

**MANUAL OF PROCEDURES
PSAB SUPPLEMENT 11
INSURANCE**

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INTRODUCTION

Insurance programs for local school districts have several variations. Some may be mandatory, while others are voluntary depending on the policies of the governing boards. The types of programs a school district may purchase are in two general categories; *risk related or benefits related*. Most school districts in the State of New Mexico are covered under policies administered by the New Mexico Public School Insurance Authority (NMPSIA). All K-12 school districts, their employees, volunteers, board members, (except for Albuquerque Public Schools), charter schools, and school bus contractors are included in this extremely broad coverage. The purpose of the NMPSIA is to provide comprehensive core insurance programs by expanding the pool of subscribers to maximize cost containment opportunities for required insurance coverage.

The NMPSIA covers all school districts and charter schools except those that have waived out (Section 22-2-6.9, NMSA 1978). Any school district with enrollment in excess of sixty thousand students can elect to waive out. School districts that waive out may purchase insurance from a company or elect to become self-insured.

General information, benefits specialists, insurance carriers, newsletters, forms and risk related or health related information is available at www.nmpsia.com.

PURPOSE AND AUTHORITY

Sections 22-2-6.1 to 22-2-6.10, NMSA, 1978

- This rule establishes the New Mexico Public School Insurance Authority to provide a comprehensive insurance program that will benefit school districts.

Section 22-29-2.NMSA 1978. Purpose of act.

- The purpose of the New Mexico Public School Insurance Authority is to provide comprehensive core insurance programs, including reimbursement coverage for the costs of providing due process to students with disabilities, for all participating public schools, school board members, school board retirees and public school employees and retirees by expanding the pool of subscribers to maximize cost containment opportunities for required insurance coverage.

Section 22-29-4. NMSA 1978. Authority created.

- There is created the "public school insurance authority", which is established to provide for group health insurance, other risk-related coverage and due process reimbursement with the exception of the mandatory coverage provided by the risk management division on the effective date of the Public School Insurance Authority Act [[22-29-1 NMSA 1978](#)].

6.20.2.20 NMAC. Insurance.

- Each school district shall maintain adequate insurance coverage addressed in the Tort claims Act, Section 41-4-1 et seq. NMSA 1978; the Workers' Compensation Act, Section 32-1-1 et seq. NMSA 1978; Insurance of Public Buildings, Section 13-5-1 et seq., NMSA 1978; Officers and Surety Bonds, Section 22-5-7, NMSA 1978; and the Public School Insurance Authority Act, Sections 22-2-6.1 through 22-2-6.10, NMSA 1978.
- Surety bonds paid from the operational sub fund shall be approved by the department and filed with the secretary of the Department of Finance and Administration pursuant to subsection D. of Section 22-5-7 NMSA 1978.

WAIVERS FOR RISK AND EMPLOYEE BENEFITS RELATED COVERAGE

Section 22-29-9 NMSA 1978. Participation; waivers.

- School districts and charter schools shall participate in the Authority, unless the school district or charter school is granted a waiver by the board.
- In determining whether a waiver should be granted, the board shall establish minimum benefit and financial standards for the desired line of coverage. These minimum benefit and financial standards and the proposed time schedule for responsive offers shall be sent to all school districts and charter schools at the time the request for proposals for the desired line of coverage is issued.
- Any school district or charter school seeking a waiver of coverage shall match the minimum benefit and financial standards set forth in the request for proposals for the desired line of coverage.
- School districts and charter schools shall submit documentation of their proposals matching the board's minimum benefit and financial requirements prior to the deadline established by the board. The Authority has the power to approve or disapprove a waiver of participation based on the documentation submitted by the school district or charter school regarding the benefit and financial standards established by the board.
- The board shall grant a waiver to a school district or charter school that requests a waiver and that has met the minimum benefit and financial standards within the time schedule established by the board. Once the board awards the insurance contract, no school district or charter school shall be granted a waiver for the entire term of the contract.
- Any school district or charter school granted a waiver of participation for health insurance shall be required to petition for participation in other kinds of group

insurance coverage and shall be required to meet the requirements established by the authority prior to participation in other kinds of group insurance coverage. A school district or charter school which has been granted a waiver shall be prohibited from participating in the coverage for which a waiver was granted for the entire term of the Authority's insurance contract.

- Provided, however, that if the authority contracts for a line or lines of coverage for a period of eight years, the board may establish procedures and preconditions for authorizing a school district or charter school which has been granted a waiver to again participate in the coverage after the expiration of the first four years of coverage.
- Any school district or charter school granted a waiver of participation *for worker's compensation* shall be required to petition for participation in other risk-related coverage and shall be required to meet the requirements established by the authority prior to participation in other kinds of risk-related coverage.
- A school district or charter school which has been granted a waiver shall be prohibited from participating in the coverage for which a waiver was granted for the entire term of the authority's insurance contract.
- Educational entities may petition the Authority for permission to participate in the insurance coverage provided by the Authority. To protect the stability of the fund, the Authority shall establish reasonable terms and conditions for participation by educational entities.
- A participating school district or charter school may separately provide for coverage additional to that offered by the Authority.
- The local school districts, charter schools or the Authority, as appropriate, may provide for marketing and servicing to be done by licensed insurance agents or brokers who should receive reasonable compensation for their services.

PARTICIPATION WAIVER FOR RISK AND HEALTH INSURANCE

6.50.7.11. NMAC. SCHOOL DISTRICTS MAY WAIVER OUT OF PARTICIPATION FROM EITHER RISK RELATED OR GROUP HEALTH INSURANCE OR BOTH:

- A. For purposes of the opportunity for a school district to waiver out of participation pursuant to Section 22-2-6.9 NMSA 1978 a district may waiver out of either the risk related or group health insurance or both. A school district may not piecemeal a waiver from a portion of one or the other lines of coverage. For example, a district may not waiver out of the worker's compensation portion of the risk related line of coverage yet remain in other portions or a portion of the remaining risk related line of coverage. Similarly, a district may not waiver out of participation in the group medical indemnity program and participate in an offered HMO. An Request For Proposal (RFP) shall establish in either the risk related or group health insurance the individual coverage that are mandatory offerings.
- B. Should a school district waiver out of participation in an individual line of coverage, the following accounting shall occur:

- (1) **Risk Related Coverage.** The school district shall forfeit to and shall be responsible to pay to the Authority on demand the cost of any losses in excess of premium and all the appropriate expenses of the Authority in defending, settling and administering any such losses.
 - (2) **Group Health Insurance.** The school district shall forfeit to the Authority any right to any return premium or reserves it may be entitled to. The school district shall pay to the Authority any funds paid for claims related to the school district in excess of premium paid by the school district and shall pay to the Authority all the appropriate expenses of the Authority in defending, settling and administering such claims.
- C. Any school district waiving out of participation from a line of coverage shall pay to the Authority any sums determined by the Authority to be due in order to hold safe and harmless all other members of the Authority from any adverse financial impact caused by the waiver from coverage. An accounting of funds and amounts owed by the school district shall not be due from the Authority until two years after the waiver of participation in the coverage by the school district.

