

## **Memorandum of Coverage**

**No. SLP 7119 20**

### **School Liability Program**

This **memorandum** refers to Self-Insured Schools of California (SISC) as the authority and the party named in Item A of the declarations as the member. The authority is a public joint powers authority formed pursuant to California Government Code sections 990.4, 990.8, and 6500 et seq. In consideration of the contribution paid by the member and the liability coverage provided by the authority below, they agree as follows:

#### Section I – Coverages

Subject to the member's deductible, the authority agrees to pay on behalf of a **covered party** all sums that a **covered party** shall become obligated to pay as **damages**, by reason of liability imposed by law, or the liability of others assumed or retained under a **covered contract**, because of:

<b>Coverage A:</b>	<b>Bodily Injury</b>
<b>Coverage B:</b>	<b>Property Damage</b>
<b>Coverage C:</b>	<b>Errors and Omissions</b>
<b>Coverage D:</b>	<b>Personal Injury</b>
<b>Coverage E:</b>	<b>Employment Practices</b>
<b>Coverage F:</b>	Employee Benefit Wrongful Acts
<b>Coverage G:</b>	Liability that the member is required to insure against under Education Code sections 35208 and 72507 or is authorized to insure against under Government Code sections 989 and 990.

to which this **memorandum** applies, caused by an **occurrence**.

#### Section II – Defense and Settlement

With respect to coverage afforded by this **memorandum**, the authority shall, within the **limit of liability**:

- A. Provide for all investigation and adjusting services.
- B. Select defense counsel, defend in the name of and on behalf of the **covered party**, and pay all **defense costs** for any **suit** against a **covered party** even if such **suit** is groundless, false or fraudulent. The authority will appoint separate or independent counsel for a **covered party** if required by Condition O. The authority shall have no duty to defend once the limit of liability specified in Item C of the Declarations has been exhausted by payment of judgments and/or **defense costs**.
- C. Have the right but not the duty to settle any **claim** or **suit** as it deems necessary or expedient.

Section III -- The Authority's **Limit of Liability**

- A. The authority's **limit of liability** to a **covered party** as the result of any one **occurrence** is the amount specified in Item C of the Declarations.
- B. A single **limit of liability** applies collectively to all **covered parties** for any one **occurrence**. The single **limit of liability** will apply collectively to all of the authority's members or parties claiming coverage from the authority for that **occurrence** under any Memorandum(s) between the authority and any of its members.
- C. For the purpose of determining the **limit of liability**, all **damages** during the **coverage period** arising out of continuous or repeated exposure to substantially the same general conditions or course of conduct shall be considered as arising out of one **occurrence**.
- D. There is no limit to the number of **occurrences** covered under this **memorandum**.

Section IV -- **Coverage Period** and Territory

The coverages stated in Section I of this **memorandum** apply to **bodily injury, property damage, errors and omissions, personal injury, employment practices** and acts or omissions falling within **Coverage F** during the coverage period anywhere in the world caused by an **occurrence**. However, the authority will defend **suits** only in the United States.

Section V -- **Covered Parties**

The parties covered by this **memorandum** are:

- A. The member and the member's **agencies**;
- B. An **educational foundation** for which the authority has received and approved an application for coverage pursuant to Endorsement No. 2;
- C. **Employees**;
- D. A charter school that is chartered by a member;
- E. Any person or entity that the member is obligated by a written contract that is a **covered contract** to provide with coverage, but only with respect to **bodily injury** or **property damage** arising out of operations performed by or on behalf of the member or at its facilities. The coverage shall be no broader and for no higher limit of liability than required by such contract.

Except pursuant to Section V.E, a joint powers agency is not a **covered party**.

## Section VI – Exclusions

This **memorandum** does not apply to actual, alleged or threatened liability arising out of or in any way connected to:

- A. Injuries or **damages** that do not result from an **occurrence**.
- B. The existence, formation, negotiation, performance, failure to perform, or breach, of a contractual obligation.
- C. Assumption of liability in a contract or agreement, unless under a **covered contract** and then only for **bodily injury** or **property damage** for which the member or member's **agency** may be liable.
- D. Any workers compensation or disability benefits law, or any similar law, plan or agreement.
- E. **Bodily injury** of any **employee** arising out of and in the course of his employment by any **covered party**; or to the spouse, child, parent, brother or sister of the **employee** as a consequence of the above.

This Exclusion shall not apply to liability assumed by a member under a **covered contract**.

- F. Violation of the responsibilities, obligations or duties imposed by the Fair Labor Standards Act (FLSA), Labor Code and Wage Orders promulgated by the California Industrial Welfare Commission and any other federal, state or local statute or law similar thereto (including disputes over compensation, wages, hours, salary and employee benefits under the Education Code other than for an **employee benefit wrongful act** or **employment practices**), or rules or regulations promulgated under any such statutes, laws or orders.
- G. The ownership, maintenance, operation, use, loading, or unloading of any **automobile**,
  - 1. Owned or operated by, or rented or loaned to a **covered party**, or
  - 2. Operated by any person in the course of his or her employment with a **covered party**.

This exclusion includes damage to or destruction of any **automobile** owned by, rented to, leased by, or in charge of a **covered party**, and damage to or destruction of **mobile equipment** transported by an **automobile** owned by, rented to, leased to, or in charge of any **covered party**.

- H. Liability arising out of the operation, ownership, maintenance, use, loading, unloading, or towing of any **aircraft** that is rented to, owned by, or in the care, custody or control of a **covered party**. This exclusion does not apply to liability arising out of the operation, ownership, maintenance, use, loading, unloading, or towing of any **aircraft** performed by an independent contractor.
- I. The ownership, maintenance, operation, use, loading or unloading of:
  - 1. Any **watercraft** owned or operated by or rented or loaned to a **covered party**, or
  - 2. Any other **watercraft** operated by any **employee** in the course of his employment with a **covered party**, but this exclusion does not apply to manually powered boats or sailboats under 25 feet in length, to powerboats with less than 25 horsepower or to operations performed by independent contractors.

