# Primary General Liability Committee
# Standard Operating Procedures

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# Introduction

In every conversation we have, every initiative we explore, and every action we take, we must hold them up against the EIA's Mission, Vision and Core Values. Together, the Mission, Vision and Core Values are our strategic framework and clarify why the EIA exists and what we aim to be. As you review this document, please keep these in mind:

## Mission:

The CSAC Excess Insurance Authority is a member-directed risk sharing pool of public agencies committed to providing risk coverage programs and risk management services, which drive member stability, efficiency, and best practices.

## Vision:

The CSAC Excess Insurance Authority (EIA) will continue to be internationally recognized as a leading risk sharing pool for its member-directed operating philosophy and commitment to member fiscal sustainability. The EIA will continue to influence and shape the future of the risk management profession.

## Core Values:

CSAC EIA is dedicated to preserving a member-directed culture, defining standards for quality and performance throughout the industry, and ensuring programs and services are:

- **C**ompetitive in scope and price over the long term
- **A**daptable and customized to meet member needs, based on high-quality standards
- **R**esolute in delivering timely solutions that address present and emerging risks
- **E**quitable in allocating costs and services between various members in a fair and consistent manner
- **S**table in supporting cost-effective, fiscally prudent operations *and* long-term solvency, and in building long-term relationships with members and program/service partners.

# Composition

The Committee is comprised of 7 members that participate in the PGL Program, of which 5 are voting members and 2 are alternates who are eligible to vote at any meeting where a voting member is absent. One of the voting seats is designated for a Public Entity representative.

Reference: Committee Composition

# Roles

## Committee:

Pursuant to the MOU, the PGL Committee is responsible for all matters pertaining to the PGL Program including but not limited to approval of funding mechanisms, reinsurance placements, new member applications, and settlement of claims.

## Chair:

- Call/authorize meeting to be scheduled
    - Staff will contact Chair to arrange date, time, location (in-person or WebEx)
    - Once authorized, staff will notify the Committee members via e-mail
- Call the meeting to order
- Orchestrate agenda items
- Recognize members to facilitate orderly debate
- Preside over voting
- Enforce rules of the group
- Expedite the business of the group
- Declare meeting adjournment

## Vice Chair:

The Vice Chair's role is to assume the responsibilities of the Chair in his or her absence or in the event of a conflict.

## Staff:

- Assist Chair in facilitating meeting, prepare agenda, take minutes, summarize meeting for those not in attendance
- Advisory to the Committee
- Will make recommendations to assist Committee
- Gina Dean is the staff liaison for this Committee

## Broker:

- Advisory to the Committee
- Will make recommendations to assist Committee

Reference: PGL Scope of Services from Alliant Contract

### Consultants:

The EIA utilizes consultants for various services, including but not limited to actuarial, legal advice, third party claims administration, and underwriting. Their role is:

- Advisory to the Committee
- To offer recommendations to assist Committee

## Responsibilities/Oversight for Policy Matters

### Claims Administration:

The PGL Committee is responsible for oversight of the TPAs and ensures the claims are being administered properly and efficiently. There are currently 3 approved TPAs: George Hills Company, Carl Warren and York.

As part of the CAJPA Accreditation Standards, claims audits are required of the TPAs every other year. The PGL Committee has selected Praxis Claims Consulting as the Program's claims auditor (4/28/14 Minutes, item 4.B.). The audit reports are presented to the Committee along with a response from the TPA. Members also receive the audit findings on their TPA and the TPAs response. In between formal audits, EIA staff oversees the claims administration services and reports back to the Committee on any trends or issues that need to be addressed.

From time to time, the Committee will adopt policies relating to the claims administration of the Program. The following are policies that have been adopted by the Committee:

- The PGL Committee has approved the internal borrowing of funds to pay for claims within the PGL Layer from the Reliance Years. The costs associated with borrowing, if any, will be allocated amongst the members that participated in the Reliance Years through the premium allocation process (10/4/01 Minutes, Item III.B.).

Reference: Requirement for EIA to have Audits and Actuarials 09/28/98
Reference: 4/28/14 PGL Committee Minute Order
Reference: 10/4/01 PGL Committee Minute Order

### Coverage Matters:

Periodically, the Committee is asked to make determinations on the way coverage is to apply and/or how claims are to be administered.