RISK INSURANCE PROGRAMS

MEMORANDUM OF COVERAGE

The *Memorandum of Coverage* is an agreement by the New Mexico Public Schools Insurance Authority (the Authority) and its “Members” – school districts, charter schools, and Regional Education Centers - to provide or obtain insurance protection for all covered losses subject to the limits and other terms and conditions of the Memorandum and any addendum that may be attached.

The Memorandum is intended to describe the coverage for Property, Automobile Physical Damage and Crime Coverage. In consideration of the contributions paid by the “Members,” this Memorandum provides the coverage set forth in the Memorandum and the deductibles that apply. This is a comprehensive document issued annually to its “members” and lists coverage limitations, terms and conditions.

The New Mexico Public School Insurance Authority calculates premiums annually based on typical industry standards that include but are not limited to historical data, property values, average daily attendance, frequency and severity of claims, active claims data, etc.

Annually school districts and charter schools complete an *Insurance Questionnaire* that reflects payroll information, enrollment, number of employees, property additions, construction costs, number of buses and automobiles, etc. that enable carriers to determine new premium costs for each district or charter school. During the planning and preparation phase of budgeting each year, NMPSIA will distribute a “**Budget Notice**” that will indicate what districts and charter schools shall budget (and typically pay) as premiums for the different lines of coverage.

TRAINING AND MANAGING RISK

For school districts and charter schools training and preparedness should be a perpetual component in any school environment in an effort to minimize risk, and, increase safety for students and staff. Each year, administration experiences changes including new staff, students and educational programs. Management should develop a plan that addresses the varying needs of all stakeholders. Executive training for governing boards, school safety teams, and parents should be included. A good risk related program will focus on the most current training available including state and federal regulations that govern some actions to be taken, and realistically touch all staff and students. The risk related program should:

- Involve a considerable amount of information and intelligence gathering,
- Identify potential hazards and the relative probability of occurrence,
- Conduct inspections for each facility and catalog attributes and deficiencies,
- Secure resources and budget appropriately for equipment and supplies that support a risk program, and
- Focus on training staff and instructing students to use good judgment in crisis situations, for example.

School district and charter schools should first identify areas where training is needed and consider seeking professional guidance to address some of the areas listed below:

<i>Playground Safety</i>	<i>Wrongful Termination</i>
<i>Anti-Bully Initiative</i>	<i>School Violence</i>
<i>Suicide Prevention</i>	<i>Security Officer Training</i>
<i>Drug Free Workplace</i>	<i>Safety Policies</i>
<i>Fair Labor Standards Act</i>	<i>Americans with Disabilities</i>
<i>Workplace Violence</i>	<i>Worker's Compensation</i>

*POMS & Associates, Insurance Brokers, Inc. is available to conduct risk assessments including safety and security audits and employment practices in **numerous** areas. Classes can specifically be designed to address the needs at a particular site. www.pomsassoc.com*

"**RISK-RELATED COVERAGE**" includes, but is not limited to, the following types of protection:

- ✚ All types of property, inland marine, boiler and machinery coverage, including but not limited to buildings, contents, valuable papers, extra expense, electronic data processing and media, personal property, owned builder's risk coverage, loss of rents, architects fees, property in transit, accounts receivable, glass, fine arts, building sprinkler leakage, acts of vandalism and malicious mischief, civil authority clause, earthquake or flood damage, mobile equipment, ordinary deficiency clause, drop down coverage, tuition fees and removal clause;

- ✚ All types of crime coverage, including but not limited to theft, larceny, embezzlement, burglary, robbery - inside and outside, employee dishonesty, faithful performance, depositor's forgery, counterfeit papers, mysterious disappearance and fiduciary responsibility;
- ✚ All types of general liability coverage, including but not limited to bodily injury, property damage, personal injury, errors and omissions, all types of malpractice, employer's liability, school board member's liability, host liquor law liability, cross liability, watercraft liability and employee benefits liability;
- ✚ All types of civil rights and personal injury liability coverage, including but not limited to bodily injury, mental injury, mental anguish, shock, sickness, disease, disability, violation of civil rights, false arrest, false imprisonment, wrongful eviction, detention, malicious prosecution, discrimination, humiliation, invasion of rights of privacy, libel, slander or defamation of character, piracy, infringement of copyright or property, erroneous service of civil papers, assault and battery, disparagement of property and including injunctive relief;
- ✚ All types of motor vehicle and fleet physical damage and liability coverage, including but not limited to physical damage, medical payments, collision, comprehensive, non-owned and hired vehicles, bodily injury and property damage, uninsured and underinsured motorist, automatic acquisition and garage keeper's legal liability;
- ✚ All types of school bus physical damage and liability coverage, including but not limited to physical damage, medical payments, collision, comprehensive, non-owned and hired vehicles bodily injury and property damage, uninsured and underinsured motorist, automatic acquisition and garage keeper's legal liability; and
- ✚ All types of Worker's Compensation coverage, including but not limited to worker's compensation, employer's liability, and occupational disease and disablement.

MAJOR TYPES OF RISK RELATED COVERAGE

WORKER'S COMPENSATION

This coverage is provided to pay benefits prescribed for all employees. This coverage also includes Employer's Liability and Occupational Disease and Disablement. The Worker's Compensation limit is statutory and the employer's liability limit is \$1,000,000. Worker's Compensation is covered under Chapters 52 and 59a, NMSA, 1978.

On an annual basis school districts and charter schools will submit payroll information including number of employees by category, wage amounts and enrollment to NMPSIA so that Workers' Compensation premiums may be calculated. The Insurance Questionnaire

shall be completed timely, and every effort should be made to include accurate data from the district or charter schools' financial management system. Reference PSAB Supplement 14, Payroll.

