Certificate of Insurance

Great Public Schools for Every Student

2016-2017

MARYLAND STATE EDUCATION ASSOCIATION
NATIONAL EDUCATION ASSOCIATION
EDUCATORS EMPLOYMENT LIABILITY INSURANCE

Insured by: Nautilus Insurance Company

Policy Number: NEA_MD00001_P-5

Participating Unit: Maryland State Education Association

Address: 140 Main Street
Annapolis, MD 21401

Insured: All Unified Members and All Student Members

Additional Insureds:
Agency Feepayers ☐ Yes ☒ No ☐ Not applicable
Refer to Part II(H)(3), Defined Terms

Policy Period: This policy applies to **occurrences** which take place during the twelve month period starting at 12:01 AM 9/1/2016 and expiring at 12:01 AM 9/1/2017.

COVERAGES AND LIMITS OF LIABILITY:

Coverage A - Educators Liability

$1,000,000 per member per **occurrence** not to include any civil right issues or civil rights **claims**

$300,000 per member per **occurrence** for civil rights issues or civil rights **claims** and not to include any other **claims**

$3,000,000 per **occurrence** aggregate for all **claims**, including civil rights and civil rights **claims**

Coverage A - Legal Defense Cost Limits

$3,000,000 per member per **occurrence** not to include any civil right issues or civil rights **claims**

$9,000,000 per **occurrence** aggregate for all **claims** not to include any civil right issues or civil rights **claims**

Coverage B - Reimbursement of Attorney Fees for Defense of a Criminal Proceeding

$35,000 per **criminal proceeding**

Coverage C - Bail Bond

$1,000 per bond

Coverage D - Assault-Related Personal Property Damage

$500 per **assault**

CLAIMS PROCEDURE

The following **occurrences** should be reported immediately to Kristy Anderson, General Counsel, Maryland State Education Association, 140 Main Street, Annapolis, MD 21401:

1. any incident involving the death or injury requiring medical attention to a student arising out of a school activity;
2. the receipt by the **Insured** of a notice of **claim**, lien letter from an attorney, or service of summons or law suit; or
3. any situation the **Insured** believes to be covered by the policy.

Do not contact an attorney to represent you before contacting Kristy Anderson at the Maryland State Education Association at 443-433-3665. When making contact the **Insured** should be prepared to present a brief description of the **occurrence** and a copy of any legal documents.

NEA EDUCATORS EMPLOYMENT LIABILITY POLICY

Each **Insured** should read the whole policy. Each policy part contains important information.

I. INSURING AGREEMENTS

We agree to provide the **Insured**, as defined in Part II (H) below, with the coverages shown on the declarations page in return for the payment of the premium, and subject to the limits of liability, exclusions, conditions, and all other terms of this policy.

II. DEFINITIONS

A. ASSAULT. A physical attack on an **Insured** or an **assault** and/or battery as defined by the relevant criminal law. Proof of an **assault** and/or battery shall be a report of same to the appropriate civil police entity as soon as practicable.

B. CLAIM. The institution of a civil legal action against the **Insured** or the demand for money or services based on one or more **occurrences**. **Claim** does not include the institution of a criminal action.

C. CORPORAL PUNISHMENT. The infliction by an **Insured** of physical pain upon a student as a disciplinary measure for actual or alleged misbehavior.

D. CRIMINAL PROCEEDING. The prosecution of any **Insured** commenced by (1) the filing, with a court, of an information, a complaint, or an indictment, and any amendments thereto, alleging that the **Insured** had, during the policy period, committed one or more crimes involving one or more incidents, acts, or events, or (2) an investigation by a law enforcement agency that could give rise to such a filing. "Law enforcement agency" does not include a social welfare, child protection, or similar agency. Any **criminal proceeding** shall be considered a single **criminal proceeding**, notwithstanding the fact that the prosecution or investigation may involve multiple incidents, multiple counts or charges, and/or multiple trial and/or appellate proceedings. A subsequent or different prosecution or investigation based on the same incidents, acts, or events that provided the basis for the original prosecution or investigation shall not constitute a separate **criminal proceeding**.

E. EDUCATIONAL EMPLOYMENT ACTIVITIES. The activities of the **Insured** performed:

1. pursuant to the express or implied terms of his or her employment by an **educational unit**;
2. at the express request or with the express approval of his or her supervisor, provided that, at the time of such request or approval, the supervisor was performing what would appear to be his or her **educational employment activities** within the meaning of Part II(E)(1); or
3. as a member of a state board or commission which has as its primary purpose the licensure or certification of educators, or the setting of standards for such licensure or certification.

