

BAY AREA SCHOOLS INSURANCE COOPERATIVE

CLAIMS PROCEDURES MANUAL

Revised January 2010



Bay Area Schools Insurance Cooperative



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BAY AREA SCHOOLS INSURANCE COOPERATIVE

LIABILITY CLAIM REPORTING PROCEDURES

Bay Area Schools Insurance Cooperative (BASIC) has contracted with the firm of George Hills Company, Inc. (GHC) to assist with the administration of liability claims presented within BASIC's layer of coverage.

Oversight by GHC is required by both BASIC and BASIC's reinsurer. The costs of GHC's fees shall be borne by the reporting Member. Fees incurred for the claims administrative services provided by GHC shall erode the Member's Self-Insured Retention (SIR).

BASIC Members must immediately notify GHC when it appears that an occurrence, claim, suit or loss may exceed the Member's SIR or when any of the below stated losses occur. Such notification should occur within 25 days of the accident, claim, suit or loss. GHC must be provided with sufficient documentation to evaluate potential exposure to BASIC's layer of coverage.

Send all loss notices to Chuck Torretta, Senior Claims Adjuster, GHC, 3043 Gold Canal Drive, 2nd Floor, Rancho Cordova, CA 95670, (916) 859-4813, FAX (916) 859-4805. GHC will place the BASIC reinsurer on notice of all applicable occurrences, claims, suits or losses. BASIC Members who are Members of the Schools Excess Liability Funds (SELF) shall be responsible for all appropriate reporting to SELF.* GHC will place SELF, Genesis and Colony National on notice of all claims not reported by the Covered Member that meet the excess reporting requirements.

- No payments or settlement offers are to be made in excess of the BASIC Member's SIR without settlement authority specifically granted by BASIC.

Immediately report the following losses or claims to George Hills Co., Inc.

1. Each claim or series of claims arising from one occurrence, suit or loss where the combined loss and expense is expected to be 50% or more of the BASIC Member's SIR.
2. Brain damage affecting mentality or central nervous system – such as permanent disorientation, behavior disorder, personality change, seizures, motor deficit, inability to speak (aphasia), hemiplegia or unconsciousness (comatose).
3. Any fatality.
4. Any spinal cord injury including paraplegia, quadriplegia and paralysis.
5. Major cosmetic disfigurement.
6. 2nd or 3rd degree burns over more than 20% of the body.

7. Amputation or loss of use of a major body part.
8. A claim of serious physical assault including rape, molestation, or sexual misconduct of any individual.
9. Permanent loss of or damage to vision.
10. Service of a Summons and Complaint, which asserts Employment Practices Liability including but not limited to wrongful termination, discrimination, libel, slander, or defamation of character.
11. Multiple fractures – involving more than one Member or non-union.
12. Massive internal injuries affecting body organs.
13. Any back injury involving an inability to work.
14. Any disability where it appears reasonably likely that there will be disability that last for more than one year.
15. Class actions
16. Firearms discharge resulting in bodily injury or death.
17. Nerve damage causing paralysis and loss of sensation in arm and hand, including but not limited to, RSD, or brachial plexus nerve damage.
18. Any other serious injury which, in the judgment of the Member, might involve the reinsurer.
19. Any action alleging Extra Contractual Obligations against BASIC.

* **SCHOOLS EXCESS LIABILITY FUND (SELF)**
SELF's reporting requirements are described on the Excess Liability Claim Report page as found under the Program link at www.selfjpa.org.