6.50.14.8. NMAC. WORKERS' COMPENSATION POLICY:

All school districts and educational entities participating in the Authority's Workers' Compensation coverage shall adopt a workers' compensation policy for its employees substantially in the following form. Those school districts and other educational entities which adopt and implement such a policy, and which actively utilize services and implement loss control measures as outlined in Part 12 [6.50.12 NMAC], will be eligible for special consideration with regard to workers' compensation premium in the period beginning January 1, 1994.

6.50.14.12 NMAC WORKERS' COMPENSATION IS THE EXCLUSIVE REMEDY:

In any case where an authority insured under the authority workers' compensation program is eligible to receive workers' compensation benefits for an injury, the exclusive remedy for such injury is workers' compensation benefits. Such injured insured shall have no claims for additional benefits under either the authority benefits or risk program including but not limited to underinsured, uninsured and unknown motorist coverage. Provided, however, this does not prohibit an insured from claiming benefits (in addition to workers' compensation) if provided under a short or long-term disability policy, life insurance policy or medical benefits policy (so long as an insured is limited to one recovery for medical expenses).

6.50.14.9 NMAC WORKERS' COMPENSATION POLICY FOR SCHOOL DISTRICTS AND OTHER EDUCATIONAL ENTITIES PARTICIPATING IN AUTHORITY WORKERS' COMPENSATION INSURANCE PROGRAM:

A form for local policy is available by referencing this regulation that is suggested be adopted and implemented by all Authority members participating in the authority Workers' Compensation insurance coverage.

PROPERTY INSURANCE

Section 13-5-3. NMSA 1978. Public property; local public bodies; insurance; reserves for public losses.

- A local public body shall purchase insurance for public buildings under their control against loss or damage by fire, windstorm, hail, smoke, explosion, riot or civil commotion in an amount not less than 80 per cent of the replacement cost or actual cash value of the building.
- This coverage is provided and includes all owned and non-owned buildings within the custody and control of school districts. Contents are also covered with no schedule required, unless a claim arises. The school district does not need to

notify the insurance carrier of remodeling or new acquisitions, unless the value exceeds \$500,000. The standard deductible is \$750 and applies to each building, with a cap of \$20,000 for each occurrence. Other higher deductibles are available with appropriate reduction in premium, and changes in coverage. See NMPSIA *Memorandum of Coverage* for specific details.

PROPERTY AND BUILDING DEDUCTIBLES

The selection of building deductible is assigned to each member based on the member's total appraised building values. The following illustration provides districts with the breakdown. **Note: Illustration is for display only. Members shall consult NMPSIA annually for adjustments in property values, deductibles and premium changes.*

BUILDING DEDUCTIBLES	
If the Building value is:	Then the deductible is:
Under \$10,000,000	\$10,000
Between \$10 and \$20 Million	\$2,500
Between \$20 and \$50 Million	\$5,000
Between \$50 and \$100 Million	\$10,000
Between \$100 and \$200 Million	\$15,000
\$200 Million and Above	\$25,000
Each member's Annual Deductible expense is limited as follows (maximum out of pocket)	
Category A:	Member pays a maximum of \$4,000
Category B:	Member pays a maximum of \$10,000
Category C:	Member pays a maximum of \$20,000
Category D:	Member pays a maximum of \$40,000
Category E:	Member pays a maximum of \$60,000
Category F:	Member pays a maximum of \$100,000
Once out - of -pocket is paid the deductible reverts to a \$750 per building deductible	
CONTENTS/PERSONAL PROPERTY DEDUCTIBLE:	
A \$750 deductible applies to contents, each occurrence. If there is a combination of building damage and contents damage, only the higher deductible will be charged.	

Section 22-29-11.NMSA 1978. Expenditure of insurance proceeds for public schools.

Payment for a claim under property insurance coverage for property damage to public school facilities may be paid directly to the school district, or, pursuant to the Procurement Code [Section [13-1-28](#). NMSA 1978], the insurance proceeds may be expended by the insurer to repair the damage. If the payment is made directly to the school district, without further approval of the authority or any insurance carrier, the proceeds of the insurance payment may be expended by the school district to repair or replace the damaged facility if:

- A. the school district complies with the Procurement Code; and
- B. contracts for the repair or replacement are approved by the public school facilities authority pursuant to Section [22-20-1](#) NMSA 1978, provided that:
 - (1) the cost of settlement of the insurance claim shall not be increased by inclusion of the insurance proceeds in the construction contracts; and
 - (2) insurance claims settlements shall continue to be governed by insurance policies, memoranda of coverage and rules related to them.

GENERAL LIABILITY INSURANCE

This coverage is provided and includes Bodily Injury, Property Damage, Errors and Omissions, Incidental Malpractice, Products and Completed Operations: Owners and Contractors Protective, employment-related discrimination and other discrimination, sexual abuse/molestation liability, limited criminal defense coverage, and Contractual Liability. Coverage is afforded to all employees, volunteers and school board members. Foreign Jurisdiction is covered under General Liability with a \$5,000,000 limit. Section 41-4-19, NMSA, 1978, specifies that the General Liability limit is subject to the Tort Claims Act on a per occurrence basis.

EXCESS EMPLOYEE FIDELITY, FAITHFUL PERFORMANCE & COMPUTER FRAUD COVERAGE

Effective July 2010, NMPSIA made it mandatory for all members to carry the Excess Employee Fidelity/Faithful Performance coverage. The coverage limit will be \$750,000 excess of \$250,000 (self-insured by NMPSIA) for a total limit of \$1,000,000; coverage includes Faithful Performance, forgery, and computer fraud. Losses caused by the failure of any employee to faithfully perform his or her duties as required by law forgery covers losses caused by falsifying or altering checks, drafts, promissory notes, or orders to pay money that are drawn upon district held accounts by someone acting on behalf of the district. *(This coverage protects the district or charter school against forgery or losses caused by a person other than an employee).*

Coverage limits and program offerings may be adjusted and members should consult with the NMPSIA for current information.

DUE PROCESS REIMBURSEMENT

Section 22-29-12 NMSA 1978 Due process reimbursement.

