Fund or the Trust Fund Accounts may be used for any other purposes. The plan of dissolution shall also contain a statement of the Fund's current financial condition computed on a statutory basis and computed to generally accepted accounting principles as attested to by an independent certified public accountant.
- C.** Upon completion of the plan, the Chairperson shall call a general meeting of all Fund Commissioners (or Executive Committee), who shall review the plan and make any appropriate amendments. By majority vote, the Fund Commissioners may recommend to the members that the Fund be dissolved in accordance with the plan of dissolution.
- D.** A majority of the governing bodies of the participating municipalities must, by resolution, vote to accept the plan of dissolution in order to dissolve the Fund.
- E.** The plan of dissolution, and other such information as may be required, must be filed with, and approved in writing by the Commissioner of Insurance and the Commissioner of the Department of Community Affairs before the dissolution of the Fund is effective.

Article XIII CLAIMS HANDLING PROCEDURE

- A. Compliance:** The Fund and the TPA shall provide for the prompt, fair, equitable and confidential settlement of claims and shall comply with the requirements of N.J.S.A. 17B:30-13.1 and 13.2 and

N.J.A.C. 11:2-17 and 11:15-3.22 in administering the claims handling procedure.

- B. Registration of Claims:** Covered individuals shall submit claims to the Third Party Claims Administrator (TPA) retained by the Fund. Each covered employee shall have an identification card which contains the name and telephone number of the TPA. Claim reporting forms shall be made available to each participant by the TPA.
- C. Claims Response:** Upon receipt of the initial notice of claim, the TPA shall process the information in the following manner:
1. Validate that the person has coverage.
 2. Determine if claim is eligible.
 3. Calculate the amount payable based upon the plan or benefits deductible, coinsurance, any cost containment features in the plan, and coordination of benefits (COB) factors.
 4. Pay valid claims or issue notice of rejection.
 5. If a notice of rejection is issued, the reason for said rejection shall be stated thereon.
- D. Periodic Review of Pending Claims:** All pending claims will be reviewed not less than monthly. The TPA shall submit a report to the Fund not less than quarterly.
- E. Approval of Payments:** The Fund shall specify in the contract the TPA's claims payment authority.
- F. Confidentiality:**
1. As mandated by New Jersey law, all employee claims information is privileged and confidential and shall not be included as a part of any open public record.
 2. Fund Commissioners and the officials of the member local unit shall not have access to any employee claim information which reveals the identity of any individual plan participant.
 3. All claims are to be filed, and all inquiries are to be handled, directly with the Third Party Administrator. All employees of the Third Party Administrator shall execute a non-disclosure statement to protect the identity of the plan participants.
 4. Only Executive Committee members and necessary Fund professionals shall participate in any closed session discussion of claims. These claims discussions, whether

general or specific to a coverage dispute, shall at all times be confidential and anonymous so that the identity of the municipality and/or claimant cannot be ascertained. When necessary, as in a specific claim dispute, the anonymity of the claimant shall be accomplished by assigning a blind claim number and deleting all references to the individual's name and place of employment. The claimant may demand that the matter be handled with disclosure of his identity by so indicating in writing to the Executive Committee.

5. Documents identifying the employee, or from which the employee's identity might be deduced, shall not be accessible to any persons other than the Third Party Administrator, Program Manager, Fund Attorney, or duly appointed claim auditors when such records are needed to verify the accuracy of claim data as part of an audit.
6. Any person having access to claim information must sign a written non-disclosure statement.

G. Disputed Claims Appeal Procedures

1. If the plan participant is dissatisfied with the determination of the claim processor, the plan participant may appeal, in writing, the processor's determination to the TPA's Services Management Review Team, who shall notify the plan participant in writing of their determination. The plan participant shall, at that time, be advised by the TPA that the determination may be appealed to the Fund's Executive Committee and that, at the plan participant's written request, the appeal may be made with the identity of the plan participant revealed. The plan participant's identity shall be revealed only upon the written request of the participant. A copy of this communication with the plan participant's name shall be sent to the Program Manager.
2. The plan participant may appeal an adverse determination concerning a claim to the Executive Committee by forwarding a copy of the determination letter issued by TPA to the Program Manager, who shall place it on the agenda for a closed session discussion at the next regularly scheduled meeting of the Fund, unless the appeal is received seven (7) business days or fewer prior to the next meeting, in which case it shall be placed on the ensuing meeting agenda. Prior to distribution of any writing concerning this appeal, all reference to the plan participant or the Town shall be stricken. The Program Manager shall review the claim and make a written recommendation to the Executive Committee prior to their

deliberation regarding same. Whenever practical, the Executive Committee shall render its decision upon conclusion of the discussion at the appeal meeting, and if the plan participant is not present, advise the plan participant in writing of the determination and the reasons therefore within five (5) business days.

