



AGENDA
SPECIAL FULL BOARD MEETING

December 13, 2011 – 2:30 p.m.

LOCATION: Monterey County Schools Insurance Group
76 Stephanie Drive
Salinas, CA 93901

A = Action
D = Discussion
I = Information
R = Reports
R/C = Referrals to
Committees

- A 1. Call to Order
- A 2. Adoption of Agenda
- I 3. Comments from Audience

DISCUSSION ITEMS:

- D 4. Workshop to review, answer questions and take comments on the proposed revised JPA Agreement and proposed new Bylaws* – *Sherrell Freeman*

CLOSING COMMENTS:

- I 5. Comments from Board Members
- A 6. Adjournment

*Enclosed

**To be distributed at the meeting

Report From the Executive Director to the MCSIG Full Board at the Special Meeting of December 13, 2011.

Subject: Workshop to review, answer questions and take comments on the proposed revised JPA Agreement and proposed new Bylaws

Background

The MCSIG Board adopted the first MCSIG Joint Powers Agreement on November 22, 1982. The Board subsequently adopted revisions to the Agreement on September 3, 1991, October 16, 1995, January 15, 1997, March 13, 1999, May 24, 2000, November 19, 2004 and October 25, 2005.

Based on an evaluation of the current Agreement by staff, the Executive Committee held a workshop in March 2011 to review recommended revisions to the Agreement with an eye toward:

1. Separating the Bylaw provisions from the Agreement into a separate document in accordance with best governance practices
2. Aligning selected provisions of the Agreement with recently adopted governance and fiscal policies adopted by the MCSIG Board
3. Re-formatting the Agreement for clarity and flow
4. Updating statutory references
5. Incorporating new language and provisions in accordance with best governance practices

Subsequent to the workshop, the Governance Committee, upon referral from the Executive Committee, oversaw the legal review and finalization of the proposed revised Agreement.

At their September 2011 meeting, the Executive Committee adopted a Resolution of Intent to Adopt a Revised JPA Agreement and voted to hold the October 11, 2011 special Full Board meeting to review, answer questions and take comments on the proposed revised JPA Agreement.

The Full Board met on October 11 to review, ask questions and take comments on the proposed revised JPA Agreement. A number of issues were raised during the Board's discussion. Those issues are discussed below.

Discussion

1. Article 7.5: With the exception of the addition of the new last sentence, the language of Article 7.5 of the proposed revised JPA Agreement has not changed from the current language found in Article 14.1 of the current JPA Agreement. Nonetheless, some Board members felt the existing language required improvement with respect to the reference to fiscal years. The current language is reproduced below with the language of concern underlined:

7.5 *Any Member having completed three (3) consecutive years as a Member of the JPA may voluntarily withdraw from its status as a Member and a party to the joint powers Agreement at the end of any Fiscal Year by notifying the Executive Committee of the JPA in writing prior to December 31st preceding the Fiscal Year of withdrawal. Any Member Agency which has notified the Executive Committee of withdrawal as provided herein may, with the consent of the Executive Committee, rescind such withdrawal by giving written notice to the Executive Committee no later than May 1st of the Fiscal Year of withdrawal. Unless rescinded as provided herein, such withdrawal shall be effective at the end of a Fiscal Year. Members withdrawing voluntarily are subject to the conditions for withdrawal set forth in the Bylaws.*

In practice, JPA members are allowed to terminate their membership in MCSIG on June 30 of any fiscal year. The notice deadline requirements referenced in 7.5 are for the December and May months in the same fiscal year as their June 30 termination (e.g., for a group planning to leave June 30, 2012, their notice deadlines pursuant to 7.5 would be December 31, 2011 and May 1, 2012). All of these date references take place within the same fiscal year; the confusion arises from the use of the term 'preceding' in association with the December 31 date reference and the use of the term 'of' in association with the May 1 date reference.

Recommendation: Since all of these date references take place within the same fiscal year and since none of the date references are intended to pertain to any month in any preceding fiscal year, staff recommends, and legal counsel concurs, that the word 'preceding' be replaced with the word 'of' for consistency. Lastly, staff concurs that the word 'a' in the next to the last sentence should be replaced with the word 'the'.

2. Article 9: This is a newly proposed article necessitated by the proposed separation of the current JPA Agreement and Bylaws into two separate documents. It is necessary to have an article in the revised JPA Agreement that addresses the Board's duty to adopt Bylaws and the provisions for amending those Bylaws.

The proposed process for adopting these new documents involves MCSIG Board adoption of the new, revised JPA Agreement with subsequent ratification of at least 2/3 of our member district boards. Upon successful ratification, the MCSIG Board would then be asked to adopt the new Bylaws document. Some Board members raised a concern regarding the proposed process for adopting the new, revised JPA Agreement and Bylaws. Staff was requested to seek a legal opinion regarding same. The legal opinion of MCSIG's general counsel, Byrne Conley, is reproduced below:

"I think the process you are recommending is appropriate.

As you know, current Article 16.0 in the combined JPA Agreement/Bylaws provides for amendment by written agreement of 2/3 of the JPA members.

The Amended JPA Agreement, which is being proposed, provides at Article 9 that the Board shall have authority to adopt the Bylaws. This is a common provision for joint powers authorities, since the members are typically represented on the JPA governing body and the JPA typically does not

want to go through the administrative burden of having to agendaize Bylaws amendments through each individual member agency's governing body for a separate vote.

When JPAs are first formed, or when there is a major re-write such as this, the practice I have always seen used is for the proposed Bylaws to be forwarded to the members as an exhibit or information item, together with the JPA Agreement the member governing bodies will actually vote upon, with the advice that these are the Bylaws proposed to be enacted under the new JPA Agreement once it is approved. This is partly in the interest of full disclosure, but also to make a written record that the member governing bodies were on notice of the proposed Bylaws, in the event of any later dispute.

The Joint Powers Act, Government Code sections 6500 et seq., does not reference Bylaws, but only the JPA Agreement itself. Sections 6503-6505 on the contents of a JPA Agreement are very broad and make the requirements look similar to Articles of Incorporation, providing the purpose and powers, but not the kind of details that are typically on corporate bylaws.

You have the option, if you want, to have the Amended Bylaws state they will be operative when ratified along with the amended JPA Agreement by a vote of 2/3 of the member governing bodies, and amended subsequently by Board vote according to the Bylaws amendment provision. Or you can follow the process you have outlined, which makes logical sense as Bylaws are normally within the JPA Board's scope of powers. What I am saying is that the Members can change the JPA Agreement and include in it a provision that (1) the Bylaws are adopted as attached and may subsequently be amended by the Board upon 2/3 Board vote, or (2) [if they want] the Bylaws are adopted as attached and may be amended only by 2/3 vote of member governing boards, or (3) the proposed Bylaws are attached for information purposes and may be adopted, and subsequently amended, by 2/3 Board vote. Usually there is also a provision that proposed amendments shall be circulated 30 days in advance of the Board vote for member review and comment.

Even if the third option is used, the draft is circulated so all members are on notice of the proposed Bylaws at the time they adopt the revised JPA Agreement.”

One Board member forwarded an e-mail to me as follows:

“For whatever it's worth, I am forwarding the e-mail received from Kevin A. Mills, Attorney at Law with the law firm of Lozano Smith regarding the issue of whether or not the Bylaws needed to be approved by 2/3 vote of the governing boards of the member districts.” **The legal opinion of Mr. Mills follows:**

“Sorry for the confusion. To clarify, right now, as you note the Bylaws are incorporated into the JPA agreement terms. That overall document I refer to as the "2005 JPA Agreement." Any changes to the terms of that document require that it be "signed by two thirds (2/3) of members of the JPA."

If MCSIG wishes to amend the terms of the Bylaws, since the Bylaws are incorporated into that 2005 JPA Agreement, it will need approvals of 2/3 of the governing boards of the various member districts.

If MCSIG wants to amend the JPA agreement terms (i.e. the non-Bylaws parts of the existing

document), that too will require 2/3 of the member districts to approve.

The best approach would seem to be to create rewrite both parts, and create two new documents, a new JPA agreement and new Bylaws.

I see no exceptions or specific terms in that 2005 JPA Agreement that allows the Bylaws parts to be amended through another procedure, the only section on point is 16.1. 16.1 permits amendments to "this revised agreement" "with a subsequent written agreement signed by two thirds (2/3) of members of the JPA."

Section 16.1 does not state that the signatures can be obtained from the representatives themselves without member governing board approvals in place. Of course, some person will have to sign on behalf of each District, but that fact does not mean that the governing board approval step should be skipped.

I think my referring to the single, combined Bylaws and JPA Agreement document as the "2005 JPA Agreement" may have thrown things off. I was trying to be consistent with my prior memo.

Feel free to call to discuss, if my own senior moments have led to more confusion. I hope I am capturing the question you have in mind."

The primary purpose of Bylaws is to define how the entity will operate. As such, Bylaws typically contain necessary details relative to qualifications for membership, terms for withdrawal, the purpose and composition of committees, description of the coverage program, etc. Bylaws are typically reviewed strategically (every two or three years) and amended as operational needs evolve. Bylaws are typically amended by a super-majority vote of the board.

Staff's concern with member district boards also ratifying the new Bylaws document is the precedent that action creates with respect to future updates/changes to the Bylaws. Staff believes that if the district Boards ratify the Bylaws, they can make a strong case that the Bylaws can then be amended only by subsequent vote of 2/3 of the member district boards. The primary reason for recommending separation of our current JPA Agreement & Bylaws into two separate documents is to provide the MCSIG Board more flexibility in managing the operations of the JPA including the ability, with a super-majority vote of the members of the Board, to modify the Bylaws.

As such, staff is recommending that:

- the revised new JPA Agreement be adopted by the Full Board and sent for ratification by at least 2/3 of our member districts.
- the proposed new Bylaws document be included as an information item only to accompany our presentation of the new, revised JPA Agreement to each member district board.
- upon successful ratification of the revised JPA Agreement the Full Board then adopt the new Bylaws.

3. Article 10.14: Article 10.14 is new proposed language intended to memorialize MCSIG's long-standing operation as an equity pool. Two issues were raised with respect to the proposed language of Article 10.14.

Issue - Distribution of excess equity: In pools that operate as an equity pool, any equity belongs to the pool...not the individual pool members. The equity is only distributed to pool members when the pool dissolves; withdrawing members take no equity and new members do not buy into an equal net asset position. If an equity pool wants the option of allowing distributions of excess equity (surplus) to the pool members it should memorialize, either in the governing documents or adopted policies, a process for doing so including what events trigger a distribution of equity. Having a memorialized, agreed-upon process for returning equity is vitally important, particularly with respect to the issue of consistency and the potential for former pool members to make an equity demand upon the pool. A consistent distribution approach over time is vital to maintaining the financial integrity of the pool and for fair treatment of pool members. Waiting until a demand is made on the pool or waiting until the Board desires to distribute excess equity is not a good time to create the criteria and process for equity distribution. Equity pools that chose not to return excess equity to the pool members should so state in their governing documents as this is important information for potential new members considering membership in the pool.

Under current Board adopted policy, MCSIG currently requires new pool members to buy into an equal position, and only distributes a pro-rata portion to withdrawing members, from MCSIG's *rate stabilization reserve*.

Equity pools such as MCSIG make considerable efforts when calculating the annual contribution rate in an attempt to only take in only as much revenue as is required to pay claims and expenses and avoid accumulating too much excess equity. There are other ways in which MCSIG, as an equity pool, may utilize excess surplus to the benefit of the pool members. In benefit pools such as MCSIG, rate holidays present the most expedient way to spend down excess equity while at the same time benefiting not only the pool members but the participants as well. The MCSIG JPA Agreement and Bylaws provide, at Article 6.7, that the Board "shall determine premium contribution rates and the method of which contributions will be paid to the JPA". This language provides the MCSIG Board with the authority to declare the amount and duration for rate holidays. The Board, through exercise of its powers as enumerated in sections 3.2, 8 and 10, determines the dispensation of JPA assets including undesignated equity. As such, the Board may use any excess equity to 'buy down' future contribution rate increases (while such practice has limited application due to the potential effect on future rate increases, nonetheless the MCSIG Board has that authority), improve the benefits offered through the JPA, make capital acquisitions, etc.

Issue – Requirement to return excess equity to pool members:

Government Code Section 53205 was cited as possibly mandating the return of excess equity to MCSIG's pool members. GCS 53205 is reproduced below:

“53205. From funds under its jurisdiction, the legislative body may authorize payment of all, or such portion as it may elect, of the premiums, dues, or other charges for health and welfare benefits of officers, employees, retired employees, former elective members specified in subdivision (b) of Section 53201, and retired members of the legislative body subject to its jurisdiction. Those expenditures are charges against the funds. If the employer pays any portion of the premiums, dues, or other charges for the health and welfare benefits, any dividends paid or premiums refunded or other rebates or refunds under any of those health and welfare benefits up to the aggregate expenditures of the employer for the benefits are the employer's property. The excess, if any, shall be applied by the employer for the benefit of the employees or their dependents generally.”

Staff obtained a legal opinion from general counsel Byrne Conley as to the applicability of GCS 53205 to MCSIG's excess equity. Mr. Conley's legal opinion is reproduced below:

“Government Code Title 5, Public Agencies, starts at section 50001. Chapter 2, Officers and Employees, Article 1, Group Insurance, starts at section 53200. Section 53200 indicates that it applies to local agencies, defined to include school districts, and to health and welfare benefit plans, also a defined term. Basically the article, per the statutes and published cases/Attorney General opinions, indicates that local agencies can purchase health insurance for their employees and officials, and their dependents, including for retired employees and former officials.

The particular statute cited, as you note, has the purpose of establishing (1) that these payments are proper charges to the agency funds, (2) refunds or dividends accordingly go back to the employer rather than the employee, except (3) if and only if the refunds or dividends exceed the total aggregate premiums paid by the employer, the excess goes to the employees.

I cannot imagine part (3) ever coming to pass in practice, but part (2) establishes that if there are rebates or dividends refunded, they go to the employing members. The employing members can, through the JPA Agreement, agree to share the powers under this statute to purchase health and benefits coverage, and have the dividend or rebate go to MCJPIA which can use the funds for JPA purposes, including, where authorized by the JPA Agreement and Bylaws, rebates to members of the JPA.”

GCS 53205 contains no mandate for MCSIG to return excess equity to the member districts. If MCSIG were to decide to return excess equity to the pool members, GCS 53205 dictates that the excess would go to the employer (the member districts) rather than the employees unless the excess exceeds the total aggregate premiums paid by the employer. It would be up to each individual member district to determine the applicability of GCS 53205 to their individual situation.

4. Board members requested a summary of the changes to the proposed revised JPA Agreement be provided. A proposed summary is attached.

5. Lastly, the Board requested a copy of the new, proposed Bylaws. The new proposed Bylaws are attached.

Recommendation

Staff recommends the Full Board discuss the information and recommendations contained in this report.

**CURRENT
JPA
AGREEMENT/BYLAWS**

MCSIG

BY-LAWS AND JPA AGREEMENT

JOINT POWERS AGREEMENT

For

Monterey County Schools Insurance Group

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**BY-LAWS AND JPA AGREEMENT
REVISED JOINT POWERS AGREEMENT TO ESTABLISH,
OPERATE, AND MAINTAIN A SELF-INSURANCE PROGRAM
FOR HEALTH AND WELFARE BENEFITS**

THIS REVISED AGREEMENT is entered into pursuant to the provisions of the Joint Exercise of Powers Act, Title 1, Division 7, Chapter 5, Article 1 (commencing with section 6500) of the California Government Code between the public education agencies signatory hereto.