The authority shall include due process reimbursement in its self-insured retention risk pool. Each year, the legislature shall authorize the board to collect the due process reimbursement premium from member districts and charter schools to cover the cost of due process reimbursement. From the authorization, the board shall allocate due process reimbursement premiums based on a school district's or charter school's claims experience and other criteria determined by the board. A single due process reimbursement shall not exceed one hundred thousand dollars (\$100,000).

Prior to the beginning of each fiscal year, the authority shall determine the amount of money available in the fund for special education due process reimbursements. The authority shall set forth in its general liability memorandum of coverage the provisions for distribution of that amount for due process reimbursements to school districts and charter schools, including:

- A. the process by which school districts and charter schools submit claims for reimbursement by the end of the fiscal year; and
- B. the method for distributing the money available to school districts and charter schools on a pro rata basis if the available money is not sufficient to cover all claims.

CIVIL RIGHTS AND PERSONAL INJURY LIABILITY INSURANCE

This coverage is provided and includes Errors and Omissions, Violation of Civil Rights, Corporal Punishment, Assault and Battery and Libel and Slander. Coverage is afforded to all employees, volunteers and school board members past or present. The Civil Rights and Personal Injury limit is subject to the Tort Claims Act Section 41-4-19 NMSA 1978 Compilation on a per occurrence basis. If a claim is considered a Foreign Jurisdiction case, a limit of 10,000,000 will apply on a per occurrence basis.

AUTOMOBILE LIABILITY AND PHYSICAL DAMAGE INSURANCE

This liability coverage includes bodily injury, property damage and physical damage for all owned, non-owned and hired vehicles. The school district or charter school does not need to notify the carrier of additions or deletions during the term of the policy as all vehicles are automatically insured upon acquisition. No schedules of vehicles are required to be submitted to NMPSIA in order to obtain coverage. The Automobile Liability limit is subject to the Tort Claims Act Section 41-4-19 NMSA 1978 on a per occurrence basis. Deductibles apply. Volunteers driving children on school district activities shall be insured by their personal automobile policy. The school district's policy provides excess insurance over the parent's policy only when the school district has a legal obligation. Excess coverage provided by the school district will not protect the volunteer; it only protects the

school district. *Reference NMPSIA Memorandum of Coverage on an annual basis for specifics on deductibles, and limitations for automobile coverage.*

EQUIPMENT BREAKDOWN COVERAGE

Formerly known as *Boiler & Machinery Coverage*, this coverage is optional, but should be carried by every member of NMPSIA. The coverage extends to the breakdown of many kinds of mechanical equipment, such as electrical panels, P.A. Systems, telephone systems, HVAC systems, etc. state mandated boiler inspections must be conducted and a summary of this coverage should be reviewed is a single line coverage offering under a master policy. This premium amount is based on the value of the total reported as insured.

STUDENT ACCIDENT PROGRAMS

Section 22-2-2.N. NMSA 1978 Student Accident Mandatory Catastrophic Insurance

This mandatory coverage is provided for students, grades 7-12, participating in the New Mexico Activities Association (NMAA) sponsored events. The coverage is mandated and stipulates that the state Board shall require "...any school under its jurisdiction which sponsors athletic programs involving sports to mandate that the participating student obtain catastrophic health and accident insurance coverage. Such coverage is to be offered through the school and issued by an insurance company duly licensed pursuant to the laws of New Mexico".

This coverage is NOT liability coverage, but rather a medical, rehabilitation, and disability coverage. An optional extended coverage for non-NMAA school sponsored activities – Voluntary Catastrophic Injury Insurance may be purchased.

SCHOOL-TO-WORK/STUDENT VOCATIONAL JOB TRAINING PROGRAMS

This program is available for this category of student who participates in job shadowing school-to-work, vocational job training programs, or those who are volunteers or receive a stipend. If students receive an hourly wage they are eligible for workers compensation benefits if they are injured on the job. Students who do not receive a wage are not eligible for workers compensation. Students, who participate in these types of programs on a volunteer (no wage) basis, must provide evidence of medical insurance or must purchase an accident policy through the district. Coverage is provided under certain conditions. Contact NMPSIA at www.nmpsia.com.

FACILITY USE AGREEMENT

A PUBLIC SCHOOL MAY NOT REQUIRE A TENANT USER TO PURCHASE INSURANCE AS A CONDITION OF USE, BUT THE SCHOOL IS ALSO NOT REQUIRED TO EXTEND ITS OWN LIABILITY INSURANCE TO THE TENANT USER IF THE TENANT USER ELECTS TO REMAIN UNINSURED, IT IS AT THE USER'S OWN RISK.

USE OF SCHOOL FACILITIES BY OUTSIDE PARTIES

6.50.17. NMAC Use of Facilities by Private Persons

This rule affects the relationship between public schools in New Mexico and third party users of public school facilities. The law stipulates:

- Public schools in New Mexico are not permitted to deny a facility use application because the party has no liability insurance.
- A school may not require a tenant user to purchase insurance as a condition of use.
- The public school is not required to extend its own liability insurance to the tenant user. If the tenant user elects to remain uninsured, it is at the user's own risk. The personal assets of the event sponsor may be in jeopardy if a loss occurs.
- NMPSIA member (districts, charter schools, other educational entities, etc.) WILL BE insured by NMPSIA for claims which arise as a result of the tenant user's event and for which the member is held liable.
- The NMPSIA member's liability exposure is statutorily limited to a maximum of \$1,000,000 per occurrence for damages related to tenant user activities. The Act does not set a maximum limit for the sponsor's liability.
- Public schools should adopt a *Facility Use Policy* that clarifies all other terms and conditions of facility use. A sample Use Agreement is also posted on the NMPSIA web site and may be adapted for use by the member counsel. *Consult legal counsel for appropriateness to avoid discrimination complaints.*

TENANT USER LIABILITY (TULIP)

The Tenant User Liability Insurance Program was developed as an affordable insurance policy that can be purchased by those who use or lease your premises. The policy is written in the name of the New Mexico Public School Insurance Authority (NMPSIA) and names the member and tenant user as Named Insured.

If the user elects to remain uninsured, it is at the user's own risk. If a loss occurs, the personal assets of the organization or event sponsor may be in jeopardy for payment of injury or damages. The TULIP program is designed to protect both the public schools and the event sponsor from financial loss.