This exclusion shall not apply to liability arising out of the use of non-owned watercraft operated by third parties in connection with marine excursions, field trips or substantially similar activities.

- J. The use of trampolines or springboards which are more than four (4) feet in diameter and whose surface is more than two (2) feet above floor level and other similar type rebounding or tumbling devices.
- K. Arising out of the use or display of **fireworks** by any **covered party**.
- L. The presence of, or exposure to, asbestos in any form; or to harmful substances emanating from asbestos. This includes ingestion, inhalation, absorption, contact with, existence or presence of, or exposure to asbestos. Such injury from or exposure to asbestos also includes, but is not limited to:
  - 1. The existence, installation, storage, handling or transportation of asbestos;
  - 2. The removal, abatement or containment of asbestos from any structures, materials, goods, products, or manufacturing process;
  - 3. The dispersal of asbestos;
  - 4. Any structures, manufacturing process, or products containing asbestos;
  - 5. Any obligation to share damages with or repay someone else who must pay damages because of such injury or damages; or
  - 6. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with the above.

This exclusion applies to any loss, cost or expense, including, but not limited to payment for investigation or defense, fines, penalties and other costs or expenses, arising out of any:

- 1. Claim, suit, demand, judgment, obligation, order, request, settlement, or statutory or regulatory requirement that any **covered party** or any other person or entity test for, monitor, clean up, remove, contain, mitigate, treat, neutralize, remediate, or dispose of, or in any way respond to, or assess the actual or alleged effects of asbestos; or
- 2. Claim, suit, demand, judgment, obligation, request or settlement due to any actual, alleged or threatened injury or damage from asbestos or testing for, monitoring, cleaning up, removing, containing, mitigating, treating, neutralizing, remediating, or disposing of, or in any way responding to or assessing the actual or alleged effects of, asbestos by any **covered party** or by any other person or entity; or
- 3. Claim, suit, demand, judgment, obligation, or request to investigate which would not have occurred in whole or in part, but for the actual or alleged presence of or exposure to asbestos.

This Exclusion L applies regardless of who manufactured, produced, installed, used, owned, sold, distributed, handled, stored or controlled the asbestos.

M. The installation, repair, removal, encapsulation, abatement, replacement or handling of, presence, ingestion, inhalation, absorption of our exposure to, or testing for lead in any form, or products containing lead.

N. The clean-up, remediation, containment, removal or abatement, caused directly or indirectly, in whole or in part, by:

1. Any **fungus(i), mold(s)**, mildew or yeast;
2. Any **spore(s)** or toxins created or produced by or emanating from such **fungus(i), mold(s)**, mildew or yeast;
3. Any substance, vapor, gas, or other emission or organic or inorganic body or substance produced by or arising out of any **fungus(i), mold(s)**, mildew, or yeast; or
4. Any material, product, building component, building or structure, or any concentration of moisture, water or other liquid within such material, product, building component, building or structure, that contains, harbors, nurtures or acts as a medium for any **fungus(i), mold(s)**, mildew, yeast, or spore(s) or toxins emanating therefrom.

Regardless of any other cause, event, material, product and/or building component that contributed concurrently or in any sequence to that loss, injury, damage, cost or expense.

O. Injury, sickness, disease, death, or destruction:

1. With respect to which a **covered party** under this **memorandum** is also covered under a nuclear energy liability policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, or Nuclear Insurance Association of Canada, or would be covered under any such policy, but for its termination upon exhaustion of its limit of liability; or
2. Resulting from the **hazardous properties of nuclear material** and with respect to which:
  - a. Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
  - b. The **covered party** is, or had such policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any organization; or
  - c. Resulting from the **hazardous properties of nuclear material**; if
    - (i) The nuclear material is at any nuclear facility owned by, or operated by or on behalf of a **covered party**, or has been discharged or dispersed therefrom;
    - (ii) Fuel or **waste** is or was at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of a **covered party**; or
    - (iii) The **injury**, sickness, disease, death, or destruction arises out of the furnishing by a **covered party** of services, materials, parts or equipment in connection

with the planning, construction, maintenance, operations, or use of any **nuclear facility**.

- P.
1. The discharge, dispersal, seepage, migration or release, or escape of smoke, vapors, soot, fumes, acid, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants, or **pollutants** at any time.
  2. Request, demand or order or statutory or regulatory requirement that any **covered party** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **pollutants**; or
  3. Claim or suit by, or on behalf of, a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **pollutants**.

This subsection 3 shall not apply to such loss, cost, or expense arising from any spill, release, or other hazardous condition at or from the premises, equipment, or location(s) which a **covered party** does not own, rent, control or occupy.

This exclusion P. shall not apply to the following:

1. Any liability arising out of **bodily injury** or **property damage** due to an **occurrence** arising out of heat, smoke, or fumes from a **hostile fire**;
  2. Any liability arising out of explosion, lightning, windstorm, vandalism or malicious mischief, collapse, riot and civil commotion, flood, earthquake or collision, upset, or overturn of an **automobile** or equipment;
  3. Any liability arising out of use of mace, oleoresin capsicum (o.c.), pepper gas or tear gas; or
  4. Weed abatement or spraying.
- Q. Damage to property owned by, or leased or rented to, any **covered party**.
- R. **Land subsidence**.
- S. A dishonest, fraudulent, criminal or malicious act.
- T. A **covered party** gaining any personal profit or advantage to which that **covered party** is not legally entitled.
- U. Failure to investigate or ensure the adequacy of payment bonds, performance bonds, or any other sureties given by a general contractor in connection with a construction contract, or given by any other person or entity in connection with any other contract that requires the furnishing of payment bonds, performance bonds, or any other sureties.
- V. The refund of taxes, fees, or assessments.
- W. **Personal injury** arising out of oral or written publication of material in any manner, if done by or at the direction of the **covered party** with knowledge of its falsity.

