

**JUDICIAL BRANCH
WORKERS' COMPENSATION PROGRAM (JBWCP)**

**JUDICIARY
MEMORANDUM OF COVERAGE**



Judicial Council of California

JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM

WORKERS' COMPENSATION COVERAGE

DECLARATIONS

1. NAMED COVERED MEMBER: Judicial Branch Workers' Compensation Program, et al; As per Endorsement No. 1

2. TERM:
Inception: 12:01 a.m. Pacific Standard Time on July 1, 2023
Expiration: 12:01 a.m. Pacific Standard Time on July 1, 2024

3. LIMITS OF LIABILITY:
Workers' Compensation \$100,000,000 Per Occurrence
Employer's Liability \$2,000,000 Per Occurrence

4. FORMS ENDORSEMENTS: Form No. JBWCP 2023-24 WC (B)
FORMING PART OF THE POLICY AT Endorsement No. 1
INCEPTION

ON BEHALF OF THE JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM

AUTHORIZED REPRESENTATIVE

Edward Metro

**JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM
(JBWCP)**

MEMORANDUM OF COVERAGE

WORKERS' COMPENSATION COVERAGE

ENDORSEMENT NO. 1

It is understood that the Covered Party of the Declarations is completed as follows:

JBWCP Judiciary Program Members:

California Supreme Court
California Court of Appeal - 1st District
California Court of Appeal - 2nd District
California Court of Appeal - 3rd District
California Court of Appeal - 4th District
California Court of Appeal - 5th District
California Court of Appeal - 6th District
Commission on Judicial Performance
Habeas Corpus Resource Center
California Judicial Center Library
Trial Court Judges for California Superior Courts
Judicial Council of California

Attached to and forming part of Policy No. JBWCP 2023-24 WC (B)

Effective Date: July 1, 2023

AUTHORIZED REPRESENTATIVE

Edward Metro

JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM

MEMORANDUM OF COVERAGE

Judiciary Pooled Workers' Compensation Program

Form No. JBWCP 2023-24 WC (B)

This Memorandum of Coverage (MOC) sets forth the terms, conditions, and limitations of coverage provided under the Judicial Branch Workers' Compensation Program's (JBWCP) Judiciary Pooled Workers' Compensation Program. The terms of this MOC may not be changed or waived except by amendment made a part of this MOC.

Throughout this MOC, words and phrases that appear in **bold** have special meaning. They are defined in General Section A, "Definitions."

GENERAL SECTION

A. DEFINITIONS

The terms in bold print are defined as follows:

1. **Bodily Injury** shall mean bodily injury by accident or disease, including death resulting therefrom, but shall not include **Occupational Disease**.
2. **Covered Party** shall mean a **Participant** in the JBWCP which has sustained a **Loss** which is covered under this MOC of Coverage.
3. **Employee** shall mean any person performing work which renders the **Covered Party** legally liable as an employer under the Workers' Compensation Act of the State of California, or under the common law of the State of California.
4. **Loss** shall mean only such amounts as are actually paid by the **Covered Party** in payment or benefits under the applicable **Workers' Compensation Law**, in settlement of claims, or in satisfaction of awards or judgments for liabilities imposed by the **Workers' Compensation Law** or other law for **Bodily Injury** or **Occupational Disease** to an **Employee**.
5. **Occupational Disease** shall include (1) death resulting therefrom and (2) cumulative injuries.
6. **Occurrence** shall mean an injury or disease of an **Employee** arising out of and in the course of employment that is compensable under the **Workers' Compensation**

Law. Bodily Injury, illness, or disease sustained by one (1) or more **Employees**, as a result of a single accident, incident, or exposure, shall be deemed to arise from a single **Occurrence**. The **Occurrence** shall be deemed to take place on the earlier of (a) the last day of the last exposure, in the employment of the **Covered Party**, to conditions causing or aggravating the disease, or (b) the date upon which the **Employee** first suffered disability and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by employment with the **Covered Party**. All **Occupational Disease** sustained by one (1) or more **Employees** as a result of an outbreak of the same communicable disease shall be deemed to arise from a single **Occurrence**. An outbreak of the same communicable disease that spans more than one coverage period shall be deemed to take place during the first such coverage period.