The premium is paid for by the Tenant User, not the school district or charter school. This program is intended for those who use school premises for any non-school event (e.g., basketball tournaments, alumni events, baseball leagues, charity benefits, carnivals, swap meets, concerts, aerobic classes, etc.). To purchase this coverage the user may access information at the website, www.ebi-ins.com/tulip and selecting "NMPSIA-New Mexico Public School Insurance Authority". A Certificate of Insurance will be e-mailed to the tenant user to present to the school district once the coverage is bound. **Policy limits are as follows:

General Aggregate Limit (other than Products-Completed Operations)	None
Products-Completed Operations Aggregate Limit	\$1,000,000
Personal and Advertising Injury limit	\$1,000,000
Each Occurrence Limit	\$1,000,000
Fire Damage Limit	\$50,000
Medical Payment Limit	Excluded
Third Party Property Limit	\$25,000
Third Party Property Deductible	\$250

***Policy limits may change and members shall consult NMPSIA and/or the Memorandum of Coverage on an annual basis for changes.*

CERTIFICATES OF INSURANCE – “A RISK MANAGEMENT TOOL”

One of the most important ways school districts manage the risk of loss is by transferring that risk to others. This can and should be done whenever feasible. The opportunity presents itself most frequently when others occupy school premises as independent users such as renters, recreation leagues, performing groups, and similar non-school related activities. It is not always possible or even desirable to require every user group to provide evidence of financial responsibility for losses which may occur as a result of their activities. It is prudent to do so when the user group is not providing a program or service which directly benefits the district and/or recognizable hazards are evident.

The Certificates of Insurance should be obtained by the user group and presented to the school district far enough in advance to verify its conditions and validity. A Certificate of Insurance will state the policyholder’s name, the coverage afforded, the limits of coverage, when applicable, and the inception and expiration dates of the coverage as well as the date of issue and other related information. All requests for certificates can be acquired on-line at www.pomsassoc.com/nmpsia/cert/.

BENEFITS RELATED COVERAGE

Section 22-29-10. NMSA 1978. Group insurance contributions.

A. Group insurance contributions for school districts, charter schools and participating entities in the authority shall be made as follows:

- (1) at least seventy-five percent of the cost of the insurance of an employee whose annual salary is less than fifteen thousand dollars (\$15,000);
- (2) at least seventy percent of the cost of the insurance of an employee whose annual salary is fifteen thousand dollars (\$15,000) or more but less than twenty thousand dollars (\$20,000);
- (3) at least sixty-five percent of the cost of the insurance of an employee whose annual salary is twenty thousand dollars (\$20,000) or more but less than twenty-five thousand dollars (\$25,000); or

(4) at least sixty percent of the cost of the insurance of an employee whose annual salary is twenty-five thousand dollars (\$25,000) or more.

B. Within available revenue, school districts, charter schools and participating entities in the authority may contribute up to eighty percent of the cost of the insurance of all employees.

C. Whenever a school district, charter school or participating entity in the authority offers to its employees alternative health plan benefit options, including health maintenance organizations, preferred provider organizations or panel doctor plans, the school district, charter school or participating entity may pay an amount on behalf of the employee and family member for the indemnity health insurance plan sufficient to result in equal employee monthly costs to the cost of the health maintenance organization plans, preferred provider organization plans or panel doctor plans, regardless of the percentage limitations in the Public School Insurance Authority Act [Section [22-29-1](#) NMSA 1978]. School districts, charter schools and participating entities in the authority may pay up to one hundred percent of the first fifty thousand dollars (\$50,000) of term life insurance.

The employee amount is deducted from earnings and is either taxed or pre taxed.

The district contribution is posted to the general ledger as a district expense - For health and medical premiums, the object code is 52311.

Monthly Cost Sharing Based on Salary Level	Less than \$15,000	\$15,000 through \$19,999	\$20,000 through \$24,000	\$25,000 and Over	Total Due To Carrier
Blue Cross Blue Shield - High Option	25%/75%	30%/70%	35%/65%	40%/60%	
Single (Employee deduction)	121.94	146.32	170.72	195.10	
Single (District contribution)	365.80	341.42	317.02	292.64	487.74
Two Party (Employee deduction)	231.90	278.28	324.66	371.04	
Two Party (District contribution)	695.68	649.30	602.92	556.54	927.58
Family (Employee deduction)	309.72	371.66	433.62	495.56	
Family (District contribution)	929.16	867.22	805.26	743.32	1,238.88

The total amount is paid to the carrier.

6.50.5.8 NMAC. Establishment of employee benefit premium levels:

The authority shall attempt to establish premium levels necessary to protect the solvency of the fund considering all expenses, potential expenses and costs of the authority programs.

A. Where possible, the Authority should obtain loss experience for each line of coverage for each participating entity.

B. Where possible, and economically feasible, the Authority shall have actuarial studies performed or at the very least obtain professional actuarial advice to establish premium levels.

C. In establishing premiums for participating entities, the Authority may, where there is sufficient loss data, consider the loss experience of the participating entity. The authority may establish premiums using loss experience data as a primary factor; however, the Authority shall use other factors as necessary to protect the stability of the fund.

6.50.3.10 NMAC. Authorization to offer employee benefit coverage:

A. The Authority is authorized to offer employee-benefit coverage to all school districts, educational entities, eligible employees, eligible retired employees, eligible dependents and persons or entities authorized to participate in the Authority's coverage.

B. These coverage may be a single line offering, a multi-option offering or a package offering; provided that, the Authority must provide a single line health indemnity offering to participating entities or school districts where the Authority does not have an approved HMO plan and the authority shall provide a multi-option health offering in geographic areas where HMOs provide coverage approved by the board.

BILLING AND PAYMENTS

6.50.8.8 NMAC. Premium Payment:

- NMPSIA shall invoice each participating entity for risk related coverage or each participating entity or the individual participant where direct billing is used, for the premiums chargeable for provided employee-benefit coverage.
- Payment for property and casualty risk related coverage is due in full within twenty-five days after billing. Premium payments not received by the 10th day of the month following the due date shall be subject to an interest charge of 1.5 percent of the premium due for each month they are overdue and premium payment for worker's compensation risk related coverage are due by July 31 of the year billed and the remaining 20 percent is due on September 30.
- Premium payments not received by the 10th of the month following the due date shall be subject to an interest charge of 1.5 percent of the premium due for each month they are overdue. With respect to employee benefits coverage, premium payment is due in full within ten days after billing. Premiums are due no later than the 10th of the month for which coverage is intended.