- X. The use, misuse or loss of funds, grants, or appropriations, or any claim for the return of such funds, grants, or appropriations for any reason.
- Y. The purchase, sale, diminution of value or representation about any security, debt, bank deposit or financial interest or instrument.
- Z. An **employee benefit program**, except for an **employee benefit wrongful act**.
- AA. Insufficient funds to meet obligations under any plan included in an **employee benefit program**, return on investments, misleading information regarding past performance of any investment vehicle, or advice given regarding whether to participate in an **employee benefit program**.
- BB. Notwithstanding California Government Code section 990, subdivision (c), any willful or intentional act or omission for which insurance coverage would be precluded under Insurance Code Section 533.
- CC.
  1. Sexual molestation, misconduct, abuse or harassment;
  2. Corporal punishment; or
  3. Physical or mental abuse.

This Exclusion shall apply only to the **covered party**, or other person, who commits or threatens the sexual molestation, misconduct, abuse or harassment, corporal punishment, or physical or mental abuse.

This Exclusion shall not apply to Coverage E: **Employment Practices**.

- DD. **Bodily injury** or **property damage** that any **covered party** knew or should have known existed before the commencement of the **coverage period**, or that were manifested before the **coverage period**. **Bodily injury** or **property damage** will be deemed to have been manifested as of the earliest date by which any damage or injury occurred, irrespective of whether any **covered party** was aware of the existence of any such damage or injury, and irrespective of whether such damage or injury may have been continuous or progressive or may have been due to repeated exposure to substantially the same harmful conditions or may have become progressively worse during the **coverage period**.
- EE. **Personal injury** arising out of oral or written publication of material in any manner when the first publication of which took place before the beginning of the **coverage period**. All **personal injury** arising out of the publication of the same or similar material subsequent to the beginning of the **coverage period** is also excluded.
- FF. The rendering of or failure to render any professional service other than by an **employee** who is one of the following, but only while rendering professional services of the type associated with that **employee's** description: a teacher or other educational professional; a nurse; a medical assistant; a speech therapist; a speech pathologist; a nutritionist; a psychologist; an audiologist; a physical therapist; an athletic trainer; an authorized law enforcement officer; a person qualified to administer epinephrine auto-injectors pursuant to California Education Code section 49414(b)(5); a person qualified to administer naloxone hydrochloride or another opioid antagonist pursuant to

California Education Code section 49414.3(b)(5); a person authorized to provide emergency care to pupils with diabetes suffering from severe hypoglycemia pursuant to California Education Code section 49414.5; a person qualified to administer emergency medical assistance to pupils with epilepsy suffering from seizures in a manner consistent with that set forth in California Education Code section 49414(b)(5), governing the administration of emergency Epinephrine and the related provisions of Education Code section 49423; a person utilizing an automated external defibrillator pursuant to Education Code section 49417 in a manner consistent with that set forth in California Education Code section 49414(b)(5) and the related provisions of California Education Code section 49423; a person designated to assist in the administration of medicine to a pupil pursuant to California Education Code section 49423(a) and (b); or an attorney; however, this **memorandum** does not apply to **damages** sustained by a member arising out of the rendering or failure to render any professional service by an **employee** who is an attorney.

- GG. **Claims, suits, damages**, losses or any liability arising out of, caused by, resulting from, contributed to, aggravated by or concurrently caused in any way by any loss or liability alleged or imposed in connection with or for **inverse condemnation**, including any **claim** or **suit** alleging or any judgment or award imposing such liability even if the allegations of the **claim** or **suit** also assert, or the judgment or award also imposes, liability for the same **damages** or loss on other legal claims or theories, however stated, including but not limited to claims for trespass, nuisance, negligence or maintenance of a dangerous condition of public property.

This exclusion does not apply to liability for **inverse condemnation** arising directly out of physical injury to or destruction of tangible property which is neither expected nor intended from the standpoint of the **covered party**, except that (1) damage or loss due to a **covered party's** knowing or deliberate inappropriate failure to routinely maintain, repair or replace any structure or improvement including, but not limited to, water lines, gas lines, electrical lines, sewer lines or other provisions for transmission or delivery of services will be deemed expected or intended within the meaning of this exclusion, and (2) no coverage is afforded for any nonphysical consequential **damages**, or for costs, expert fees, appraisal fees, engineering fees or attorneys' fees claimed by or awarded to a plaintiff in an **inverse condemnation suit**.

- HH. Statutory multiples of damages, civil fines, penalties or any other liability over and above actual damages, by whatever name called.
- II. Loss, destruction, damage or injury to electronic data. For the purposes of this Exclusion, "electronic data" includes but is not limited to information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, DVD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

#### Section VII -- Definitions

Boldface words and phrases have the special meanings given in this Section.

- A. **Administration**, with respect to an **employee benefit program**, means providing information to **employees** and beneficiaries with respect to program eligibility and scope; handling records in connection with the program (but not payroll records); and effecting, continuing or terminating an **employee's** participation in any benefit included in the program.



- B. **Agency** means any council, commission, agency, district, authority, board or similar public entity under the member's direction or control or on which the member's governing board sits as the governing body.

**Agency** includes student body organizations or auxiliary organizations formed and governed pursuant to Education Code sections 48930, 72670, or 76060.

**Agency** does not include an alumni, parent-teacher, teacher or similar organization.

- C. **Automobile** means a land motor vehicle including, but not limited to, two-wheel, three-wheel and four-wheel vehicles, including trailers or semi-trailers. **Automobile** also means any motor vehicle designed, built for or used in any prearranged racing, speed, demolition, rally, or stunting activity.