BAY AREA SCHOOLS INSURANCE COOPERATIVE

PROCEDURES FOR LIABILITY LOSSES

District's Responsibility

1. Notify the BASIC Member immediately of any claim, suit, serious injury or accident.
2. Complete all *Student Accident Reports* as promptly as possible and submit them to the BASIC Member for review. **DO NOT RELEASE THE STUDENT ACCIDENT REPORT TO ANY PERSON OR ORGANIZATION OTHER THAN THE BASIC MEMBER. THE STUDENT ACCIDENT REPORTS ARE PRIVILEGED DOCUMENTS.**
3. Appoint an administrative official to be a liaison between the District and the BASIC Member. This person should be responsible for coordination of the District's employees and assist in obtaining all pertinent records essential to the case.
4. The District shall assist in providing evidence and obtaining the cooperation of all pertinent witnesses.
5. The District has a duty to cooperate fully with the BASIC Member. This includes assistance in the investigation, settlement and or defense of the claim or suit.
6. The District shall make every effort to preserve evidence. Do not throw objects away or make any immediate repairs to any facility or equipment that may have contributed to an accident.
7. If emergency repairs are necessary to prevent further injury or property damage, take pictures prior to making emergency repairs.
8. Keep records! Make available to the BASIC Member any purchase orders, invoices, or instructional material that may have contributed to an accident.
9. Keep inspection and maintenance logs on all equipment.
10. With regard to playground equipment, Federal Safety Regulations require such documentation. ASTM F1487-98 Standard 13.2.3 states:

"The owner/operator shall establish and maintain detailed installation, inspection, maintenance and repair records for each public-use playground equipment area."

11. DO NOT ASSUME ANY LIABILITY OR MAKE ANY VOLUNTARY STATEMENTS. Do not make any statements that would lead someone to believe that the District is at fault. It is best not to discuss a liability claim, serious injury or accident with anyone other than your supervisor, police investigators, and representatives from the BASIC Member or assigned defense counsel.
12. DO NOT MAKE ANY SETTLEMENT OFFERS OR ENTER INTO ANY SETTLEMENT DISCUSSION WITH THIRD PARTIES WITHOUT THE BASIC MEMBER'S KNOWLEDGE.
13. DO NOT RETAIN DEFENSE COUNSEL TO REPRESENT THE DISTRICT IN A CLAIM OR LAWSUIT WITHOUT THE BASIC MEMBER'S KNOWLEDGE. *The BASIC Member retains the right to select defense counsel on any civil case that falls within the BASIC Member's Memorandum of Coverage.*

BASIC Member's Responsibility

1. Emergency response to District in the event of a serious accident or injury.
2. Notify BASIC claims administrator within 25 days of being notified of a loss or claim that meets the reporting criteria as outlined in BASIC's *CLAIM REPORTING REQUIREMENTS*.
3. Input the claim information into the BASIC Member's Risk Management Data Information System.
4. Set appropriate reserves for the BASIC Member.
5. Issue warrants on behalf of the District as appropriate.
6. The BASIC Member, or designated TPA, shall conduct a thorough investigation on behalf of the District. All relevant evidence will be gathered, to include: statements, photos, diagrams, police reports, public records, purchase orders, invoices, maintenance records, medical records, etc.
7. Upon completion of the investigation, the BASIC Member's staff will make a complete evaluation of coverage, liability and damages.
8. The BASIC Member's staff will keep the District fully informed. Upon completion of the case analysis, a copy of the BASIC Member's report will be provided to the District. The report will outline any recommended action on the part of the District.
9. If it is determined that an effort should be made to settle the case short of litigation, the BASIC Member, with the District's concurrence, will enter into settlement negotiations.

10. Should the case enter litigation, the BASIC Member's staff will select defense counsel to represent the District.
11. The BASIC Member shall report all claims or losses that meet BASIC's claim reporting requirements to BASIC's claims administrator. The BASIC Member's initial report shall contain a caption on coverage and identify the language in the MOC triggering coverage.
12. The BASIC Member utilizing its in-house claims staff or designated TPA, with oversight from BASIC's claims administrator will manage the case while in BASIC's layer until the case has been concluded.
13. The BASIC Member shall have the option of case referral for claim management purposes to BASIC's claims administrator.
14. The BASIC member will forward a letter to BASIC's claims administrator requesting settlement authority up to fifty thousand dollars (\$50,000) to include legal defense costs.
15. The BASIC Member's staff will make a written recommendation to BASIC's claims administrators with regard to obtaining settlement authority in excess of \$50,000 from BASIC.
16. The BASIC Member's staff will review BASIC claims administrator report to the BASIC Board of Directors with regard to claim settlement authority.
17. With regards to requests for settlement authority that will pierce a BASIC Member's SIR and exceeding \$50,000, the involved BASIC Member's staff will meet in closed session or via teleconference with the BASIC Board of Directors, along with BASIC's claims administrator, to request the settlement authority from BASIC.
18. The BASIC Member's staff will receive a copy of BASIC's claims administrator's letter to the reinsurer requesting claim payment.
19. The BASIC Member will provide BASIC's claims administrator with a copy of all claim payments to verify that the SIR has been eroded.
20. Upon receipt of payment from the reinsurer, endorsed to the BASIC Member by The BASIC Member will forward a copy of all claim payments to BASIC's claims administrator for their records.
21. Upon conclusion of the claim, the BASIC Member's staff will notify the District.
22. The BASIC Member will provide the BASIC's claims administrator and WFIS with quarterly Loss Runs.