WITNESSETH:

WHEREAS, it is the mutual benefit of the parties hereto and in the best public interest that said parties join together to establish a fund to self-insure the participating public educational agencies for health and welfare benefits and to pay for the administration of said fund and the costs related thereto; and

WHEREAS, Sections 1274, 39602-39603 and 81602-81603 of the California Education Code authorize the county superintendent of schools and the governing boards of school districts and of community college districts to establish a fund or funds individually or jointly to self-insure for a program of health and welfare benefits; and

WHEREAS, the original joint powers agreement to establish, operate and maintain a self- insurance program was in effect from November 22, 1982 until September 3, 1991, whereupon it was superseded by a revised joint powers agreement for the establishment, operation and maintenance of a self-insurance program for health and welfare benefits and for payment of the administration of said fund and the costs related thereto; and

WHEREAS, the public educational agencies signatory hereto desire to further revise the existing joint powers agreement as previously revised; and

WHEREAS, this revised joint powers agreement supersedes the original agreement, as revised and amended.

NOW, THEREFORE, for and in consideration of all the mutual benefits, covenants, and conditions herein contained, the parties hereby agree as follows:

FORMATION OF ENTITY

1.0 CREATION OF THE JOINT POWERS ENTITY

Pursuant to Sections 6500, et seq., of the Government Code, a joint powers entity, separate and apart from the public educational agencies signatory hereto, shall be and is hereby created to be known as the Monterey County Schools Insurance Group (hereinafter referred to as the "JPA").

2.0 FUNCTIONS OF THE JPA

2.1 The JPA is established for the purposes of administering this revised Agreement, pursuant to the joint exercise of powers provisions of the Government Code; providing the services and other items necessary and appropriate for the establishment, operation

and maintenance of a self-insurance program for health and welfare benefits for the public educational agencies who are signatory hereto; and providing a forum for discussion, study, development and implementation of recommendations of mutual interest regarding other programs of self-insurance.

2.2 The functions of the JPA are:

- 2.2.1 To provide a self-insurance plan and system, as stated in the plan document given to each member, for health and welfare benefits for the members of the JPA and, as such, to perform, or contract for the performance of, the financial administration, policy formulation, claim service, legal representation, cost containment and other developments as necessary for the payment and handling of all health and welfare claims against members. Said payment and handling for any member shall be for health and welfare claims filed and arising out of facts occurring during the period of membership in the JPA. The JPA shall not pay or handle for a member any health and welfare claims which arise out of services occurring before membership or after termination of membership in this JPA.
- 2.2.2 To enter into contracts.
- 2.2.3 To obtain excess coverage insurance in the form and amount to be determined by the Board of Directors.
- 2.2.4 To acquire, hold, and dispose of property, real and personal, all for the purpose of providing the membership with the necessary education, study, development, and implementation of a self-insurance program for health and welfare benefits, but not limited to, the acquisition of facilities and equipment necessary, the employment of personnel, and the operation and maintenance of a system for the handling of the self-insurance plan.
- 2.2.5 To incur debts, liabilities, and obligations necessary to accomplish the purposes of this Agreement.
- 2.2.6 To receive gifts, contributions, and donations of property, funds, services, and other forms of assistance from persons, firms, corporations, associations, and any governmental entity.
- 2.2.7 To invest surplus reserve funds as deemed appropriate by the Board of Directors.
- 2.2.8 To sue and be sued in the name of the JPA.
- 2.2.9 To perform such other functions as may be necessary or appropriate to carry out this Agreement, so long as other functions so performed are not prohibited by any provision of law.

3.0 POWERS OF AUTHORITY

- 3.1 The JPA shall have the power and authority to exercise any power common to the public educational agencies which are parties to this Agreement, provided that the same are in

furtherance of the functions and objectives set forth herein. Pursuant to Section 6509 of the California Government Code, the exercise of the aforesaid powers of the JPA shall be subject to the restrictions upon the manner of exercising such powers by a public educational agency having the same status as a general law public school district of Monterey County, except as otherwise provided in this revised agreement.

4.0 TERM OF AGREEMENT

- 4.1 This revised agreement shall be effective upon the execution hereof by the parties or by their duly authorized representatives and shall supersede and replace any agreement or agreements between the parties relating to the JPA. This agreement shall continue in effect until lawfully terminated as provided herein. In the event of a reorganization of one or more of the public educational agencies participating in this agreement, the successor in interest or successors in interest to the obligations of any such reorganized public educational agency may be substituted as a party or as parties to this agreement.

ORGANIZATION

5.0 MEMBERSHIP

- 5.1 Membership in the JPA shall consist of public educational agencies and other public entities which have the powers set forth herein and which agree to comply with the terms of this revised agreement. Each party which becomes a member of the JPA shall be entitled to all rights and privileges of, and shall be subject to the obligations of, membership as provided herein.
- 5.2 Parties originally forming the JPA and agreeing to comply with the terms of this revised agreement shall become members of the JPA upon the effective date of this revised agreement.
- 5.3 For all other public educational agencies or public entities which desire to become members of the JPA after the effective date of this agreement, such membership is contingent upon such conditions as the Board of Directors may establish and may require a contribution to reserves and upon official action by the agency's governing body requesting such membership, transmitted in writing to the JPA's Executive Committee not later than May 1 prior to the fiscal year of planned participation and approved in writing by a majority of all the members of the JPA, and upon execution of this agreement.
- 5.4 An agency or entity which has previously been a member of the JPA may apply for reinstatement in accordance with subsection 5.3 provided that:
- 5.4.1 If the agency or entity has previously withdrawn from the JPA in accordance with subsection 14.2 of this revised agreement, a period of no less than thirty-six months must have elapsed since the effective date of withdrawal, and the agency or entity may be required to repay all asset disbursements made to it at the time of withdrawal plus any fees, costs, or expenses which may be required by the Board.
- 5.4.2 If the agency or entity has previously been involuntarily terminated from membership in accordance with subsection 14.3 of this revised agreement, all

asset disbursements made to the agency or entity at the time of withdrawal may be required to be repaid and written assurances satisfactory to the Board must be provided that the circumstances which caused the involuntary termination will not reoccur.

6.0 BOARD OF DIRECTORS

6.1 A Board of Directors is hereby established to direct and control the JPA.

6.2.1 Each member of the JPA which has less than 500 active covered employees under the JPA's health and welfare plans shall be entitled to appoint to the Board of Directors one representative and one alternate who shall be designated in writing. Said representative and said alternate must be employees or officers of the member and shall serve at the pleasure of the member by whom appointed. Only the designated representative or designated alternate may represent a member, and each shall be invited to attend all meetings of the Board of Directors. The designated representative and designated alternate may invite members of their agencies' staffs or consultants to attend meetings of the Board of Directors in an advisory capacity only.

6.2.2 Each member of the JPA which has 500 or more active covered employees under the JPA's health and welfare plans shall be entitled to appoint to the Board of Directors two representatives and one alternate who shall be designated in writing. Said representatives and said alternate must be employees or officers of the member and shall serve at the pleasure of the member by whom appointed. Only the representatives or designated alternate may represent the member, and each shall be invited to attend all meetings of the Board of Directors. The designated representatives and designated alternate may invite members of their agencies' staffs or consultants to attend meetings of the Board of Directors in an advisory capacity only.

6.2.3 In addition to the representative and alternates identified in 6.2.1 and 6.2.2 above, recognized employee bargaining organizations of member agencies are entitled to appoint a number of at-large representatives to the Board of Directors equal to 33% of the total, or the nearest whole number in the event of a fraction, of the total number of board representatives (not including alternates) appointed pursuant to 6.2.1 and 6.2.2 above. The employee bargaining organization representatives must be active covered employees of a JPA member. Each bargaining organization shall be entitled to a number of representatives which is in direct proportion to the number of active covered employees it represents as of January 1 of the current even numbered year. All fractions will be rounded down to the nearest even number. Such appointment must be in writing and the representative may serve at the pleasure of the appointing organization until replaced, or the number of representative entitlement reduces, or if the representative violates any provisions of the JPA Agreement.

6.2.3.1 An employee bargaining organization is defined as a local, state or nationally recognized labor association which has exclusive bargaining rights for an identified group of employees at a member public education agency or other member public agency.

- 6.2.4 In addition to the representatives and alternates identified in 6.2.1, 6.2.2 and 6.2.3 above, covered retirees are entitled to elect an at-large representative to the Board of Directors. Elections for the retiree representative shall be by mail ballot every two years from a list of self-nominated covered retiree candidates. In the event of a vacancy, the Board of Directors President shall appoint a retiree representative for the balance of the two-year term.
- 6.2.4.1 A covered retiree is a MCSIG member who has continued their MCSIG coverage since retiring from the member district.
- 6.3 Each designated representative shall have one vote, which may be cast only by the designated representative, or in his/her absence by the designated alternate. No proxy or absentee votes shall be permitted. Except as otherwise provided, a vote of the majority of those designated representatives and designated alternates entitled to vote who are present at a meeting of the Board of Directors shall be sufficient to constitute action, provided that a quorum is present. In the event of a tie vote, the motion or action fails. A quorum shall consist of not less than one-third (1/3) of the designated representatives of the JPA.
- 6.4 The Board of Directors may conduct regular, adjourned regular, special, and adjourned special meetings, provided, however, that it will hold at least four regular Board of Directors meetings each fiscal year. The date, time, and place for each such regular meetings shall be fixed by action of the Executive Committee. Advance notice will be filed with each member of the JPA for all Board of Directors Meetings. Additional special meetings are permitted by the petition of not less than five members of the Board. Such petition is to be addressed to the President of the Board. All meetings of the Board of Directors shall be called, held, and conducted in accordance with the terms and provisions of the Ralph M. Brown Act (sections 54950, et seq., of the California Government Code), as said Act may be modified by subsequent legislation, and as the same may be augmented by rules of the Board of Directors not inconsistent therewith. Except as otherwise provided or permitted by law, all meetings of the Board of Directors shall cause minutes of its meetings to be kept, and shall promptly transmit to the members of the JPA true and correct copies of the minutes of such meetings.
- 6.5 The Board of Directors, by resolution, shall designate a specific location at which it will receive notices, correspondence, and other communications, and shall designate one of its members as an officer for the purpose of receiving service on behalf of the Board of Directors. The Board of Directors shall comply with the provisions of Sections 6503.5 and 53051 of the Government Code requiring the filing of a statement with the Secretary of State and with the County Clerk.
- 6.6 The Board of Directors may appoint and dissolve working committees from its membership.
- 6.7 The Board of Directors shall determine premium contribution rates and the method of which contributions will be paid to the JPA. The Board of Directors shall also provide for additional assessments during the year if necessary or appropriate, to allow for increased costs and expenses as they may occur. The Board of Directors shall insure that a complete and accurate system of accounting of the JPA shall be maintained at all times consistent with established auditing standards and accounting procedures. The Board of Directors shall determine the manner in which health and welfare claims shall

be processed. Such processing shall conform to all provisions of law now in effect or later enacted.

6.8 The Board of Directors shall approve plan design.

6.9 No one serving on the Board of Directors shall receive any salary or compensation from the JPA for service on the Board of Directors.

6.10 The Board of Directors shall elect an Executive Committee as hereinafter provided.

7.0 EXECUTIVE COMMITTEE

7.1 The Board of Directors shall elect from its members an Executive Committee of eight (8) members as follows:

7.1.1 Two (2) designated representatives who are not members of any employee bargaining organization and two (2) representatives of employee bargaining organizations or designated representatives who are members of employee bargaining organizations shall be elected to the Executive Committee by the Board of Directors for terms of office commencing in even-numbered years.

7.1.2 Two (2) designated representatives who are not members of any employee bargaining organization and two (2) representatives of employee bargaining organizations or designated representatives who are members of employee bargaining organizations shall be elected to the Executive Committee by the Board of Directors for terms of office commencing in odd-numbered years.

7.1.3 Terms of office shall be of two (2) years' duration commencing at December 1 of each fiscal year.

7.2 The Executive Committee shall be responsible for the ongoing operations of the JPA and is hereby empowered to implement and enforce rules, regulations, and procedures as the Board of Directors or Executive Committee may adopt and to enter into any lawful agreement necessary to carry out such responsibilities.

7.3 The Executive Committee shall perform such duties and have such power and authority not specifically reserved for the Board.

7.4 The Executive Committee may conduct regular, adjourned regular, special and adjourned special meetings. The date, time and place upon which such regular meetings shall be held shall be publicly posted prior to the meeting on a public bulletin board to be designated by the Executive Committee and filed with each member of the JPA.

7.5 The presence of a majority of the members of the Executive Committee shall constitute a quorum except that less than a quorum may adjourn from time to time. An affirmative vote of five (5) members of the Executive Committee shall be necessary to constitute action and to transact business.

7.6 All meetings of the Executive Committee shall be called, held, and conducted in accordance with the provision of the Ralph B. Brown Act, Sections 45950 et seq., of

the California Government Code, as said Act may be amended by subsequent legislation and augmented by rules of the Executive Committee not inconsistent therewith. Except as otherwise provided or permitted by law, all meetings of the Executive Committee shall cause minutes of its meetings to be kept, and shall promptly transmit to the members of the Executive Committee and to each member of the JPA a true and correct copy of such minutes.

8.0 OFFICERS

- 8.1 The Officers of the JPA shall be elected by the Executive Committee. The principal officers shall be a President, a Vice-President, and a Treasurer and shall each serve an annual term of office commencing on December 1 of each fiscal year. Any person elected as an officer may be removed at any time, with or without cause, and all vacancies however arising may be filled at any time by the affirmative vote of a majority of the Executive Committee as prescribed in subsection 7.5. A person so elected shall serve the remaining portion of the unexpired term.
- 8.2 The President shall be chief executive officer and shall have general supervision and direction of the business of the JPA by ensuring that all orders and resolutions of the Board of Directors and Executive Committee are carried into effect. The President shall be a member of all committees appointed by the Executive Committee or by the Board of Directors. The President shall have such other powers and perform such other duties as may be prescribed from time to time by the Board of Directors.
- 8.3 The Vice President shall have such powers and perform such duties as may be prescribed from time to time by the Board of directors or the President. In the absence or disability of the President, the Vice President shall be vested with all the powers and authorized to perform all the duties of the President.
- 8.4 The Treasurer shall be the chief financial officer of the JPA and shall assume the duties described in Section 6505.5 of the California Government Code, as follows:
 - 8.4.1 Receive and receipt for all monies of the JPA and place it in the County Treasury to the credit of the JPA.
 - 8.4.2 Be responsible for the safekeeping and disbursement of all money of the JPA held by him/her.
 - 8.4.3 Pay, when due, out of money of the JPA so held by him/her, all sums payable by the JPA only upon warrants authorized by him/her and drawn by the Monterey County Superintendent of Schools, or his authorized representative.
 - 8.4.4 Verify and report in writing at the end of each quarter of the fiscal year to the Board of Directors of the JPA receipts since the last report, and the amount paid out since the last report.
 - 8.4.5 The Treasurer shall have such other powers and perform such other duties as may be prescribed from time to time by the Board of Directors or the President.