### Claims Settlement Authority:

The PGL Committee has extended authority to settle claims as follows:

- $0 - $10,000 authority with each individual member, can be delegated to the TPA at the member's discretion, and
- $10,001 - $100,000 authority with EIA staff with the concurrence of the Chair, individual member to be involved and/or notified in advance of the settlement.
- EIA staff and the Program TPAs are authorized to pay covered defense costs up to the Program limit.

The Committee has delegated authority to staff, with concurrence of the Committee Chair or the Vice Chair in the Chair's absence, to approve settlements from the Reliance Years within the PGL Layer.

Reference: 4/6/01 PGL Committee Minute Order
Reference: 10/4/01 PGL Committee Minute Order
Reference: PGL Policy Regarding Staff and TPA Authority for Defense Costs

## Underwriting & Claims Administration Guidelines:

The PGL Committee oversees the provisions of the Guidelines pertaining to the PGL Program and may recommend changes to the Executive Committee and Board from time to time.

Reference: UW & Claims Admin Standards

## Approval of New Members:

The Committee has full authority to approve new members for participation in the Program. Staff develops underwriting information for the Committee's review and consideration.

## External Underwriting Services:

The PGL Committee has approved a proposal from Alliant Underwriting Services (AUS) to provide additional expertise and professional underwriting services. The determination of whether to utilize the services is made on a case-by-case basis by the PGL Committee and generally is only used for prospective members with unusual exposures. The Committee can also determine if annual AUS review will be required. The cost for the service is 2% of the premium, subject to a maximum of $20,000. The costs are passed on to the entity as part of their premium if they join the Program. There is no cost to the EIA if the entity does not join the Program.

Reference: 2/6/04 PGL Committee Minute Order
Reference: Addendum D from Alliant Contract

## Additional Named Insureds:

The PGL Committee has authority to approve additional named insureds in the Program. This responsibility has not been delegated to staff.

## Approval of Affiliated Non-Profit Named Insureds:

The PGL Committee has been delegated authority by the Board to approve the addition of non-profit entities as additional named insureds in the PGL Program subject to:

- Receipt of a completed application including a governing board resolution or minute order
- A determination that it is an acceptable risk
- Willingness by the member to accept responsibility for the deductible, premium payment, and to act as a liaison for risk management and loss prevention issues
- The member providing renewal information
- The member agreeing to provide appropriate loss prevention services
- Written agreement existing between the member and the non-profit

Reference: NonProfits Policy Statement 5/31/12

## Memorandum of Understanding:

The PGL Committee oversees the provisions of the PGL Program MOU and will approve changes from time to time.

Reference: PGL Program MOU

## Coverage Document:

The PGL Committee oversees the provisions of the PGL Certificate of Coverage issued to the members.

Coverage in the PGL Program is reverse follow form of the GLI Program. Therefore, the Certificate of Coverage provides such evidence to the members along with the appropriate provisions to evidence the primary nature of the Program.

## Premium Allocation Methodologies:

The Committee oversees the provisions of the PGL premium allocation methodologies and may approve changes from time to time. They have also adopted a Target Funding Policy to assist them in making annual funding decisions. Budget policies have been approved and are reviewed annually.

The Committee has authority to:

- Approve premium deviations from the standard allocation methodologies
- Declare dividends
- Approve of reinsurance or insurance premiums

The Committee has adopted the following policies related to premium allocation:

- Establishment of a $7,500 minimum premium, plus administrative fees (10/18/02 Minutes, Item II.A.)