BASIC's Claims Administrator's Responsibility

1. Upon receipt of a notice of loss from the BASIC Member's staff, set up a claim file for review.
2. Review claim for coverage and address coverage issues; retain coverage counsel (with such expense incurred by BASIC) if necessary. Issue appropriate reservations of rights letters or declination of coverage on behalf of BASIC.
3. Place BASIC's reinsurer on notice of new losses in writing, and provide a copy to the report to the BASIC Member and the President of BASIC or designee.
4. Advise the BASIC Member's staff of any issues or concerns BASIC has with regard to coverage, procedures, and the management of the claim or suit.
5. Develop recommendations to the BASIC Member's staff with regard to the handling of the claim as necessary.
6. Enter the loss information and appropriate reserves into the BASIC claims administrator's Risk Management Data System, which reflects the BASIC Member's SIR.
7. Copy BASIC's reinsurer on all claim documentation.
8. The BASIC's claims administrator shall have fifty-thousand-dollars (\$50,000) in settlement authority to include legal defense costs.
9. Review the BASIC Member's staff written request with regard to settlement authority from BASIC. Confer with the BASIC Member's staff with regard to the settlement authority request when in excess of \$50,000.
10. Report to BASIC's President or designee the granting of settlement authority to BASIC's member up to \$50,000.
11. Prepare a written report with a recommendation for settlement authority exceeding \$50,000 from the BASIC Board of Directors to be placed on BASIC's closed session agenda. Send a copy of the report to the BASIC Member.
12. Meet in closed session with the BASIC Board of Directors along with the BASIC Member's staff to request settlement authority from BASIC in excess of \$50,000.
13. Once settlement authority has been granted to BASIC's claims administrator, a draft request shall be made by BASIC's claims administrator to the reinsurer. The draft request will include a letter from BASIC's President or designee, specifying the amount of settlement authority that has been granted. The BASIC Member will receive a copy of the draft request.

14. The draft request shall specify the exact amount of the draft, and should specify that the draft be made payable to BASIC and the involved BASIC Member. (The draft request shall also specify that the draft be forwarded to BASIC's current Treasurer.)
15. BASIC's claims administrator will also request that the BASIC Member provide verification of payment received from the reinsurer in the form of draft copies.
16. BASIC's claims administrator shall record all payments made by the reinsurer in the BASIC's Risk Management Data Information System.
17. Review all of BASIC's Member's quarterly Loss Runs.

BASIC's Responsibility

1. Review information received from the BASIC Member and BASIC's claims administrator.
2. The BASIC Board of Directors will take action with regard to claim settlements in closed session.
3. If settlement authority is granted, the President of BASIC **or designee** shall extend settlement authority to BASIC's claims administrator in writing with a copy to the BASIC Member.
4. The President of BASIC **or designee** will review BASIC's Claims Administrator's draft request memo to the reinsurer.
5. The reinsurer will forward the draft to BASIC's Treasurer. The draft will be made payable to BASIC and the involved BASIC Member.
6. Upon receipt of the draft from the reinsurer, BASIC's Treasurer shall endorse the draft and forward it to the involved BASIC Member.
7. BASIC's Treasurer shall forward a copy of the draft to BASIC's claims administrator.