This definition includes any type of land motor vehicle even if not subject to motor vehicle registration.

- D. **Aircraft** means a vehicle designed for the transport of persons or property principally in the air, including lighter-than-air, heavier-than-air, gliders, and rotor craft.

- E. **Back pay** means wages, overtime pay, salary or benefits allegedly earned and due to an **employee** or former **employee** but not paid.

- F. **Bodily injury** means bodily harm, sickness, disability or disease. **Bodily injury** shall also mean emotional distress, mental injury, mental anguish, humiliation, shock or death if resulting directly from bodily harm, sickness, disability or disease. **Bodily injury** shall include care and loss of services resulting at any time from bodily harm of any person or persons.

- G. **Claim** means a claim presented pursuant to Government Code section 910 et seq., a demand or a **suit** against a **covered party** to recover **damages** to which this **memorandum** applies, caused by a covered **occurrence**.

**Claim** shall also mean any demand or legal proceeding by an **employee** against a member or member's **agency** under Government Code section 996.4 for recovery of defense costs, including attorney fees, arising out of a **suit** for **damages** to which this **memorandum** applies, caused by a covered **occurrence**.

This Definition does not include criminal actions, administrative proceedings, or any court proceeding to affirm, modify or overrule an award of **damages** in an administrative proceeding.

- H. **Covered contract** means:

1. A lease of premises;
2. A sidetrack agreement;
3. An easement or license agreement in connection with vehicle or pedestrian railroad crossings;

4. An indemnification of a municipality as required by ordinance;
5. An elevator maintenance agreement;
6. That part of any contract or agreement pertaining to school operations in which the member, member's **agency**, or **educational foundation** assumes the tort liability of another to pay damages because of **bodily injury** or **property damage** to a third person or organization, if the contract or agreement is made prior to the incidence of any such **bodily injury** or **property damage**. Tort liability means the liability that would be imposed by law in the absence of any contract or agreement.

A **covered contract** does not include that part of a contract or agreement:

1. That indemnifies an architect, designer, engineer or surveyor for **bodily injury** or **property damage** arising out of:
    - a. Preparing or failing to prepare or approve maps, drawings, plans, opinions, reports, surveys, change orders, or design specifications; or
    - b. Giving directions or instructions or failing to give them, if that is the primary cause of injury or damage; or
  2. That indemnifies any person or organization for damage by fire to premises rented or loaned to the **covered party**.
- I. **Coverage period** means the period stated in Item B of the Declarations unless shortened by earlier termination as provided in Section X.B.
- J. **Covered party** means any of those persons or entities designated as **covered parties** in Section V. A-E.
- K. **Damages** means money damages awarded to compensate for injury or loss.

**Damages** include court costs, interest, attorney fees and court awarded expenses not based on contract, but only to the extent awarded on a covered **claim**.

**Damages** does not include punitive damages; multiples of damages; injunctive relief; equitable relief; declaratory relief; restitutionary relief; disgorgement; job reinstatement; **back pay**, benefits due under any **employee benefit program**, costs or expenses incurred in accommodating any disabled person pursuant to the Americans with Disabilities Act of 1990 (ADA) or Government Code section 12940, et seq. (FEHA) or any similar state or federal law; or any liability for costs incurred in connection with any educational, sensitivity or other program, policy or seminar; amounts paid pursuant to any judgment, decree or agreement requiring actions to correct past discriminatory or other unlawful conduct or to establish practices or procedures designed to eliminate or prevent future discriminatory or other unlawful conduct; including as to all of the above, the cost of compliance therewith.

- L. **Defense costs** means attorney and expert fees, costs and expenses incurred by the authority for the adjustment, investigation, defense or appeal of a **claim** or **suit**.

**Defense costs** include the premium for an appeal or similar bond. However, the authority shall not have any obligation to apply for or furnish any such bond or to provide any undertaking, guarantee or security for such bond.

M. **Educational foundation** means a foundation for which the authority has received and approved an application for coverage pursuant to Endorsement No. 2 hereto.

N. **Employee** means a past or present elected or appointed official, employee or volunteer of the member, member's **agency** or any **educational foundation** only while acting within the scope of his or her employment with, or duties for, the member or member's **agency**.

This Definition includes students (1) while acting solely within the scope of their duties while enrolled in curriculum to provide services to third parties; or (2) who serve in a supervised internship as part of their educational program, but only while completing course work required by the member, member's **agency** or **educational foundation**.

A referee or umpire compensated with student funds, or an authorized law enforcement officer who is employed by any law enforcement agency other than the member's own law enforcement agency is not an **employee**

O. **Employee benefit program** includes any employee benefit plan involving, but not limited to, the following: Group life insurance, group accident or health insurance, profit sharing plans, pension plans and stock subscription plans provided that no one other than an employee may subscribe to such insurance or plans, unemployment insurance, social security benefits, workers' compensation and disability benefits.

P. **Employee benefit wrongful act** means any actual or alleged negligent act error or omission in the administration of the **employee benefit program**.

Q. **Employment practices** shall mean any of the following actual or alleged acts of a **covered party** against an employee or an applicant for employment:

1. Wrongful dismissal, discharge or termination;
2. Harassment;
3. Discrimination (including but not limited to discrimination based upon age, gender, race, color, national origin, religion, sexual orientation or preference, pregnancy or disability);
4. Retaliation or coercion;
5. Employment related misrepresentations to an employee or applicant for employment with the member;
6. Employment related libel, slander, humiliation, defamation or invasion of privacy;
7. Failure to grant tenure.

