

ASSOCIATION OF TEXAS PROFESSIONAL EDUCATORS  
EDUCATORS PROFESSIONAL LIABILITY INSURANCE  
Underwritten By **National Union Fire Insurance Company of Pittsburgh, Pa.\***

This insurance is only available to eligible members of the Association of Texas Professional Educators (ATPE) through a Purchasing Group. All coverage provided under the terms of the Educators Professional Liability Insurance Policy in the event of a loss or occurrence is subject to the express terms of the Master insurance policy issued to ATPE by National Union Fire Insurance Company of Pittsburgh, Pa. (NUFIC) and kept on file with ATPE, including all terms, conditions, exclusions and endorsements. The following is a summary provided by ATPE of the policy issued to ATPE.\*\* The endorsements and/or provisions that form a part of the policy but which are not reproduced herein include: Rate and Premium, Policy Holder Notice 91222(12/09), ATPEDIV(2/99), Notice 53365, Choice of Counsel.

**DECLARATIONS**

**POLICY NUMBER: 32456606**

**ITEM 1. NAMED INSURED: ASSOCIATION OF TEXAS PROFESSIONAL EDUCATORS**

**MAILING ADDRESS: 305 E. HUNTLAND DRIVE SUITE 300  
AUSTIN, TX 78752-3792**

**ITEM 2. POLICY PERIOD: From: August 1, 2015(12:01 A.M. standard time at the address stated in Item 1. above) To: August 1, 2016  
(12:01 A.M. standard time at the address stated in Item 1. above).**

**ITEM 3. LIMITS OF LIABILITY:**

**Coverage A**      \$ 8,000,000    per Insured per occurrence subject to  
                         \$ 2,000,000    per Insured per occurrence for civil rights claims  
                         \$ 8,000,000    aggregate per Insured

**Coverage B**      \$ 10,000    per claim per Insured under B(1)(a)  
                         \$ 20,000    aggregate per Insured under B(1)(a)  
                         \$ 10,000    per claim and aggregate per Insured under B(1)(b)  
                         \$ 5,000    per claim per Insured under B(1)(c)  
                         \$ 10,000    aggregate per Insured under B(1)(c)  
                         \$ 15,000    per claim and aggregate per Insured under B(2)  
                         \$ 200,000    aggregate for any class action suit subject to the limit  
                         per claim and aggregate limit per Insured under B(1a)

**Coverage C**      \$ 5,000    per Bail Bond per Insured.

**Coverage D**      \$ 2,500    per claim per Insured.

**Coverage E**      \$ 2,500    per claim per Insured subject to:  
                         \$ 2,500    aggregate per Insured

The Company agrees with the Insured, named in the Declarations made a part hereof, in consideration of payment of the premium and subject to the limits of liability, exclusions, conditions and other terms of this policy;

## **INSURING AGREEMENTS**

### **Coverage A - Liability Coverage**

To pay on behalf of the Insured all sums, in excess of any other valid and collectible insurance, including but not limited to, the Insured's employers general liability or errors and omissions coverage, which the Insured shall become obligated to pay by reason of liability imposed by law for damages resulting from any claim made against the Insured arising out of an occurrence in the course of the activities of an Insured in his/her professional capacity [as set out in definition (b)] and caused by any acts or omissions of the Insured or any other person for whose acts the Insured is legally liable, and the Company shall defend any suit seeking damages on account thereof which are payable under the terms of this 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.

In the event no other valid and collectible insurance exists this policy shall pay on behalf of the Insured all sums which the Insured shall become obligated to pay by reason of liability imposed by law for damages resulting from any claim made against the Insured arising out of an occurrence in the course of the activities of an Insured in his/her professional capacity [as set out in definition (b)] and caused by any acts or omissions of the Insured or any other person for whose acts the Insured is legally liable, and the Company shall defend any suit seeking damages on account thereof which are payable under the terms of this 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.

### **Coverage B - Reimbursement of Attorney Fees**

- (1) To reimburse an Insured on account of such attorney fees for services as are reasonable and necessary which the Insured is legally obligated to pay to an attorney approved by the Company to whom the Insured has been referred by the Named Insured for the defense of any action brought against such Insured arising out of the following activities, but without obligation to furnish such attorney:
  - (a) Incurred in the defense of any action or proceeding involving such Insured's salary, dismissal, contract nonrenewal, change of assignment, tenure, leave of absence, resignation or other professional rights, duties and responsibilities, allegations of intentional or negligent sexual conduct and arising within the scope of employment; involving the issuance, suspension, cancellation or revocation of such Insured's credential, life diploma or certification document issued by the State Board of Education, State Board of Educator Certification or Commission on Credentials; based upon an alleged violation of such Insured's civil rights guaranteed by the Constitution or civil rights statutes of the United States or any state arising out of activities of an Insured in his/her professional capacity and not otherwise covered; as a result of an Insured's service on an appraisal and/or a career ladder select committee.