7. **Participant** shall mean all courts and branch agencies electing to participate as a Member in the JBWCP's Judiciary Pooled Workers' Compensation Program and are listed on Endorsement Number 1 of this MOC.

B. THE MEMORANDUM OF COVERAGE

This MOC includes at its effective date the Declarations Page and all endorsements listed on the Declarations Page. This MOC is the coverage document between the **Covered Party** and the JBWCP. The terms of this MOC may not be changed or waived except by endorsement issued by the JBWCP to be part of this MOC.

C. COVERAGE PERIOD

This MOC applies to **Loss(es)** resulting from an **Occurrence** during the coverage period defined in the Declarations.

D. WHO IS COVERED

The **Covered Party** is a **Participant** in the JBWCP. If a **Covered Party** loses its status as a Member, the coverage under this MOC shall terminate immediately upon such change in status.

Volunteer workers are also afforded workers' compensation benefits for performing duties for or on behalf of the **Covered Party** while acting within the scope of their duties on behalf of the **Covered Party** provided that the **Covered Party** has first adopted a resolution as provided in Division 4, Part 1, Chapter 2, Article 2 of the California Labor Code declaring such volunteer workers to be **Employees** of the **Covered Party** for purposes of **Workers' Compensation Law**. Unpaid interns are considered volunteers under this section.

E. **WORKERS' COMPENSATION LAW**

Workers' Compensation Law means the workers' or workmen's compensation law and **Occupational Disease** law of the State of California, or any similar law. It includes any amendments to that law that are in effect during the term of this MOC. It does not include any federal workers' or workmen's compensation law, any federal **Occupational Disease** law, or the provisions of any law that provide non-occupational disability benefits.

PART ONE – WORKERS' COMPENSATION COVERAGE

A. **COVERAGE**

The JBWCP will pay for **Loss** sustained as a result of an **Occurrence** for which the **Covered Party** becomes liable under **Workers' Compensation Law** to which this coverage applies provided that:

1. Injury must occur during the coverage period; and
2. Illness by disease must be caused or aggravated by the conditions of employment by the **Covered Party** and the **Employee's** exposure to the conditions causing or aggravating such injury by disease must occur during the coverage period.

This includes coverage for **Loss** resulting from an **Occurrence** for **Employees** normally employed by the **Covered Party** in the State of California who perform work outside the State of California, but only if all of the following are true: such work is incidental to the **Employee's** regular employment in the State of California; such **Loss** is compensable under the **Workers' Compensation Law** and the **Loss** shall not be greater than it would have been had liability been imposed by the State of California; the **Employee** claims benefits under the **Workers' Compensation Law** and benefits under the **Workers' Compensation Law** are administered.

Although Out of State premiums are not covered by the JBWCP, the program will work with each Judiciary Program Member to facilitate the process. Please contact JBWCP staff for assistance in procuring Out of State coverage. The premiums for Out of State coverage will be added to the Judiciary Program Member's JBWCP premium for payment.

B. **DEFENSE**

The JBWCP has the right and duty to defend at its expense any claim, proceeding, or suit against the **Covered Party** for liabilities payable by this coverage. The JBWCP has the right to investigate and settle these claims, proceedings, or suits.

The JBWCP shall provide for the defense of, but not the indemnity for, serious and willful misconduct pursuant to Labor Code section 4553, or discrimination or any other actions pursuant to Labor Code section 132a brought before the Workers' Compensation Appeals Board (WCAB). The JBWCP's duty to defend such claims shall cease upon the resolution of the underlying claim for disability.

C. PAYMENTS THE MEMBER MUST MAKE

The JBWCP is not responsible for any payments in excess of benefits regularly provided by the **Workers' Compensation Law** including those imposed on the **Covered Party** because:

1. Of the **Covered Party's** serious and willful misconduct (except as stated herein above);
2. The **Covered Party** employs an **Employee** in violation of law;
3. The **Covered Party** fails to comply with a health or safety law or regulation;
4. The **Covered Party** discharges, coerces, or otherwise discriminates against any **Employee** in violation of the **Workers' Compensation Law**; or
5. The **Covered Party** violates or fails to comply with any **Workers' Compensation Law** or regulation.