"Educational Employment Activities" does not include the activities of the **Insured** performed:

1. as part of the collective bargaining process; or
2. while acting in the capacity, whether paid or unpaid, of a board member, a trustee, a director, a governor, or in a similar capacity, in a governing body of NEA or an NEA affiliate, or an **educational unit**.

F. EDUCATIONAL UNIT. This includes, but is not limited to, a school district; a college or university; a state department of education; an Overseas Dependent School operated by the Department of Defense; any other institution which has as its primary purpose the instruction of students; a division, department, or other administrative unit of a governmental entity which

does not have as its primary purpose the instruction of students, if the primary purpose of the administrative unit is the instruction of students; or a state board or commission which has as its primary purpose the licensure or certification of educators or the setting of standards for such licensure or certification.

G. **EMPLOYEE.** Any natural person who shall receive salary or wages in exchange for performing **educational employment activities** on behalf of a school board, board of trustees, or similar governing body of an **educational unit**. There are four additional situations in which a natural person will be considered an **employee**:

1. when an **employee**, as previously defined, is working in teaching or related activities in an **educational unit** other than the one from which he or she receives wages or salary, and is doing so as required by an in-service training program, a continuing education requirement, or an advanced or specialized degree program;
2. when a natural person who is a college student is working in teaching or related activities in an **educational unit** as required by his or her educational program and the **educational unit** in question;
3. when a natural person is performing **educational employment activities** in and for or on behalf of an **educational unit**, but receives wages or salary in exchange for such activities from and is employed by an entity other than said **educational unit**; or
4. when a natural person otherwise qualifying as an **employee** under the terms of this policy is serving, with or without compensation, as a member of a state board or commission which has as its primary purpose the licensure or certification of educators, or the setting of standards for such licensure or certification.

H. **INSURED.** A natural person who, at the time of an **occurrence** or at the time of the alleged incidents, acts, or events which give rise to a **claim** or **criminal proceeding**, was:

1. a member of the **unit** named in the declarations page and the National Education Association ("NEA"), and an **employee** of a school board, board of trustees, or other similar governing body of an **educational unit**;
2. a Life, Student, Retired or Substitute member of NEA, but not a member of the **unit** named in the declarations page, and an **employee** of a school board, board of trustees, or other similar governing body of an **educational unit**;
3. an **employee** of a school board, board of trustees, or other similar governing body of an **educational unit**, not a member of the **unit** named in the declarations page or NEA, but paying a fee to said **unit** and NEA pursuant to an agency shop or other union security arrangement, provided that a decision has been made, as evidenced by a checkmark in the appropriate box on the declarations page, to include such feepayers under the coverage of this policy; or
4. a member of a category listed under "Additional Insureds" in the declarations page, and an **employee** of a school board, board of trustees, or other similar governing body of an **educational unit.**

I. **LOSS.** Monetary amounts payable by the **Insured** in settlement of **claims** or in satisfaction of awards or judgments, including prejudgment interest, except that **loss** shall never include more than $5,000 in punitive damages awarded to any party.

J. **OCCURRENCE.** Acts, errors, or omissions of the **Insured** or someone for whose acts the **Insured** is legally liable which result in damages to someone other than the **Insured**. An **occurrence** can involve a single **sudden** act, error, or omission or continuous or repeated acts, errors, or omissions related to or

arising out of one cause or event. Continuous or repeated acts, errors, or omissions shall constitute a single **occurrence** and shall be deemed to have occurred as of the most recent act, error, or omission.

K. PEER REVIEW SYSTEM. A system in which an **employee**, who is not primarily employed to perform managerial or supervisory activities, evaluates or participates in the evaluation of the job performance of another **employee**.

L. SUDDEN AND ACCIDENTAL. **"Sudden"** means abrupt, quick, and without warning. **"Accidental"** means fortuitous and unintentional.

M. UNIT. The association named in the declarations page.

N. VEHICLE.

1. Any motor driven device designed for transport on or off public roads, including but not limited to autos, buses, motorcycles, motor bicycles, dune buggies, snowmobiles, and golf carts;
2. any trailer or other device being towed by or carried on a **vehicle**; and
3. any device which travels on fixed rails or crawler treads.