- (b) Incurred in the appeal of a decision by the governing board of a school district or the commissioner of education resulting from defense of an action or proceeding under Coverage B (1)(a), provided, however, final judgment is rendered in favor of the Insured.
  - (c) in addition to any amount reimbursed pursuant to Coverage B(1)(a), incurred in the defense of any action or proceeding involving dismissal, contract renewal, or suspension, cancellation or revocation of any credential, life diploma or certification document issued by the State Board of Education, State Board of Educator Certification or Commission on Credentials, provided that the final outcome in such action or proceeding is in favor of the Insured.
- (2) To reimburse an Insured on account of such attorney fees for services as are reasonable and necessary which the Insured is legally obligated to pay to an attorney for the defense of any criminal action or proceeding brought against such Insured, but without obligation to furnish such attorney, arising out of the Insured's activities in his/her professional capacity on the property of an educational institution while performing duties of employment or during an event to which the Insured is assigned by the educational institution. The reimbursement of attorney fees shall be according to the following schedule and subject to the limit of liability stated under Coverage B(2) of the Declarations:
1. Up to \$10,000 (including an initial amount of up to \$5,000 for a retainer), regardless of the final outcome of such criminal action or proceeding; and
  2. Up to an additional \$5,000, but only if the Insured is found not guilty or otherwise acquitted of all charges in such criminal action or proceeding, or if all criminal charges in such criminal action or proceeding are withdrawn or dismissed with prejudice. Deferred adjudication, a plea of no lo contendere, or a plea to or conviction on lesser charges in such criminal action or proceeding shall not constitute a not-guilty finding, acquittal, withdrawal or dismissal.

#### **Coverage C - Bail Bonds**

To pay the premium for Bail Bond required of the Insured arising out of activities of the Insured in his/her professional capacity, as hereinafter defined, not to exceed \$5,000 per bail bond, but without obligation to apply for or furnish such bond. For purposes of this coverage, a series of continuous or similar actions by the Insured shall constitute a single claim regardless of the number of indictments.

#### **Coverage D - Assault-related Personal Property Damage**

To pay an Insured up to \$2,500 for damage to or destruction of the Insured's personal property which is caused by an assault upon the Insured arising out of an occurrence in the course of an Insured's authorized course of activities in his/her professional capacity to the extent that such damages exceed the coverage provided by any Homeowners, Personal Property Floaters or other similar valid and collectible insurance. This coverage does not apply to damage or destruction of a vehicle of any kind, or to damage to or destruction of leased or loaned property.

## Coverage E - Personal Identity Theft Coverage

To reimburse the Insured up to \$2,500, for reasonable and necessary attorney fees which the Insured is legally obligated to pay to an attorney, as a result of a Stolen Identity Event occurring during the policy period but without obligation to furnish such attorney, to the extent that such fees exceed the coverage provided by any other benefit, program or policy available to the Insured.

### SUPPLEMENTARY PAYMENTS

The Company will pay, in addition to the applicable limit of liability for Coverage A:

- a. all expenses incurred by the Company, all costs taxed against the Insured in any suit defended by the Company and all interest on the entire amount of any judgment therein which accrues after entry of the judgment and before the Company has paid or tendered or deposited in court that part of the judgment which does not exceed the limit of the Company's liability thereon;
- b. premiums on appeal bonds required in any such suit, premiums on bonds to release attachments in any such suit for an amount not in excess of the applicable limit of liability of this policy, but the Company shall have no obligation to apply for or furnish any such bonds;
- c. expenses incurred by the Insured for first aid to others at the time of an accident for bodily injury to which this policy applies;
- d. reasonable expenses incurred by the Insured at the Company's request in assisting the Company in the investigation or defense of any such claim or suit, including actual loss of earnings not to exceed \$50.00 per day.

