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TEXAS EDUCATIONAL DIAGNOSTICIANS' ASSOCIATION

A SUMMARY OF EDUCATORS PROFESSIONAL LIABILITY INSURANCE 2020-2021

Coverage A – Educators Liability Insurance

\$1,000,000 Per Insured, Per Occurrence
\$3,000,000 Per Occurrence

Coverage A – Punitive or Exemplary Damages

\$5,000 Each Claim

Coverage B – Reimbursement of Attorney Fees

❖ \$5,000 Per Claim, Per Insured for:

Criminal Action or Proceeding
Sexual Misconduct Action or Proceeding
Professional Rights Action or Proceeding (*Specified* and Other Professional Rights**)
Credential Action or Proceeding
Civil Rights Violation Action or Proceeding
Appraisal or Career Ladder Action or Proceeding

❖ \$10,000 Annual Aggregate Per Insured, all CLAIMS
under Criminal or Sexual Misconduct Actions or Proceedings

❖ \$1,000 Reimbursement Limit Without Regard to Final Judgment
for Other Professional Rights*

❖ \$1,000,000 Annual Aggregate, all CLAIMS

*Specified Professional Rights is defined as claims involving dismissal, tenure, salary, leave of absence, assignment or resignation. Under this coverage, the insured is eligible to receive the full \$5,000 limit regardless of outcome.

*Other Professional Rights is defined as claims involving matters other than Specified Professional Rights. Under this coverage, \$5,000 is available to the insured if the outcome is successful, and \$1,000 is available regardless of judgement.

Coverage C – Bail Bonds

\$1,000 Per Bail Bond, Per Insured

Coverage – Reimbursement of Attorney Fees for Identity Theft

\$10,000 Per Insured, Per Policy Period
Subject to Coverage B Annual Aggregate, all CLAIMS

THIS IS NOT A TRUE AND CERTIFIED COPY OF THE POLICY BUT ONLY A SUMMARY AND IS PROVIDED FOR REFERENCE ONLY. ALL COVERAGE PROVIDED UNDER THE TERMS OF THE POLICY IN THE EVENT OF A LOSS OR OCCURRENCE IS SUBJECT TO THE EXCLUSIONS AND CONDITIONS CONTAINED IN THE MASTER POLICY ON FILE WITH THE POLICYHOLDER, INCLUDING ALL AMENDMENTS, ENDORSEMENTS, AND ADDITIONS.

The Company agrees with the insured and the **POLICYHOLDER**, named in the Declarations and made a part hereof, in consideration of payment of the premium and in reliance upon the representations made in the application and subject to the limits of liability, exclusions, conditions, and other terms of this policy, as follows:

SECTION I—INSURING AGREEMENTS

Coverage A—Liability Coverage

- A. The Company will pay on behalf of the insured all sums which the insured shall become obligated to pay by reason of liability imposed by law for monetary damages resulting from any **CLAIM** made against the insured arising out of an **OCCURRENCE** in the course of the activities of the insured in his/her professional capacity and caused by any acts or omissions of the insured or any other person for whose acts the insured is legally liable. The Company shall defend any suit seeking monetary damages which are payable under the terms of the policy, even if such suit be groundless, false or fraudulent, but the Company may make such investigation, negotiation and settlement of any **CLAIM** or suit as it may deem expedient.
- B. If suit is brought against an insured for a **CLAIM** seeking both compensatory and punitive or exemplary damages, and the Company affords a defense to such action, the Company will pay any costs, interest or damages attributable to punitive or exemplary damages. Coverage for punitive or exemplary damages will only be provided if such amounts are insurable by law in the jurisdiction in which the judgment is awarded.

The Punitive and Exemplary Damages Each Claim limit shown on the Declarations is the most the Company will pay for punitive or exemplary damages.

The Punitive or Exemplary Damages Each Claim limit shown in the Declarations is part of, and not in addition to, the limits of liability shown in the Declarations and any payment of Punitive or Exemplary Damages Each Claim limit will reduce the limits of liability shown in the Declarations.

- C. This policy applies only to **OCCURRENCES** during the policy period.