BAY AREA SCHOOLS INSURANCE COOPERATIVE

PROPERTY CLAIM REPORTING PROCEDURES

Bay Area Schools Insurance Cooperative's (BASIC) excess property program has been placed with Affiliated FM (AFM). All of BASIC's Members carry a \$100,000 Self-Insured Retention (SIR); AFM provides property coverage to \$300 million.

AFM must receive notification of a potential excess claim within 48 hours of the loss. AFM must be provided with sufficient documentation to evaluate potential exposure to the AFM layer of coverage.

Send all loss information **as follows**:

Jeffrey C. Casillas
Los Angeles Operations Claims Manager
Affiliated FM Insurance Company
6320 Canoga Ave., Suite 1100
Woodland Hills, CA 91367
Office: (818) 227-2250
Fax: (818) 304-5786
E-mail: Jeffrey.Casillas@fmglobal.com

As an alternate contact, you may always report losses directly to:

Rick Sunny
San Francisco Operations Claims Manager
Affiliated FM Insurance Company
One Walnut Creek Center
100 Pringle Ave., Suite 340
Walnut Creek, CA 94596
Office: (925) 287-4300
Fax: (925) 934-3271

As the vast majority of your locations are within our San Francisco Ops territory, it will be his office that will be handling the vast majority of claims.

First notice of loss should be reported via fax and/or mail to AFM, as noted above.

Immediately report the following losses or claims to Affiliated FM:

- Each loss where the expense is expected to be 50% or more of the BASIC Member's SIR.

Please Note: TPA fees incurred by BASIC Members do not erode the property SIR.

BAY AREA SCHOOLS INSURANCE COOPERATIVE

PROCEDURES FOR PROPERTY LOSSES

District's Responsibility

The District Must Manage All Fire or Other Property Losses

1. Notify the BASIC Member immediately of any fire or major property loss.
2. Cooperate fully with police and fire officials and consider reward programs when appropriate for recovery potential.
3. Do not enter the building until police and/or fire officials release the site.
4. Once the site is released, strongly discourage school staff from entering the building. A burned building poses health hazards and increased workers' compensation exposure.
5. If an employee must enter a burned building for a short period of time, insist that a paint mask and protective clothing be worn. Should employees enter the building for any extended period of time respirators should be worn.
6. Take every reasonable step to protect District property from further damage; this includes emergency repairs and barriers to the public.
7. Meet with the BASIC Member's claim representatives to discuss coverages, procedures, responsibilities, etc.
8. Set up an accounting program to include a specific account code number to track all property loss or fire-related expenditures.
9. Contact the District architect and schedule a meeting between the District and the BASIC Member's claim representative.

10. Supply a copy of any applicable Asbestos Management Plan to the BASIC Member's claim representatives with regard to the damaged structure.
11. If the Management Plan identifies possible asbestos, the District shall confer with the BASIC Member's claim representative to select a qualified Project Manager to test the damaged building for asbestos contamination.
12. If the site must be abated, the District shall confer with the BASIC Member's claim representative in the selection of an acceptable asbestos abatement company.
13. According to Public Contract Code section 20111(b), if the cost to rebuild or replace the structure **(public project)** is expected to exceed \$15,000, the school board must pass an Emergency Resolution to eliminate the formal bid process. Three competitive bids will be required.
14. According to Public Contract Code section 20111(a), the bid limit for the purchase of equipment, materials, **services, repairs (non-public project)** and supplies **as of January 1, 2009, is \$50,000.**
15. Bid the reconstruction project in accordance with scope of loss prepared by the architect and agreed upon by the BASIC Member's claim representative. Demolition and debris removal is also subject to competitive bids or quotes.
16. Maintain a Fire Loss Binder categorized by *Building, Extra Expense and Contents*.
 - *Building*: costs relating to the repair or reconstruction of the damaged structure.
 - *Contents*: costs relating to the repair or replacement of furnishings, computers, paper products, etc.
 - *Extra Expense*: costs incurred by the District to continue normal operations such as modular classroom, access to library material, etc.
17. Inventory and order replacements for contents damaged beyond repair.
18. Clean and/or repair items that appear salvageable. Replacement value is for like kind and quality. Any upgrades on contents or to the building will be at the District's expense.
19. If the District staff feels that an item, which has been cleaned and repaired, is not suitable for use, the BASIC Member's claim representative may re-inspect the item to make a replacement determination.