- New members will pay a one-time Program Development Fee of $350 which will be included in their first premium payment (6/9/00 Minutes, Item III.F.)
- Rating mechanism for members that are too small for a credible actuarial analysis
- Establishment of a two-year smoothing mechanism
- Policy for setting the amount each member will have on deposit to prefund their deducible exposure

Reference: PGL Allocation Policy 5/27/10
Reference: Target Funding Policy 5/30/13
Reference: Budget Policies
Reference: 10/18/02 PGL Committee Minute Order
Reference: 6/9/00 PGL Committee Minute Order
Reference: Small Member Rating Methodology Summary 6/26/06
Reference: Two Year Smoothing Mechanism 4/24/02
Reference: PGL Prefunding of Deductible Policy 5/27/10

## Risk Tolerance:

Each EIA program has determined its own appetite for risk, which generally ranges between very low to neutral (EIA Risk Tolerance). A low tolerance for risk creates a bias towards transfer of risk. A high tolerance for risk is characterized by a bias toward retention of risk. The Committee has determined that the risk tolerance for the PGL Programs is low, indicating a preference towards transferring risk.

Reference: EIA Risk Tolerance

## Reinsurance Placements:

The PGL Committee is responsible for review and approval of the Program's reinsurance placements.

Reliance Years 7/1/98 - 6/30/00

When the Program was initiated in 1998, the Program's reinsurance partner was Reliance Insurance Company. They fully reinsured the Program from inception through 6/30/00. Members were given the option for a $10,000 deductible or for no deductible (first $ coverage). The Program limit was determined based on each member's attachment point to the excess coverage provided by the GLI or GLII Programs. Limits ranged from $100,000 to $300,000.

When Reliance went into liquidication, the EIA pursued claims on behalf of the PGL Program to attempt to recoup unpaid reinsurance recoveries due to the Program. EIA retained legal counsel and the challenge was heard before both the State and Pennsylvania Supreme Court. Unfortunately, both courts found on behalf of Reliance. As a result, the PGL Committee determined to end the pursuit of any claims action against Reliance (4/28/14 PGL Committee meeting, item 4.C.).

Reference: 4/28/14 PGL Committee Minute Order

Kemper Years 7/1/00 - 6/30/03

The Program began a new partnership with Kemper Insurance Company effective 7/1/00. For the 00/01 year, Kemper provided coverage on the same basis as Reliance (excess of member deductible to the member's Program limit). Effective 7/1/01, Kemper required changes in the structure of the Program. All members were required to have a deductible of $10,000 and a $100,000 limit. A pool with an aggregated limit was put in place for loss costs between $10,000 - $50,000. A second aggregated pool, called a Mega Fund, was put in place for loss costs excess of $50,000.

American Safety Years 7/1/03-6/30/04

American Safety provided coverage for one year on the same basis as Kemper.

Imagine Re Years 7/1/04 – 5/1/09

Imagine Re provided coverage to the PGL Program effective 7/1/04. Imagine fully reinsured the pool above the member's $10,000 deductible to the Program's $100,000 per occurrence limit. However, Imagine’s parent company determined to deploy their assets in non-insurance investments, which effectively put Imagine into a run-off position. The placement with Imagine was cancelled as of 5/1/09. As of 7/1/11, the reinsurance arrangement with Image was fully commuted. In exchange for a return premium, the Program is now fully self-insured for any claim payments after 7/1/11.

ACE Years 5/1/09 - 6/30/13

ACE began a new partnership with the PGL Program following the Imagine cancellation. They fully reinsure the Program above the member's $10,000 deductible to the Program's $100,000 per occurrence limit.

W.R. Berkley Years 7/1/13 - Present

When the Program’s underwriter left ACE, his new company, W.R. Berkley, offered improved terms, which led to a new partnership with the PGL Program. Berkley fully reinsures the Program above the member's $10,000 deductible to the Program's $100,000 per occurrence limit. Starting with the 2017/18 year, there is a $500k Corridor Retention that applies before Berkley is responsible for reimbursement of claim payments.

Excess Insurance Organization

Rather than retaining the $500k risk assumed with the Corridor Retention, the risk was transferred to the EIA’s captive insurance company, the Excess Insurance Organization. Because the EIO is expected to generate more interest income than can be achieved by the EIA, the premium to transfer the risk was reduced, providing a savings to the PGL Program members.

## Program Services and Administrative Costs

The Committee has discretion to approve Program services on an optional or mandatory basis. At the time a service is approved by the Committee, they will also determine how the costs are to be allocated amongst the members or if the cost is one to be charged as an expense of administering the claim.