OPERATIONS

9.0 FINANCIAL

- 9.1 The JPA shall operate on a fiscal year from July 1st to June 30th.
- 9.2 The Board of Directors shall annually, on or before June 30th, adopt a budget showing each of the purposes for which the JPA will need money and the estimated amount of money that will be needed for each such purpose for the ensuing fiscal year. A copy of the budget shall be transmitted to each of the participating members.
- 9.3 Each member of the JPA who is a public educational agency in Monterey County hereby agrees to authorize the Monterey County Superintendent of Schools to transfer from its general fund any required contributions and assessments as specified in the Agreement. Other agencies shall be billed on an itemized invoice for required contributions.
- 9.4 Annual assessments, as approved by the Board of Directors for each member of the JPA, shall be determined in accordance with procedures established by the Board of Directors and filed with each member.
- 9.5 If the total obligations against all the members of the JPA exceed in any year the total amount of operating and reserve funds established by the Board of Directors, the members may be assessed a pro rata share of the additional contributions as determined by the Board of Directors.
- 9.6 At least annually all expenditures of funds of the JPA shall be reviewed and ratified by the Board of Directors.
- 9.7 A general fund shall be established and maintained to receive monies of the JPA. The JPA shall accept and deposit in the JPA general fund all monies received by it including monies from any of the following sources:
 - 9.7.1 Members contributions, including assessments and any other charges.
 - 9.7.2 Interest and other investment income.
 - 9.7.3 Refund of insurance premiums and excess loss claims.
 - 9.7.4 Subrogation recoveries.
 - 9.7.5 Grants from any public agency or private company.
- 9.8 The general fund shall expend monies for the purpose of the operation of the JPA and the health and benefit program. Such expenses shall be necessary and appropriate as determined by local or state regulations.
- 9.9 Imprest accounts shall be established and maintained out of monies received by and deposited in the general fund. Monies shall be transferred from the general fund to the imprest account solely for the purposes of paying claims of the members. This account shall be established at a national, state, or local bank whose deposits are insured in the Federal Deposit Insurance Corporation.

10.0 COVERAGE

10.1 Each public agency or public entity which is a party to this Agreement shall, at the time it applies for membership pursuant to section 5.3, designate which employees or group(s) of employees are to be covered by the health and welfare benefits offered by this joint powers agency. Such designation is subject to approval by the Board of Directors.

10.1.1 Any member agency desiring to change its designation of employees or group(s) of employees to be covered by the health and welfare benefits offered by this joint powers agency shall notify the Executive Committee of the JPA in writing prior to December 31st preceding the effective date of the change. Any change in the designation of which employees shall be included within or excluded from a group of employees which has been approved for membership by the Board of Directors is also subject to approval by the Board of Directors. Unless such change is disapproved by the Board of Directors or rescinded by the member agency as provided hereinbelow, such change shall be effective at the end of the fiscal year.

10.1.1.1 Any member agency which has notified the Executive Committee of a change of designation as provided herein may, with the consent of the Executive Committee, rescind such change by giving written notice to the Executive Committee no later than May 1st of the fiscal year of withdrawal.

10.1.1.2 Any member agency which desires to rescind a change of designation after May 1st of the fiscal year of withdrawal shall present, prior to the end of the fiscal year, a written request to the Executive Committee setting forth the special circumstances which warrant allowing the requesting member agency or its late rescinding designated employees or group(s) to remain covered by the health and welfare benefits offered by this joint powers agency. The Executive Committee shall have the sole power to determine whether to consider the request and, if so considered, whether the request presents sufficient special circumstances to warrant approval. Approval of a request to rescind a withdrawal notice as provided herein shall be by not less than a two-thirds vote of the Executive Committee, shall be conditioned upon the requesting member agency's acceptance of financial terms set forth by the Executive Committee, and shall require a minimum three year commitment by the member agency to maintain coverage for the late rescinding designated employees' or group(s)' health and welfare benefits through this joint powers agency. The requesting member agency shall accept in writing the terms set forth by the Executive Committee prior to the end of the fiscal year or such earlier date as established by the Executive Committee. Following timely acceptance of continuation of coverage, failure by the requesting member agency to fulfill the

minimum three years of additional continuous membership for its late rescinding designated employees or group(s) in the joint powers agency shall result in the loss of all membership rights, privileges, and share of assets, without relief from any and all financial obligations owed by the member agency to the joint powers agency.

10.1.2 To the fullest extent practicable the provisions of section 14.0 below relating to withdrawal or removal from membership shall be applicable to a member's employees or group(s) of employees for whom a change in coverage designation has been made, except that no member who has made a change of coverage designation for any employees or group(s) of employees shall be permitted to further change its coverage designation for such employees or group(s) of employees for a period of two (2) years from the effective date of such change. In addition, the Board of Directors may establish conditions and may require a contribution to reserves for any employees or group(s) of employees for whom a member adds coverage as provided herein.

10.1.3 Pursuant to section 14.2, upon removal of any employees or group(s) of employees, as provided in section 10.1.1 above, from coverage by the health and welfare benefits offered by this joint powers agency.

10.1.3.1 The member agency shall assume total liability of all of its incurred open claims plus its incurred-but-not reported claims for the removed employees or group(s) of employees as of the effective date of the change.

10.1.3.2 The Board of Directors shall establish the amount of cash balance (reserves) for the member agency's removed employees or group(s) of employees based upon the percentage of assessments paid to the JPA during the previous 24 months participation in the JPA attributable to the member agency's removed employees or group(s) of employees. Such cash balance shall be paid to the member agency within 60 days of the effective date of the change.

10.1.3.3 The member agency shall provide in writing a release to the JPA from all liability for all claims, as of the effective date of the change of the member's removed employees or group(s) of employees.

10.1.3.4 Nothing in the foregoing shall preclude the JPA and the member agency from negotiating an agreement to resolve any or all of the details of removal of employees or group(s) of employees which differ from the foregoing provisions but which are mutually agreeable to both parties and in accordance with existing law.

10.2 As soon as practicable following the effective date of the self-insured plan for health and welfare benefits, the Board of Directors shall cause to be distributed to members a Summary Plan Description, a Plan Document, and other pertinent descriptions and documents relating to each member's benefit plan.

11.0 ACCOUNTS AND RECORDS

- 11.1 The Treasurer of Monterey County is the designated depository of the JPA.
- 11.2 The JPA is strictly accountable for all funds received and dispersed by it and, to that end, the JPA shall establish and maintain such funds and accounts as may be required by good accounting practice or by any provisions of law or any resolution of the JPA. Books and records of the JPA in the hands of the Treasurer of the JPA shall be open to inspection at all reasonable times by representatives of the members. The JPA, as soon as practical after the close of each fiscal year, shall give, or cause to be given, a complete written report of all financial activities for such fiscal year to each member of the Board of Directors and to the chief administrative officer of each member of the JPA.
- 11.3 The Executive Committee shall make, or contract with a certified public accountant to make an annual audit of the accounts, records, and financial affairs of the JPA. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for Special Districts under Section 26909 of the California Government Code and shall conform to generally accepted auditing standards and accounting principles. When such an audit of accounts and reports is made by a certified public accountant, a report thereof shall be filed as a public record with each of the members of the JPA, and also with the Auditor-Controller of Monterey County. Such reports shall be filed within twelve (12) months of the end of the fiscal year under examination. Any costs of the audit, including contracts with, or employment of, certified public accountants in making the audit(s) provided for herein, shall be appropriate administrative charges against the funds of the JPA.
- 11.4 The Monterey County Superintendent of Schools shall draw warrants to pay demands against the JPA when such demands have been duly approved by the Executive Director and Treasurer of the JPA.

12.0 HEALTH MANAGEMENT

- 12.1 The Board of Directors of the JPA shall develop suggested guidelines for health management and cost containment practices. Each of the members hereby agrees to consider the implementation in its agency of the guidelines developed by the Board of Directors.

DISSOLUTION OF AGENCY AND DISPOSITION OF PROPERTY AND FUNDS

13.0 TERMINATION OF AGREEMENT

- 13.1 This agreement may be terminated effective at the end of any fiscal year by affirmative action of two-thirds (2/3) of the then participating members; provided, however, that the JPA and this agreement shall continue to exist for the purpose of disposing of liabilities, distribution of assets, and all other functions necessary to conclude the affairs of the JPA.

14.0 WITHDRAWAL OR REMOVAL FROM MEMBERSHIP

14.1 Any member having completed three (3) consecutive years as a member of the JPA may voluntarily withdraw from its status as a member and a party to the joint powers agreement at the end of any fiscal year by notifying the Executive Committee of the JPA in writing prior to December 31st preceding the fiscal year of withdrawal. Any member agency which has notified the Executive Committee of withdrawal as provided herein may, with the consent of the Executive Committee, rescind such withdrawal by giving written notice to the Executive Committee no later than May 1st of the fiscal year of withdrawal. Unless rescinded as provided herein, such change shall be effective at the end of the fiscal year. Except as provided below, no refund or repayment shall be made to any withdrawing member.

14.2 Upon withdrawal:

14.2.1 Assumption of Liability by Withdrawing Member. The withdrawing member shall assume total liability for all its incurred but open claims plus its incurred-but-not-reported claims as of the withdrawal date.

14.2.2 Withdrawing Member's Proportionate Share of Expenses. The withdrawing member shall pay to the JPA its proportionate share of incurred-but-not-paid program expenses as of the withdrawal date. The withdrawing member shall be credited with its proportionate share of pre-paid program expenses for periods after the withdrawal date.

14.2.3 Calculation and Payment of Withdrawing Member's Proportionate Share of Cash Balance (Reserves). The Board of Directors shall establish the withdrawing member's proportionate share of the JPA's cash balance (reserves) based upon the percentage of assessments paid by the withdrawing member to the JPA during the withdrawing member's previous 24 months' participation in the JPA. Pre-paid contributions by non-withdrawing members for future coverage after the withdrawing member's withdrawal date shall not be included in the JPA's cash balance (reserves) for purposes of calculating the withdrawing member's proportionate share of the JPA's cash balance (reserves). The withdrawing member's proportionate share of the JPA's cash balance (reserves) shall be reduced by the amount of any non-withdrawing member's prepaid contributions and any incurred-but-not paid program expenses. The net amount of the withdrawing member's proportionate share of the JPA's cash balance shall be paid to the withdrawing member within 60 days after the withdrawal date. The withdrawing member shall pay any and all amounts due the JPA within 60 days after the withdrawal date.

14.2.4 Release from Liability. The withdrawing member shall provide in writing a release to the JPA from all liability of the withdrawing member's claims as of the withdrawal date.

14.2.5 Authority to Negotiate Separate Agreement. Nothing in the foregoing shall preclude the JPA and the withdrawal member from negotiating an agreement to resolve any or all of the details of withdrawal which differ from the foregoing provisions but which are mutually agreeable to both parties in accordance with existing law.

14.3 A member may be involuntarily terminated from the JPA at any time upon recommendation of the Executive Committee and a vote of two-thirds (2/3) of the

members of the Board of Directors. Involuntary termination shall have the effect of eliminating the member as a signatory of the Joint Powers Agreement and as a member of the JPA. Such termination shall be effective on June 30 or on such other date recommended by the Executive Committee and shall be preceded by not less than ninety (90) days written notice of termination. Should a member be involuntarily terminated, liability and accounts shall be established pursuant to subdivision 14.2 above as though the member were voluntarily withdrawing. Grounds for involuntary termination include, but are not limited to, the following:

14.3.1 Failure or refusal to pay contributions or assessments to the JPA as provided in subdivision 9.3.

15.0 DISPOSITION OF PROPERTY AND FUNDS

15.1 In the event of the dissolution of the JPA, the complete rescission or other final termination of the Joint Powers Agreement by the members then a party to the Agreement, the following shall occur:

15.1.1 Each member of the JPA shall assume total liability of all of its incurred open claims plus its incurred-but-not-reported claims as of dissolution date of the JPA.

15.1.2 The Board of Directors shall establish each member's amount of cash balance (reserves) based on members percentage of assessments paid into JPA during active participation in the JPA.

15.1.3 Any real and/or personal property interests and other assets remaining in the JPA following a discharge of all liabilities and obligations shall be disposed of by the Executive Committee. Proceeds from disposition shall be distributed to members based on member's percentage of assessments paid into JPA during active participation in the JPA, providing that assets are of sufficient value to defray the cost of disposition.

15.1.4 The dissolution of the JPA shall be filed in writing with the State of California by the JPA.

AMENDMENTS

16.0 AMENDMENTS

16.1 This revised agreement may be amended at any time with a subsequent written Agreement signed by two-thirds (2/3) of members of the JPA. Any such amendment shall be effective upon the date of final execution thereof, unless otherwise provided in the amendment.

SEVERABILITY

17.0 SEVERABILITY

17.1 Should any portion, term, condition, or provision of this Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or be otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms, conditions and provisions shall not be affected thereby.

LIABILITY

18.0 LIABILITY

18.1 It is expressly agreed by all parties to this revised agreement and by the Board of Directors that, in contemplation of Sections 895.6 and 6508.1 of the California Government Code respecting the right of contribution of public entities that are parties to a joint powers agreement, no public entity a party hereto shall be jointly or severally liable upon any judgement for damages caused by a negligent or wrongful act or omission to act occurring in the performance of this revised agreement, which judgment is rendered or imposed upon any one of the member entities or upon the entity created by this revised agreement, unless the party shall have authorized or consented to the same by an appropriately adopted resolution.

18.2 The JPA may insure itself, to the extent required by law and deemed appropriate by the Board of Directors, against loss, liability, and claims arising out of or connected with this revised agreement.

ENFORCEMENT

19.0 ENFORCEMENT

19.1 The JPA is hereby given authority to enforce this agreement. In the event suit is brought upon this revised agreement by the JPA and judgment is rendered against a member, the member shall pay all costs incurred by the JPA, including reasonable attorney's fees as fixed by the court.

IN WITNESS WHEREOF, the parties have caused this revised agreement to be executed by their respective duly-authorized representative effective _____.

APPROVED AS TO FORM,
ADRIENNE GROVER, County Counsel

BY: _____
LEROY W. BLANKENSHIP
Assistant County Counsel

**PROPOSED, REVISED
JPA AGREEMENT**

**MONTEREY COUNTY SCHOOLS
INSURANCE GROUP
JOINT POWERS AGREEMENT**

Established: 11/22/1982

Revised: 9/3/1991

Revised: 10/16/1995

Revised 1/15/1997

Revised: 3/13/1999

Revised: 5/24/2000

Revised: 11/19/2004

Revised: 10/25/2005

Revised __/__/2011

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JPA AGREEMENT
REVISED JOINT POWERS AGREEMENT TO ESTABLISH,
OPERATE, AND MAINTAIN A SELF-FUNDED PROGRAM
FOR HEALTH AND WELFARE BENEFITS

THIS REVISED AGREEMENT is entered into pursuant to the provisions of the Joint Exercise of Powers Act, Title 1, Division 7, Chapter 5, Article 1 (commencing with section 6500) of the California Government Code between the public education agencies signatory hereto.