6.50.8.9 NMAC. Premium payment plan:

- Any participating entity unable to make their premium payment timely and in full must obtain a recommendation of approval from the state superintendent of schools for any alternate payment schedule which shall then be submitted to the board for determination. The board may accept or reject the superintendent's recommendation.

6.50.8.10. NMAC. Failure to pay premiums when due:

- If any participating entity or individual participant responsible for making a premium payment fails to make the premium payments when due the participating entity or individual participant shall be subject to suspension of coverage or in extreme case, as determined by the board, to termination of coverage. Notice of suspension or termination of coverage shall be given to the participating entity or to the individual as appropriate. Where the coverage has been suspended for non-payment of premiums the authority shall act to protect the stability of the fund in determining whether to reinstate coverage.

6.50.10.6. NMAC. Objective:

- ✚ The objective of this part is to establish the *enrollment policy* for school districts, educational entities, eligible employees, eligible participating entity board members, eligible retired employees, eligible dependents and persons or entities authorized to participate in the Authority's employee benefits coverage.
- ✚ The Authority is permitted to accept certain classes of employees for an established enrollment period upon request by the participating entity and approval by the Authority.
- ✚ This part also establishes rules for new eligible employee enrollment, change in status enrollment for eligible dependents, change in status enrollment for eligible employees, eligible employees new dependent enrollment, eligible participating entity board members, retiree enrollment and when proof of medical insurability will be required in these cases, requiring certain documentation of retirees, their eligible dependents, other newly eligible dependents and employees or dependents claiming improper loss of coverage.
- ✚ Rules are established with regard to conflicts between carrier contracts, school policy, this part and local policy, miscommunications and appeals. This part:
 - accommodates an employee whose spouse or domestic partner is in a plan which denies dependent coverage if other coverage is available;
 - allows for coordination of Authority and retiree health care authority coverage;
 - allows for coordination of Authority coverage with coverage of an otherwise eligible spouse or dependent;
 - provides for accommodation of a divorced employee whose children's coverage is provided under a plan of an ex-spouse;

- provides for accommodation of an employee leaving a domestic partner relationship and whose children's coverage is provided under a plan of the ex-domestic partner;
- prohibits dropping of coverage if such prohibition is negotiated in a carrier contract;
- waives the requirement that all family members be in any line of coverage in the event a pre-existing condition prevents a family member from late enrollment;
- allows medical coverage and enrollment in family dental and vision for Native American employees or dependents;
- provides for special events enrollment; and
- provides for late enrollment.

6.50.10.8 NMAC. Employee requirements for enrollment:

- An enrolling employee shall be enrolled pursuant to his or her actual status at the time of enrollment or at any other time a change in status occurs. Each such enrollee's status must be the same for all lines of coverage (i.e. single, two party or family).
- An employee shall add eligible dependents at the time of acquiring them. An employee may enroll himself or herself only, however, if the employee chooses to enroll an eligible dependent, the employee shall enroll all eligible dependents unless one or more eligible dependents have other coverage.
- If the spouse of an eligible employee participant is enrolled in the medical plan of the retiree health care authority, the eligible employee participant may enroll in the medical plan as a single and in the two-party or family coverage of other lines. (A retired spouse is not required to elect dental and vision through the retiree health care authority.)
- Any eligible employee desiring to enroll for employee benefit coverage shall meet the following requirements:

EMPLOYEE ENROLLMENT AND PAYROLL DEDUCTIONS

- **Eligible Employee Enrollment Period.** When an established enrollment period is allowed by the participating entity and the Authority, eligible employees may enroll during the established period under the conditions set forth by the Authority.
- **New Eligible Employee Enrollment.**
 - New eligible employees shall enroll within thirty-one (31) calendar days of hire or within thirty-one (31) calendar days of being upgraded to that of an eligible employee. Evidence of upgrade is required. A new participating entity board member or new participating authority board member shall enroll at any time within thirty-one (31) days of being sworn in to office. An employee is eligible for coverage on the first day of the month following the day the premium is withheld from the payroll check, and for self-

payers, the first day of the month following receipt of the premium by the authority, subject to the active-at-work provision.

- Where an employee is on a twelve-month payroll option, the employer shall deduct and remit from each payroll and remit the employer's contribution simultaneously.
- **Active at Work Requirement.**
 - Eligible employees shall be employed at the school place of business or other location if his job requires him/her to travel, on the date the benefits are to go into effect. Provided, however, with regard to members of the policy making board or body, the active at work requirement does not apply. Coverage would become effective on the date the employee returns to work at the school place of business.
- **Transfer of Employee's Benefits.**
 - Outgoing School: The employee is covered until the end of the month for which coverage was paid.
 - Incoming School: Employee in the incoming school shall enroll within thirty-one (31) calendar days of hire. Eligible employees and their eligible dependents are eligible for coverage on the first day of the month following enrollment into the plan, subject to receipt of premium payment and the actively-at-work provision. Participating entities shall coordinate the effective date to ensure duplicate premiums are not paid on behalf of the employee through the outgoing school as well as the incoming school.
- **Change in Status Enrollment Eligible Dependent.**

Where the eligible dependent was receiving employee benefit group coverage through their parent, spouse or other third party and because of a change in status, the eligible dependent lost the coverage provided by the parent, spouse or other third party, the eligible employee having coverage under the particular line of coverage from the Authority shall enroll the eligible dependent within thirty-one (31) calendar days of a change in status.

Any eligible employee claiming dependent loss of coverage, shall be responsible for submitting supporting documentation indicating the reasons coverage was terminated, the date coverage was terminated, a list of who was covered, and what types of coverage his/her dependents had. Supporting documentation must be provided with the enrollment application within thirty-one (31) calendar days of a change in status.

- **Change in Status Enrollment/Eligible Employee.**

When the eligible employee was receiving employee benefit group coverage through their spouse or other third party and because of a change in status of the spouse or other third party, the eligible employee lost the coverage provided by the spouse or other third party, the eligible employee shall enroll within thirty one

(31) calendar days of the date of the change of status for the line or line(s) of coverage the eligible employee lost. Supporting documentation must be provided with the enrollment application.