3. If the plan participant is dissatisfied with the Executive Committee's determination, the plan participant may appeal this determination to the independent appeal organization or arbitrator designated by the Fund annually.
4. If the plan participant is dissatisfied with the determination of the independent appeal agency or arbitrator, the plan participant may exercise any remedies provided by law.

Article XIV
COMPLAINT HANDLING PROCEDURES
(Other Than Disputed Claims)

- A.** Whenever any interested party shall submit a complaint in writing to the Fund, the Administrator or any member of the Fund, a copy thereof shall be forthwith communicated to the Fund Executive Committee for consideration at their next regularly scheduled meeting, unless the complaint is received seven (7) business days or fewer prior to the next meeting, in which case it shall be considered at the next ensuing meeting.
- B.** At said meeting, the Fund Commissioners/Executive Committee shall consider the complaint, and by recorded vote take such action as might be appropriate.
- C.** The complaining party, through the Fund Administrator, shall receive written notice of the Executive Committee's findings. The written notice to the complaining party may, where appropriate, include an opportunity for the complaining party to have a hearing concerning its complaint before the Fund Executive Committee.
- D.** The Fund shall keep a separate record of each complaint received. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint.
- E.** For purposes of this article, "complaint" means any written communication primarily expressing a grievance.

F. Confidentiality -

1. As mandated by New Jersey Law, all employee complaint information is privileged and confidential and shall not be included as a part of any open public record.
2. Fund Commissioners and the officials of the member local unit shall not have access to any employee complaint information which reveals the identity of any individual plan participant.
3. All complaints are to be filed, and all inquiries are to be handled, directly with the Administrator. All employees of the Administrator shall execute a non-disclosure statement to protect the identity of the plan participants.
4. Only Executive Committee members and necessary Fund professionals shall participate in any closed session discussion of complaints. These complaint discussions, whether general or specific shall at all times be confidential and anonymous so that the identity of the municipality and/or complaining employee cannot be ascertained. When necessary, the anonymity of the complaining employee shall be accomplished by assigning a blind complaint number and deleting all references to the individual's name and place of employment. The complaining employee may demand that the matter be handled with disclosure of his identity by so indicating in writing to the Executive Committee.
5. Documents identifying the employee, or from which the employee's identity might be deduced, shall not be accessible to any persons other than the Administrator, or Fund Attorney.
6. Any person having access to complaint information must sign a written non-disclosure statement.

Article XV
OTHER CONDITIONS

- A. Inspection and Audit:** The Fund shall be permitted, but not obligated, to inspect, at any reasonable time, the workplaces and operations of each Fund member. 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 local unit or others, to determine or warrant that such workplaces or operations are safe or healthful or are in compliance with any law, rule or regulation.

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

- B. Notice of Claim or Suit:** If claim is made or formal petition or a suit or other proceedings are brought against a member local unit, the member local unit shall immediately forward to the Fund every demand, notice, summons, or other process received by it or its representative.
- C. Assistance and Cooperation of the Member Local Unit:** The member local unit shall cooperate with the Fund, and upon the Fund's request, shall attend hearings and trials and shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits or proceedings. The member local unit shall not, except at his 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 law.
- D. Action Against Fund:** No action shall lie against the Fund unless, as a condition precedent thereto, the member local unit shall have fully complied with all the terms of these Bylaws, nor until the amount of the member local unit's obligation to pay shall have been finally determined either by judgment against the member local unit after actual trial or by written agreement of the member local unit, the claimant and the Fund. Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under these Bylaws to the extent of the protection afforded herein. Nothing contained in these Bylaws shall give any person or organization any rights to join the Fund as a co-defendant in any action against the member local unit to determine the member local unit's liability.

Bankruptcy or insolvency of the member local unit shall not relieve the Fund of any of its obligations.

- E. Subrogation:** In the event of any payment under these Bylaws, the Fund shall be subrogated to all rights of recovery therefor, if any, of the member local unit and where the plan documents so permit, any person entitled to the benefits of these Bylaws against any person or organization and the member local unit shall execute and deliver instruments and papers and do whatever else is

necessary to secure such rights. The member local unit shall do nothing after loss to prejudice such rights.

- F. Conformance With Statute:** In the event any portion of these Bylaws conflict with any statute or administrative regulation covering joint insurance funds, the provision of any such regulation shall control to the extent it conflicts.

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