Coverage B—Reimbursement of Attorney Fees

- A. If an amount is shown on the Declarations for any of the following, the Company will reimburse the insured for a **CLAIM** for reasonable and necessary attorney fees which the insured is legally obligated to pay to an attorney, but without obligation to furnish such attorney, for the defense of any action brought against such insured arising out of the following:

Criminal Action or Proceeding

A criminal action or proceeding against the insured, including an investigation of the insured by a law enforcement authority or agency, arising out of activities of the insured in his/her professional capacity.

However, if a Reimbursement Limit Without Regard to Final Judgment is shown on the Declarations, the Criminal Action or Proceeding limit only applies if the insured:

1. Pleads not guilty; and
2. Is either found not guilty or criminal charges are dismissed with prejudice;

Otherwise, the Criminal Action or Proceeding Limit is replaced by the Reimbursement Limit Without Regard to Final Judgment shown on the Declarations.

In no event will the Company pay both the Criminal Action or Proceeding Limit and Reimbursement Limit Without Regard to Final Judgment for the same action or proceeding;

Sexual Misconduct Action or Proceeding*

An action or proceeding alleging intentional or negligent sexual misconduct;

Professional Rights Action or Proceeding

An action or proceeding against the insured involving dismissal, tenure, salary, leave of absence, assignment, resignation or other professional rights, duties and responsibilities, arising within the scope of employment, provided, that final judgment, in whole or in part, is rendered in favor of the insured.

However, the Professional Rights Action or Proceeding Limit is replaced by the Reimbursement of Attorney Fees Without Regard to Final Judgment limit shown on the Declarations for reimbursement of attorney fees without regard to final judgment;

In no event will the Company pay both the Professional Rights Action or Proceeding Limit and Reimbursement Limit Without Regard to Final Judgment for the same action or proceeding;

Credential Action or Proceeding

An action or proceeding against the insured involving the issuance, suspension, cancellation or revocation of any credential, life diploma, or certification document issued by the State Board of Education or Commission on Credentials, provided, that final judgment, in whole or in part, is rendered in favor of the insured.

However, the Credential Action or Proceeding Limit is replaced by the Reimbursement of Attorney Fees Without Regard to Final Judgment limit shown on the Declarations for reimbursement of attorney fees without regard to final judgment.

In no event will the Company pay both the Credential Action or Proceeding Limit and Reimbursement Limit Without Regard to Final Judgment for the same action or proceeding.

Civil Rights Violation Action or Proceeding

An action or proceeding based upon an alleged violation of civil rights guaranteed by the Constitution or civil rights statutes of the United States or of any state arising out of activities of the insured in his/her professional capacity and not otherwise covered up to the limit shown on the Declarations; and

- B. As respects Coverage B, this policy applies only to actions resulting from activities of the insured which first take place during the policy period.

Coverage C—Bail Bonds

The Company will pay the premium for bail bond(s) required of the insured up to limit shown on the Declarations, not to exceed \$1,000 per bail bond, but without obligation to apply for or furnish such bond(s). As respects Coverage C, this policy applies only to any bail bond(s) required of the insured arising out of activities of the insured in his/her professional capacity during the policy period.

OPTIONAL COVERAGES

If an amount is shown on the declarations the following Optional Coverages apply:

Reimbursement of Attorney Fees for Identity Theft

- A. The Company will reimburse the insured for a **CLAIM** for reasonable and necessary attorney fees, up to the limit shown in the Declarations, which the insured is legally obligated to pay to an attorney, but without obligation to furnish such attorney, incurred as a result of being a victim of **IDENTITY THEFT**.
- B. This policy applies to the Reimbursement of Attorney Fees for **IDENTITY THEFT** only if such attorney fees are incurred during the policy period.
- C. The Reimbursement of Attorney Fees for Identity Theft Per Insured, Per Policy Period limit shown in the Declaration is the most we will pay for each insured, per policy period. The limit is part of, will reduce, and is not in addition to the Coverage B—Reimbursement of Attorney Fees Annual Aggregate, all **CLAIMS** limit shown in the Declarations

SECTION II—DEFENSE AND SUPPLEMENTARY PAYMENTS

- A. Under Coverage A, the Company shall have the right and duty to defend any suit against the insured seeking monetary damages because of activities of the insured in his/her professional capacity even if any of the allegations of the suit are groundless, false or fraudulent. The Company shall not be obligated to pay any **CLAIM** or judgment or to defend any suit after the applicable limit of the Company's liability has been exhausted by payment of judgments or settlements.