Wheelchairs are not considered **vehicles.**

O. WE, US, or OUR. The company issuing this policy.

III. COVERAGES

Subject to the exclusions, conditions, limits of liability, and other terms of this policy:

A. COVERAGE A - EDUCATORS LIABILITY.

We agree to pay on behalf of the **Insured** any and all **loss**, subject to the limit of liability, as set out in the declarations page for Coverage A. Such **loss** must be sustained by the **Insured** by reason of liability imposed by law for damage caused by an **occurrence** in the course of the **Insured's educational employment activities.**

Supplementary Coverage. With respect to **claims** under Coverage A and in addition to the coverage indicated above, **we** shall:

1. Investigate, defend, negotiate, and settle any **claim** even if such **claim** is groundless or fraudulent. **We** shall not be obligated to investigate, defend, or conduct settlement negotiations on any **claim** reported to **us** after the limit of liability with respect to the member against whom the **claim** is made and/or the limit of liability with respect to the **occurrence** has [have] been exhausted by payment of **loss**. The **Insured** may retain, at the **Insured's** expense, counsel of its choosing to assist **us** when a **claim** seeks damages which exceed the limit of liability stated in the declarations for this coverage. With regard to **claims** brought other than in the United States, its territories or possessions, or Canada, **we** may choose to reimburse but not defend the **Insured** for the reasonable costs actually incurred in any such defense, upon notice to the **Insured** of such decision.
2. Pay all premiums on bonds to release attachments for an amount not in excess of the applicable limit of liability of this policy and on appeal bonds. **We** shall have no duty to apply for or furnish any such bonds.
3. Pay all expenses incurred in **our** defense of any **claim**, all costs taxed against the **Insured**, and all interest on that part of the judgment therein which does not exceed the applicable limit of liability which accrues after entry of the judgment and before **we** have paid, tendered, or given to the court that part of the judgment which does not exceed the limit of liability.
4. Pay all expenses incurred by the **Insured** for such immediate medical and surgical relief to others as shall be imperative at the time of the **occurrence**.

5. Pay all reasonable expenses, other than loss of earnings, incurred at **our** request.

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, shall be subject to the coverage provided under this Coverage A, except:

1. the limit of liability applicable to these **claims** shall be limited to the amount shown in the declarations page for civil rights issues; and
2. any amount paid by **us** for any Supplementary Coverage (as those are specified in the second paragraph of this Coverage A) will be included in and not in addition to the applicable limit of liability as shown in the declarations page for civil rights issues.

Amounts paid by us for legal defense cost shall be subject to the legal defense costs limits shown under Coverage A in the DECLARATIONS.

B. COVERAGE B – REIMBURSEMENT OF ATTORNEY FEES FOR DEFENSE OF A CRIMINAL PROCEEDING.

We will reimburse the **Insured** for (1) reasonable attorney fees (including fees for the services of paralegals, law clerks, and/or investigators working under the direction of said attorney), and (2) reasonable and necessary costs, excluding loss of income, when incurred in the defense of any **criminal proceeding** arising out of what otherwise would be within the course and scope of the **Insured's educational employment activities.**

Reimbursement shall be made only if the **Insured** is exonerated by a court of law from all charges, or all charges are subsequently withdrawn or dismissed, or an investigation by a law enforcement agency is concluded without the filing of charges against the **Insured**. However, if the **criminal proceeding** is the result of the use of **corporal punishment**, said reimbursement will be made regardless of the outcome.

When the **Insured** is one of two or more defendants represented by the same attorney or law firm, payments shall be limited to the **Insured's** proportionate share of the total of the reasonable attorney fees and the reasonable and necessary costs paid.

Our liability per **Insured**, for each **criminal proceeding**, shall not exceed the limit of the liability shown on the declarations page for Coverage B. The limit of liability shall apply to the total amount of the reasonable attorney fees and the reasonable and necessary costs incurred by the **Insured** in the defense of a **criminal proceeding**.

C. COVERAGE C - BAIL BOND.

We will reimburse the **Insured** for the premium paid for a bail bond required of the **Insured** for each bond arising out of the **Insured's educational employment activities**, but without any obligation to apply for or furnish such bond, not to exceed the limit set forth in the declarations page for this coverage. For purposes of this coverage, a series of continuous actions by the **Insured** shall constitute a single event.

D. COVERAGE D - ASSAULT-RELATED PERSONAL PROPERTY DAMAGE.

We will pay up to $500 for damage to or destruction of the **Insured's** personal property, or other people's personal property when being used by the **Insured**, or in the **Insured's** care, custody or control, which is caused by an **assault** upon the **Insured** on or on surrounding school property or while away from school property on an authorized school activity 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 destruc-

tion of a **vehicle** of any kind, or to damage to or destruction of property leased to, owned, or rented by an **educational unit**.