- R. **Errors and omissions** means any actual or alleged misstatement or misleading statement, act, omission or neglect or breach of duty by a member, or its **employee** in the discharge of duties for the member or member's **agency** that does not result in **bodily injury** or **property damage**.
- S. **Fireworks** means devices containing chemicals that burn or explode with spectacular effect, commonly used at celebrations; a display of fireworks.
- T. **Fungus(i)** includes, and is not limited to, any of the plants or organisms belonging to the major group **fungi**, lacking chlorophyll, and including **molds**, rusts, mildews, smuts and mushrooms.
- U. **Hostile fire** means a fire that becomes uncontrollable or breaks out from where it was intended to be.
- V. **Inverse condemnation** means a **claim** by any person or entity under the California or United States Constitutions alleging that the member or member's **agency** has taken or damaged real, personal, tangible or intangible property for public use through any means without just compensation
- W. **Land subsidence** means the movement of land or earth, including, but not limited to, sinking or settling of land, earth movement, earth expansion and/or contraction, landslide, slipping, falling away, caving in, eroding, earth sinking, and earth rising or shifting or tilting.
- X. **Limit of liability** means the authority's maximum liability per **occurrence** for the member in the amount specified in Item C of the Declarations. **Defense costs** shall count toward the exhaustion of the **limit of liability**.
- Y. **Memorandum** means this Self-Insured Schools of California (SISC) **Memorandum of Coverage** and any endorsements attached to it.
- Z. **Mobile Equipment** means:
1. Specialized equipment such as bulldozers, power shovels, rollers, graders, scrapers, cranes, farm machinery, street sweepers, forklifts, pumps, generator air compressors, drills, or other similar equipment designed for use principally off public roads.
  2. Vehicles designed for use principally off public roads.
  3. Vehicles not required to be licensed.
  4. Any type of two or three-wheel motorized vehicle.
- AA. **Mold(s)** includes, and is not limited to, any superficial growth produced on damp or decaying organic matter or on living organisms, and **fungi** that produce **mold(s)**.

BB. **Occurrence** means:

With respect to Coverages A (**Bodily Injury**), B (**Property Damage**), C (**Errors And Omissions**), F (**Employee Benefit Wrongful Acts**) and G (liabilities relating to Education Code sections 35208 and Government Code sections 989 and 990): An accident or event, including continuous or repeated exposure to conditions which results in injury or damage during the **coverage period** to which this **memorandum** applies; provided such injury or damage is neither expected nor intended from the standpoint of the **covered party**.

With respect to Coverages D (**Personal Injury**) and E (**Employment Practices**): An offense described in the Definition of **personal injury** or **employment practices** that, during the **coverage period**, results in injury or damage to which this **memorandum** applies.

Assaults, batteries, or use of excessive force are not an **occurrence** unless committed by or at the direction of the **covered party** or for the purpose of protection of persons or property.

CC. **Personal injury** means:

1. False arrest, detention, or imprisonment, or malicious prosecution;
2. Publication or utterance of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, or infringement of copyright, title or slogan, or oral or written publication of material that violates a person's right of privacy;
3. Misappropriation of advertising ideas or style of doing business;
4. Wrongful entry or eviction or other invasion of the right of private occupancy;
5. Violation of civil rights or discrimination (including but not limited to discrimination based upon age, gender, race, color, national origin, religion, sexual orientation or preference, pregnancy or disability), other than **employment practices**, not intentionally committed by or at the direction of the **covered party**.

DD. **Pollutants** mean any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and **waste**. **Waste** includes materials to be recycled, reconditioned, or reclaimed. The term **pollutants** as used herein is not defined to mean potable water or agricultural water or water furnished to commercial users. Pollutants shall not include smoke, soot or fumes from a **hostile fire**.

EE. **Property damage** means:

1. Physical injury to or destruction of tangible property which occurs during the term of coverage, including the loss of use thereof at any time resulting therefrom.
2. Loss of use of tangible property which has not been physically injured or destroyed, provided such loss of use is caused by an **occurrence** during the term of coverage.

FF. **Spore(s)** means any dormant or reproductive body produced by or arising or emanating out of any **fungus(i)**, **mold(s)**, mildew, plants, organisms or microorganisms.

GG. **Suit** means a Civil Action or Special Proceeding under Code of Civil Procedure sections 22 and 23, and any similar federal court proceedings, seeking the recovery of **damages** to which this **memorandum** applies, caused by an **occurrence**.

HH. **Watercraft** means a vessel more than twenty-five (25) feet in length designed to transport persons or property in or through water.

- II. The following definitions are applicable only to Exclusion O above:
1. **Hazardous properties** include radioactive, toxic, or explosive properties.
  2. **Nuclear facility** means:
    - a. Any **nuclear reactor**;
    - b. Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing **spent fuel**, or (3) handling, processing or packaging **waste**;
    - c. Any equipment or device used for the processing, fabricating or alloying of special **nuclear material** if at any time the total amount of such material in the custody of the **covered party** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
    - d. Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **waste** and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.
  3. **Nuclear material** means **source material, special nuclear material, or byproduct material**.
  4. **Nuclear reactor** means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.
  5. **Source material, special nuclear material, and byproduct material** have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.
  6. **Spent fuel** means fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor.
  7. **Waste** means any waste material, (a) containing a byproduct material; and (b) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) of Definition II (2), above.
  8. With respect to injury to or destruction of property, the word injury or destruction includes all forms of radioactive contamination of property.