- **Eligible Employee Late Enrollment.**

Any eligible employee seeking enrollment after the enrollment period, new eligible employee enrollment or change in status enrollment shall be permitted to enroll only in the group medical insurance health plan. Late enrollments shall not be permitted for dental or vision coverage, or for any other line of coverage except during an established enrollment period. Late entrants are permitted to enroll in the Authority's long-term disability plan and the voluntary life insurance plan upon providing the required evidence of medical insurability.

- **Requirement for Eligible Dependent Coverage, Exception for Divorce**

If an eligible employee participant obtains dependent coverage for any eligible dependent from the Authority, then the employee is required to enroll all eligible dependents in such coverage. If an eligible employee participant is divorced, and the divorce decree states that medical coverage will be provided by the ex-spouse for one or more dependents of the eligible employee participant, the employee is permitted to enroll as a single in the medical and in the two party or family coverage of other lines.

- **Prohibition against Duplicate Coverage.**

An employee is prohibited from having duplicate coverage from the Authority for any line of coverage. An employee is also prohibited from having employee coverage and dependent coverage at the same time from the Authority for any line of coverage. In the event of duplicate coverage, only one benefit will be paid. In those cases where an employee and his or her spouse or domestic partner are both eligible employees, one may enroll into the coverage and the other be treated as an eligible dependent.

- **Participation Requirements for Eligible Employee Enrollment.**

An eligible employee is not permitted to enroll for a particular line of coverage unless the minimum participation level as determined by the Authority is met.

- **Switching Coverage.**

The participant shall only be permitted to switch from one plan to another plan within the same line of coverage during an established switch enrollment period and then only under the terms and conditions permitted by the Authority.

- **Dropping Coverage.**

An employee may drop any line of coverage at any time at the employee's discretion. Provided, however, any negotiated provision with respect to prohibition against dropping any lines of coverage shall be enforced. In divorce situations, a divorced eligible employee may not drop eligible dependents based on a change in status until a divorce decree is filed with the Authority. When a

domestic partnership is terminated, the employee, ex-domestic partner may not drop eligible dependents based on a change in status until the Authority receives written notice that the domestic partnership is terminated in the form of an affidavit terminating domestic partnership. If the employee drops the line of coverage(s), the employee cannot re-enroll except as this part permits.

- **Proper Documentation.**

Proper documentation, including evidence of medical insurability where required, must be provided by the eligible employee seeking coverage within thirty-one (31) calendar days of the qualifying event. Coverage may be rejected where adequate proof and documentation satisfactory to the Authority is not submitted in a timely manner.

ELIGIBLE EMPLOYEE DEPENDENT ENROLLMENT

- **Eligible Employee Dependent Enrollment Period.**

When established enrollment is provided for by the Authority, the eligible employee participants may enroll their eligible dependents during the established enrollment period. If the employee is enrolled in family medical coverage, a newborn dependent of an employee parent is covered from the date of birth under the lines of family coverage in which the employee parent is enrolled at the time of the newborn's birth. In cases where the employee is not enrolled in family medical coverage but has family coverage for other lines of employee benefits, the employee parent must enroll the newborn dependent within thirty-one (31) calendar days from the date of birth to be covered from the date of birth.

In cases where there is a change of status in premium (i.e., single to two-party, single to family, or two-party to family) due to the addition of a newborn dependent, the employee parent must enroll the newborn dependent within thirty-one (31) calendar days from the date of birth to be covered from the date of birth. Under Paragraph (1) of Subsection B of 6.50.10.8 NMAC, a copy of the official state publicly filed birth certificate or a state-filed birth certificate registration certification must accompany the enrollment form, or if not available must be submitted within sixty-one (61) calendar days from the first day of the month following the newborn dependent's date of birth.

Adopted dependents of an employee are eligible for coverage from the date of placement by a licensed state agency, a governmental agency or a court of competent jurisdiction. Supportive documentation of such placement is required with the change of status application within thirty-one (31) calendar days of the date of placement.

- **New Eligible Dependent Enrollment.**

The employee participant shall enroll the new eligible dependent within thirty-one (31) calendar days of becoming an eligible dependent, except for newborns when family medical coverage is in effect at the time of the newborn's birth, as under Paragraph (1) of Subsection B of 6.50.10.8 NMAC. Those persons considered to be

a new eligible dependent are a newborn child, a new spouse, a domestic partner newly established by affidavit, a new legally adopted child, legal guardianship and other similar situations where the dependent becomes a new family member and is otherwise an eligible dependent.

Supportive documentation in the form of copies of publicly filed marriage certificates, birth certificates, guardianships, placement or adoption decrees and affidavits of domestic partnership shall be submitted along with the enrollment application.

- **Late Enrollment of Eligible Dependents.**

Any eligible employee participant seeking enrollment for an eligible dependent after an established enrollment period, new eligible employee enrollment, new eligible dependent enrollment or change of status enrollment shall be permitted to enroll such eligible dependent only in the medical insurance plan. Enrollment in the medical coverage after the open enrollment, new eligible employee enrollment, new eligible dependent enrollment or change of status enrollment is allowed pursuant to Subsection GG of 6.50.1 NMAC. Late enrollment shall not be permitted for dental or vision plans except during an established period. Late enrollment is permitted in the authority voluntary life insurance plan upon providing the required evidence of medical insurability.

- **Dependent Has No Greater Coverage Than Covered Employee.**

The eligible dependent has no greater coverage than the eligible employee participant and the eligible dependent can maintain coverage only to the extent that the eligible employee participant maintains their coverage, except as otherwise specifically provided in this rule or to the extent federal law may grant broader rights. Native American employees or Native American dependents of an employee are allowed to waive medical coverage on the Native American and still enroll in the other lines of coverage offered by the Authority.

- **Dropping Coverage.**

An eligible employee participant may drop any line of coverage on their eligible dependent at any time at the employee's discretion; provided, however, that if the employee drops the line of coverage, the employee cannot re-enroll the eligible dependent except as this rule permits and provided further that if the employee drops one dependent, the employee must drop coverage on all eligible dependents. In divorce situations, a divorced eligible employee may not drop eligible dependents based on a change in status until a divorce decree is filed with the Authority. When a domestic partnership is terminated, the employee ex-domestic partner may not drop eligible dependents based on a change in status until the Authority receives written notice that the domestic partnership is terminated in the form of an affidavit terminating domestic partnership.

- **Proper Documentation.**

Proper documentation (together with application for coverage) including evidence of medical insurability where required, must be provided by the person seeking coverage within thirty one (31) calendar days of the qualifying event. Coverage may

be rejected where adequate proof and documentation satisfactory to the **Authority** is not submitted in a timely manner.