The Committee is also responsible for overseeing the administrative expenses of the Program and determining how the costs will be allocated amongst the members. They also evaluate and approve the TPA fees and contract terms.

The Committee has determined that it would be beneficial to provide an annual loss prevention subsidy to the members of the Program. The current subsidy is $1,000 per member, per year (5/9/03 Minutes, Item 5.A.).

Reference: 5/9/03 PGL Committee Minute Order
Reference: Budget Policies

## Meetings

### Code of Conduct/Ethics Policy:

The Board has adopted a Code of Conduct which is applicable to all members, staff, Committees, and the Board.

Reference: Code of Conduct

### Scheduling:

The PGL Committee will meet as needed and at the call of the Chair. Below are generally when the Committee will meet to address certain matters:

- **February**
  - Evaluation of actuarial analysis and approval of rates for the upcoming year
  - Approval of reinsurance renewal terms
  - Consideration of new member applications

### Quorum:

Pursuant to the Bylaws, a quorum consisting of a majority of the Committee (at least 3 members) must be present in order to conduct a meeting.

### Voting:

Voting Requirements

Pursuant to the Bylaws, the voting requirement is a majority of the Committee (at least 3 members) for all actions of the PGL Committee.

Conflicts

Pertinent EIA Code of Conduct Provisions:

2. We are committed to the concepts of democratic, effective and efficient governance by responsible, knowledgeable members of the Board of Directors and Committees with an understanding that official decisions made and actions taken by the Authority are always made in the best interests of the Authority's membership, as opposed to the interests of the Authority's staff, service providers, or other outside interests.

9. We are committed to the principle that conflicts of interest, (defined as situations in which a person has a financial or other interest or the appearance of a conflicting interest that would call into question the person's ability to act in an impartial manner with respect to a matter affecting the Authority) should be avoided and where present shall be fully disclosed. This includes situations when a member of the Board, a Committee, Staff, or vendor has personal interests (including those of his/her family) that are contrary to his/her loyalty to the Authority.

Vote on behalf of the EIA or the Entity I Represent?
Attorney General Opinion No. 00-708 dated 12/8/00 concluded that a member of the governing board (in this case the PGL Committee) of a joint powers agency may cast a valid vote on a matter before the agency that is inconsistent with the position by the legislative body which appointed the member.

Reference: Attorney General Opinion No. 00-708

Voting When Conflict Arises:
According to FPPC

- Disqualification
  - For financial interest (exception: when action required)
- Abstention
  - Conflicting loyalties
  - Perception you can't be fair
  - Ethical dilemmas (exception: for necessity to take action)

According to Roberts Rules of Order

- Duty to vote if you have an opinion
- Right to abstain
- Personal interest - must abstain except:
  - Vote for self in an election
  - Vote if other's interests are included in the motion

## Closed Session:

Closed sessions may be held in accordance with the provisions of state law and the Brown Act. Information discussed in closed session is confidential. In addition to the PGL Committee and Legal Counsel, only individuals necessary for the discussion will be present. The Executive Committee has appointed the EIA's General Counsel, the Claims Review Committee's Legal Counsel, and the

Claims Review Committee's Alternate Legal Counsel to serve as legal counsel to the EIA's Board of Directors and all EIA Committees for purposes of obtaining legal advice during closed sessions in accordance with the Brown Act (2/2/12 Executive Committee Meeting, Item 5.B.).

Reference: 2/2/12 Executive Committee Minute Order

## Glossary of Terms

**Aggregate:** The term used to describe the cumulative amount of all losses for a period of time.

**Aggregate Stop Loss:** A financial arrangement with the JPA's excess carrier that caps the aggregate to a predetermined limit at which point the excess carrier would "drop down" and pay losses within the JPA's SIR or pooled layer.

**Attachment Point:** The dollar amount of a loss where the next layer of insurance begins to pay for the loss.

**Burning Cost:** The premium needed to cover future anticipated losses based on historical experience.

**CAJPA (California Association of Joint Powers Authorities):** Association of insurance and risk management pools in California. CAJPA performs regulatory and legislative lobbying as well as accreditation of JPAs to promote the financial stability and best management practices.