### DEFINITIONS

- a. The word "Insured" wherever used shall mean a person who is a professional, associate, teacher trainee or life member of the Named Insured. If the policy is a renewal, the word "Insured" includes members covered under the expired policy who reapply within sixty days of the inception of this policy.
- b. The phrase "activities of an Insured in his/her professional capacity" wherever used shall mean activities of an Insured in the course of his/her duties of employment with an "educational institution" or activities of an Insured in the course of his/her duties as a student in a teacher education program in an accredited college or university. With respect to Coverage A, "activities of an Insured in his/her professional capacity" shall not include services rendered in the practice of law, construction, accountancy, financial or other similar professionally licensed services.
- c. The term "occurrence" only applies to Coverage A. It means an event, which results in 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 a Claimant or Claimants allege to have sustained damages caused by repeated exposure to the same conditions caused by the Insured during different policy terms, then the exposure shall be deemed to have occurred as of the most recent exposure to said conditions, and shall be

covered only by the last of all policies issued by the Company to the Insured and not by more than one policy issued by the Company.

- d. The term “membership date” means the date on which a person becomes a professional, associate or teacher trainee member of the Named Insured.
- e. The term “membership year”, for purposes of use in this policy, means the period for obtaining membership in the Named Insured, beginning August 1st and ending on August 1st, twelve months following.
- f. The term “educational institution” means a public school district, institution of higher education, Regional Education Service Center, or the Central Education Agency.
- g. The term “attorney fees” means costs incurred by an attorney approved by the Company in accordance with policy terms and the claims reporting procedures as set forth by the Named Insured.
- h. The term “civil rights claims” where used shall mean any claim against an Insured alleging a violation of any person’s civil rights, as protected by: the Constitution of the United States or of any state; The Civil Rights Acts of 1866 and 1964, as amended; the Americans with Disabilities Act; and any state or federal statute, regulation or executive order.
- i. The term “Stolen Identity Event” means the theft of non-public information about the Insured (including, without limitation, the Insured’s social security number) which has resulted or could result in the wrongful use of such information.
- j. The term “criminal action or proceeding” means any: (1) criminal proceeding against an Insured which is commenced by the return of an indictment or receipt or filing of a notice of charges in a court of law and alleges one or more violations of any federal or Texas criminal laws; or (2) investigation by a law enforcement agency or other authorized governmental entity, including an educational institution, of one or more alleged violations by an Insured of any federal or Texas criminal laws.

#### **EFFECTIVE DATES OF INSURANCE**

The effective date as respects an “Insured” is the “membership date” in the “membership year” except as follows:

1. If this policy is a renewal, the word “Insured” includes members covered under the expired policy who reapply within sixty (60) days of inception of this policy, and coverage for such members is effective on the inception date of this policy.
2. As respects new and renewal members who join after the annual enrollment period (August 1 to September 30) and who were otherwise eligible for membership during the enrollment period, the effective date of coverage under Coverage B, C, D and E of this policy shall be thirty (30) days after the “membership date”, and coverage is not provided for actions resulting from activities of an Insured which begin prior to the effective date of coverage.

#### **POLICY PERIOD**

1. As respects Coverage A, this policy applies only to occurrences (as defined) during the policy period.
2. As respects Coverage B, C and D, this policy applies only to actions resulting from activities of an Insured (as defined) which begin during the policy period.
3. As respects Coverage C, this policy applies only to any bail bond required as a result of an event or series of events which happen or are alleged to have happened during the policy period.
4. As respects coverage E, this policy applies only to Stolen Identity Events occurring during the policy period.

This policy period shall begin August 1, 2015 and end August 1, 2016 (12:01 A.M. standard time at the address stated in Item 1., of the declarations)

#### **POLICY TERRITORY**

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 and possessions or Canada, provided the original suit for damages because of any such injury or damage is brought within the United States of America, its territories or possessions or Canada. Anywhere in the world with respect to a Stolen Identity Event, but only attorney fees incurred in the United States of America.

Payment of loss under this policy shall only be made in full compliance with all United States of America economic or trade sanction laws or regulations, including, but not limited to, sanctions, laws and regulations administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC").

#### **EXCLUSIONS**

This policy does not apply:

- a. To activities of an Insured that are not activities of an Insured in his/her professional capacity, as defined above.
- b. To activities of an Insured that are carried on in a private business, private professional endeavor or private school, other than an Institution of higher education, except this exclusion does not apply to activities of a teacher trainee doing practice teaching in a private school.
- c. To the ownership, maintenance, operation, use, loading or unloading of (a) vehicles of any kind, other than farm tractors not operated on public highways, (b) watercraft, (c) aircraft, except, however, coverage would apply to: (1) a driver training instructor while riding as a passenger in the course of duties as an employee of a school system and (2) a vocational education instructor in the course of regular instruction carried on in a shop provided by the school and (3) an Insured while supervising students entering or exiting a school bus. The coverage afforded herein does not apply when the Insured has any other Insurance of any kind, whatsoever which affords coverage as to such liability.