WITNESSETH:

WHEREAS, it is the mutual benefit of the parties hereto and in the best public interest that said parties join together to establish a fund to self-insure the participating public agencies for health and welfare benefits and to pay for the administration of said fund and the costs related thereto; and

WHEREAS, Sections 1274, 17566-17567 and 81602-81603 of the California Education Code authorize the county superintendent of schools and the governing boards of school districts and of community college districts to establish a fund or funds individually or jointly to self-insure for a program of health and welfare benefits; and

WHEREAS, Section 53205.3 of the California Government Code authorizes school districts and community college districts to join with other school districts or community college districts, or any combination of those districts, in providing for the payment of health and welfare benefits by entering into a pooling arrangement under a joint exercise of powers agreement or on a self-insured or self-funded basis or partly by means of self-insurance or self-funding and partly by means of insurance or service agreements

WHEREAS, Section 6500 et seq. of the California Government Code authorizes local public agencies, by agreement, to exercise jointly powers common to the contracting parties; and

WHEREAS, the original joint powers Agreement to establish, operate and maintain a self-insurance program was in effect from November 22, 1982 until September 3, 1991, whereupon it was superseded by a revised joint powers Agreement for the establishment, operation and maintenance of a self-funded program for health and welfare benefits and for payment of the administration of said fund and the costs related thereto which was in effect until October 16, 1995; whereupon it was superseded by a revised joint powers Agreement for the establishment, operation and maintenance of a self-funded program for health and welfare benefits and for payment of the administration of said fund and the costs related thereto which was in effect until January 15, 1997; whereupon it was superseded by a revised joint powers Agreement for the establishment, operation and maintenance of a self-funded program for health and welfare benefits and for payment of the administration of said fund and the costs related thereto which was in effect until March 13, 1999;

whereupon it was superseded by a revised joint powers Agreement for the establishment, operation and maintenance of a self-funded program for health and welfare benefits and for payment of the administration of said fund and the costs related thereto which was in effect until May 24, 2000; whereupon it was superseded by a revised joint powers Agreement for the establishment, operation and maintenance of a self-funded program for health and welfare benefits and for payment of the administration of said fund and the costs related thereto which was in effect until November 19, 2004; whereupon it was superseded by a revised joint powers Agreement for the establishment, operation and maintenance of a self-funded program for health and welfare benefits and for payment of the administration of said fund and the costs related thereto which was in effect until October 25, 2005; whereupon it was superseded by a revised joint powers Agreement for the establishment, operation and maintenance of a self-funded program for health and welfare benefits and for payment of the administration of said fund and the costs related thereto, and

WHEREAS, the public agencies signatory hereto desire to further revise the existing joint powers Agreement as previously revised; and

WHEREAS, this revised joint powers Agreement supersedes the original Agreement, as revised and amended.

NOW, THEREFORE, for and in consideration of all the mutual benefits, covenants, and conditions herein contained, the parties hereby agree as follows:

DEFINITIONS

Unless the context otherwise requires, the following terms shall be defined as stated herein:

“Agreement” shall mean this JPA Agreement.

“Board” and “Board of Directors” shall mean the governing body of the JPA.

“Contributions” shall mean the estimated amount determined by the Board for each Member necessary to fund the JPA for the coming Fiscal Year.

“Coverage Groups” shall mean groups of employees as defined by each Member.

“Excess Insurance” shall mean that insurance purchased by the JPA to cover Member’s losses in excess of the coverage limits retained by the JPA.

“Fiscal Year” shall mean a period of time as defined in Article 10,

“Government Code” shall mean the California Government Code

“JPA” or “Authority” shall mean Joint Powers Authority.

“MCSIG” shall mean the Monterey County Schools Insurance Group created by this Agreement.

“Member” and “Membership” and “Member Agency(ies)” shall mean any and each of the public entities which are signatory to this Agreement.

“Participant” shall mean employees of Members or former employees (COBRA and retirees) of Members enrolled in the medical, dental and/or vision programs provided by the JPA.

“Qualifying Economic Interest” shall be as defined by the Conflict of Interest Guide authored by the California Office of the Attorney General.

ARTICLE 1 FORMATION OF ENTITY

1.0 CREATION OF THE JOINT POWERS ENTITY

- 1.1 Pursuant to Sections 6500, et seq., of the Government Code, a joint powers entity, separate and apart from the public agencies signatory hereto, shall be and is hereby created to be known as the Monterey County Schools Insurance Group (hereinafter referred to as the "JPA").
- 1.2 The recitals set forth above are hereby incorporated by reference and made a part of this Agreement.

ARTICLE 2 PARTIES TO AGREEMENT

Each party to this Agreement certifies that it intends to, and does, contract with all other parties who are signatories of this Agreement, and, in addition, with such other parties as may later be added as parties to, and signatories of, this Agreement pursuant to Article 7. Each party to this Agreement also certifies that the deletion of any party from this Agreement, pursuant to Article 7 shall not terminate this Agreement nor affect the remaining parties' intent to contract as described above with the other parties to the Agreement then remaining.

ARTICLE 3 PURPOSE OF THE JPA

3.0 PURPOSE OF THE JPA

- 3.1 The JPA is established for the purposes of:
 - 3.1.1 Administering this revised Agreement, pursuant to the joint exercise of powers provisions of the Government Code;

- 3.1.2 Providing the services and other items necessary and appropriate for the establishment, operation and maintenance of pooled fully-insured and self-funded programs for health and welfare benefits for the public agencies who are signatory hereto including joint purchase of Excess Insurance and administrative and other services including, but not limited to, claims adjusting, data processing, health and wellness programs, COBRA administration and legal services in connection with any of the pooled coverage programs for said agencies;
 - 3.1.3 Sharing the risk of self-funded losses;
 - 3.1.4 Providing a forum for discussion, study, development and implementation of recommendations of mutual interest regarding other programs of self-funded coverage;
 - 3.1.5 Providing, to the extent permitted by law, for the inclusion at a subsequent date of such additional public entities organized and existing under the Constitution or laws of the State of California as may desire to become parties to this Agreement and members of the JPA, subject to the terms of Article 7; and
 - 3.1.6 Providing for the removal of Member Agencies for cause or upon request.
- 3.2 The functions of the JPA are:
- 3.2.1 To provide pooled fully-insured and self-funded plans and systems, as stated in the plan document given to each member, for health and welfare benefits for the Members of the JPA and, as such, to perform, or contract for the performance of, the financial administration, policy formulation, claim service, legal representation, cost containment and other developments as necessary for the payment and handling of all covered health and welfare claims against Members. Said payment and handling for any Member shall be for health and welfare claims filed and arising out of facts occurring during the period of membership in the JPA. The JPA shall not pay or handle for a Member any health and welfare claims which arise out of services occurring before membership or after termination of membership in this JPA;
 - 3.2.2 To enter into contracts;
 - 3.2.3 To obtain Excess coverage Insurance in the form and amount to be determined by the Executive Committee;
 - 3.2.4 To acquire, hold, and dispose of property, real and personal, all for the purpose of providing the Membership with the necessary education, study, development, and implementation of a self-funded program for health and welfare benefits, but not limited to, the acquisition of facilities and equipment necessary, the employment of personnel, and the operation and maintenance of a system for the handling of the self-funded plan;

- 3.2.5 To incur debts, liabilities, and obligations necessary to accomplish the purposes of this Agreement;
- 3.2.6 To receive gifts, contributions, and donations of property, funds, services, and other forms of assistance from persons, firms, corporations, associations, and any governmental entity;
- 3.2.7 To invest surplus reserve funds as deemed appropriate by the Executive Committee;
- 3.2.8 To sue and be sued in the name of the JPA; and
- 3.2.9 To perform such other functions as may be necessary or appropriate to carry out provision of law.

These purposes shall be accomplished through the exercise of the powers of the Member Agencies jointly in the creation and operation of the JPA as described in Article 4.

ARTICLE 4 POWERS OF THE JPA

The JPA shall have the power and authority to exercise any power common to the public agencies which are parties to this Agreement, provided that the same are in furtherance of the functions and objectives set forth herein. Pursuant to Section 6509 of the California Government Code, the exercise of the aforesaid powers of the JPA shall be subject to the restrictions upon the manner of exercising such powers by a public agency having the same status as a general law public entity of Monterey County, except as otherwise provided in this revised Agreement.

ARTICLE 5 TERM OF AGREEMENT

This revised Agreement shall be effective upon the execution hereof by the parties or by their duly authorized representatives and shall supersede and replace any agreement or agreements between the parties relating to the JPA. This Agreement shall continue in effect until lawfully terminated as provided herein.

ARTICLE 6 MEMBER AGENCY RESPONSIBILITIES

6.0 MEMBER AGENCY RESPONSIBILITIES

Member agencies shall have the following responsibilities:

- 6.1 To appoint a representative(s) to serve on the Board of Directors as provided in Article 8;

- 6.2 To cooperate fully with the JPA, in all matters related to its purpose as described in Article 3 (eligibility, enrollment, designation of benefit representatives, Participant communication etc);
- 6.3 To pay Contributions and any adjustments or assessments thereto promptly in the manner determined by the JPA when due;
- 6.4 To provide the JPA with information as allowed by law and as may be necessary for the JPA to carry out the purposes of this Agreement; and
- 6.5 To cooperate fully with and assist the JPA and any insurer, claims adjuster, financial auditor, or legal counsel retained by the JPA, in all matters relating to this Agreement and to comply with the Bylaws and all policies and procedures adopted by the Board.

ARTICLE 7 MEMBERSHIP

7.0 MEMBERSHIP

- 7.1 Membership in the JPA shall consist of public educational agencies and other public entities which have the powers set forth herein and which agree to comply with the terms of this revised Agreement. Each party which becomes a member of the JPA shall be entitled to all rights and privileges of, and shall be subject to the obligations of, membership as provided herein.
- 7.2 Parties originally forming the JPA and agreeing to comply with the terms of this revised Agreement shall become members of the JPA upon the effective date of this revised Agreement.
- 7.3 For all other public educational agencies or public entities which desire to become members of the JPA after the effective date of this Agreement, such membership is contingent upon such conditions as the Board of Directors may establish. Membership shall become effective upon the date established by the Board. Prospective members may apply for participation in the JPA as provided for in the Bylaws.
- 7.4 An agency or entity which has previously been a Member of the JPA may apply for reinstatement in accordance with subsection 5.3 provided that:
 - 7.4.1 If the agency or entity has previously withdrawn from the JPA in accordance with subsection 14.2 of this revised Agreement, a period of no less than thirty-six months must have elapsed since the effective date of withdrawal, and the agency or entity may be required to repay all asset disbursements made to it at the time of withdrawal plus any fees, costs, or expenses which may be required by the Board.

- 7.4.2 If the agency or entity has previously been involuntarily terminated from membership in accordance with subsection 14.3 of this revised Agreement, all asset disbursements made to the agency or entity at the time of withdrawal may be required to be repaid and written assurances satisfactory to the Board must be provided that the circumstances which caused the involuntary termination will not reoccur.
- 7.5 Any Member having completed three (3) consecutive years as a Member of the JPA may voluntarily withdraw from its status as a Member and a party to the joint powers Agreement at the end of any Fiscal Year by notifying the Executive Committee of the JPA in writing prior to December 31st preceding the Fiscal Year of withdrawal. Any Member Agency which has notified the Executive Committee of withdrawal as provided herein may, with the consent of the Executive Committee, rescind such withdrawal by giving written notice to the Executive Committee no later than May 1st of the Fiscal Year of withdrawal. Unless rescinded as provided herein, such withdrawal shall be effective at the end of a Fiscal Year. Members withdrawing voluntarily are subject to the conditions for withdrawal set forth in the Bylaws.
- 7.6 The voluntary withdrawal or expulsion of any Member Agency shall not terminate its responsibility to cooperate fully with the JPA in determining and processing eligibility and enrollment; pay any Contributions and/or assessments determined by the Board to be due and payable for each program year in which it participated; provide the JPA with information necessary for the JPA to carry out the purposes of this Agreement; and cooperate with and assist the JPA, any insurer, financial auditor, claims adjuster or legal counsel retained by the JPA in all matters relating to this Agreement.
- 7.7 All Members hereby agree to be bound by the terms of this Agreement, the Bylaws and all policies and procedures currently in effect and as may be hereinafter revised or adopted.
- 7.8 Each of the Members hereby agrees to consider the implementation in its agency of the health management and cost containment guidelines developed by the Board of Directors.

ARTICLE 8 BOARD OF DIRECTORS

8.0 BOARD OF DIRECTORS

A Board of Directors is hereby established to direct and control the JPA.

8.1 Composition of the Board of Directors

- 8.1.1 Each Member of the JPA which has less than 500 active covered employees under the JPA's health and welfare plans shall be entitled to appoint to the Board of Directors one management representative and one alternate who shall be designated in writing. Said representative and said alternate must be employees or officers of the Member, shall have the authority to bind the Member on all matters pertaining

to this Agreement, and shall serve at the pleasure of the Member by whom appointed. Only the designated representative or designated alternate may represent a Member, and each shall be invited to attend all meetings of the Board of Directors. The designated representative and designated alternate may invite members of their agencies' staffs or consultants to attend meetings of the Board of Directors in an advisory capacity only.

8.1.2 Each Member of the JPA which has 500 or more active covered employees under the JPA's health and welfare plans shall be entitled to appoint to the Board of Directors two management representatives and one alternate who shall be designated in writing. Said representatives and said alternate must be employees or officers of the Member, shall have the authority to bind the Member on all matters pertaining to this Agreement, and shall serve at the pleasure of the Member by whom appointed. Only the representatives or designated alternate may represent the Member, and each shall be invited to attend all meetings of the Board of Directors. The designated representatives and designated alternate may invite members of their agencies' staffs or consultants to attend meetings of the Board of Directors in an advisory capacity only.

8.1.3 In addition to the representative and alternates identified in 6.2.1 and 6.2.2 above, recognized employee bargaining organizations of Member Agencies are entitled to appoint a number of at-large representatives to the Board of Directors equal to 33%, or the nearest whole number in the event of a fraction (.5% and over rounds up), of the number of board representatives (not including alternates) appointed pursuant to 6.2.1 and 6.2.2 above. The employee bargaining organization representatives must be active covered employees of a JPA Member. Each bargaining organization shall be entitled to a number of representatives which is in direct proportion to the number of active covered employees it represents as of January 1 of the current even numbered year. All fractions will be rounded down to the nearest even number. Such appointment must be in writing and the representative may serve at the pleasure of the appointing organization until replaced, or the number of representative entitlement reduces, or if the representative violates any provisions of the JPA Agreement.

8.1.3.1 An employee bargaining organization is defined as a local, state or nationally recognized labor association which has exclusive bargaining rights for an identified group of employees at a Member Agency.

8.1.4 In addition to the representatives and alternates identified in 6.2.1, 6.2.2 and 6.2.3 above, covered retiree Participants are entitled to elect an at-large representative to the Board of Directors. Elections for the retiree representative shall be by mail ballot every two years from a list of self-nominated covered retiree Participants. In the event of a vacancy, the Board of Directors President shall appoint a retiree representative for the balance of the two-year term.