The insured, except at his/her own cost and for his/her own account, shall not, without written consent of the Company, make any payment, admit any liability, settle any **CLAIM**, assume any obligation or incur any expense.

The Company shall have the right, but no duty, to appeal any judgment.

- B. The Company will pay in addition to the applicable limit of liability for Coverage A:
1. all expenses incurred by the Company, all costs taxed against the insured in any suit defended by the Company, and interest only on that part of any judgment which does not exceed the Company's limit of liability, which accrues after the entry of the judgment and before the Company has paid, offered to pay, or deposited in court that part of the judgment that does not exceed the Company's limit of liability;
 2. premiums on appeal bonds required in any suit defended by the Company and premiums on bonds to release attachments in any such suit, but in no event for an amount in excess of the applicable limit of liability of the policy. The Company shall have no obligation to apply for or furnish any such bond(s);

3. expenses incurred by the insured for first aid to others resulting from an **OCCURRENCE** to which this policy applies; and
4. reasonable expenses incurred by the insured at the Company's request in assisting the Company in the investigation or defense of any **CLAIM** or suit, including actual loss of earnings not to exceed one hundred dollars (\$100) per day.

SECTION III—DEFINITIONS

- A. **ASSAULT** means a physical attack on an insured. Proof of an **ASSAULT** shall be a report of such **ASSAULT** to the appropriate civil police entity as soon as practicable.
- B. **CLAIM** means:
1. As respects Coverage A, an oral or written notice from any party whose intention is to hold an insured responsible for any acts or omissions of the insured arising out of an **OCCURRENCE** in the course of activities of the insured in his/her professional capacity.
 2. As respects Coverage B, an oral or written notice from the insured or the insured's attorney requesting reimbursement for attorney fees as a result of an action or proceeding arising from activities of the insured in his/her professional capacity.
 3. As respects Optional Coverages Reimbursement of Attorney Fees for Identity Theft, an oral or written notice from the insured requesting reimbursement for attorney fees incurred after first discovering that they are a victim of **IDENTITY THEFT** which took place during the policy period.
- C. **EDUCATIONAL UNIT** means a school district, a college or university, a state department of education, an overseas dependent school operated by the Department of Defense, and/or any other institution for which the instruction of students is its primary purpose.
- D. **FIREARM** includes, but is not limited to, guns, handguns, revolvers, pistols, rifles, shotguns, semi-automatic weapons or stun guns or similar devices.
- E. **IDENTITY THEFT** means the act of knowingly transferring or using, without lawful authority, **PERSONAL INFORMATION** with the intent to commit, or to aid or abet another to commit, any unlawful activity that constitutes a violation of federal law or a felony under any applicable state or local law.
- F. **OCCURRENCE** means an event which results in monetary damages to someone other than the insured.
- An **OCCURRENCE** can involve a single, sudden event or the continuous or repeated exposure to the same conditions. If the latter, the exposure shall constitute a single **OCCURRENCE** and shall be deemed to have occurred as of the most recent exposure to said conditions.
- G. **PERSONAL INFORMATION** means an individual's:
1. Social security number;
 2. Medical or healthcare data, or other protected health information;
 3. Driver's license number or state identification number;
 4. Account number, credit card number, debit card number, security code, access code or password that permits access to that individual's financial account; or
 5. Other nonpublic **PERSONAL INFORMATION** as defined in a **PRIVACY REGULATION**.
- H. **POLICYHOLDER** means the association named in Item 1. of the Declarations.
- I. **PRIVACY REGULATION** means state, federal, and foreign identity theft and privacy protection legislation, statutes and regulations (including, but not limited to, the Health Insurance Portability and Accountability Act, as amended, and the Gramm-Leach-Bliley Act, as amended) associated with the control or use of personally identifiable financial, medical or other sensitive information that requires commercial entities that collect **PERSONAL INFORMATION** to post privacy policies, adopt specific privacy controls, or notify individuals in the event that **PERSONAL INFORMATION** has potentially been compromised.