GRANDFATHERED RETIRED EMPLOYEE AND GRANDFATHERED RETIRED EMPLOYEE DEPENDENT ENROLLMENT

- **Established Enrollment Period.**

When an established enrollment period is allowed by the Authority, an eligible grandfathered retired employee or grandfathered retired employee dependent may enroll for voluntary life insurance coverage and no other lines of coverage during the established period without evidence of medical insurability.

- **New Eligible Grandfathered Retired Employee or Grandfathered Retired Employee Dependent Enrollment.**

The eligible retired employee and eligible dependents shall be permitted to enroll during the established enrollment period, or upon showing that the new eligible grandfathered retired employee or grandfathered retired employee dependent was an eligible employee and since retirement maintained continuous Authority voluntary life insurance. The retiree shall be responsible for submitting paperwork prior to their retirement date to ensure no break in premium or coverage occurs. The retiree shall be responsible for premium payment for any monthly premiums.

- **Established Enrollment Period - Retired Employee's and Active Participating Entity Board Member's Eligible Dependents.**

The established enrollment period allowed by the Authority, for the eligible retired employee's eligible dependents and active participating entity board member's eligible dependents is thirty-one (31) calendar days after the retired board member's successor has taken oath or thirty-one (31) calendar days after the retired employees enrollment in Retiree Health Care Authority medical plan. In no event shall this provision be construed to expand enrollment privileges beyond the member school district or other educational entity enrollment policy.

SPECIAL EVENTS ENROLLMENT

In cases of "special events" defined in Subsection HHH of 6.50.1.7 NMAC, enrollment shall be allowed pursuant to Subsection HHH of 6.50.1.7 NMAC. Enrollees who are enrolled pursuant to a special event and who are subject to a pre-existing condition as defined in Subsection VV of 6.50.1.7 NMAC shall not be covered for medical advice, diagnosis, care or treatment of the pre-existing condition or mental condition during the time provided in Subsection VV of 6.50.1.7 NMAC.

SCHOOL DISTRICT AND OTHER EDUCATIONAL ENTITIES REQUIRED TO REPORT TIMELY

Authority insurance providers depend on timely reporting of dismissals, resignations, change in status, and reports of new eligible dependents, new enrollments and dropping of coverage. The only source of this information is from the participating entities. They shall report this information on or before the fifteenth day following notification from the employee of the event. *In the event they fail to so timely report, the responsible participating entity shall be liable for any losses an eligible employee or dependent may incur as a result of the failure to timely report.*

6.50.12.8 NMAC. Loss prevention management program:

- ✚ The Loss Prevention Inspection Program is hereby created to provide a mechanism for the identification and abatement of hazards relating to all lines of coverage provided by the Authority.
- ✚ The Loss Prevention Inspection Program is a service provided to the member School Districts and other educational entities in order to protect the insurance fund and its member from claims that could otherwise be prevented by actions of the members. The Authority, through the program, provides recommendations for compliance to the members; however, it is the responsibility of the members to implement the recommendations for abatement.
- ✚ All visits or inspections herein shall be performed by the Loss Prevention Representative (LPR).
- ✚ The LPR shall conduct evaluations of members. These evaluations shall include, but are not limited to:
 - physical inspection of any or all of the members' structures, facilities, vehicles or equipment;
 - review of the members' policies and procedures;
 - observation of the members' scholastic and non-scholastic activities and operations; and
 - interviews with administration officials, teachers, maintenance and other support personnel.
- ✚ Within 25 working days following the LPR's completion of the onsite evaluation of the member, the LPR shall submit to the member recommendations for corrective action to eliminate hazards or exposures observed.

6.50.15.8 NMAC. Insurance fraud:

- **Forfeiture of rights to coverage and/or benefits.** Anyone who knowingly or willfully:
 - makes any false or fraudulent statement or representation as to any material fact in or with reference to any application for insurance or other coverage; or
 - for the purpose of obtaining any money or benefit, presents or causes to be presented a false or fraudulent claim, or any proof in support of such a claim for payment of loss under a policy; or

- prepares, makes or subscribes to a false or fraudulent account, certificate, affidavit or proof of loss, or other document, with intent that the same may be presented or used in support of such a claim; or
- makes any false or fraudulent statements or representations on or relative to any application for a policy, for the purpose of obtaining any benefit; shall forfeit all employee and dependent rights to coverage or benefits.

➤ **Termination of Coverage:**

- In the event of prohibited actions as defined in 8.1 above [now Subsection A of 6.50.15.8 NMAC], by an official or employee of a participating school district or other educational entity, the employer shall take the appropriate disciplinary action against the offending official or employee. If such appropriate disciplinary action is not so taken, the Authority reserves the right to terminate coverage for the participating school district or other educational entity.

BEST PRACTICES TO MINIMIZE RISK TO PROPERTY, STAFF, AND STUDENTS

Schools must build a culture that emphasizes safety and preparedness that is realistic and supported by budgetary allocations. Educators must do all they can to anticipate what might occur and take steps to prevent injuries to staff and students and damage to property.

- Create school safety teams with representatives from every level – establish initiatives and set priorities,
- Team creates a plan that includes activation processes, protocols, roles for staff and related procedures,
- Be consistent but flexible - realizing each site will have unique needs and that surround safety, communication, and the protocol to address issues,
- Identify hazards and the relative probability of their occurrence to students staff and property,
- Consider your organization’s vulnerabilities,
- Collect information and conduct periodic inspections of school sites and buildings,
- Use tools such as annual checklists, online training for management and staff,
- Consult with specialists trained in property management that can perform a needs assessment and analyze district needs. This analysis should address district compliance with state and federal laws
- Review periodically existing plans, policies, procedures, and practices including communications processes, availability of equipment and supplies and keep the governing boards informed.
- It is recommended that this review be publicly discussed so that district management may receive input,

- Train and make efforts to certify maintenance, transportation, and other personnel on methodologies and strategies for safety and compliance,
- Seek to hire staff that have appropriate credentials, training and experience in facilities and grounds' maintenance and repair,
- Set performance objectives for staff and hold them accountable to meet those objectives.

Reference www.nmpsia.com and/or www.pomsassoc.com for training, safety audits, assessments and strategies to address risk management.

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