

MUNICIPAL EXCESS LIABILITY JOINT INSURANCE FUND

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BULLETIN MEL 21-11

Date: January 1, 2021
To: Fund Commissioners of Member Joint Insurance Funds
From: Underwriting Manager, Conner Strong & Buckelew
Re: Employment Practices Liability (EPL) Risk Management Program

The bulletin does not apply to the Workers' Compensation only members of the NJPHA JIF and the members of the First Responders Joint Insurance Fund. This bulletin follows the memorandum distributed to member entities by the MEL Executive Director.

To date, ~90% of MEL members have adopted an employment practices risk control program and are eligible for lower deductibles. These programs must be updated every two years to remain eligible. PLEASE VISIT THE MEL WEBPAGE (NJMEL.ORG) FOR A COPY OF THE MODEL. Members must update their compliance program by June 1st.

PROGRAM INCENTIVES

Members with updated loss control programs receive the standard EPL deductible of \$20,000 per claim plus a 20% co-pay capped at \$50,000 and may be eligible to buy down deductibles and co-insurance caps. (See note below concerning members with poor EPL claims experience).

To qualify for the incentive, you must have had (or must have) your General Counsel or Employment Attorney complete the one-page form checking the minimum requirements for updating the plan. It is not necessary to attach any further documentation. Mail the completed form to MEL Fund Office, 9 Campus Drive, Suite 216, Parsippany, NJ 07054.

Members that did not qualify for the incentive must adopt the EPL loss control plan and submit to the MEL for review. Have your General Counsel or Employment Attorney complete the two-page form checking the minimum requirements for the plan. The following must be attached to this form: (1) the Personnel Policies and Procedures Manual, (2) the Resolution adopting this manual, and (3) the Employee Handbook. Mail the completed form and attachments to the MEL Fund Office, 9 Campus Drive, Suite 216, Parsippany, NJ 07054.

Members without updated loss control programs will have a deductible of \$100,000 per claim plus a 20% co-pay with no cap. (See note below concerning members with poor EPL claims experience).

PROGRAM INCENTIVES (cont'd)

Members with poor EPL claims experience: Members with adverse loss experience will have a deductible of \$75,000 if they have an updated loss control plan and \$150,000 if they do not. They will also have a 20% co-pay with no cap. In a few cases, the MEL Board of Fund Commissioners will establish higher deductibles for members on probation because of exceptionally poor experience.

Public Official's Training Credit: The MEL is continuing the public officials training throughout the state for elected public officials and authority commissioners. Sessions have already been given at the League Convention. The MEL will reduce each member's current year workers' compensation claims fund \$250 for each municipal elected official and authority commissioner who completes the course by May 1st of the current year. The credit is also extended to the member's municipal manager, administrator or authority executive director. The maximum credit is capped at 25% based on the amount of the member's total assessment.

REQUIRED ELEMENTS FOR INCENTIVES

1. **Employment Attorney/Advisor:** An Employment Attorney or an Employment Advisor usually provides advice concerning personnel matters. However, the local unit may designate its General Counsel if experienced in employment matters.
2. **Personnel Policies and Procedures Manual:** To facilitate this process, the MEL has developed a Model Personnel Policies and Procedure Manual that members are free to use at their discretion. Members can adopt the model, take sections from the model and place them in their existing personnel manual, or write their own policies that cover the subjects in the model.
3. **Conscientious Employee Protection Act Notice:** This notice (in both English and Spanish) must be posted on the bulletin board and distributed to all personnel. The notice required by the NJ Department of Labor is included in the Model Personnel Policies and Procedures Manual. (copy can also be found on the MEL webpage – njmel.org)
4. **Employee Handbook:** The handbook must be updated and distributed to all personnel. To facilitate this process, the MEL has developed a Model Employee handbook that members are free to use at their discretion. (which can be found on the MEL webpage – njmel.org)
5. **Model Local Unit Civil Rights Resolution (municipalities only):** Adopt the model resolution. (which can be found on the MEL webpage – njmel.org)

REQUIRED ELEMENTS FOR INCENTIVES (cont'd)

