



**THE JOHN A. BARCLAY
AGENCY, INC.**

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**TEXAS EDUCATIONAL DIAGNOSTICIANS ASSOCIATION
A SUMMARY OF EDUCATORS PROFESSIONAL LIABILITY INSURANCE 2007-08**

SCHEDULE OF COVERAGE

Limits of Liability

Coverage A—\$1,000,000.00 per Insured per occurrence/\$3,000,000.00 per occurrence

Coverage B—\$5,000.00 per claim per Insured subject to:

1. \$1,000,000.00 annual aggregate for all claims.
2. \$10,000 annual aggregate per insured under B(1) and/or B(5) combined.

Coverage C—\$1,000.00 per Bail Bond per Insured.

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. As respects Coverage A, this policy applies only to OCCURRENCES (as defined) during the policy period.

Coverage B - Reimbursement of Attorney Fees

- A. 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 activities:
1. incurred in the defense of a criminal action or proceeding against the insured arising out of activities of the insured in his/her professional capacity;
 2. Incurred in the defense of an action or proceeding against the insured involving other professional rights, duties and responsibilities arising within the scope of employment, provided, however, that final judgment is rendered in favor of the insured. However, the Company will pay a maximum of \$500. for reimbursement of attorney fees without regard to final judgment;
 3. Incurred in the defense of an action or proceeding against the insured involving assignment, dismissal, leave of absence, resignation, salary and tenure: 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;
 4. incurred in the defense of 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; and
 5. incurred in the defense of an action or proceeding alleging intentional or negligent sexual misconduct;
- 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, 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.

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 for bodily injury 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 \$100 per day.

SECTION III - DEFINITIONS

- A. The term OCCURRENCE only applies to Coverage A. It 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.
- B. The term POLICYHOLDER means the association named in Item 1 . of the Declarations.
- C.
 1. As respects Coverage A, the term CLAIM means 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, the term CLAIM means 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.
- D. The term 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.

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;
- C. the ownership, maintenance, operation, use, loading or unloading of:
 1. vehicles of any kind, other than farm tractors not operated on public highways;
 2. watercraft; or
 3. aircraft;however, coverage would 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; and
 - c. an insured while supervising students entering or exiting a school bus;
- 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; and

- 6. psychological therapy or treatment rendered by a counselor employed for the purpose of rendering such services;
- H. under Coverage A, criminal acts other than corporal punishment;
- I. liability as respects **CLAIMS** brought by teachers or other employees of any school system against the insured, as defined by the policy, except reimbursement of attorney's fees as provided under Coverage B;
- 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 administered by or at the direction of the insured;
- 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; and any action for any fees, cost or expenses including, but not limited to claimant/plaintiff attorney fees related to 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.
- 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.A.5.;
- 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.

**** Exclusions by endorsement include nuclear, mold, asbestos. Punitive damages limited to \$5,000.

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, Annual Aggregate, per insured for all CLAIMS under B.A.1., B.A.5., or B.A.1. and B.A.5. combined, is the maximum amount the Company will reimburse any one insured in any one policy year for attorney fees reimbursable under either Coverage B.A.1. or Coverage B.A.5. or Coverages B.A.1. and B.A.5. combined;
- 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

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.

In addition, 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.

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 term, 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(S) 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.

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.