IV. LIMITS OF LIABILITY

Under Coverage A:

A. The limit of liability shown in the declarations page as applicable to "per member, per **occurrence**" is the most that **we** will pay for **loss** with respect to any one member arising out of any one **occurrence**.

B. Subject to the "per member, per **occurrence**" limits of liability, the most that **we** will pay with respect to all **loss** arising out of any one **occurrence** is the amount shown in the declarations page as applicable "per **occurrence** aggregate for all **claims**." The fact that there might be multiple **claims** against an **Insured** as a result of an **occurrence** will not operate to increase the limit of **our** liability.

Under Coverage B:
The most that **we** will pay per **Insured** in reimbursement of all covered attorney fees and costs with respect to each **criminal proceeding** is the amount shown in the declarations page.

Under Coverage C:
The most that **we** will pay for the premium for a bail bond is the amount shown in the declarations page.

Under Coverage D:
The most that **we** will pay for damage or destruction to an **Insured's** personal property is the amount shown in the declarations page.

V. POLICY PERIOD

This policy applies only to **occurrences** which take place during the policy period and **criminal proceedings** which result from allegations that a crime was committed during the policy period. The period of insurance shall begin and end at 12:01 a.m. at the **Insured's** address.

VI. TERRITORY

This policy applies to **occurrences** or **criminal proceedings** anywhere in the world.

VII. EXCLUSIONS

A. EXCLUSIONS - COVERAGE A ONLY:

1. **CIVIL PROCEEDINGS ARISING FROM CRIMINAL ACTS.** Any **claim** arising out of an act, other than **corporal punishment**, which has been the subject of a **criminal proceeding** that has resulted in the **Insured's** conviction or in which the **Insured** has entered a plea of nolo contendere. This exclusion shall not apply until the time for filing an appeal of such a conviction has elapsed, or if a timely appeal is filed, unless and until said appeal is decided adversely to the **Insured**.
2. **CONTRACTS.** Liability expressly assumed by an **Insured** under any contract or agreement.
3. **CRIMINAL DAMAGES.** The payment of any fines, monies, levies, or other forms of payment required as restitution for the commission of a crime by an **Insured**, whether in the nature of a misdemeanor or felony as defined by the relevant federal, state, or local statutes.
4. **FIDELITY.** Misuse, embezzlement, misappropriation, or breach of a fiduciary duty in the handling or managing of public and/or private monies, investments, or other funds held in a trust capacity.
5. **FIREARMS AND SIMILAR DEVICES.** An activity which involves the use of a firearm or other explosive device, unless the activity involves the use of physical restraint by an **Insured** while attempting to:
   a. gain control or possession of such a device from a student or other person;

b. protect self, a student, or other person from physical injury; or

c. protect property from damage.

6. **INTENTIONAL DAMAGES. Occurrences** involving damages which are the intended consequence of action taken by the **Insured** or at the **Insured's** direction. However, this exclusion does not apply if:

   a. the action taken involves **corporal punishment**;

   b. the civil proceeding against the **Insured** is based on an alleged violation of any civil rights guaranteed by the Constitution or Civil Rights statutes of the United States or of a state, unless it is expressly found by the trier of fact that in taking said action the **Insured** specifically intended to violate the civil rights of the claimant; or

   c. the **Insured's** responses to the allegations made against the **Insured** in any civil proceeding indicate that the damages involved were not the intended consequence of action taken by the **Insured** or at the **Insured's** direction. Except as otherwise specified in paragraph b. above, if evidence obtained as a result of investigation, litigation, or otherwise demonstrates that said responses are not credible, this exclusion shall thereafter apply. **We** shall be entitled to reimbursement for the attorney fees, costs, and other expenses incurred by us in providing coverage to the **Insured**.

7. **LIBEL AND SLANDER. Occurrences** which involve damages alleged by a person or organization which arise out of the publication or utterance of a libel or slander, or of other defamatory or disparaging material, or in violation of a natural person's right of privacy, if the publication or utterance is made in a newspaper of general circulation, an electronic communication to which there is public access, or in the course of or related to advertising, broadcasting, or telecasting.

   This exclusion shall not apply to **occurrences** which involve damages sustained by a person or organization which arise out of a publication or advertising in a student newspaper, a yearbook, or any other student publication, including a publication distributed by traditional means or electronically, that is sponsored by an **educational unit**.