- 8.1.4.1 A covered retiree Participant is a MCSIG member who has continued their MCSIG coverage since retiring from the Member Agency.
- 8.1.4.2 The at-large retiree representative shall be neither a Member representative nor an employee bargaining organization representative, eligible for election to the Executive Committee pursuant to the Bylaws.
- 8.2 Each designated representative shall have one vote, which may be cast only by the designated representative, or in his/her absence by the designated alternate. No proxy or absentee votes shall be permitted.
- 8.3 No business may be transacted by the Board without a quorum of its members being present. A quorum shall consist of not less than one-third (1/3) of the designated representatives of the JPA. Except as otherwise provided, a vote of the majority of those designated representatives and designated alternates entitled to vote who are present at a meeting of the Board of Directors shall be sufficient to constitute action provided that a quorum is present. In the event of a tie vote, the motion or action fails.
- 8.4 The powers of the Board shall be all of the powers of the JPA not specifically reserved to the Member Agencies by this Agreement and shall include, but not be limited to, the powers enumerated in Articles 3.2, 4 and 10 of this Agreement and the following:
- Approval of coverage programs and plan design;
 - Approval of Contribution rates and the method of which Contributions will be paid to the JPA;
 - Approval of additional assessments during the year if necessary or appropriate, to allow for increased costs and expenses as they may occur;
 - Development, implementation and revision of the JPA BY-LAWS;
 - Creation and dissolution of advisory, working and ad-hoc committees; and
 - Creation and dissolution of an Executive Committee as provided in the JPA BY-LAWS and delegation of any of its powers to the Executive Committee
- 8.5 No one serving on the Board of Directors shall receive any salary or compensation from the JPA for service on the Board of Directors.
- 8.6 The Board of Directors may conduct regular, adjourned regular, special, and adjourned special meetings, provided, however, that it will hold at least four regular Board of Directors meetings each Fiscal Year. The date, time, and place for each such regular meeting shall be fixed by action of the Executive Committee. Advance notice will be filed with each Member of the JPA for all Board of Directors Meetings. Additional special meetings may be called by the President or Executive Director or upon the petition of not less than five members of the Board. Such petition is to be addressed to the President of the Board
- 8.7 All meetings of the Board of Directors shall be called, held, and conducted in accordance with the terms and provisions of the Ralph M. Brown Act (sections 54950, et seq., of the

California Government Code), as said Act may be modified by subsequent legislation, and as the same may be augmented by rules of the Board of Directors not inconsistent therewith. The Board shall conduct its business in accordance with Roberts Rules of Order.

- 8.8 Except as otherwise provided or permitted by law, all meetings of the Board of Directors shall cause minutes of its meetings to be kept, and shall promptly transmit to the Members of the JPA true and correct copies of the minutes of such meetings.
- 8.9 The Board of Directors of the JPA shall develop suggested guidelines for health management and cost containment practices.

ARTICLE 9 BYLAWS AND ADMINISTRATIVE POLICY AND PROCEDURES

The Board shall, through resolution, adopt, rescind or amend Bylaws and Administrative Policies and Procedures consistent with applicable law and this Agreement to govern the day to day operation of the JPA. Each Board Member shall receive a copy of the bylaws and administrative policies and procedures developed under this Article. Amendment of the Bylaws requires a resolution approved by two-thirds of the members of the Board of Directors.

ARTICLE 10 FINANCIAL

10. FINANCIAL

The Board of Directors shall insure that a complete and accurate system of accounting of the JPA shall be maintained at all times consistent with established auditing standards and accounting procedures.

- 10.1 The JPA shall operate on a Fiscal Year from July 1st to June 30th.
- 10.2 The Board of Directors shall annually, on or before June 30th, adopt a budget showing each of the purposes for which the JPA will need money and the estimated amount of money that will be needed for each such purpose for the ensuing Fiscal Year. A copy of the budget shall be transmitted to each of the participating members.
- 10.3 Each Member of the JPA who is a public educational agency in Monterey County hereby agrees to authorize the Monterey County Superintendent of Schools to transfer from its general fund any required Contributions and assessments as calculated and specified in the Bylaws. Other agencies shall be billed on an itemized invoice for required Contributions.
- 10.4 Annual assessments, as approved by the Board of Directors for each Member of the JPA, shall be determined in accordance with procedures established by the Board of Directors and filed with each Member.

- 10.5 If the total obligations against all the Members of the JPA exceed in any year the total amount of operating and reserve funds established by the Board of Directors, the Members may be assessed a pro rata share of the additional Contributions as determined by the Board of Directors.
- 10.6 At least once annually all expenditures of funds of the JPA shall be reviewed and ratified by the Board of Directors.
- 10.7 A general fund shall be established and maintained to receive monies of the JPA. The JPA shall accept and deposit in the JPA general fund all monies received by it including monies from any of the following sources:
 - 10.7.1 Members Contributions, including assessments and any other charges.
 - 10.7.2 Interest and other investment income.
 - 10.7.3 Refund of insurance premiums and excess loss claims.
 - 10.7.4 Subrogation recoveries.
 - 10.7.5 Grants from any public agency or private company.
- 10.8 The general fund shall expend monies for the purpose of the operation of the JPA and the health and benefit program. Such expenses shall be necessary and appropriate as determined by local or state regulations.
- 10.9 Imprest accounts shall be established and maintained out of monies received by and deposited in the general fund. Monies shall be transferred from the general fund to the imprest account solely for the purposes of paying claims of the members. This account shall be established at a national, state, or local bank whose deposits are insured in the Federal Deposit Insurance Corporation.
- 10.10 The Treasurer of Monterey County is the designated depository of the JPA.
- 10.11 The JPA is strictly accountable for all funds received and dispersed by it and, to that end, the JPA shall establish and maintain such funds and accounts as may be required by good accounting practice or by any provisions of applicable law or any resolution of the JPA. Books and records of the JPA in the hands of the Treasurer of the JPA shall be open to inspection at all reasonable times by representatives of the Members. The JPA, as soon as practical after the close of each Fiscal Year, shall give, or cause to be given, a complete written report of all financial activities for such Fiscal Year to each member of the Board of Directors and to the chief administrative officer of each Member of the JPA.
- 10.12 The Executive Committee shall make, or contract with a certified public accountant to make an annual audit of the accounts, records, and financial affairs of the JPA. In each

case the minimum requirements of the audit shall be those prescribed by the State Controller for Special Districts under Section 26909 of the California Government Code and shall conform to generally accepted auditing standards and accounting principles. When such an audit of accounts and reports is made by a certified public accountant, a report thereof shall be filed as a public record with each of the Members of the JPA, and also with the Auditor-Controller of Monterey County. Such reports shall be filed within twelve (12) months of the end of the Fiscal Year under examination. Any costs of the audit, including contracts with, or employment of, certified public accountants in making the audit(s) provided for herein, shall be appropriate administrative charges against the funds of the JPA.

- 10.13 The Monterey County Superintendent of Schools shall draw warrants to pay demands against the JPA when such demands have been duly approved by the Executive Director and Treasurer of the JPA.
- 10.14 No part of the revenues or assets of the JPA shall inure to the benefit of, or be distributed to its Members, officers, employees, Participants or other persons except as provided in Article 11. The JPA shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth herein.

ARTICLE 11 DISSOLUTION OF JPA AND DISPOSITION OF PROPERTY AND FUNDS

11. TERMINATION OF AGREEMENT

- 11.1 This Agreement may be terminated effective at the end of any Fiscal Year by affirmative action of two-thirds (2/3) of the then participating Members; provided, however, that the JPA and this Agreement shall continue to exist for the purpose of disposing of liabilities, distribution of assets, and all other functions necessary to conclude the affairs of the JPA.
- 11.2 Upon termination of this Agreement, all assets of the JPA shall be distributed only among the parties to the Agreement on the effective date of termination. The Board shall determine such distribution within six months after the last pending claim covered by this Agreement has been adjudicated.
- 11.3 The Board is vested with all powers of the JPA for the purpose of concluding and dissolving the business affairs of the JPA. These powers shall include the power to require Member Agencies to pay their share of any calculated Contributions and/or assessments deemed necessary by the Board for final disposition of all claims covered by this Agreement.
- 11.4 In the event of the dissolution of the JPA, the complete rescission or other final termination of the Joint Powers Agreement by the Members then a party to the Agreement, the following shall occur:

- 11.4.1 The Board of Directors shall establish each Member's pro-rata share of any remaining cash balance (reserves) based on Members percentage of assessments paid into JPA during the Member's previous twelve months participation in the JPA.
- 11.4.2 Any real and/or personal property interests and other assets remaining in the JPA following a discharge of all liabilities and obligations shall be disposed of by the Executive Committee. Proceeds from disposition shall be disposed of by the Executive Committee. Proceeds from disposition shall be distributed to Members based on each Member's pro-rata share of assessments paid into JPA during the Member's previous twelve months' participation in the JPA, providing that assets are of sufficient value to defray the cost of disposition.
- 11.4.3 The dissolution of the JPA shall be filed in writing with the State of California by the JPA.

ARTICLE 12 AMENDMENTS

This revised Agreement may be amended at any time with a subsequent written Agreement signed by two-thirds (2/3) of Members of the JPA. Any such amendment shall be effective upon the date of final execution thereof, unless otherwise provided in the amendment.

ARTICLE 13 CONSTRUCTION & SEVERABILITY

In the event of any litigation over the meaning of this Agreement or the authority of any Member Agency of the JPA, this Agreement shall be liberally construed to effectuate its purposes. Should any portion, term, condition, or provision of this Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or be otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms, conditions and provisions shall not be affected thereby.

ARTICLE 14 HOLD HARMLESS AND INDEMNIFICATION

14. HOLD HARMLESS AND INDEMNIFICATION

- 14.1 Member Agencies agree and covenant to defend, hold harmless and indemnify the JPA, its Member Agencies, elected officers, employees and volunteers from any claim, damage or liability in connection with Contributions, assessments, deposits, or coverage; acts, errors, omissions or breach or default of any member or any person or entity acting on behalf of any Member in the performance of any of its obligations under this Agreement; and/or decisions to expel a Member Agency, with or without cause, pursuant to this Agreement and any applicable provisions of the Bylaws.

- 14.2 The JPA shall indemnify, defend and hold harmless, jointly and severally, each of its Members and the Members' officers, officials, employees, agents and representatives with respect to any loss, damage, injury, claim, litigation or liability, including attorney's fees and costs, arising out of or in any way related to the creation of operation, functioning, decisions or actions of the JPA or the JPA's officers, officials, employees, agents or representatives.
- 14.3 The provision of indemnity set forth in this Section shall not be construed to obligate the JPA to pay any liability, including but not limited to punitive damages, which by law would be contrary to public policy or otherwise unlawful.
- 14.4 Government Code Section 895.2 imposes certain tort liability jointly upon public agencies solely by reason of such public agencies being parties to an agreement as defined in Government Code Section 895. Therefore, the Member Agencies, as among themselves, pursuant to the authorization contained in Government Code Sections 895.4 and 895.6 each assume the full liability imposed upon it or any of its officers, agents, employees or representatives by law for injury caused by a negligent or wrongful action or inaction, or omission, occurring in the performance of this Agreement, to the same extent that such liability would be imposed in the absence of Government Code Section 895.2. To achieve this purpose, each Member Agency indemnifies and holds harmless each other Member and the JPA, for any loss, cost or expense, including reasonable attorney's and consultant fees, that may be imposed upon or incurred by such other Member Agency or the JPA solely by virtue of Government Code Section 895.2.
- 14.5 Notwithstanding the provisions of 14.1 through 14.4 above, by a two-thirds vote of the Board, the Board may approve the expenditure of JPA funds to defend, indemnify and hold the JPA, members of the Board and any employee or agent of the JPA free and harmless from claims and liabilities arising in connection with their actions taken in good faith, and while within the scope of their duties being performed on behalf of the JPA.
- 14.6 The JPA may self-fund or purchase insurance, and/or require the Members to self-fund or purchase insurance, in order to comply with any of the defense and indemnity requirements herein.
- 14.7 Per Government Code Section 6508.1, the debts, liabilities, and obligations of the Authority shall not be the debts, liabilities and obligations of the parties to this Agreement. In addition, it is expressly agreed by all parties to this revised Agreement and by the Board of Directors that, in contemplation of Sections 895.6 and 6508.1 of the California Government Code respecting the right of contribution of public entities that are parties to a joint powers agreement, no public entity a party hereto shall be jointly or severally liable upon any judgement for damages caused by a negligent or wrongful act or omission to act occurring in the performance of this revised Agreement, which judgment is rendered or imposed upon any one of the Member Agencies or upon the entity created by this revised Agreement, unless the party shall have authorized or consented to the same by an appropriately adopted resolution.

14.8 The JPA may insure itself, to the extent required by law and deemed appropriate by the Board of Directors, against loss, liability, and claims arising out of or connected with this revised Agreement.

ARTICLE 15 COMPLETE AGREEMENT

The foregoing constitutes the full and complete agreement of the parties. There are no oral understandings or agreements not set forth in writing herein. This Agreement supersedes prior versions noted on the Cover Page.

ARTICLE 16 EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, but altogether shall constitute one and the same Agreement.

ARTICLE 17 ENFORCEMENT

The JPA is hereby given authority to enforce this Agreement. In the event suit is brought upon this revised Agreement by the JPA and judgment is rendered against a Member, the Member shall pay all costs incurred by the JPA, including reasonable attorney's fees as fixed by the court.

ARTICLE 18 DISPUTE RESOLUTION

18. DISPUTE RESOLUTION

When a dispute arises between the JPA and a Member, the following procedures are to be followed:

- 18.1 Request for Reconsideration. The Member will make a written request to the JPA for the Governance Committee to review their position, citing the arguments in favor of the Member and any applicable case law that applies. The Member can also request a personal presentation to the Governance Committee if it so desires.
- 18.2 The Governance Committee will review the matter and consider the JPA's position. The Governance Committee may seek the assistance of other JPA Committees, JPA staff or outside experts. This appeal process is intended to be an opportunity for both sides to discuss and substantiate their positions based upon legal arguments and the most complete information available. If the Member requesting reconsideration is represented on any of the Committees involved in the review, that Member shall be deemed to have a conflict and shall be excluded from any vote.

- 18.3 If the Member is not satisfied with the outcome of the Governance Committee appeal, the Member may request that the matter be set as an agenda item of the Executive Committee for further reconsideration. If the Member requesting reconsideration is represented on the Executive Committee, that Member shall be deemed to have a conflict and shall be excluded from any vote.
- 18.4 If the Member is not satisfied with the outcome of the Executive Committee appeal, the next step in the appeal process is arbitration. The arbitration will be non-binding unless the parties mutually agree, in advance of the arbitration process, to binding arbitration. The matter will be submitted to a mutually agreed arbitrator or panel of arbitrators for a determination. If binding arbitration is selected, then the decision of the arbitrator is final and both sides agree to abide by the decision of the arbitrator. The cost of arbitration will be shared equally by the involved Member and the JPA.
- 18.5 If, after following the dispute resolution procedure paragraphs 18.1-18.4, either party is not satisfied with the outcome of the non-binding arbitration process, either party may consider litigation as a possible remedy to the dispute.

ARTICLE 19 APPLICABLE LAW AND FORUM

The laws of the State of California shall govern the interpretation and enforcement of this Agreement, without regard to conflict of law principles. Legal actions must be initiated and maintained in the Superior Court of the County of Monterey, State of California, in any other appropriate court in that county or in the Federal District Court in the Northern District of California.

ARTICLE 20 ACCEPTANCE OF SERVICE OF PROCESS

The Board of Directors, by resolution, shall designate a specific location at which it will receive notices, correspondence, and other communications, and shall designate one of its members as an officer for the purpose of receiving service on behalf of the Board of Directors.

In the event that any legal action is commenced against the JPA, service of process on the JPA shall be made by personal service upon the Executive Director or President of the JPA, or in such other manner as may be provided by law.

ARTICLE 21 WAIVERS & MODIFICATIONS

Subject to the following exception, no provision of this Agreement may be waived or modified. Notwithstanding the foregoing, the Board of Directors may, upon a two-thirds vote of the Board of Directors at a properly noticed public meeting, waive or modify any provision of Sections 7.4

and/or 7.5 of this Agreement. No waiver or modification of any provision of Sections 7.4 or 7.5 of this Agreement will apply toward the same provision at a different time.