#### Section VIII – Student *Accident* Coverage

As respects the coverage provided by this **memorandum** of coverage, the authority shall pay the expenses for medical and surgical relief, as shall be medically necessary or advisable and reasonably incurred and approved by the **covered party** for medical and surgical relief for **bodily injury** to regularly enrolled students on account of an **accident**, including:

- A. Paying for medical services commenced within 30 days in the treatment of bodily injury sustained by regularly enrolled students while this **memorandum** of coverage is in force;
- B. Reimbursing the covered party for all such expenses which the covered party incurs at the specific request of the authority;

Subject to the following conditions:

- 1. The limit of liability which the authority will pay for medical services or reimburse to the covered party for such services is \$2,500.00 per student for any one accident..
- 2. Coverage is provided for reasonable and customary medical services and supplies, which means:
  - a. The amount usually charged by the provider of the service; or
  - b. The prevailing charges made in the geographical area by those of similar professional standing; or
  - c. If the usual and customary charges for medical services and supplies cannot be easily determined, the authority will determine to what extent the charge is reasonable by taking into account:
    - (1) The complexity of services involved;
    - (2) The degree of professional skill required; and
    - (3). Other pertinent factors.
- 3. Coverage is provided to regularly enrolled students only while they are:
  - a. In or on school grounds or contracted facilities for regular school attendance or for scheduled summer sessions; or
  - b. Traveling to or from school in transportation owned or operated by or on behalf of the **covered party**; or
  - c. Participating in activities which are sponsored and supervised by the **covered party**; or
  - d. Practicing for or participation in school-time and interscholastic athletics except tackle football; or
  - e. Attending extended daycare programs on the school premises and operated exclusively by the covered party for its students; or
  - f. Traveling to and from activities sponsored by the **covered party** on transportation owned or operated by or on behalf of the **covered party**; or
  - g. Participating in board approved clubs sponsored by the **covered party**, including travel to and from such activities if such travel is on transportation owned or operated by or on behalf of the **covered party**.

If the authority makes payment under this student accident coverage for medical treatment for a student who asserts a claim against the **covered party** for damages arising out of the **accident** which caused the injury, the **covered party** (or the authority on its behalf) shall be entitled to offset against all amounts so paid, and to deduct from any proceeds payable in the disposition of, such student's claim against the **covered party**.

In the event of any payment by the authority under this **memorandum** of coverage, the authority shall be subrogated and otherwise entitled to all rights of recovery therefore against any person or organization and the covered party shall execute and deliver all instruments and papers and do whatever else is necessary to transfer and secure such rights to the authority, and to assist the authority in perfecting and pursuing such rights. The covered party shall do nothing at any time to prejudice such rights.

- D. Coverage under this section is applicable for a period of 52 weeks from the date of **accident** and applies to **accidents** which occur during the benefit period in the United States of America and Canada.
- E. Coverage under this section shall only be payable to the extent that the expenses incurred for any one **accident** exceed the limit of, are less than the deductible of, or are not covered by, other insurance available to the student from any other source.
- F. Coverage under this section is provided only for student **accidents** occurring in the United States of America and Canada.
- G. There is no coverage under this section for:
  - 1. Disease or illness;
  - 2. Participation in the practice or play of tackle football;
  - 3. Self-inflicted injury or injuries;
  - 4. Orthodontics (braces or retainers) for any reason or damage to or loss of orthodontics or retainers.
  - 5. Artificial aids such as eyeglasses, contact lenses, hearing aids, or refraction examinations or prescriptions for the same, except for prism glasses prescribed as a result of an **accident** to which this coverage applies.
  - 6. Services or treatment rendered by a physician, nurse or any other person who is: (a) employed or retained by the covered party or (b) a member of the student's immediate family;
  - 7. Injury sustained where the covered party is the operator of any motorized vehicle;
  - 8. Injury sustained in the course of work while job shadowing or working for wages or profit;



9. Injury from any poison, gas, fumes voluntarily taken, administered, absorbed, or inhaled; or while being intoxicated, or from the use of controlled substance or drug unless the drug is prescribed by a physician
10. Injury due to war, act of war, taking part in a riot or from fighting (except in self-defense); or
11. Injury sustained from any act or forbearance to act by the student while he or she is committing or attempting to commit a felony.
12. Injury sustained while (or participating in) ballooning, bob-sledding, boxing, bungee jumping, flight in an ultra-light aircraft, glider flying, hang gliding, martial arts, parachuting, parasailing, riding in a rodeo, roller blading, sail-planing, scuba diving, shooting firearms, skydiving or surfing of any kind.
13. Injury where the student is attending, as a spectator, a non-required, after-regular-school-hours, school sponsored activity including but not limited to back to school nights, dances, open houses and sports activities.

H Non-surgical services by a medical practitioner:

When treatment involves physiotherapy, diathermy, heat treatment, manipulation, massage or other modalities, the maximum number of covered visits per **accident** is fifteen (15).

I. Definitions for student **accident** coverage:

**Accident** means an event which occurs during the term of coverage which results in bodily injury including death resulting therefrom, sustained as a result of a specific unexpected incident which is neither expected nor intended from the standpoint of the covered party.

J. The amount payable under this coverage is in addition to the applicable limit of liability stated in the declarations.

#### Section IX -- Duties in the Event of **Occurrence, Claim or Suit**

A. The **covered party** must immediately notify the authority of any **occurrence** which may result in a claim. Such notice should include:

1. How, when and where the **occurrence** took place; and
2. The names and addresses of any injured persons and witnesses;
3. The nature and/or location of any injury or damage arising out of the **occurrence**.

B. If a claim or suit is brought against the **covered party**, the authority must be provided with prompt written notice of such claim or suit. Written notice must include:

1. Any formal or verified claim;

2. Any demand, notice, summons, complaint or cross-complaint (including amended and supplemental complaints), or other legal papers.
- C. In order to assist the authority in the handling of any claim or suit in the protection of the **covered party's** interests, the **covered party** must:
1. Cooperate with the authority in the handling, settlement or defense of any claim or suit, and keep the authority fully informed as to the status and progress of any claim or suit for which the **covered party** seeks coverage hereunder;
  2. Authorize the authority to obtain records and other information which the authority requires in the handling, settlement or defense of any claim or suit;
  3. Assist the authority in the enforcement of any right against any person or organization which may be liable to the **covered party** because of injury or damage to which this coverage may also apply;
  4. As often as the authority reasonably requires, submit to an interview, recorded statement, or separate examination under oath.
- D. No **covered party** will, except at its own expense, voluntarily make any payment, assume any obligation or incur any expense except as may be required for medical expenses under student accident coverage (Section VIII) without the prior consent of the authority.