8. **MEDICAL AND RELATED ARTS.** The rendering, teaching, or supervising of medical, surgical, dental, nursing, or other similar services. However, this exclusion does not apply to:

   a. first-aid and regular nursing services rendered by a school nurse employed to render such service, or a certified health aide employed to render such service under the direction of a school nurse;

   b. physical therapy, occupational therapy, or psychological therapy or treatment rendered by a practitioner who is employed to render such services, and who meets any licensure or certification requirements for such employment;

   c. the administration of oral prescription medicine to a student by the **Insured**, at the express request of his or her supervisor or provided the **Insured** has received advance written approval for such administration from the parent or guardian of the student;

   d. emergency first-aid services rendered by the **Insured** when a school nurse or other medically trained person is not readily available; and

   e. health care services rendered by the **Insured** to students who are designated disabled under the Individuals with Disabilities in Education Act when the rendering of such services is expressly required by the **Insured's**

employer, provided the **Insured** has received advance written approval for rendering such services from the parent or guardian of the student.

9. **POLICE OR FIREFIGHTER ACTIVITIES.** The **Insured's** activities while the **Insured** is acting in a law enforcement or firefighting capacity. However, this exclusion does not apply if the **Insured** is employed as a security guard or performs **educational employment activities** under the express or implied direction of an **educational unit**.
10. **POLLUTION.** The discharge, release, or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, or gases, waste matter, or other irritants, contaminants, or pollutants into or upon land, the air, or any watercourse or body of water. However, this exclusion does not apply if such discharge, release, or escape is **sudden and accidental.**
11. **PRODUCTS.**
    a. The sale or the distribution for commercial purposes of any product, including food or drink, made by the **Insured** or under the **Insured's** direction. However, this exclusion does not apply: (i) if the student who makes such product uses, sells, or distributes it at his or her own initiative and not under the **Insured's** direction; or (ii) to the sale or distribution of food or drink made by the **Insured** or under the **Insured's** direction if the **Insured** is employed as a home economics teacher or cafeteria worker; or
    b. the **Insured's** performance of an agricultural or other commercial type service. However, this exclusion does not apply to the rendering, teaching, or supervising of such service to students.
12. **PROFESSIONAL SERVICES.** The rendering or supervising of: (a) legal services; (b) accounting services; or (c) architectural services.
13. **VEHICLE USAGE.** The ownership, operation, use, loading, or unloading of: (a) **vehicles** of any kind; (b) watercraft; or (c) aircraft. However, this exclusion does not apply to:
    a. a driver training instructor while riding as a passenger in the course of **educational employment activities**;
    b. a vocational educational instructor in the course of regular **educational employment activities** carried on in a shop provided by the **educational unit**; or
    c. an **Insured** who is supervising students entering or exiting a school bus.

    The coverage provided herein shall not apply to that portion of an **occurrence** for which the **Insured** has valid and collectible insurance of any kind.

B. EXCLUSIONS – COVERAGES A, B, C, AND D:

1. **ASBESTOS.** This policy does not apply to any loss, cost, damage expense, **claim**, suit, **criminal proceeding**, or injury, including but not limited to **losses**, costs or expenses related to, arising from or associated with the manufacture of, mining of, use of, sale of, installation of, removal of, distribution of, or exposure to asbestos products, asbestos fibers, or asbestos dust, or to any obiligation of the Insured to indemnify any party because of a **loss** arising from **Education Employment Activities.**
2. **BOARDS OF TRUSTEES OF EDUCATIONAL UNITS.** This policy does not apply to an **Insured** while acting in the capacity, whether paid or unpaid, of a board member; a trustee; a director; a governor; or in any similar capacity, in the governing body of an **educational unit.**
3. **DECLARATORY JUDGMENTS.** This policy does not apply to an action seeking solely declaratory, injunctive, or similar non-monetary relief.

4. **EMPLOYEES.** This policy does not apply to **claims** made or **criminal proceedings** brought against an **Insured** by or on behalf of another **employee** or former **employee** of an **educational unit.** However, this exclusion does not apply to:

   a. any **claim** made or **criminal proceeding** brought against an **Insured** by or on behalf of another **employee** or former **employee** of an **educational unit** if the **claim** or **criminal proceeding** arises out of an **occurrence** in the course of the **Insured's educational employment activities** as a participant in the **peer review system** of an **educational unit.** However, this exclusion shall apply to an **assault** upon the **Insured** by another **employee** or former **employee** of an **educational unit** if the **assault** arose out of an **occurrence** in the course of the **Insured's** aforementioned peer review activity;

   b. any **claim** made or **criminal proceeding** brought against the **Insured** by or on behalf of another **employee** or **former employee** of an **educational unit** if the **claim** or **criminal proceeding** arises out of an **occurrence** in the course of the **Insured's educational employment activities** as a member of a board or commission, established by the **Insured's** state's government, which has as its purpose the licensure or certification of educators, or the setting of standards for the licensure or certification of educators;