ARTICLE 22 CONFLICT OF INTEREST

No officers, official or employee of the JPA shall have any Qualifying Economic Interest, direct or indirect, in the JPA nor shall any such person participate in any decision relating to the JPA which affects his or her personal or private economic interests in violation of any State law or regulation.

ARTICLE 23 BOOKS & RECORDS

All books, records, accounts and documents of the JPA shall be available at any reasonable time to the Board members and, to the extent provided by the California Public Records Act (Government Code Section 6250 et. Seq.) shall be public records. This Section does not authorize the release of any confidential documents which are exempt from disclosure under the California Public Records Act or other applicable law or regulations.

ARTICLE 24 PRINCIPAL OFFICE

The principal office of the JPA shall be that of the office of the Executive Director or as from time to time designated by the Board.

ARTICLE 25 SUCCESSORS & ASSIGNMENT

In the event of a reorganization or consolidation of one or more of the public agencies participating in this Agreement, the successor in interest or successors in interest to the obligations of any such reorganized or consolidated public agency may be substituted as a party or as parties to this Agreement. This Agreement shall be binding upon all Members and shall inure to the benefit of the successors of each of the Members provided, however, that no Member may assign any right or obligation under this Agreement without the written consent of the Board.

ARTICLE 26 NOTICES

Notices permitted or required to be sent to the Member Agencies pursuant to this Agreement shall be sent by U.S. Postal Service or other reputable delivery service addressed to the Member Agency at each Member Agency's official business address and directed to the attention of that agency's Board member.

ARTICLE 27
FILING WITH SECRETARY OF STATE

The Board of Directors shall comply with the provisions of Sections 6503.5 and 53051 of the Government Code requiring the filing of a statement with the Secretary of State and with the County Clerk. The Executive Director of the JPA is directed to file with the office of the California Secretary of State a notice of adoption or amendment of this Agreement within thirty (30) days after the effective date of such adoption or amendment, as required by California Government Code Section 6503.5; and shall file with the County Clerk a statement as required by California Government Code Section 53051; and shall file all other official notices as may be required by law.

IN WITNESS WHEREOF, the parties have caused this revised Agreement to be executed by their respective duly-authorized representative effective _____.

NAME OF DISTRICT

NAME OF DISTRICT REPRESENTATIVE

SIGNATURE

**PROPOSED, NEW
BYLAWS**

BYLAWS OF THE
MONTEREY COUNTY SCHOOLS INSURANCE GROUP

ARTICLE 1
PURPOSE

For the regulation of the Monterey County Schools Insurance Group except as otherwise provided by statute or Agreement creating the Monterey County Schools Insurance Group.

ARTICLE 2
DEFINITIONS

The terms in these Bylaws shall be defined in the Agreement creating the Monterey County Schools Insurance Group, unless otherwise specified herein.

ARTICLE 3
OFFICES

The principal executive office for the transaction of business of the JPA is hereby fixed and located at:

Monterey County Schools Insurance Group
76 Stephanie Drive
Salinas, CA 93901

The Board shall have the authority to change the location of the principal executive office from time to time. Any such change shall be noted in the Bylaws and this section shall be amended to state the new location. Official notice shall comply with Section 53051 of the California Government Code.

Other business offices may at any time be established by the Board at any place or places where the JPA is qualified to do business.

ARTICLE 4
BOARD MEETINGS

4.1 In addition to required regular meetings as provided for in the Joint Powers Agency Agreement, the Board may conduct special meetings on an as-needed basis, as determined by the President, a majority of the members of the Board, the Executive Committee or the Executive Director of the JPA. Written notice of each special meeting shall be faxed, electronically sent or mailed via U.S. Postal Service to each board member at least three (3) days in advance of the meeting. The notice shall specify the place, date and hour of the meeting and the matter and general nature of items which are intended to be presented for action by the Board.

4.2 Annually, no later than its April meeting, the Board shall adopt the annual self-funded contribution amounts for the succeeding fiscal year. Annually, no later than its June meeting, the Board shall adopt the operating budget of the JPA for the succeeding fiscal year. At any of its

meetings the Board may transact any other business within its powers, and receive reports of the operations and affairs of the JPA.

4.3 Each November the Executive Committee shall adopt a calendar of regular meetings for the subsequent twelve months. Each November, the Board shall elect Executive Committee members pursuant to Article 5 and the Executive Committee shall elect officers pursuant to Article 7.

4.4 Written notice of each regular meeting of the Board shall be FAXED, electronically transmitted or mailed via U.S. Postal Service to each board member at least three (3) days in advance of the meeting. The notice shall specify the place, date and hour of the meeting and the matter and general nature of items which are intended to be presented for action by the Board.

4.4 Official minutes of the Board meetings shall be kept by the JPA at its principal executive office.

4.5 Any regular or special meeting of the Board may be adjourned to a specific time and place specified in the order of adjournment. In a meeting so adjourned, action may be taken only on those items on the original agenda. A copy of the order for adjournment shall be posted as required by Section 54955 of the Government Code. No other notice of adjourned meeting shall be necessary unless the adjournment is for a period of 30 days or more in which case notice of the adjourned meeting shall be given in the same manner as notice of the original meeting.

ARTICLE 5 COMPOSITION AND DUTIES OF COMMITTEES

5.1 The Board of Directors and/or the Executive Committee may appoint and dissolve working committees from its membership.

5.2. The Board of Directors shall elect an Executive Committee as hereinafter provided.

5.2.1. The Board of Directors shall elect from its members an Executive Committee of eight (8) members as follows:

5.2.1.a. Two (2) designated member entity representatives who are not members of any employee bargaining organization and two (2) representatives of employee bargaining organizations or designated representatives who are members of employee bargaining organizations shall be elected to the Executive Committee by the Board of Directors for terms of office commencing in even-numbered years.

5.2.1.b. Two (2) designated member entity representatives who are not members of any employee bargaining organization and two (2) representatives of employee bargaining organizations or designated representatives who are members of employee bargaining organizations shall be elected to the Executive Committee by the Board of Directors for terms of office commencing in odd-numbered years.

5.2.2. Terms of office shall be of two (2) years' duration commencing at December 1 of each fiscal year.

5.2.3. The Board of Directors may remove any members from the Executive Committee at any time, with or without cause, by two-thirds vote of the members of the Board of Directors. Continued membership of any Executive Committee member who misses more than 50% of the meetings in any calendar year or who miss two consecutive meetings due to unexcused absence, shall be reviewed by the Board.

5.2.4. A vacancy in any position on the Executive Committee shall be promptly filled by election of the Board. An Executive Committee member so elected shall serve out the remaining portion of the unexpired term of the vacant position.

5.2.5. The Executive Committee shall be responsible for the ongoing operations of the JPA and is hereby empowered to implement and enforce rules, regulations, and procedures as the Board of Directors or Executive Committee may adopt and to enter into any lawful agreement necessary to carry out such responsibilities.

5.2.6. The Executive Committee shall perform such duties and have such power and authority not specifically reserved for the Board.

5.2.7. The Executive Committee may conduct regular, adjourned regular, special and adjourned special meetings. The date, time and place upon which such regular meetings shall be held shall be publicly posted prior to the meeting on a public bulletin board to be designated by the Executive Committee and filed with each member of the JPA.

5.2.8. The presence of a majority of the members of the Executive Committee shall constitute a quorum except that less than a quorum may adjourn. An affirmative vote of five (5) members of the Executive Committee shall be necessary to constitute action and to transact business. Executive Committee members may only vote in person or by telephone at a properly noticed telephonic meeting.

5.2.9. All meetings of the Executive Committee shall be called, held, and conducted in accordance with the provision of the Ralph B. Brown Act, Sections 45950 et seq., of the California Government Code, as said Act may be amended by subsequent legislation and augmented by rules of the Executive Committee not inconsistent therewith. Except as otherwise provided or permitted by law, all meetings of the Executive Committee shall cause minutes of its meetings to be kept, and shall promptly transmit to the members of the Executive Committee and to each member of the JPA a true and correct copy of such minutes.

5.2.10. The Executive Committee may appoint and dissolve the following standing committees as hereinafter provided.

5.2.10.a. The Executive Committee may select, by concurrence, Advisory Committee members from among the membership and participants to serve at the pleasure of the President. The Advisory Committee shall be advisory to the Executive Committee and shall meet as necessary

to review and discuss program issues as delegated by either the Full Board or the Executive Committee. The Advisory Committee shall meet upon the call of the President or Executive Director as needed.

5.2.10.b The Executive Committee may select, by concurrence, Finance Committee members from among the membership and participants to serve at the pleasure of the President. The Finance Committee shall be advisory to the Executive Committee and shall meet as necessary to review and discuss financial related issues as determined by either the President or the Executive Director of the JPA. The Finance Committee shall meet upon the call of the President or Executive Director as needed.

5.2.10.c The Executive Committee may select, by concurrence, Appeals Committee members from among the membership and participants to serve at the pleasure of the President. The Appeals Committee shall review, discuss and adjudicate coverage disputes. The Appeals Committee shall meet upon the call of the President or Executive Director as needed. All meetings of the Appeals Committee shall be called, held, and conducted in accordance with the provisions of the Ralph B. Brown Act, Sections 45950 et seq., of the California Government code, as said Act may be amended by subsequent legislation and augmented by rules of the Executive Committee not inconsistent therewith. Except as otherwise provided or permitted by law, all meetings of the Appeals Committee shall cause minutes of its meetings to be kept and shall promptly transit to the members of the Appeals Committee and to each member of the JPA a true and correct copy of such minutes.

5.2.10.d The Executive Committee may select, by concurrence, Governance Committee members from among the membership and participants to serve at the pleasure of the President. The Governance Committee shall be advisory to the Executive Committee and shall meet as necessary to review and discuss governance issues or Member JPA Agreement or Bylaws issues as delegated by either the Full Board or the Executive Committee. The Governance Committee shall meet upon the call of the President or Executive Director as needed.

5.2.11 The Executive Committee may appoint and dissolve ad-hoc committees or task forces as necessary.

5.3. The Board and the Executive Committee shall, at their annual November meeting adopt a calendar of Board and Executive Committee meetings.

ARTICLE 6 OFFICERS AND DUTIES OF OFFICERS

6.1 The Officers of the JPA shall be members of, and elected by the Executive Committee. The principal officers shall be a President, a Vice-President, and a Treasurer and shall each serve an annual term of office commencing on December 1 of each fiscal year. Any person elected as an officer may be removed at any time, with or without cause by the Executive Committee, and all vacancies however arising may be filled at any time by the affirmative vote of a majority of the Executive Committee as prescribed in Article 7. A person so elected shall serve the remaining portion of the unexpired term.

6.1.1. The President shall ensure that all orders and resolutions of the Board of Directors and Executive Committee are carried into effect. The President shall be a member of all committees appointed by the Executive Committee or by the Board of Directors. The President shall provide strategic leadership on the development of strategies, policies and plans to discharge the JPA's purposes, monitor the performance of the JPA to ensure it meets its strategic goals and objectives; preside over, manage and conduct all meetings of the Board of Directors so as to keep meetings moving, garner input from all Board members, push for decisions and recognize opportunities for individual or committee assignments; confer with the Executive Director regarding meeting agendas, provide guidance to the Executive Director, appoint ad-hoc committees, cast the deciding vote in the case of a tie, act as signing officer for the JPA and shall have such other powers and perform such other duties as may be prescribed from time to time by the Board of Directors.

6.1.2. The Vice President shall have such powers and perform such duties as may be prescribed from time to time by the Board of Directors or the President. The Vice President shall attend meetings and assist the President in carrying out his/her responsibilities. In the absence or disability of the President, the Vice President shall be vested with all the powers and authorized to perform all the duties of the President.

6.1.3. The Treasurer shall be the chief financial officer of the JPA and shall assume the duties described in Section 6505.5 of the California Government Code, as follows:

- 6.1.3.a. Receive and receipt for all monies of the JPA and place it in the County Treasury to the credit of the JPA.
- 6.1.3.b. Be responsible for the safekeeping and disbursement of all money of the JPA held by him/her.
- 6.1.3.c. Pay, when due, out of money of the JPA so held by him/her, all sums payable by the JPA only upon warrants authorized by him/her and drawn by the Monterey County Superintendent of Schools, or his authorized representative.
- 6.1.3.d. Verify and report in writing at the end of each quarter of the fiscal year to the Board of Directors of the JPA receipts since the last report, and the amount paid out since the last report.

6.1.4. The Treasurer shall work closely with the Executive Director to ensure responsible financial management, proper administration of MCSIG's financial affairs, and the availability of accurate and timely financial information for organizational decision-making; stay abreast of the organization's fiscal situation and assist the Executive Director as necessary in providing financial reports to the Board; provide ongoing support and advice to the Executive Director on fiscal matters as needed and requested; provide fiscal representation for the Board – sign documents, open bank accounts and perform other financial duties as an agent of the organization; review the annual audit and shall have such other powers and perform such other duties as may be prescribed from time to time by the Board of Directors or the President.

ARTICLE 7
ELECTION OF OFFICERS

7.1 The Executive Committee shall elect, in November of each year, the officers from among the Committee members. For each election year, the officers shall be elected in the following manner:

7.1.1 Each Committee member may place another Committee member in nomination for each office.

7.1.2. Each Committee member shall cast one vote for the candidate of his/her choice for each office.

7.1.3. All terms of office shall be for one year. The officers shall begin serving terms on December 1 immediately following the election. The terms of office shall end on November 30 of each year.

7.1.4. Elections shall be held whenever there is an officer vacancy.

7.1.5. Officers shall hold their positions as individuals and not as a representative of a specific public entity.

ARTICLE 8
NEW MEMBERS

Evaluation for new membership into MCSIG shall substantially be as follows:

8.1 REQUESTS FOR MCSIG MEMBERSHIP INFORMATION AND PROPOSALS

The Executive Director is authorized to respond to requests for information or proposals concerning MCSIG and its programs, processes and procedures, including the procedures for joining MCSIG. The Executive Director is authorized to engage resources necessary to fully and formally respond regarding all aspects of an entity's potential membership in MCSIG.

8.2 FORMAL REQUESTS FOR MCSIG MEMBERSHIP

8.2.1 All requests from potential new member entities for MCSIG membership must be formalized in writing from the entity or their authorized agent and shall include the following:

- Designation of employee groups to be covered by MCSIG
- Designation of desired MCSIG coverage programs
- Desired effective date of coverage
- Acknowledgement of MCSIG's Minimum Medical Coverage Policy
- A statement affirming the entity will fully cooperate with MCSIG and/or its agents during the underwriting process

8.3 NEW MEMBERSHIP VOTE

8.3.1 Prior to any new membership vote the requesting entity must provide the Executive Director a resolution adopted by their governing body formally requesting membership.

8.3.2. Approval of new membership requires a majority vote of the entire Board.

8.4 NEW MEMBER BOARD REPRESENTATION

New member entities shall notify the Executive Director, within fourteen days of the membership vote, of the names and contact information for that entity's board representative and alternate.

ARTICLE 9 COVERAGE PROGRAMS

9.1 The health and welfare benefits program offered by the JPA may consist of any or all of the following:

9.1.1 Health benefits: Fully insured and/or self-funded medical, dental, vision or other health benefit plans with coverages as adopted by the Board and specified in the policy documents, benefits handbook and/or summary plan descriptions.

9.1.2 Welfare benefits: Fully insured and/or self-funded life insurance or other welfare benefit plans with coverages as adopted by the Board and specified in the policy documents, benefits handbook and/or summary plan descriptions.