- d. To liability assumed by the Insured under any contract or agreement.
- e. To injury, sickness, disease, death or destruction due to war, whether or not declared, civil war, insurrection, rebellion, or revolution, or to any act or condition incidental to any of the foregoing.
- f. To any obligation for which the Insured or any carrier may be held liable under worker's compensation, unemployment compensation, disability benefits or similar laws.
- g. To the rendering, teaching or supervising of medical, surgical, dental, nursing, or other similar services of the omission thereof; 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, or licensed athletic trainer, 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 advance written authorization for such administration from the parent or guardian of the student;
  - 5. Emergency first-aid services rendered by the Insured when a school nurse or other medically-trained person is not readily available; or
  - 6. Psychological therapy or treatment rendered by a licensed practitioner employed for the purpose of rendering such services.
- h. Under Coverage A. to criminal acts other than corporal punishment.
- i. Under Coverage A. to the defense of any civil suit for criminal acts other than corporal punishment.
- j. To liability in respect of claims brought by any employee or former employee of any educational institution against an Insured, as defined by the policy, except to the reimbursement of attorney's fees as provided under Coverage B.

The following three exceptions apply to this exclusion:

- 1. This exclusion shall not apply to any claim made or suit brought against an Insured by or on behalf of another employee of an institution of higher education if the claim or suit arises out of an occurrence in the course of activities of the Insured in his/her professional capacity as a participant in the peer review system of an Institution of higher education; however, this exclusion shall apply to an assault upon an Insured by another employee of an Institution of higher education if the assault arose out of an occurrence in the Insured's aforementioned peer review activity.

2. This exclusion shall not apply to any claim made or suit brought against an Insured by or on behalf of another employee of an educational Institution if the claim or suit arises out of an occurrence in the course of activities of the Insured in his/her professional capacity as a member of a board of commission, established by the Insured's state government, which has as its purposes the licensure or certification of educators, or the setting of standards for the licensure or certification of educators.
  3. This exclusion shall not apply to any claim made or suit brought against an Insured by or on behalf of a minor or incompetent child of an employee of an educational Institution, if the claim or suit arises out of an occurrence in the course of activities of the Insured in his/her professional capacity.
- k. To punitive damages in excess of \$5,000.
  - l. Except as provided under Coverage B, this policy does not provide coverage to claims arising out of occurrences in which the Insured intentionally causes damage of any nature to another person or entity, except for claims arising from corporal punishment of any student or pupil administered by, or at the direction of, the Insured in his/her professional capacity.
  - m. To the defense of any action of declaratory judgments, injunctive relief, or other similar proceeding, except as provided in Coverage B, unless the relief prayed for therein also seeks damages which are covered under Coverage A.
  - n. To activities of any Insured while acting as a member of any school board or similarly constituted body.
  - o. Except as provided under Coverage B, this policy does not provide a defense or coverage to damages resulting from any claim for actual sexual action or conduct or harassment.
  - p. To any claims, accusations or charges brought against any 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) Acquired Immune Deficiency Syndrome (AIDS), no matter how transmitted, except to reimbursement of attorney's fees as provided under Coverage B.
  - q. Under Coverage B, to any claim involving health, disability, unemployment or retirement benefits including such benefits payable, under any Workers Compensation law whether payable by an insurance company, trust, self insurance benefit plan of any school district, any similar carrier or provider or device arranged to handle such benefits, or to any action involving the payment or refund of premium(s) for such benefits. Neither the term "salary" nor the phrase "other professional rights, duties and responsibilities" under Coverage B(1)(a) shall be inclusive of such benefits. This exclusion shall not apply to claims involving the continuation of the insured's group health coverage solely as provided in Texas Education Code §22.004, subsections (k) and (l).
  - r. To bodily injury, property damages, personal injury or advertising injury arising out of the removal, transport, storage, installation or use of asbestos for any purpose whatsoever. This includes any loss, cost or expenses related to asbestos.