   c. any **claim** made or **criminal proceeding** brought against the **Insured** by or on behalf of a minor or incompetent child of an **employee** or former **employee** of an **educational unit**, if the **claim** or **criminal proceeding** arises out of an **occurrence** in the course of the **Insured's educational employment activities**; or

   d. any **claim** made or **criminal proceeding** brought against an **Insured** by or on behalf of an **employee** or former **employee** of an **educational unit**, when the incident which precipitated the **claim** or **criminal proceeding** did not arise from such **employee's** or former **employee's** status as such, and has no relationship to the terms and conditions of employment of said **employee** or former **employee.**

5. **EMPLOYERS.** This policy does not apply to **claims** made or **criminal proceedings** brought against an **Insured** by or on behalf of an employer to resolve employment contract, labor relations, or other employment disputes.

6. **WAR.** This policy does not apply to **occurrences** which involve damages due to war, whether or not declared, civil war, insurrection, rebellion, or revolution, or to an act or condition incident to any of the foregoing.

7. **WORKERS' COMPENSATION.** This policy does not apply to any obligation for which the **Insured** may be held liable under any Workers' Compensation, Unemployment Compensation, Disability Benefits, or similar laws.

8. **NUCLEAR.** This policy does not apply to bodily injury or property damage with respect to which the **Insured** is also an insured under any policy issued by the Nuclear Energy Liability Insurance Association; the Mutual Atomic Energy Liability Underwriters; or the Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability.

   This policy does not apply to bodily injury or property damage which results from the hazardous properties of nuclear material and with respect to which: (a) any person or organization is required to maintain financial protection pursuant

to the Atomic Energy Act of 1954, or any law which amends this Act; or (b) the **Insured** is, or had this policy not been issued, would be entitled to indemnity from the United States of America, or any of its agencies, under any agreement entered into by the United States of America, or any of its agencies, with any person or organization.

This policy does not apply to bodily injury or property damage which results from the hazardous properties of nuclear material, if the nuclear material: (a) is at any nuclear facility owned by the **Insured**, or operated by or on the **Insured's** behalf; or (b) has been discharged or dispersed from such nuclear facility.

This policy does not apply to bodily injury or property damage which results from the hazardous properties of nuclear material if the nuclear material is contained in spent fuel or waste at any time owned, handled, used, processed, stored, transported, or disposed of by the **Insured** or on the **Insured's** behalf.

This policy does not apply to bodily injury or property damage which results from the hazardous properties of nuclear material if the bodily injury or property damage arises out of the **Insured's** services, materials, parts, or equipment, in connection with the planning, construction, maintenance, operation, or use of any nuclear facility. However, if such facility is located within the United States of America, its territories or possessions, or Canada, this paragraph applies only to property damage to such nuclear facility and any property thereat.

The defined terms used in this exclusion are:

Hazardous Properties. Includes radioactive, toxic, or explosive properties.

Nuclear Material. Includes source material, special nuclear material, or byproduct material.

Source Material, Special Nuclear Material, and Byproduct Material. These terms have the meanings given them in the Atomic Energy Act of 1954 or in any law which amends this Act.

Spent Fuel. Any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor.

Waste. Any waste material: (a) containing byproduct material; and (b) resulting from the operation by any person or organization of any nuclear facility included within (a) or (b) of the definition of nuclear facility.

Nuclear Facility. Nuclear facility means: (a) any nuclear reactor; (b) any equipment or device designed or used for: (i) separating the isotopes of uranium or plutonium; (ii) processing or utilizing spent fuel; or (iii) handling, processing or packaging waste; (c) any equipment or device used for the processing, fabricating, or alloying of special nuclear material if at any time the total amount of such material in the custody of the **Insured(s)** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235; or (d) any structure, basin, excavation, premises, or place prepared or used for the storage or disposal of waste, and includes the site on which any of the foregoing is located, all operations conducted on such site, and all premises used for such operations.

Nuclear Reactor. Any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

Property Damage. Includes all forms of radioactive contamination of property.

VIII. CONDITIONS

A. ACTION AGAINST US.

No action shall lie against us, unless as a condition precedent thereto, the **Insured** shall have fully complied with all terms of this policy. In the event of the **Insured's** bankruptcy, insolvency, or death, **we** shall not be relieved of payment under this policy but shall be required to make such settlement as would have been payable but for such bankruptcy, insolvency, or death.