#### Section X – Conditions

- A. Premium payment: The annual premium payment shall be due and payable upon presentation to the member by the authority, and shall be based upon rates established by the **authority** in effect at the inception of this **memorandum** of coverage and on each subsequent anniversary. The authority shall not be required to perform any obligation under this **memorandum** of coverage if the premium payment is not timely paid in full to the authority by the member.
- B. Termination: This **memorandum**, and all coverages provided thereby, may be terminated at any time in accordance with the bylaws of the authority.
- C. Statutory provisions: Terms of the **memorandum** which are in conflict with the statutes of the State of California are amended to conform to such statutes.
- D. Arbitration:
1. In the event that a question or dispute arises between the authority and a **covered party** concerning the applicability of the coverage provided by this **memorandum** to an **occurrence** or **claim** against the **covered party**, the **covered party** or the authority may make a written request for arbitration. When such a request is made, arbitration, as provided herein, shall be a condition precedent to the filing of any civil action concerning or in any way arising out of such question or dispute;
  2. Upon written request of any party, each party shall choose an arbitrator and the two chosen shall select a third arbitrator (judge). If either party refuses or neglects to appoint an arbitrator within thirty (30) days after receipt of the written request for arbitration, the

requesting party may appoint a second arbitrator. All arbitrators appointed by any party shall be disinterested persons experienced and knowledgeable in the field of insurance or Joint Powers Authorities and in all cases shall be disinterested in the outcome of the arbitration. If the two arbitrators fail to agree on the selection of a third arbitrator (judge) within thirty (30) days of their appointment, the **covered party** shall petition JAMS, Sacramento, California to appoint the third arbitrator (judge). If the JAMS, Sacramento office fails to appoint the third arbitrator (judge) within thirty (30) days after it has been requested to do so, either party may request the Superior Court of the State of California, County of Sacramento, to appoint the third arbitrator pursuant to California Code of Civil Procedure § 1281.6. The third arbitrator (judge) shall be a retired justice or judge of the California Supreme Court, the California Court of Appeal, the California Superior Court, the United States District Court, Northern, Eastern, Central or Southern Districts of the California or of the Ninth Circuit Court of Appeal, who is experienced and knowledgeable in the field of insurance or Joint Powers Authorities. Each party will bear the expenses it incurs, and the **covered party** and the authority will bear the expense of the third arbitrator equally.

Local rules of law as to procedure and evidence will apply. A decision agreed to by two (2) of the arbitrators will constitute a determination of the matter in question or dispute.

3. No action shall lie against the authority unless, as a condition precedent thereto, the **covered party** shall have fully complied with all the terms of this **memorandum**; nor until the amount of the **covered party's** obligation to pay the claim of a third party shall have been finally determined either by judgment against the **covered party**, after actual trial, or by written agreement of the **covered party**, the claimant, and the authority. Said judgment shall not be deemed final, if an appeal is filed therefrom, until the suit shall have been finally determined on appeal. Any person or organization, or the legal representative thereof, who has secured such judgment or written agreement, shall thereafter be entitled to recover under this **memorandum** to the extent of the coverage afforded by this **memorandum**.

Nothing contained in this **memorandum** shall give any person or organization any right to bring an action against the authority or to join the authority as a co-defendant in any action against the **covered party** to determine such **covered party's** liability.

- C. Insurance: When this coverage form and any other coverage form or policy covers an accident, the authority's coverage shall be excess over any other such insurance or coverage, whether primary, excess, contingent, or on any other basis; provided such other insurance or coverage is not written specifically to apply as excess over the coverage provided by this **memorandum**.

When this coverage is excess, the **authority** shall have no duty to defend the insured against any **claim** or **suit** if any other coverage or insurer has a duty to defend the member against the that **claim** or **suit**.

When the coverage provided by this **memorandum** is excess, the **authority** shall pay only its share of the loss, if any, that exceeds the sum of the total amount that all such other insurance or coverage forms would pay for the loss in the absence of the coverage provided by this **memorandum**.

- D. Subrogation: In the event of any payment of money made by the authority under this **memorandum**, the authority shall be subrogated and otherwise entitled to all rights of recovery therefore against any person or organization and the **covered party** shall execute and deliver all

instruments and papers and do whatever else is necessary to transfer and secure such rights to the authority, and to assist the authority in perfecting and pursuing such rights. The **covered party** shall do nothing at any time to prejudice such rights.

Any recoveries shall be applied as follows:

1. Any interests, including that of **covered party**, that have been paid in an amount in excess of payment made by authority under this **memorandum** will be reimbursed first;
2. The authority shall then be reimbursed up to the amount authority has paid;
3. Any interests, including that of **covered party**, over which this coverage is excess, are entitled to claim the residue.

Expenses incurred in the exercise of rights of recovery shall be apportioned between the interests, including the **covered party**, in the ratio of the respective recoveries as finally settled.