6. **Managerial and Supervisory Training:** Court decisions made personnel training for managerial and supervisory "mandatory". A signed acknowledgement that the manager or supervisor has completed training within the last 12 months must be placed in the personnel files. Training is also mandatory for the Municipal Judge, the heads of volunteer emergency service organizations such as Volunteer Fire Departments, EMS units, and the heads of organizations such as Library Boards and Planning Boards, etc., that are involved in personnel matters. The MEL has developed a training Model that is available as "instructor-led webinars". Please visit the MEL's webpage for the schedule of instructor led courses through the MEL Safety Institute. that the local JIFs will conduct over the next 6 months. Your JIF will contact you with the details. Or follow this link: <https://njmel.org/mel-safety-institute/live-webinars/>
7. **Police Chief, Captains and Lieutenants Training:** Because Police Departments are involved in a high percentage of employment related litigation, Police Chiefs and at least one other command officer must complete employment-practices training that takes into consideration the Attorney General's guidelines for police operations. A schedule of these seminars will be distributed by your JIF.
8. **Training for All Other Personnel:** Court decisions also require employers to offer anti-harassment and related personnel training to all employees. This can be accomplished by requiring your employees to complete this year's program "Building a Safe Workplace". Link to directions to take the course through the MEL Safety Institute <https://njmel.org/wp-content/uploads/2020/10/Building-a-Safe-Workspace-Flyer.pdf>
9. **MEL EPL Helpline:** The MEL has created a custom helpline starting 1/1/2019, which is available for free to its members. Link to Details of this new helpline <https://njmel.org/2019/03/new-mel-employment-practices-hotline/>

The MEL is committed to assisting members to update their personnel practices to the current standards. The MEL Office as well as the office of your local JIF is available to assist you in any way possible.

If you have any questions, please contact your Risk Management Consultant, JIF Executive Director or the Underwriting Manager.

The above description is a general discussion of the coverage and limits provided by the FUND. However, the actual terms and conditions are defined in the policy document and all issues shall be decided based on the policy document.

cc: Risk Management Consultants
Fund Professionals
Fund Executive Directors

EMPLOYMENT PRACTICES BEST PRACTICES CHECKLIST

Name of Municipality or Authority: _____

SECTION ONE:

- Adopt and distribute to managerial/supervisory employees the Personnel Policies and Procedures Manual:

Required Policies to be included in Manual:

1. Equal Employment Opportunity Policy
2. Americans with Disabilities Act Policy
3. Contagious or Life Threatening Illnesses Policy
4. Safety Policy
5. Alcohol and Drug-Free Workplace
6. Workplace Violence Policy
7. Policy Against Harassment
8. Whistle Blower Policy
9. Overtime
10. Confidentiality of Personnel Files
11. Political Activity Policy
12. Performance Evaluation Policy
13. Discipline and Termination Policy
14. Use of Employer Vehicles Policy (Non-Law Enforcement)
15. Computer Use, Electronic Mail, and Internet Policy
16. Family and Medical Leave Act Policy
17. New Jersey Family Leave
18. Military Leave Policy
19. Domestic Violence Abuse Leave Policy
20. Employment Reference
21. Protection and Safe Treatment of Minors

SECTION TWO:

- Distribute a notice concerning the Conscientious Employee Protection Act to all personnel
- Adopt and distribute the Employee Handbook:
- Adopt the model civil rights resolution (municipalities only).
- Train managerial and supervisory personnel:
- Have Police Chief, Deputy Chief, Public Safety Director, Captains & Lieutenants complete the special EPL training course (municipalities only)
- Offer Anti-Harassment training to all other personnel:
- Review NJ MEL Helpline for Employment Practices.

I, _____, the (check __ General Counsel or __ Employment Attorney) of (member name) _____ hereby certify that the member has verified to me that the above actions have been completed and that I have read the Personnel Policies and Procedures Manual and the Employee Handbook.

Signature: _____

Date: _____ Telephone: _____

To qualify for the Employment Practices Liability standard policy deductible, this checklist should be returned to the MEL Fund Office (9 Campus Drive, Suite 216, Parsippany, NJ 07054 or scantwell@permainc.com) as soon as possible. Members submitting this form by June 1, 2021 will qualify or continue to qualify for the deductible. Members submitting this form after the deadline will become eligible for the deductible incentive upon approval of the application, but not retroactively.



Building a Safe Workplace: Anti-Harassment and Discrimination

This online course discusses the right of each employee to a workplace free of harassment and each employee's duty to respect the rights of all other employees.

Click here to access this online training - [MEL Safety Institute Learning Management System](#)

- 1. If you have previously taken MSI classes, enter your username and password. If you do not know your username/password, check with your Training Administrator or call the MSI Helpline. If you are new, click 'New User Registration.' Complete the fields and you will receive an email with your username and password.**
- 2. Click on the 'MSI NOW and Online Training' college, at the bottom right.**
- 3. Click the 'Building a Safe Workplace: Anti-Harassment and Discrimination' course.**
- 4. Click 'Enroll'.**
- 5. Click the 'My Training' tab on the top blue tool bar.**
- 6. Click the program name to launch the course.**
- 7. Upon completion of the course and questions you will navigate to the 'Student Center' tab to print your Certificate of Completion. Learning transcripts are automatically updated in the MEL Safety Institute's Learning Management System.**

Questions? Contact the MSI Help Line (866) 661-5120

The MEL Safety Institute can also be accessed anytime by going to www.njmel.org.

If you need additional assistance, please call the MSI help line at (866) 661-5120 during business hours.