B. ARBITRATION.

If a **claim** is made under this policy and **we** disagree as to the **Insured's** entitlement to coverage or as to the amount of benefits that are payable, **we** shall provide the **Insured** with a written statement of position. This statement shall set forth the basis for **our** disagreement and advise the **Insured** of the **Insured's** right to have said disagreement resolved through arbitration. The **Insured** may invoke the arbitration process by filing with **us** a written demand for arbitration, postmarked no later than thirty days after the date on which the **Insured** received **our** statement of position. Failure to file a timely demand for arbitration shall constitute a waiver of the **Insured's** right to challenge **our** position with regard to the **Insured's** eligibility for or amount of the **Insured's** coverage under this policy. Any arbitration held under this condition shall be conducted pursuant to the Commercial Arbitration Rules of the American Arbitration Association. The arbitration shall be held at a location near the **Insured's** residence. In any such arbitration, NEA shall have the right to present evidence, make arguments, and otherwise participate as if it were a party to the arbitration. The decision of the arbitrator shall be final and binding upon all parties.

C. ASSIGNMENT.

The **Insured's** rights to coverage under this policy are personal. The **Insured** may not assign or otherwise transfer said rights to any other person or organization.

D. ASSISTANCE AND COOPERATION.

The **Insured** shall cooperate with us and upon **our** request shall attend hearings and trials and shall assist in effecting settlements and obtaining the attendance of witnesses. The **Insured** shall not, except at the **Insured's** own cost, voluntarily make any payments, assume any obligation, or incur any expense other than for such immediate medical and surgical relief to others as shall be imperative at the time of the **occurrence**.

E. CANCELLATION OR NON-RENEWAL.

This policy may be canceled by the **Insured** for any reason by mailing written notice to **us** stating when thereafter such cancellation shall be effective. This policy may be canceled by **us** only for non-payment of premium.

When **we** cancel this policy, **we** shall do so by mailing to the **unit** named in the declarations page and to the NEA at 1201 16th Street, Northwest, Washington, DC 20036, written notice stating when, no less than forty-five days thereafter, such cancellation shall be effective. When either the **Insured** or **us** cancels this policy, premium adjustment shall be computed on a pro rata basis and made at the time cancellation is effected, or, if not at that time, as soon thereafter as practical after cancellation becomes effective.

This policy is written for the policy period stated in the declarations page. It will terminate on the expiration date and does not automatically renew.

F. CHANGES.

Notice to any agent or knowledge possessed by any agent or by any other person shall not: (1) effect a waiver or a change in any part of this policy; or (2) stop us from asserting any right under the terms of this policy. The terms of this policy shall not be waived or changed, except by endorsement issued to form a part of this policy. Such an endorsement must be signed by an authorized representative of NEA, and countersigned by an authorized representative of **ours**.

G. NOTICE OF CLAIM.

If **claim** is made against the **Insured**, the **Insured** shall immediately forward to **us** every demand, notice, summons, or other process received by the **Insured's** representatives.

H. NOTICE OF OCCURRENCE.

When an **occurrence** takes place which the **Insured** reasonably believes might result in a **claim** covered by the policy, written notice shall be given by or on the **Insured's** behalf to **us** or any of **our** 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**, as well as the names and addresses of the injured and of available witnesses.

I. OTHER INSURANCE.

This is a manuscript policy and is personal to the individual **Insured** named herein. It was written and priced to reflect the intent of all parties that this policy is in excess of any and all other insurance policies, insurance programs, self-insurance programs, and defense and indemnification arrangements whether primary, excess, umbrella, or contingent and whether collectible or not, to which the **Insured** is entitled or should have been entitled, by contract or operation of law, to coverage, or to payment including, but not limited to, payment of defense and/or indemnification. Further, it is the intent of the parties that the coverage afforded in this policy does not apply if the **Insured** has other valid and collectible 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, except any excess beyond the amount which would have been payable under such other policy or policies or insurance program or defense or indemnification arrangement had this policy not been in effect. Other valid and collectible insurance includes, but is not limited to, policies or insurance programs of self-insurance purchased or established by or on behalf of an **educational unit** to insure against liability 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. The **Insured** shall cooperate with the Company to determine the existence, availability, and coverage of any such other insurance policy, insurance program, or defense or indemnification arrangement.

This policy is specifically excess over coverage provided by school district or school board errors and omissions or general liability policies purchased by the **Insured's** employer or former employer and it is specifically excess over coverage provided by any School Leaders Errors and Omissions Policy purchased by the **Insured's** employer or former employer and it is specifically excess over coverage provided by any policy of insurance which purports to be excess to or recites that it is excess to a policy issued to the **Insured** for the benefit of members of the National Education Association.