20. Computers quickly become obsolete and are very difficult and expensive to clean after sustaining heavy smoke damage. Prior to sending smoke damaged computers to a computer repair service, discuss with the BASIC Member's claim representative. The authority to attempt to repair or replace a computer must come from the BASIC Member's claim representative.
21. Submit all invoices and warrants to the BASIC Member's claim representative for payment authority and reimbursement.
22. Upon conclusion of the loss, endorse a sworn Proof of Loss.
23. Assist the BASIC Member's claim representative with any potential subrogation efforts.

Affiliated FM's (AFM) Responsibility

1. AFM accepts first reports from the BASIC Member.
2. AFM will issue payment to the BASIC Member as either instructed by the underwriters or within the AFM draft authority.
3. AFM will communicate to WFIS and the BASIC Member's claim representative as needed, no less than every 30 days.
4. AFM will have an adjuster on-site within 48 hours of notice for major losses, to meet with the BASIC Member's claim representative.
5. AFM will instruct the BASIC Member's claim representative with respect to assignment of outside vendor firms such as construction cost estimators, accountants and remediation firms.

Wells Fargo Insurance Services USA, Inc. (WFIS) Responsibility

1. WFIS monitors progress of loss adjustment with AFM and communicates issues/problems to the BASIC Member.
2. WFIS as needed, may act as an advocate for the BASIC Member, working with the Member in various areas including, but not limited to the following:
 - Coverage issues
 - Damage valuation
 - Loss negotiations
 - Attend meetings as needed
3. WFIS will work with underwriters regarding selection, assignment and implementation of various vendors as needed to handle, control and mitigate claims.

4. WFIS may interface between the BASIC Member's claim representative and the underwriters.
5. WFIS may communicate, negotiate and attempt to resolve losses with the BASIC Members and AFM.
6. WFIS will communicate any claims issues as needed on behalf of BASIC to underwriters and secure their agreement. Any disagreements from underwriters will be communicated by WFIS back to the BASIC's Member.

BASIC Member's Claim Representative's Responsibility

1. The BASIC Member's claim representative will report to WFIS and BASIC all losses expected to exceed 50% of the BASIC Member's SIR.
2. The BASIC Member's claim representative will report their findings directly to AFM. There is an expectation for the BASIC Member's claim representative to interface closely with AFM.
3. BASIC Member's claim representative will monitor work of vendors to ensure the claim proceeds smoothly.
4. BASIC Member's claim representative will have no authority to settle any loss on behalf of AFM. .
5. BASIC Member's claim representative will render no coverage opinions on behalf of AFM or its' underwriters.
6. BASIC Member's claim representative will report no less than every 30 days to AFM with claim status.
7. BASIC Member's claim representative will meet as needed with the AFM adjuster until the loss is concluded.
8. BASIC Member's claim representative will meet with AFM as needed to conclude the loss adjustment.

BASIC Member's Responsibility

1. The BASIC Member agrees to place AFM and WFIS on notice of new losses.
2. The BASIC Member agrees to cooperate with AFM in the adjustment of its loss.
3. The BASIC Member agrees to communicate any problems with the AFM adjuster to WFIS.

Annual Aggregate Claims

1. AFM and WFIS will work with pool to arrange appropriate handling of any annual aggregate claims that might apply.

ADDITIONAL CONTACT INFORMATION

Affiliated FM

Steven Totten
Senior Production Underwriter
Affiliated FM Insurance
Los Angeles Office
Office: (818) 227-2213
Fax: (818) 883-0759

Wells Fargo Insurance Services

Jim Wilkey
Wells Fargo Insurance Services
Office: (707) 773-1840
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Wells Fargo Insurance Services
Office: (707) 773-1837
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Debbie.Seidman@wellsfargo.com