9.1.3 Excess Coverage: The JPA shall purchase excess (stop-loss) insurance coverage on the self-funded medical plans as determined appropriate and approved by the Board.

9.2 Plan program years shall begin on January 1 and end on the following December 31. Should a member agency enter into a program after July 1, their initial program year shall be the balance of the current program year. Contributions shall be established annually effective July 1 pursuant to the provisions of Article 12.

9.3 As soon as practicable following the effective date of any self-funded plan, the Board of Directors shall cause to be distributed to members a Summary Plan Description, a Plan Document, and other pertinent descriptions and documents relating to each member's benefit plan.

ARTICLE 10 COVERAGE GROUPS

10.1 Each public agency or public entity which becomes a party to this Agreement shall, at the time it applies for membership pursuant to Article 8, designate which Coverage Groups

(including retirees) are to be covered by the health and welfare benefits offered by this joint powers agency. Such designation is subject to approval by the Board of Directors.

10.2 Any change in the designation of which employees shall be included within or excluded from a Coverage Group which has been previously approved for membership by the Board of Directors is subject to approval by the Board of Directors. Unless such change is disapproved by the Board of Directors or rescinded by the member agency as provided herein below, such change shall be effective at the end of the fiscal year.

10.3 Any member agency desiring to change its designation of Coverage Groups to be covered by the health and welfare benefits offered by this joint powers agency shall notify the Executive Committee of the JPA in writing prior to December 31st preceding the effective date of the change.

10.3.1 Any member agency which has notified the Executive Committee of a change of designation of Coverage Group as provided herein may, with the consent of the Executive Committee, rescind such change by giving written notice to the Executive Committee no later than May 1st of the fiscal year of withdrawal.

10.3.2 Any member agency which desires to rescind a change of designation after May 1st of the fiscal year of withdrawal shall present, prior to the end of the fiscal year, a written request to the Executive Committee setting forth the special circumstances which warrant allowing the requesting member agency or its late rescinding designated Coverage Group(s) to remain covered by the health and welfare benefits offered by this joint powers agency. The Executive Committee shall have the sole power to determine whether to consider the request and, if so considered, whether the request presents sufficient special circumstances to warrant approval. Approval of a request to rescind a withdrawal notice for any Coverage Group, as provided herein, shall be by not less than a two-thirds vote of the Executive Committee and shall be conditioned upon the requesting member agency's acceptance of financial terms set forth by the Executive Committee, and shall require a minimum three year commitment by the member agency to maintain coverage for the late rescinding designated Covered Group(s)' health and welfare benefits through this joint powers agency. The requesting member agency shall accept in writing the terms set forth by the Executive Committee prior to the end of the fiscal year or such earlier date as established by the Executive Committee. Following timely acceptance of continuation of coverage, failure by the requesting member agency to fulfill the minimum three years of additional continuous membership for its late rescinding designated Coverage Group(s) in the joint powers agency shall result in the loss of all membership rights, privileges, and share of assets, without relief from any and all financial obligations owed by the member agency to the joint powers agency.

10.3.3 To the fullest extent practicable the provisions of Article 11 below relating to withdrawal or removal from membership shall be applicable to a member's Covered Group(s) for whom a change in coverage designation has been made, except that no member who has made a change of coverage designation for any Coverage Group(s) shall be permitted to further change its coverage designation for such Coverage Group(s) for a period of two (2) years from the effective date of such change. In addition, the Board of Directors may establish conditions and may require a

contribution to reserves for any Coverage Group(s) for whom a member adds coverage as provided herein.

ARTICLE 11 WITHDRAWAL OR REMOVAL FROM MEMBERSHIP

11.1 A member may be involuntarily terminated from the JPA at any time upon recommendation of the Executive Committee and a vote of two-thirds (2/3) of the members of the Board of Directors taken only after notice and a public hearing. Involuntary termination shall have the effect of eliminating the member as a signatory of the Joint Powers Agreement and as a member of the JPA. Such termination shall be effective on June 30 or on such other date recommended by the Executive Committee and shall be preceded by not less than ninety (90) days written notice of termination. Should a member be involuntarily terminated, liability and accounts shall be established pursuant this section as though the member were voluntarily withdrawing. Grounds for involuntary termination include, but are not limited to, the following:

- 11.1.1 Failure or refusal to pay contributions or assessments to the JPA as provided in the JPA Agreement.
- 11.1.2 Failure or refusal to abide by the JPA Agreement, the Bylaws and all policies and procedures as may be adopted or revised by the Board and Executive Committee from time to time.
- 11.1.3 Submission of two or more consecutive intent to withdraw notices for the same coverage group.

11.2 Upon Member withdrawal or removal from JPA membership, or upon removal of employee groups as provided in this section from coverage by the health and welfare benefits offered by this joint powers agency:

11.2.1 All participants (including all active, retired and COBRA participants) associated with a withdrawing or removed entity or a removed employee group will be automatically disenrolled from the applicable program(s) as of midnight Pacific time on the effective date of withdrawal.

11.2.2 Claims for services for previously covered participants (including incurred but not paid and incurred but not reported claims) incurred before or on the date of withdrawal or removal shall be processed in accordance with the applicable benefit handbook.

11.3.3 Withdrawing or removed members or removed employee groups are responsible for the payment of their share of premiums and expenses (including incurred but not paid expenses) due for all months of participation including the month of termination.

11.3.4 Withdrawing or removed members or removed employee groups shall provide the JPA with a written, signed release from all liability for claims for services incurred after the date of withdrawal.

11.3.5 Nothing in the foregoing shall preclude the JPA and the withdrawing member from negotiating an agreement to resolve any or all of the details of withdrawal which differ from the foregoing provisions but which are mutually agreeable to both parties in accordance with existing law.

11.3.6 No withdrawing or removed member or removed employee groups shall be entitled to any share of, or credit or payment for, any amount of the JPA's reserves, cash balance, undesignated cash or any JPA assets.

ARTICLE 12 COVERAGE ELIGIBILITY

12.1 Eligibility rules applicable to employee participation in the coverage plans provided by the JPA shall be determined by each member entity subject to the eligibility provisions stated in the applicable program's summary plan description. Each member entity is responsible for providing and updating the JPA with their written eligibility rules.

12.1.2 Member entities shall abide by their written eligibility rules. The JPA may conduct eligibility audits as determined necessary to ensure compliance.

12.2 Participants who retire from employment with a member entity may elect to continue to participate in the plan(s) subject to the following:

- The participant retires under the Member's retirement rules;
- The participant retires with the plan(s) and covered dependent(s) selected at the time of their retirement subject to the selected plan(s) being offered to the retiree's former employee group by the member entity;
- Retirees may move to 'lower' plan options at any time subject to the selected plan(s) being offered to the retiree's former employee group by the member entity;
- Retirees may move to 'higher' plan options effective January 1 of any calendar year subject to the selected plan(s) being offered to the retiree's former employee group by the member entity;
- Retirees may not add any dependents onto the plan(s) after retirement unless required by law; and
- Retirees who drop dependent coverage or drop plan(s) after retirement may not reinstate coverage unless required by law.

ARTICLE 13 SETTING PREMIUMS AND CONTRIBUTIONS

13.1 Premiums for fully insured plans will be negotiated by the Executive Director and presented to the Board for adoption.

13.2 Contributions for self-funded plans will be determined substantially as follows:

13.2.1 The Executive Committee will review actuarial analyses of projected contribution rates and make contribution rate recommendations to the Full Board annually no later than April.

The Full Board shall adopt contribution rates for the self-funded plans no later than April for contribution rates effective July 1.

13.2.2. The actuarial analyses of projected contribution rates will include the costs and credits associated with claims, IBNR and IBNP claims, plan design changes, medical trend and all applicable overhead amounts.

ARTICLE 14 AMENDMENTS

14.1 These bylaws may be amended by a two-thirds vote of the members of the Board provided that any amendment is compatible with the purposes of the JPA, is not in conflict with the JPA Agreement and has been submitted to the Board at least 30 days in advance.

14.2 Amendments so adopted shall be effective immediately unless otherwise designated.

ARTICLE 15 DELEGATION OF AUTHORITY

15.1 As provided in Article 8.5 of the JPA Agreement, the Board of Directors may adopt such resolutions as are deemed necessary in the exercise of its power and duties, including the delegation of certain powers and duties to the Executive Committee. Any resolutions so adopted by the Board are by this reference incorporated herein as though fully set forth.

15.2 As also provided in Article 8.5 of the JPA Agreement, the Board of Directors is vested with authority to exercise all powers and conduct all business of the JPA. In furtherance of that authority, the Board of Directors and the Executive Committee shall develop and implement such policies and procedures, not otherwise prohibited by the Agreement or law, as they from time to time deem necessary to aid and assist in the conduct of the business of the JPA. Any such policies and procedures as adopted are by this reference incorporated herein as though fully set forth.

15.3 The Board of Directors or the Executive Committee may authorize any officer, staff member or agent of the JPA to execute any contract in the name of and on behalf of the JPA, and such authorization may be general or specific in nature. The Executive Director, or his or her designee, may enter into such contracts and authorize such payments as are approved in the JPA's budget, renew any existing contract or authorize any payment which does not exceed \$14,999.00. Except as otherwise provided herein, no officer, staff member or agency shall have any power to bind the JPA by contract.

15.4 All invoices, billings, deposits, premiums and funding of imprest accounts for payment of self-funded losses under the JPA programs shall be approved and signed by the Executive Director.

ARTICLE 16 EXECUTIVE DIRECTOR

The Executive Committee may provide for the hiring of an Executive Director. The Executive Director shall be the JPA chief executive officer and under the general direction of the Executive Committee shall have general supervision and direction of the business of the JPA and shall plan, organize and direct the program and activities of the JPA. The Executive Director shall be under the direct supervision of the President of the Executive Committee and in the President's absence the Vice President of the Executive Committee. Subject to any budgetary limits and policies adopted by the Board of Directors and/or the Executive Committee, the Executive Director shall:

- Be responsible for the selection, appointment and removal all staff members.
- Sign contracts on behalf of the organization, subject to 15.3 above, and perform any other functions inherent in the position.
- Supervise the JPA's financial activities including budgeting, accounting, cost analysis and contracts; prepare a proposed annual budget for consideration by the Board of Directors covering all program and services provided by the JPA.
- Plan, develop, recommend and enforce all policies, regulations and operational procedures benefiting the JPA.
- Orient, coordinate, supervise and evaluate personnel and agencies employed or contracted by the JPA.
- The Executive Director shall be an ex-officio member of all committees and serve as a resource to all committees and sub-committees of the JPA.
- Negotiate and make recommendations to the Executive Committee on all contracts necessary for the efficient operation of the JPA.
- Consult with legal counsel and claims administrators.
- Procure and maintain all insurance policies necessary for the protection of the financial assets of the JPA as well as the personnel involved with the JPA.
- Supervise claims administration.
- Prepare all agendas, minutes and other mailings for members and attend all Executive Committee and Board of Director meetings.
- Serve as spokesperson for the JPA to member entities, governing boards and industry contacts.
- Perform any other administrative functions required to assist the Executive Committee and/or Board of Directors in the ongoing operation of the JPA.

ARTICLE 17 OTHER SERVICES PROVIDED BY THE JPA

17.1 The JPA may be staffed internally as determined appropriate by the Executive Director and approved by the Executive Committee.

17.2 Other services to be provided to the member entities and participants by the JPA include customer service, eligibility and enrollment, wellness, regulatory compliance (HIPAA, COBRA, Medicare, etc.) and Medicare compatibility and any other services as determined appropriate, and as approved by, the Board.

17.3 All costs to provide the programs and services provided in these Bylaws shall be incorporated into and made a part of the adopted annual operating budget.

17.4 The Board of Directors shall determine the manner in which health and welfare claims shall be processed. Such processing shall conform to all provisions of law now in effect or later enacted.

CERTIFICATE OF EXECUTIVE DIRECTOR

I, the undersigned, certify that I am presently the Executive Director of the Monterey County Schools Insurance Group and that the above Bylaws, consisting of ____ pages, are adopted Bylaws of the JPA, as adopted at a meeting of the Board of Directors held on _____.

Date: _____

Executed at _____ this _____ day of _____, 20__.

Sherrell Freeman
Executive Director

SUMMARIES OF SECTION
CHANGES
AND
CROSS REFERENCE
CHART

PROPOSED REVISED JPA AGREEMENT SUMMARY OF CHANGES

Article Reference*	Adds or Changes noted	Notes	Reason
2 nd Whereas	<i>Statute reference added</i>	<i>Incorporates reference to California Joint Powers Authority Act.</i>	Best practice
3 rd Whereas	<i>New paragraph</i>	<i>Adds statutory reference allowing authorizing school and community college districts to enter into pooling arrangements with other schools and community colleges for purposes of funding employee benefits. Deleted inactive statutory references.</i>	Required since MCSIG membership includes School and community college districts.
4 th Whereas	<i>New paragraph</i>	<i>Adds statutory reference allowing for formation of joint powers authorities.</i>	Best practice
5 th Whereas	<i>Expanded</i>	<i>Now includes reference to all past revisions.</i>	Best practice
DEFINITIONS	<i>New section</i>	<i>Added definition of key terms.</i>	Best practice
Article 1	<i>Added 1.2</i>	<i>Incorporates the whereas recitals into the agreement</i>	Best practice
Article 2	<i>Added</i>	<i>Establishes that each pool member intends to be Contractually bound to all the other pool members.</i>	Best practice

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Italicized denotes new language added to the document.

**Article references for deletes are aligned with those of the current JPA Agreement.

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Article Reference*	Adds or Changes noted	Notes	Reason
Article 3	<i>Added last paragraph</i>	<i>Describes how the JPA will carry out its purposes.</i>	Best practice
Article 6	<i>New article</i>	<i>Describes the responsibilities of the member agencies.</i>	Best practice
Article 7	<i>New sentence added to end of 7.3</i>	<i>Establishes how the membership date for new members will be established.</i>	Best practice
	<i>Added 7.6</i>	<i>Establishes previous pool member obligations.</i>	Best practice
	<i>Added 7.7</i>	<i>Establishes binding of all pool members to the JPA Agreement, the Bylaws and all adopted policies and procedures.</i>	Best practice
Article 8	<i>Added 8.1.4.2</i>	<i>Memorializes current practice of retiree member not being eligible to serve on the Executive Committee.</i>	Incorporates current practice
	<i>Added sentence at beginning of 8.3</i>	<i>Clarifies the requirement for a quorum for the Board to conduct business.</i>	Best practice
	<i>Added 8.4</i>	<i>Clarifies parliamentary procedure.</i>	Best practice
	<i>Added 8.5</i>	<i>Delineates the powers of the Board.</i>	Best practice
	<i>Added new 4th ad 6th bullets</i>	<i>Incorporates Board's power to develop and amend the Bylaws and to create and dissolve committees.</i>	Best practice
Article 9	<i>New article</i>	<i>Establishes procedure for Board creation, adoption and modification of Bylaws.</i>	Best practice. Consistent with adoption of Bylaws separate from the JPA Agreement.