SECTION IV—POLICY PERIOD

All periods of insurance shall begin and end at 12:01 a.m. at the address of the **POLICYHOLDER**, except that the policy period for a new member (if all members are covered) or a newly participating member (if insurance is optional) shall begin at the time and date such member's application or election is received and approved by the association and shall expire on the expiration date specified in the Declarations or, if terminated earlier, such lesser period.

SECTION V—LIMITED WORLDWIDE LIABILITY COVERAGE

This policy shall apply anywhere in the world with respect to an **OCCURRENCE** arising out of the covered activities of any insured permanently domiciled in the United States of America though temporarily outside the United States of America, its territories or possessions, or Canada. The original suit or **CLAIM** for damages must be brought within the United States of America, its territories or possessions, or Canada.

SECTION VI—EXCLUSIONS

The Company shall not be obligated to make any payment or defend any lawsuit in connection with any **CLAIM** against the insured arising from:

- A. activities of the insured not conducted in his/her professional capacity;
- B. activities of the insured conducted in a private business or private professional endeavor;
however, this exclusion does not apply to Reimbursement of Attorney Fees for Private Instruction Action or Proceeding;
- C. the ownership, maintenance, operation, use, loading or unloading of:
 - 1. watercraft;
 - 2. aircraft; or
 - 3. vehicles of any kind, other than farm tractors not operated on public highways.

This exclusion does not apply to:

- a. an insured driver training instructor while riding as a passenger in the course of duties as an employee of a school system;
- b. an insured vocational education instructor in the course of regular instruction carried on in a shop provided by the school; or
- c. an insured while supervising students entering or exiting a school bus.

However, coverage does not apply to Items a., b. or c. above when the **INSURED** has any other insurance of any kind whatsoever which affords coverage for such **CLAIMS**.

SECTION VIII—CONDITIONS, Item C. **Other Insurance**, does not apply to this exception to Exclusion C.;

- D. liability assumed by an insured under any contract or agreement;
- E. war, whether or not declared, civil war, insurrection, rebellion, revolution, or any act or condition incidental to any of the foregoing;
- F. any obligation for which the insured or any carrier may be held liable under Workers' Compensation, Unemployment Compensation, Disability Benefits or similar laws;
- G. the rendering, failure to render, teaching or supervising of medical, surgical, dental, nursing, or other similar services, except, however, coverage would apply to:
 - 1. first aid and regular nursing services rendered by a school nurse employed for the purpose of rendering such services;
 - 2. first aid and regular nursing services rendered by a certified health aide employed for the purpose of rendering such services under the supervision of a school nurse;
 - 3. physical therapy rendered by a licensed physical or occupational therapist employed for the purpose of rendering such services;
 - 4. the administration of oral prescription medicine to a student by an insured, provided the insured has received advance written authorization for such administration from the parent or guardian of the student;

5. emergency first aid services rendered by an insured when a school nurse or other medically trained person is not readily available;
6. psychological therapy or treatment rendered by a counselor employed for the purpose of rendering such services;
7. psychological therapy or treatment provided during a practicum or internship required by and supervised by an **EDUCATIONAL UNIT** as part of an advanced or specialized degree program, and provided in a clinical setting administered by the **EDUCATIONAL UNIT**; or
8. health care services performed by the insured to students who are disabled within the meaning of the Individuals with Disabilities in Education Act, as amended, or within Section 504 of the Rehabilitation Act of 1973, when the rendering of such health care services is required by the insured's employer, provided the parent or guardian of the student has provided advance written approval for the rendering of such services.

H. under Coverage A, criminal acts;

I. liability as respects **CLAIMS** brought by teachers or other employees of any school system against the insured, as defined by the policy.

However, coverage would apply to:

1. reimbursement of attorney's fees as provided under Coverage B; or

2. **CLAIMS** or suits brought:

- a. By teachers or other employees of any school system arising directly out of service by the insured on professional review committees and in carrying out the directives of such committees; or

- b. By or on behalf of a minor or incompetent child of an employee of an **EDUCATIONAL UNIT**, if the **CLAIM** or suit arises out of an **OCCURRENCE** in the course of activities of the insured in his/her professional capacity;

J. an intentional act by, or at the direction of, the insured, whether or not any resulting damages are intended or foreseeable, except for such damages resulting from corporal punishment of any student by or at the direction of the insured administered as permitted by the law governing corporal punishment in the jurisdiction where the school is located;

K. any action for equitable relief, injunctive relief, declaratory relief or any other relief or recovery that is not seeking monetary judgment, award or settlement, except as provided in Coverage B, unless the relief prayed for also seeks damages which are covered under Coverage A;

This exclusion also applies to any fees, costs or expenses including, but not limited to claimant/plaintiff attorney fees, related to such actions.