- s. With respect to Coverage E, to any dishonest, criminal, malicious or fraudulent acts if the Insured personally participated in, directed, or had knowledge of such acts.
- t. Under Coverage A, to any claim, defense or activity whatsoever involving a firearm, explosive weapon or device, stun gun or other device.
- u. To misuse, embezzlement, misappropriation, or breach of fiduciary duty, in the handling or managing of public and/or private monies, investments, securities or other funds held in a trust capacity, except as provided under Coverage B.
- v. Under Coverage A, to employment practices liability, including without limitation, wrongful dismissal, discrimination, harassment, retaliation or any activity of an Insured in connection with an educational institution's employment, discharge or termination of any individual.
- w. Under Coverage A, to any claim against an Insured whose position requires administrator certification, or who is acting in a supervisory capacity, where such claim arises out of the Insured's supervision or employment of any individual, the conduct of the Insured's subordinate, or any alleged failure to report, prevent, address or remediate such subordinate's conduct.
- x. Under Coverage B, to any action against an Insured arising out of the Insured's actual or alleged activities in a supervisory capacity, or relating to the Insured's role in the creation or interpretation of any employment policy or procedure.

## **CONDITIONS**

### **1. Limits of Liability**

The limits of liability stated in the Declarations are the limits of the Company's liability for all damages, including damages for care and loss of services, arising out of one occurrence.

### **2. Notice of Occurrence**

When an occurrence takes place written notice shall be given by or on behalf of the Insured to the Company or any of its authorized agents as soon as practicable. Such notice shall contain particulars sufficient to identify the Insured and also reasonably obtainable information respecting the time, place and circumstances of the occurrence, the names and addresses of the injured and of available witnesses.

### **3. Notice of Claim or Suit**

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 him or his representative.

### **4. Notice of Stolen Identity Event**

When a Stolen Identity Event occurs, a report shall be filed by the Insured or on the Insured's behalf with the appropriate police authority. Any claim for attorney fee reimbursement shall contain particulars sufficient to identify the Insured and also reasonably obtainable information respecting the time, place and circumstances of the Stolen Identity Event.

#### **5. Assistance and Cooperation of the Insured**

The Insured shall cooperate with the Company, and upon the Company's request, shall attend hearings and trials and shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits. The Insured shall not, except at his/her own cost, voluntarily make any payment, assume any obligation or incur any expenses other than for such immediate medical and surgical relief to others as shall be imperative at the time of the occurrence.

#### **6. Action Against Company**

No action shall lie against the Company, unless as a condition precedent thereto, 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 accrued 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 co-defendant in any action against the Insured to determine the Insured's liability. Bankruptcy or insolvency of the Insured or of the Insured's estate shall not relieve the Company of any of its obligations hereunder.

#### **7. Other Insurance**

If other insurance, excluding policies issued by the Company, is available to the Insured covering a loss also covered by this policy, then this policy shall apply in excess of, and shall not contribute with, such other insurance.

If any other policy issued by the Company also applies to a loss which would be covered by this policy then this policy will pay its share of the loss based on the percentage this policy's limit of liability bears to the total limits of liability of all insurance available to pay the loss.

Other Insurance includes but is not limited to:

- (a) Insurance, coverage or benefits provided by school boards, school districts or any similar entity including, without limitation, the Texas Association of School Boards (TASB);
- (b) Insurance, coverage or benefits provided by the National Education Association or any other national or local professional association or similar organization;
- (c) Insurance, coverage or benefits provided by self-insurance, trusts, pools, risk retention groups, captive insurance companies, or any other insurance plan or agreement of risk assumption; and

(d) Insurance , coverage or benefits provided by an Insured's homeowner's, renter's or personal umbrella policy.

## **8. Subrogation**

In the event of any payment under this policy, the Company shall be subrogated to all the Insured's right 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.

## **9. 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.

## **10. Cancellation**

This policy may be canceled by the Named Insured for any reason by surrender thereof 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 only for non-payment of premium by mailing to the Named Insured at the address shown on the policy, written notice stating when not less than forty-five days thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender of 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 Named Insured or by the Company shall be equivalent to mailing.

If the Named Insured or the Company cancels the policy, earned premium shall be computed on a pro rata basis. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective. Any other premium adjustment or return premium as would apply had cancellation not been affected shall be computed substituting the date of cancellation for the expiration date of this policy.

## **11. Terms of Policy Conformed to Statute**

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.

\* NUFIC is located at 175 Water Street, New York, New York 10038-0150

\*\* The description of coverage herein is a summary only. It does not include all provisions of the policy issued to ATPE by NUFIC. Please refer to the master policy kept on file with ATPE for complete details of coverage.