**Commutation:** A clause in a reinsurance agreement which provides for estimation, payment and complete discharge of all future obligations for reinsurance losses incurred regardless of the continuing nature of certain losses.

**Confidence Level:** The confidence level is a percentage estimate of the ultimate pool layer costs. The actuary's expected costs are shown at slightly more than average (approximately 55%). About half the time, the actual costs will be lower than the actuary's estimates and half the time the actual costs will be higher. To be more conservative, pools set aside additional sums of money to increase the chance that enough funds are available to pay claims. For example, if the actuary's estimate at the 70% confidence level is $1,000,000, then there is a 30% chance that losses will exceed $1,000,000.

**Deductible:** Amount of a loss that is the member's responsibility. The Program will pay the loss costs and invoice or charge the member after for the deductible amount.

**GLI:** EIA's General Liability I Program

**GLII:** EIA's General Liability II Program

**IBNR (Incurred But Not Reported):** This is an actuarial term referring to the estimated future loss development as well as the estimated cost of claims that have happened but are not yet included in the claims data. A reserve for IBNR is established by the actuary as part of the Ultimate Loss Costs to contemplate for these future estimated costs.

**Incurred Loss:** This is the expected value of any claim. It includes the amount already paid plus the estimated amount yet to be paid (reserves).
**Inverse Condemnation:** Both the United States Constitution and the California Constitution require that a private citizen be compensated if property is "taken" by a public entity. When the property is taken proactively it is called eminent domain. When the property is taken "accidentally," without due course, it is called inverse condemnation.

**Law of Large Numbers:** A mathematical concept which postulates that the more times an event is repeated (in insurance, the larger the number of homogeneous exposure units), the more predictable the outcome becomes. In a classic example, the more times one flips a coin, the more likely that the results will be 50% heads, 50% tails.

**Limit of Liability:** The most that will be paid in a loss.

**Loss Adjustment Expense:** All expenditures of an insurer associated with its adjustment, recording, and settlement of claims, other than the claim payment itself.

**Loss Development:** The process of change in amount of losses as a policy or accident year matures, as measured by the difference between paid losses and estimated outstanding losses at one point in time, and paid losses and estimated outstanding losses at some previous point in time. In common usage, it might refer to development on reported cases only, whereas a broader definition also would take into account the IBNR claims.

**MOC (Memorandum of Coverage):** The policy or coverage document issued by the JPA outlining coverage to its members.

**Non-Admitted Insurer:** Insurance company not licensed in a state may engage in business in the state if an admitted, properly filed company issues the policy and reinsures losses to the non-admitted reinsurer.

**Occurrence:** An accident or event, which results in personal injury or property damage, neither expected nor intended from the standpoint of the member.

**Outstanding Reserve:** The claims administrator’s estimate of the ultimate expected value of each claim. As moneys are paid out for a claim, the outstanding reserve amount is decreased.

**Policy Year:** The year commencing with the effective date of the policy or with an anniversary of that date.

**Pooled Loss:** The portion of a loss that is allocated to, or paid by, the self-insured pool. For example, the GLI Program pools, or self-insures the difference between a members' SIR and $5,000,000 of each occurrence. Loss costs exceeding this amount are paid by excess insurance.

**SIR (Self Insured Retention):** This is the amount of each loss the member will be responsible for. Once the value of the claim has exceeded their SIR, the member may seek reimbursement for those expenses in excess of their SIR.

**Surplus:** The excess of assets over liabilities of an insurance carrier. Surplus determines an insurer's or reinsurer's ability to write business. The EIA refers to its "surplus" as Net Equity.

**Trending:** The necessary adjustment of historical statistics (both premium and losses) to present levels or expected future levels in order to reflect measurable changes in insurance experience over time, which are caused by dynamic economic and demographic forces, and to make the data useful for determining current and future expected cost levels.

**Ultimate Net Loss:** The total sum that the assured, or any company as his insurer, or both, become obligated to pay either through adjudication or compromise.

**Wholesale Broker:** A licensed broker providing specialized insurance products to retail insurance agents and brokers. A wholesale broker will utilize insurers who can consider accounts that the retail agent cannot place with their standard markets. These insurers underwrite specialized or hard to place insurance.