L. activities of an insured while acting as a member of any school board or similarly constituted body;

M. actual or alleged sexual misconduct, regardless of whether such misconduct is alleged to be intentional or negligent, except as provided under Coverage B—Reimbursement of Attorney Fees Sexual Misconduct Action or Proceeding;

N. any **CLAIMS**, accusations or charges brought against an insured, and to any obligation or duty of the Company to afford defense for such **CLAIMS**, accusations or charges which are made because of any damages or injury arising out of Human Immune Deficiency Virus (HIV) or Acquired Immune Deficiency Syndrome (AIDS); or

O. any **CLAIM** against an insured by the **POLICYHOLDER** or any parent, affiliate or subsidiary of the **POLICYHOLDER**.

P. the ownership, possession, maintenance, use (including the loading, reloading or use of ammunition), threatened use, operation or entrustment to others of any **FIREARM** by any **INSURED**; including the negligent hiring or supervision of others by any insured with respect to the ownership, possession, maintenance, use (including the loading, reloading or use of ammunition), threatened use, operation or entrustment to others of any **FIREARM**.

Q. or out of any circumstances due to nuclear reactions, radiation or contamination, or any other nuclear incident regardless of cause;

R. any loss, damage, cost or expense from or in any way involving, directly or indirectly, asbestos in any form, whether airborne or not, including, but not limited to:

1. Inhaling, ingesting or prolonged physical exposure to asbestos or products containing asbestos;

2. The use of asbestos in construction or manufacturing any good, product or structure;

3. The removal or abatement of asbestos from any good, product or structure; or

4. The manufacture, sale, transportation, storage or disposal of asbestos or goods or products containing asbestos.

The Company shall have no duty to investigate, defend or indemnify any **CLAIM** or suit seeking such damages.

- S. any loss, damage, cost or expense, whether preventative, remedial or otherwise, directly or indirectly arising out of or relating to:

1. any sums that the insured becomes obligated to pay as damages because of an **OCCURRENCE** arising out of, resulting from, caused by or contributed to by any mold, mildew, spores, fungus, wet or dry rot, or their scent or byproducts, or of any materials containing them, at any time. The Company shall have no duty to investigate or defend any **CLAIM** or suit seeking such damages.2. any loss, cost, or expense, arising out of any:
 - a. request, demand, order, or statutory or regulatory requirement that any insured or any other person or organization test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to, or assess the effects of any mold, mildew, spores, fungus, wet or dry rot, or any material containing them; or
 - b. **CLAIM** or suit by or on behalf of a governmental authority or any other person or organization for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, any mold, mildew, spores, fungus, wet or dry rot, or any materials containing them.

This exclusion also applies to:

- a. any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with the above; or
- b. any obligation to share damages with or repay someone else who must pay damages because of such injury or damage, either in equity or in tort; or
- c. the duty to defend or pay sums, which may be owed under the Supplementary Payments provisions of this policy.

**Endorsement to Exclusions: Sexual Misconduct Amendatory Endorsement, Amendment of Exclusions excepting diagnostic evaluations rendered by a certified educational diagnostician.

SECTION VII—LIMITS OF LIABILITY

Regardless of the number of insureds under the policy, persons or organizations who sustain damages payable under this policy, and/or suits brought on account of coverage afforded by the policy, the Company's liability is limited as follows:

- A. The limit of liability stated in Item 3. of the Declarations as applicable to Coverage A, per insured, per **OCCURRENCE** is the maximum limit of the Company's liability for any one insured arising from any one **OCCURRENCE**;
- B. Subject to A. above, the limit of liability stated in Item 3. of the Declarations as applicable to Coverage A, the per **OCCURRENCE** limit, is the maximum limit of the Company's liability for all insureds arising from any one **OCCURRENCE**;
- C. The limit of liability stated in Item 3. of the Declarations as applicable to Coverage B, per **CLAIM**, per insured, is the maximum the Company will reimburse for attorney fees to any one insured incurred in any one **CLAIM**;
- D. The limit of liability stated in Item 3. of the Declarations as applicable to Coverage B, Criminal or Sexual Misconduct Actions or Proceedings Annual Aggregate is the maximum amount the Company will reimburse any one insured in any one policy period for all **CLAIMS** paid under Coverage B, Criminal Actions or Proceedings and Sexual Misconduct Actions or Proceedings;
- E. Subject to C. and D. above, the limit of liability stated in Item 3. of the Declarations as applicable to Coverage B, Annual Aggregate, All **CLAIMS**, is the maximum amount the Company will reimburse for all attorney fees in any one policy year; and
- F. The limit of liability stated in Item 3. of the Declarations as applicable to Coverage C is the maximum the Company will pay for any one bail bond for any one insured.

SECTION VIII—CONDITIONS

- A. **Insured's Duties in the Event of Loss, Claim or Suit**

1. In the event of an **OCCURRENCE**, written notice containing particulars sufficient to identify the insured and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the injured and of available witnesses, shall be given by or for the insured to the Company or any of its authorized agents as soon as practicable.
2. If **CLAIM** is made or suit is brought against the insured, the insured shall immediately forward to the Company every demand, notice, summons or other process received by the insured or the insured's representative.
3. The insured shall cooperate with the Company and, at the Company's request, consent to being examined and questioned by a representative of the Company, under oath if necessary, attend hearings, depositions and trials and shall assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses in the conduct of suits, as well as in the giving of a written statement or statements to the Company representatives and defense counsel. In the event of a **CLAIM** occurring likely to involve the Company hereunder, the insured shall not make any payment, assume any liability or incur any expense without the consent of the Company first being obtained. The Company shall have full discretion in the handling of any **CLAIM**, and the insured shall give full information and assistance as the Company shall reasonably require.

B. **Action Against Company**

No action shall lie against the Company unless, as a condition precedent, the insured shall have fully complied with all terms of this policy, or until the amount of the insured's obligation to pay shall have been finally determined either by judgment against the insured after actual trial or by written agreement of the insured, the claimant, and the Company. Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. Nothing contained in this policy shall give any person or organization any right to join the Company as codefendant in any action against the insured to determine the insured's liability. Bankruptcy or insolvency of the insured or the insured's estate shall not relieve the Company of any of its obligations hereunder.

C. **Other Insurance**

1. This policy is specifically excess if the insured has other insurance of any kind whatsoever, whether primary or excess, or if the insured is entitled to defense or indemnification from any other source whatsoever, including by way of example only, such sources as state statutory entitlements or provisions. Other insurance includes, but is not limited to, insurance policies, state pools, and programs of self-insurance, purchased or established by or on behalf of any **EDUCATIONAL UNIT**, to insure against **CLAIMS** arising from activities of the **EDUCATIONAL UNIT** or its employees, regardless of whether or not the policy or program provides primary, excess, umbrella or contingent coverage.
2. Coverage A is specifically excess over coverage provided by any **EDUCATIONAL UNIT'S** or school board's errors and omissions or general liability policies, purchased by the insured's employer or former employers, or self-insurance program or state pools, whether collectible or not, and it is specifically excess over coverage provided by any policy of insurance which purports to be excess to a policy issued to the insured.
3. Assault Related Personal Property Damage is excess over any valid and collectible insurance available to the insured including Homeowners and Personal Property Floater policies.
4. This Condition C. is not applicable to **SECTION VI—EXCLUSIONS**, Exclusion C.

D. **Subrogation**

In the event of any payment under this policy, the Company shall be subrogated to all the insured's rights of recovery therefor against any person or organization, and the insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The insured shall do nothing after loss to prejudice such rights.

E. **Changes**

Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or estop the Company from asserting any right under the terms of this policy, nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy.