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Article Reference*	Adds or Changes noted	Notes	Reason
Article 10	<i>Added 10.14</i>	<i>Clarifies the equity philosophy of the pool.</i>	Best practice. Memorializes current practice. Important for potential new members evaluating MCSIG.
Article 11	<i>Added 11.2</i>	<i>Clarifies distribution of JPA assets upon dissolution of the JPA.</i>	Best practice
	<i>Added 11.3</i>	<i>Clarifies Board's powers in the event of dissolution Of the JPA.</i>	Best practice
	<i>11.4.1 & 11.4.2</i>	<i>Limits the look-back timeframe for determining each member's pro-rata share of remaining assets upon dissolution of JPA.</i>	Practical application
Article 13	<i>Added sentence at beginning</i>	<i>Clarifies that, in the event of any litigation over the meaning of the JPA Agreement or the authority of any member agency, the Agreement is to be liberally construed to effectuate its purpose.</i>	Best practice
Article 14	<i>Added 14.1 thru 14.6</i>	<i>Establishes terms of hold harmless and indemnification of the members as to each other.</i>	Best practice
Article 15	<i>New article</i>	<i>General provision - Zipper clause</i>	Best practice
Article 16	<i>New article</i>	<i>General provision – Execution of Counterparts</i>	Best practice
Article 17	<i>New article</i>	<i>General provision – Power of JPA to enforce agreement.</i>	Best practice
Article 18	<i>New article</i>	<i>General provision – Establishes applicable law</i>	Best practice
Article 19	<i>New article</i>	<i>General provision – Service of process</i>	Best practice
Article 20	<i>New article</i>	<i>General provision- Waivers</i>	Best practice
Article 21	<i>New article</i>	<i>General provision – Conflict of Interest</i>	Best practice

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Article Reference*	Adds or Changes noted	Notes	Reason
Article 23	<i>New article</i>	<i>General provision – Location of principal offices</i>	Best practice
Article 24	<i>Added new last sentence</i>	<i>General provision – Successors & Assignment</i>	Best practice
Article 25	<i>New article</i>	<i>General provision – Notice</i>	Best practice
Article 26	<i>Added new last sentence</i>	<i>General provision – Filing with Secretary of State</i>	Best practice
Article Reference**	Deletes noted	Notes	Reason
Article 5	5.3	Deleted last half of paragraph.	To align with Board adopted policy.
Article 6	6.4	Incorporated into or moved to Article 8.7 of proposed revised JPA Agreement	Improved formatting and/or placement
	6.5	First sentence incorporated into or moved to Article 19 of proposed revised JPA Agreement. Second sentence incorporated into or moved to Article 26 of proposed revised JPA Agreement.	Improved formatting and/or placement
	6.6	Incorporated into or moved to Article 8.5 of proposed revised JPA Agreement.	Improved formatting and/or placement
	6.7	First sentence incorporated into or moved to Article 8.5 of proposed revised JPA Agreement. Rest of paragraph incorporated into or moved to Article 16.4 of proposed new Bylaws.	Improved formatting and/or placement

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Article Reference**	Deletes noted	Notes	Reason
Article 6	6.10	Incorporated into or moved to Article 5.2 of proposed new Bylaws.	Improved formatting and/or placement
Article 7	Entire section	Incorporated into or moved to Article 5.2 of proposed new Bylaws.	Improved formatting and/or placement
Article 8	Entire section	Incorporated into or moved to Article 6.1 of proposed new Bylaws.	Improved formatting and/or placement
Article 10	Entire section	Incorporated into or moved to Article 9 of proposed new Bylaws.	Improved formatting and/or placement
Article 11	Entire section	Incorporated into or moved to Article 10 of proposed revised JPA Agreement.	Improved formatting and/or placement
Article 14	14.1	Incorporated into or moved to Article 7 of proposed revised JPA Agreement.	Improved formatting and/or placement
	14.2.1 thru 14.2.3	Deleted in its entirety	To align with Board adopted policy.
	14.2.4 thru 14.3.1	Incorporated into or moved to Article 10 of proposed new Bylaws.	Improved formatting and/or placement
Article 15	Entire section	Incorporated into or moved to Article 11 of proposed revised JPA Agreement.	Improved formatting and/or placement

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PROPOSED NEW BYLAWS SUMMARY

Article Reference*	Adds or changes noted	Notes	Reason
Article 1	<i>New</i>	<i>Establishes purpose of the Bylaws</i>	Best practice
Article 2	<i>New</i>	<i>References DEFINITIONS section of proposed, revised JPA Agreement for definition of certain terms.</i>	Best practice
Article 3	<i>New</i>	<i>Sets forth location of principal offices of the JP</i>	Best practice
Article 4	<i>New 4.1</i>	<i>Sets forth notice requirement for Board meetings.</i>	Best practice
	<i>New 4.2</i>	<i>Sets timeline for annual adoption of contribution rates by Board.</i>	Best practice
	<i>New 4.3</i>	<i>Sets timeline for annual adoption of regular meeting calendar.</i>	Best practice
	<i>New 4.4</i>	<i>Delineates location of official minutes of Board meetings.</i>	Best practice
	<i>New 4.5</i>	<i>Provides for adjournment of Board meetings.</i>	Best practice
Article 5	5.1	Incorporated and/or moved from Article 6.6 of current JPA Agreement	Improved formatting and/or placement
	5.2	Incorporated and/or moved from Article 6.10 of current JPA Agreement	Improved formatting and/or placement
	5.2.1	Incorporated and/or moved from Article 7.1 of current JPA Agreement	Improved formatting and/or placement

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Article Reference*	Adds or changes noted	Notes	Reason
Article 5	5.2.1.b	Incorporated and/or moved from Article 7.1.2 of current JPA Agreement.	Improved formatting and/or placement
	5.2.2	Incorporated and/or moved from Article 7.1.3 of current JPA Agreement.	Improved formatting and/or placement
	5.2.3	<i>New paragraph allowing for Board removal of non-officer Executive Committee members.</i>	Best practice
	5.2.4	<i>New paragraph providing for the filling of Executive Committee vacancies.</i>	Best practice
	5.2.5	Incorporated and/or moved from Article 7.2 of current JPA Agreement.	Improved formatting and/or placement
	5.2.6	Incorporated and/or moved from Article 7.3 of current JPA Agreement.	Improved formatting and/or placement
	5.2.7	Incorporated and/or moved from Article 7.4 of current JPA Agreement.	Improved formatting and/or placement
	5.2.8	Incorporated and/or moved from Article 7.5 of current JPA Agreement.	Improved formatting and/or placement
	5.2.9	Incorporated and/or moved from Article 7.6 of current JPA Agreement.	Improved formatting and/or placement
	5.2.10	<i>New section addressing creation of committees</i>	Best practices. Memorializes current practice.
	5.3	<i>New section requiring annual adoption of regular meeting calendars.</i>	Best practices. Memorializes current practice.
Article 6	6.1	Incorporated and/or moved from Article 8.1 of current JPA Agreement.	Improved formatting and/or placement

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Article Reference*	Adds or changes noted	Notes	Reason
Article 6	6.1.2	Incorporated and/or moved from Article 8.3 of current JPA Agreement.	Improved formatting and/or placement
	6.1.3	Incorporated and/or moved from Article 8.4 of current JPA Agreement.	Improved formatting and/or placement
	6.1.3.a	Incorporated and/or moved from Article 8.4.1 of current JPA Agreement.	Improved formatting and/or placement
	6.1.3.b	Incorporated and/or moved from Article 8.4.2 of current JPA Agreement.	Improved formatting and/or placement
	6.1.3.c	Incorporated and/or moved from Article 8.4.3 of current JPA Agreement.	Improved formatting and/or placement
	6.1.3.d	Incorporated and/or moved from Article 8.4.4 of current JPA Agreement.	Improved formatting and/or placement
	<i>6.1.4</i>	Incorporated and/or moved from Article 8.4.5 of current JPA Agreement. <i>Section expanded to include additional duties.</i>	Improved formatting and/or placement
Article 7	7.1 thru 7.1.5	New section added to establish process for election of officers.	Best practice. Memorializes current practice.
Article 8	<i>8.1 thru 8.4</i>	<i>New section added to establish process for establishing membership for new members.</i>	Best practice. Memorializes current practice.
Article 9	<i>9.1 thru 9.2</i>	<i>New sections added to clarify programs offered through the JPA.</i>	Best practice
	9.3	Incorporated and/or moved from Article 10.1 of current JPA Agreement.	Improved formatting and/or placement
	9.4	Incorporated and/or moved from Article 10.1.1 of current JPA Agreement.	Improved formatting and/or placement

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Article Reference*	Adds or changes noted	Notes	Reason
Article 9	9.6	Incorporated and/or moved from Article 10.1.1.2 of current JPA Agreement.	Improved formatting and/or placement
	9.7	Incorporated and/or moved from Article 10.1.2 of current JPA Agreement	Improved formatting and/or placement
	9.8	Incorporated and/or moved from Article 10.2 of current JPA Agreement	Improved formatting and/or placement
Article 10	10.1	Incorporated and/or moved from Article 14.3 of current JPA Agreement	Improved formatting and/or placement
	10.1.1	Incorporated and/or moved from Article 14.3.1 of current JPA Agreement	Improved formatting and/or placement
	<i>10.1.2 & 10.1.3</i>	<i>New sections indicating grounds for termination</i>	Best practice
Article 10.2	<i>10.2 thru 10.3.3</i>	<i>New section setting forth terms for withdrawal from the JPA.</i>	Best Practice. Memorializes current practice.
	10.3.4	Incorporated and/or moved from Article 14.2.1 of current JPA Agreement	Improved formatting and/or placement
	10.3.5	Incorporated and/or moved from Article 14.2.5 of current JPA Agreement	Improved formatting and/or placement
	<i>10.3.6</i>	<i>New section providing for no share of JPA assets for withdrawing members.</i>	Memorializes current practice.
Article 11	<i>11.1 thru 11.2</i>	<i>New section providing for coverage eligibility.</i>	Memorializes current practice.
Article 12	<i>12.1 thru 12.2.2</i>	<i>New section providing for the annual setting of contribution rates.</i>	Memorializes current practice.
Article 13	<i>13.1 thru 13.2</i>	<i>New section providing a process for amendment of the Bylaws.</i>	Best practice

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Article Reference*	Adds or changes noted	Notes	Reason
Article 15	<i>Article 15</i>	<i>New section speaking to Executive Director responsibilities.</i>	Best practice. Memorializes current practice.
Article 16	<i>16.1 thru 16.3</i>	<i>New section dealing with JPA staffing and services provided by the JPA.</i>	Best practice. Memorializes current practice.
CERTIFICATE	CERTIFICATE	Certificate of Executive Director	Best practice.

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**PROPOSED REVISED JPA AGREEMENT
PROPOSED NEW BYLAWS
CROSS REFERENCE TABLE**

CURRENT SECTION REFERENCE	CURRENT PLACEMENT	NEW PLACEMENT***	NOTES
WHEREAS	Page 1	Page 1	
FORMATION OF ENTITY	1.0	1.0	
FUNCTIONS OF JPA	2.0	3.0	
	2.1	3.1	
	2.2.1	3.2.1	
	2.2.2	3.2.2	
	2.2.3	3.2.3	
	2.2.4	3.2.4	
	2.2.5	3.2.5	
	2.2.6	3.2.6	
	2.2.7	3.2.7	
	2.2.8	3.2.8	
	2.2.9	3.2.9	
POWERS OF AUTHORITY	3.0	4.0	
TERM OF AGREEMENT	4.0	5.0	
ORGANIZATION	5.0	7.0	
	5.1	7.1	
	5.2	7.2	
	5.3	7.3	
	5.4	7.4	
	5.4.1	7.4.1	
	5.4.2	7.4.2	

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BOARD OF DIRECTORS	6.0	8.0	
	6.1	8.0	
	6.2.1	8.1.1	
	6.2.2	8.1.2	
	6.2.3	8.1.3	
	6.2.3.1	8.1.3.1	
	6.2.4	8.1.4	
	6.2.4.1	8.1.4.1	
	6.3	8.2	First sentence
	6.3	8.3	Remainder of Sentence
	6.4	8.7	First four sentences
	6.4	8.8	Fifth sentence
	6.4	8.9	Last sentence
	6.5	19.0	First sentence
	6.5	26.0	Last sentence
	6.6	8.5	
	6.7	8.5	First two sentences
	6.7	10.0	Third sentence
	6.7	16.4 of Bylaws	Last sentence
	6.8	8.5	
	6.9	8.6	
EXECUTIVE COMMITTEE	7.0	5.0	
	7.1	5.2.1 of Bylaws	
	7.1.1	5.2.1.a of Bylaws	
	7.1.2	5.2.1.b of Bylaws	
	7.1.3	5.1.2.2 of Bylaws	
	7.2	5.2.5 of Bylaws	

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	7.3	5.2.6 of Bylaws	
	7.4	5.2.7 of Bylaws	
	7.5	5.2.8 of Bylaws	
	7.5	5.2.9 of Bylaws	
OFFICERS	8.0	6.0 Bylaws	
	8.1	6.1 of Bylaws	
	8.2	6.1.1 of Bylaws	
	8.3	6.1.2 of Bylaws	
	8.4	6.1.3 of Bylaws	
	8.4.1	6.1.3.a of Bylaws	
	8.4.2	6.1.3.b of Bylaws	
	8.4.3	6.1.3.c. of Bylaws	
	8.4.4	6.1.3.d. of Bylaws	
	8.4.5	6.1.3.d of Bylaws	
FINANCIAL	9.0	1.0	
	9.1	10.1	
	9.2	10.2	
	9.3	10.3	
	9.4	10.4	
	9.5	10.5	
	9.6	10.6	
	9.7	10.7	
	9.7.1 – 9.7.5	10.7.1 - 10.7.5	
	9.8	10.8	
	9.9	10.9	
COVERAGE	10.0	9.0	
	10.1	9.3 of Bylaws	
	10.1.1	9.4 of Bylaws	
	10.1.1.1	9.5 of Bylaws	
	10.1.1.2	9.6 of Bylaws	
	10.1.2	9.7 of Bylaws	

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	10.1.3	10.2 of Bylaws	
	10.1.3.1	Deleted	To align with Board adopted policy
	10.1.3.2	Deleted	To align with Board adopted policy
	10.1.3.3	10.3.4 of Bylaws	
	10.1.3.4	10.3.5 of Bylaws	
	10.2	9.8 of Bylaws	
ACCOUNTS AND RECORDS	11.0	10.0	
	11.1	10.10	
	11.2	10.11	
	11.3	10.12	
	11.4	10.13	
HEALTH MANAGEMENT	12.0	8.0	
	12.1	8.10	
TERMINATION OF AGREEMENT	13.0	11.0	
	13.1	11.1	
WITHDRAWAL OR REMOVAL FROM MEMBERSHIP	14.0	7.0	
	14.1	7.5	
	14.2.1	Deleted	To align with Board adopted policy
	14.2.2	Deleted	To align with Board adopted policy
	14.2.3	Deleted	To align with Board adopted policy
	14.2.4	10.3.4 of Bylaws	

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	14.2.5	10.3.5 of Bylaws	
	14.3	10.1 of Bylaws	
	14.3.1	10.1.1 of bylaws	
DISPOSITION OF PROPERTY AND FUNDS	15.0	11.0	
	15.1	11.4	
	15.1.1	Deleted	To align with Board adopted policy
	15.1.2	11.4.1	
	15.1.3	11.4.2	
	15.1.4	11.4.3	
AMENDMENTS	16.0	12.0	
	16.1	12.0	
SEVERABILITY	17.0	13.0	
	17.1	13.0	
LIABILITY	18.0	14.0	
	18.1	14.7	
	18.2	14.8	
ENFORCEMENT	19.0	17.0	
	19.1	17.0	

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