

POLICY NUMBER F-02

Procedure for Appeal of Board Decisions Regarding Claims and Nonclaim Disputes

Adopted May 6, 2008

Amended October 12, 2022

THE FOLLOWING POLICY REGARDING APPEALS OF DECISIONS OF THE BOARD OF DIRECTORS OF THE FRESNO COUNTY SELF-INSURANCE GROUP ("FCSIG" or "Authority") IS EFFECTIVE AS OF THE DATE INDICATED ABOVE AND IS ADOPTED PURSUANT TO THE BYLAWS OF FCSIG. THE FOLLOWING POLICY SHALL BE REFERRED TO FOR ALL PURPOSES AS POLICY NO. F-02.

1. General Purpose; Definitions.

1.1 Purpose of the Policy. Pursuant to Article VI-F of the Bylaws of FCSIG, the FCSIG Board of Directors (the "Board") has the "power, authority and duty to handle all aspects of Workers' Compensation claims against Members of the Authority arising out of facts which occurred during membership." Board actions or decisions with respect to handling of claims and Nonclaim Disputes (as defined in Paragraph 1.2) involving Member Districts ("Member(s)") may be appealed to the Board by the affected Member subject to any additional restrictions as the Board included herein or as the Board may adopt. The general purpose of Policy Number F-02 (this "Policy") is to set forth the procedures applicable for a Member to appeal such Board decision or action.

1.2 Definition of Nonclaim Disputes. For purposes of this Policy, the term "Nonclaim disputes" shall mean any dispute that is not directly related to a claim made under a master plan document and/or memorandum of coverage.

2. Appeal Procedure.

2.1 Board Decision at a Public Meeting. An appeal is permitted from an action or decision of the Board taken at a meeting of the Authority. An appeal is not the proper remedy if the Board has taken no action or made a decision with respect to a claim or coverage. If an action or decision has been made by the Board, the affected Member may request that the issue be placed on the agenda of the Board of Directors at its next meeting for discussion of the issue.

2.2 Reconsideration in Writing. A request for reconsideration shall be submitted to the Board President in writing and shall clearly state the issue and the reasons why the Member objects to the Board decision or action. All requests for reconsideration must be made immediately when a dispute arises, but no later than seven (7) calendar days of the Board action or decision.

2.3 Member Authorization. An appeal to the Board by a Member must be signed by the Superintendent of the Member, acting with authorization of the Member's Board of Trustees. The Member shall provide documentation evidencing authorization of the appeal by the Board of Trustees of the Member.

2.4 Reconsideration Hearing. The appeal to the Board shall be filed with the Secretary of FCSIG, who shall place the item on the agenda for the next Regular Meeting of the

Board, or at the request of the Board President, the Secretary may notice a Special Meeting of the Board for the purpose of considering the appeal (the "Reconsideration Hearing").

2.5 Appeal; Final Determination. At the Reconsideration Hearing, the Member shall be provided a reasonable time to present its position and any objections to the Board action or decision, and thereafter a response time should be provided to members of the Board and/or consultants or advisors to the Authority. The Member may present testimonial or documented evidence, or other evidence in any other form acceptable to the Board. At the conclusion of the Initial Hearing, the Board, in its sole discretion, shall either rule on the appeal or may set a date certain for a final determination ("Final Determination"), which shall be set no more than forty-five (45) days from the date of the Initial Hearing. During the 45-day period, the Board may request such further documentation, briefs, or a legal analysis as is appropriate to make a Final Determination.

2.6 Binding Arbitration. If the decision or action of the Board is upheld by the Board's Final Determination, the Member shall comply with such action within thirty (30) days. If the Member is not satisfied with the Final Determination, any subsequent dispute shall be resolved through binding arbitration before an arbitrator of the Authority's and Member's mutual choice. The cost of the arbitration will be shared equally by the Member and the Authority.

3. Miscellaneous

3.1 Prior to Board action or decision involving claims or coverage, the Member sustaining the loss will be kept advised of the progress of the case by FCSIG staff. Prior to any settlement negotiations or requests for settlement authority from any self-insured layer, the affected Member shall be notified and provided an opportunity to provide input and comment on the proposed resolution of the case.

3.2 The FCSIG Board may retain the services of independent legal counsel to evaluate the case in its entirety, or specific issues, prior to decision or action by the Board, or determination of future handling or settlement authority.

3.3 The Member disputing the recommendation is entitled to have separate legal counsel of their choice at their own expense to assist them in presenting their concerns and the basis of their disagreement. The independent legal counsel retained by the Board, if any, will also be in attendance to present their conclusions. This independent legal counsel will provide a neutral, unbiased evaluation of the case and will not represent either the individual interests of the Member or the Authority. Defense counsel may also be present at the Authority's meeting to present their perspective of the case at issue.

3.4 The Board retains discretion to reject consideration of any appeal that may jeopardize the favorable defense, settlement, or resolution of a case due to delays or other time constraints. Such rejection shall occur after independent legal counsel review of the case.

Policy No. F-02
Adopted 5/6/08
Amended 10/12/22

3.5 The Board also retains discretion to appoint an ad hoc committee comprised of less than a quorum of the Board to review the appeal and provide a recommendation to the Board with respect to the appeal.