F. **Cancellation or Nonrenewal**

This policy may be canceled by the **POLICYHOLDER** by surrendering the policy to the Company or any of its authorized agents, or by mailing to the Company written notice stating when thereafter the cancellation shall be effective. This policy may be canceled by the Company by mailing to the **POLICYHOLDER** at the address shown in this policy, written notice

stating when, not less than thirty (30) days for nonpayment of premium, or ninety (90) days for any other valid reason, such cancellation shall be effective. The mailing of notice shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the **POLICYHOLDER** or by the Company shall be equivalent to mailing.

If this policy shall be canceled by the **POLICYHOLDER**, the Company shall retain the customary short rate proportion of the premium hereon. Payment or tender of any unearned premium by the Company shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable. If the period of limitation relating to the giving of notice is prohibited or made void by any law controlling the construction thereof, such period shall be deemed to be amended to be equal to the minimum period or limitation of such law.

In the event of cancellation by either the Company or the **POLICYHOLDER**, and with the consent of the Company, the coverage for individuals for whom premium has been paid will continue until the end of the membership year of each.

If the Company elects not to renew this policy at the end of a policy period, a written notice of nonrenewal stating the reason for such nonrenewal will be mailed or delivered to the **POLICYHOLDER** at least ninety (90) days before the expiration date of the policy. The notice will be mailed to the last known address of the **POLICYHOLDER**. If notice is mailed, proof of mailing is sufficient proof of notice.

G. **Audit**

The premium shown in the Declarations is provisional and is based on the number of insured members at inception. The **POLICYHOLDER** agrees to maintain a record of insured members and the policy will be subject to audit in a manner determined by the General Agent with the agreement of the Company.

H. **Severability Clause**

It is agreed that the application and the Declarations are the basis of this policy and are to be considered as incorporated in and constituting part of the policy. As respects the particulars and statements contained in the application, conditions and the exclusions set forth herein, this policy shall be construed as a separate agreement with each insured. Nothing in this paragraph shall be construed to increase the Company's maximum liability as set forth in Item 3. of the Declarations.

I. **Sole Agent**

By acceptance of this policy, the **POLICYHOLDER** will act on behalf of all insureds with respect to:

1. exercising the option to purchase an Extended Reporting Period;
2. the giving and receiving of notice of **CLAIM** or cancellation;
3. accepting any endorsement issued to this policy;
4. paying premium when due; and
5. receiving return premium.

Each insured agrees the **POLICYHOLDER** will act on the insured's behalf.

The **POLICYHOLDER** is charged with the responsibility of notifying the Company and all insureds of any changes that might affect the insurance provided by this policy.

J. **Terms of Policy Conformed to Statutes**

Terms of this policy which are in conflict with the statutes of the state wherein this policy is issued are hereby amended to conform to such statutes.

***The following endorsement is added to the policy:**

SEXUAL MISCONDUCT AMENDATORY ENDORSEMENT

SECTION I—INSURING AGREEMENTS, Coverage B—Reimbursement of Attorney Fees, Sexual Misconduct Action or Proceeding is deleted in its entirety and is replaced by the following:

Sexual Misconduct Action or Proceeding

An action or proceeding alleging intentional or negligent:

1. SEXUAL MISCONDUCT;

2. physical abuse (excluding corporal punishment of any student administered by or at the direction of the insured); and/or

3. mental abuse;

whether direct or vicarious.

The following Definition is added to **SECTION III—DEFINITIONS:**

SEXUAL MISCONDUCT means actual or threatened sexual abuse, mental sexual abuse, sexual harassment or any action or behavior or physical contact or touching, which is intended to lead to or which culminates in any sexual act whether performed for sexual gratification, discrimination, intimidation, coercion or any other reason.

SECTION VI—EXCLUSIONS, Item **M.** is deleted in its entirety and is replaced by the following:

The Company shall not be obligated to make any payment or defend any lawsuit in connection with any **CLAIM** against the insured arising from:

M. actual or alleged:

1. SEXUAL MISCONDUCT;

2. physical abuse (except corporal punishment of any student administered by or at the direction of the insured); and/or

3. mental abuse;

whether direct or vicarious, or whether intentional or negligent, except as provided under **Coverage B—Reimbursement of Attorney Fees Sexual Misconduct Action or Proceeding.**

This exclusion applies even if an alleged cause of the damages was negligent:

a. hiring;

b. placement;

c. training;

d. supervision; or

e. retention; or

a negligent act, error or omission.