If it is determined that **we** must contribute to the coverages provided in Section III of this policy with any other valid and collectible excess insurance, **our** contributing limit of liability shall be determined and paid as follows:

1. computed on a pro rata basis if **our** limit of liability is less than any other valid and collectible excess insurance limit of liability, with **our** limit of liability computed by dividing **our** limit of liability by the sum of **our** limit of liability plus any other insurer's limit of liability, then multiplying the result by the amount that the **Insured** would have been entitled to receive under Section III of this policy if there were no other valid and collectible insurance; and/or
2. computed on a limit of liability basis if **our** limit of liability is greater than any other valid and collectible excess insurance limit of liability, with **our** limit of liability computed by dividing **our** amount of liability as if there were no other valid and collectible insurance, divided by the sum of **our** limit of liability as if there were no other valid and collectible insurance plus all other valid and collectible insurance limits of liability as if there were no other valid and collectible insurance for their liability, then multiplying the result by the amount that the **Insured** would have been entitled to receive under Section III of this policy if there were no other valid and collectible insurance.

J. SEVERABILITY.

In the event any part of this policy shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect any other parts of this policy. All other parts shall remain in full force and effect, as if the part so declared or adjudged to be invalid or unconstitutional were not originally a part hereof.

K. SUBROGATION.

In the event of any payment under this policy, **we** shall be subrogated to all the **Insured's** rights of recovery therefore 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.

L. 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.

ENDORSEMENT: FUNGUS/MOLD EXCLUSION WITH LIMITED EXCEPTION FOR DEFENSE EXPENSES

Paragraph 9. is added to Section VII, **B. EXCLUSIONS – COVERAGES A, B, C, AND D.**

As follows:

9. FUNGUS/MOLD. This policy does not apply to any **loss**, cost, damage, expense, **defense expense**, **claim**, suit, **criminal proceeding** or injury, including, but not limited to, losses, costs or expenses related to, arising from, or associated with clean-up, remediation, containment, removal or abatement, caused directly or indirectly, in whole or in part, by:

a. Any **fungus(i), mold(s),** mildew or yeast, or
b. Any **spore(s)** or toxins created or produced by or emanating from such **fungus(i), mold(s),** mildew or yeast, or

c. Any substance, vapor, gas, or other emission or organic or inorganic body or substance produced by or arising out of any **fungus(i), mold(s)**, mildew or yeast, or

d. Any material, product, building component, building or structure, or any concentration of moisture, water or other liquid within such material, product, building component, building or structure, that contains, harbors, nurtures or acts as a medium for any **fungus(i), mold(s),** mildew, yeast, or **spore(s)** or toxins emanating therefrom,

regardless of any other cause, event, material, product and/or building component that contributed concurrently or in any sequence to that **loss**, cost, damage, expense, **defense expense, claim**, suit, **criminal proceeding** or injury.

Except, **we** will pay **defense expenses** up to $5,000 for each **occurrence** for **bodily injury** to a person or persons, other than any **Insured** hereunder, caused by fungus(i), mold(s), mildew or yeast for which the insured is legally liable under this policy and for which coverage is otherwise provided by this policy. Coverage for **defense expenses**, as provided herein, is excess over any other available coverage for defense expenses whether such other coverage is provided on a primary, excess, contingent, or any other basis. This exception does not apply to and we will not pay or reimburse **defense expenses** for any criminal proceeding for which coverage is provided under **Coverage B – REIMBURSEMENT OF ATTORNEY FEES FOR DEFENSE OF A CRIMINAL PROCEEDING** of this policy.

The following definitions apply to this endorsement: (Any term not defined herein shall have the meaning assigned to such term in the policy.)

a. Bodily injury includes sickness or disease sustained by a person, including death resulting from any of these at any time.

b. Defense expenses means the costs incurred in connection with the investigation and/or defense of any **claim** or suit including, but not limited to, legal fees and other defense expenses.

c. Fungus(i) includes, but is not limited to, any of the plants or organisms belonging to the major group Fungi, lacking chlorophyll, and including **mold(s)**, rusts, mildews, smuts and mushrooms.

d. Mold(s) includes, but is not limited to, any superficial growth produced on damp or decaying organic matter or on living organisms, and fungi that produce **mold(s)**.

e. Spore(s) means any dormant or reproductive body produced by or arising or emanating out of any **fungus(i)**, **mold(s)**, mildew, plants, organisms or microorganisms.

References NEA-0001 (03/12)

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

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