- E. One occurrence: All **damages** or injury resulting from continuous or repeated exposure to substantially the same general conditions shall be considered to be the result of one **occurrence**.
- F. Duration of occurrence: An **occurrence** with a duration of more than one **coverage period** shall be treated as a single **occurrence** arising during the **coverage period** when the **occurrence** begins, and under no circumstances shall the fact that said **occurrence** has a duration of more than one **coverage period** entitle a **covered party** to more than that one **coverage period's limit of liability**.
- G. Deductible: In the event that the **covered party** shall not promptly reimburse the authority for the deductible amount in Item D of the declarations, costs incurred by the authority in collection of the deductible amount shall be added to and apply in addition to the deductible amount without limitation to such costs. These costs shall include but not be limited to legal fees and costs and interest.
- H. Severability: This **memorandum** uses the term **covered party** severally and not collectively, so that it applies separately to each **covered party** as if it were the only **covered party**. However, this provision shall not increase the **limit of liability**.
- I. No joinder: No person or entity shall have any right under this **memorandum** to join the authority as a party to any action against a **covered party** to determine the **covered party's** liability or the authority's coverage obligations.
- J. No third party beneficiary: Nothing in this **memorandum** is intended to make any person or entity, other than a **covered party**, a third party beneficiary of the coverage that this **memorandum** provides.
- K. Cross liability: This **memorandum** shall cover the **claim** of one **covered party** against another if such coverage is not otherwise excluded.
- L. Governing law: This **memorandum** shall be governed and construed in accordance with the laws of the State of California.

- M. Interpretation: This **memorandum** does not provide insurance. It is a negotiated agreement between the authority and the member. They agree that any rule requiring ambiguities or uncertainties to be construed against an insurer or drafter do not apply to this **memorandum**.
- N. Reservation of rights not required: The authority shall have no obligation to issue letters denying coverage or reserving of rights to deny coverage as a precondition for denying coverage at a later date.
- O. Limitation on separate or independent counsel: The authority shall have no obligation to retain separate, independent or *Cumis* counsel for any **covered party** unless counsel selected by the authority would have an impermissible conflict of interest under the California Rules of Professional Conduct or the California Business and Professions Code.
- P. Right to modify: The authority reserves the right to revise, update and/or modify the terms and conditions of this **memorandum** from time to time and throughout the term of the **coverage period** as may seem necessary and reasonable to the authority due to an amendment to or repeal of any of the provisions of law referred to herein or for any other reason. When it shall do so, the authority shall provide appropriate notification to members through appropriate bulletins and/or memoranda outlining the changes



SISC

School Liability Program

Memorandum of Coverage No. SLP 7119 20

**Endorsement #1**

Effective: 07-01-2019 to 07-01-2020

**THIS ENDORSEMENT CHANGES THE MEMORANDUM  
OF COVERAGE. PLEASE READ IT CAREFULLY.**

In consideration of the premium charged it is agreed that the Deductible clause as shown in item D, Page 1, under Declarations of the Memorandum of Coverage (MOC) is amended to include the following:

In the event that the **covered party** shall not promptly reimburse the authority for the Deductible amount demanded, the costs incurred by the authority in collection of the Deductible amount shall be the responsibility of and chargeable to the **covered party**. These costs shall include, but are not limited to, all legal fees and costs incurred by the authority in recovering such Deductible amount, as well as interest at the Statutory rate on such deductible calculated from the date demanded.

By: \_\_\_\_\_  
(Authorized Representative)

**ENDORSEMENT #2**  
No. SLP 7119 20

Effective: 07-01-2019 to 07-01-2020

**THIS ENDORSEMENT CHANGES THE MEMORANDUM OF COVERAGE.  
PLEASE READ IT CAREFULLY.**

**SCHOOL CONNECTED ORGANIZATIONS: EDUCATIONAL FOUNDATIONS**

**GENERAL LIABILITY COVERAGE CRITERIA AND  
COVERAGE EXTENSION ENDORSEMENT**

The following eligibility criterion is applicable to all School Connected Organizations: Educational Foundations desiring to pursue coverage under the scope of the SISC program.

1. The Foundation must have written bylaws, rules, and procedures which govern the operation of the Foundation, including procedures for maintaining the organization's finances. Such bylaws must be submitted to the governing board of the parent school district.
2. The Foundation must be recognized by the district's board as an authorized school district support organization.
3. The governing board of the parent school district must have adopted a board policy and administrative regulation regarding Educational Foundations pursuant to CSBA model policy 1260 and associated Administrative Regulation.
4. The Foundation must be recognized by the IRS as a non-profit 501 (c)(3) organization and must operate with its own tax identification number. A Foundation may not use the tax identification number of the parent district.
5. Each Foundation must submit an initial application and renew coverage each school year. Each Foundation will be individually endorsed onto the SISC Memorandum of Coverage. All Foundation coverage must go through, and be approved by, the parent district. The Foundation premium will be added to the District's SISC premium. The district can seek reimbursement from the Foundation.
6. SISC reserves the right to accept or reject any application or renewal of any Foundation.

**COVERAGE AND LIMITS**

The Foundation shall be provided with general liability coverage on a fiscal year basis for those activities that are performed for the sole benefit of the parent school district. SISC agrees to defend and indemnify the Foundation for occurrences resulting in bodily injury and property damage that occur during the coverage period up to a limit of \$1,750,000.

## **EXCLUSIONS/LIMITATIONS**

In addition to the terms, conditions, exclusions, and limitation of the SISC Liability Memorandum of Coverage, coverage shall not apply to the following:

1. Roller skating, in-line skating or skateboard events;
2. Bicycle events involving acrobatics, stunts, or motocross;
3. Group sponsored athletic events such as football, basketball, soccer, baseball/softball, volleyball, water sports, boxing, wrestling, physical contact sports, donkey basketball/baseball, etc.;
4. Ski trips/activities;
5. Beach and water activities to places such as oceans, bays, lakes, rivers, streams, and private pools;
6. Rock climbing, rappelling or ropes courses;
7. Rock concerts;
8. For claims arising out of the consumption of alcohol purchased (via cash, ticket or open bar) and consumed at a Foundation event.
9. Foundation operated day care.

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