If the JBWCP makes any payments in excess of the benefits regularly provided by the **Workers' Compensation Law** on the **Covered Party's** behalf, the **Covered Party** shall reimburse the JBWCP promptly.

PART TWO – EMPLOYER'S LIABILITY COVERAGE

The JBWCP will provide coverage for Employer's Liability **Losses** up to the Employer's Liability stated in the Declarations Page.

This coverage applies to **Bodily Injury**. This coverage is subject to the Limits of Liability set forth herein, provided that those amounts awarded are the direct consequence of **Bodily Injury** that arises out of and in the course of the injured **Employee's** employment by the **Covered Party**, and are claimed against the **Covered Party** in a capacity other than as employer.

1. The **Bodily Injury** must arise out of and in the course of the injured **Employee's** employment by the **Covered Party**.
2. **Bodily Injury** by accident must occur during the coverage period.

3. **Bodily Injury** by disease must be caused or aggravated by the conditions of employment by the **Covered Party**. The **Employee's** exposure to the conditions causing or aggravating such **Bodily Injury** by disease must occur during the coverage period.

PART THREE - POLICY EXCLUSIONS

This MOC shall not apply to:

- A. Liability imposed by the **Workers' Compensation Laws** because of **Bodily Injury** to prisoners or inmates who receive compensation from an entity, other than the **Covered Party**, for the work performed except for liability imposed by the **Workers' Compensation Laws** because of **Bodily Injury** to participants of a work release program or other community service program established by a county of the State of California;
- B. Employer's Liability Coverage herein does not apply to:
 1. Any obligation imposed by a workers' compensation, occupational disease, unemployment compensation, or disability benefits law, or any similar law.
 2. Bodily injury, illness, or disease intentionally caused or aggravated or caused at the direction of the **Covered Party**.
 3. **Bodily Injury** to an **Employee** while employed in violation of law with the actual knowledge of the **Covered Party**.
- C. Liability for additional compensation imposed on the **Covered Party** under Labor Code section 4557 by reason of injury to an **Employee** under sixteen (16) years of age and illegally employed at the time of the injury.
- D. Liability imposed by Labor Code section 4856.

PART FOUR - THE COVERED PARTY'S RETENTION AND JBWCP'S LIMIT OF LIABILITY

A. LIMIT OF COVERAGE BY JBWCP

The JBWCP will indemnify the **Covered Party** for **Loss** resulting from an **Occurrence** under **Workers' Compensation Laws**, but will not exceed the JBWCP Limit of Liability stated in Item 3 of the Declarations Page on any one **Loss**. Coverage will include all benefits required under **Workers' Compensation Laws**, including full salary benefits listed in Labor Code section 4850. The JBWCP will pay on behalf of the **Covered Party** for Employer's Liability **Losses** but will not exceed the Limits of Liability stated in Item 3 of the Declarations Page on any one **Loss**.

B. HOW THE LIMIT OF COVERAGE APPLIES

The JBWCP's Limit of Liability stated in the Declarations Page applies to **Loss** resulting from an **Occurrence** covered under the Workers' Compensation Coverage or Employer's Liability Coverage as follows:

1. To one (1) or more **Employees** for **Bodily Injury** or death in any one accident; and
2. To any one (1) **Employee** for **Bodily Injury** or death by disease.

Nothing contained herein shall operate to increase the JBWCP's Limit of Liability under this MOC.

PART FIVE - CONDITIONS

A. NOTICE OF ACCIDENT

1. The **Covered Party** shall immediately; within the reporting requirements of the State of California give prompt written notice to the JBWCP, or its agent, if a claim for an injury, illness, or disease occurs which appears to involve coverage by the JBWCP.
2. Notice of injury, illness, or disease given to the JBWCP shall contain complete details on the injury, illness, or disease. If a suit, claim, or other proceeding is commenced which appears to involve coverage by the JBWCP, the **Covered Party** shall give the JBWCP:
 - a) all notices and legal papers related to the claim, proceeding, or suit, or copies of these notices and legal papers;
 - b) copies of reports on investigations made by the **Covered Party** on such claims, proceedings, or suits.
3. If continued cooperation through the life of the claim is not provided by the **Covered Party** to the JBWCP within thirty (30) calendar days of knowledge of such claim, or subsequent details about the injury, disease, or death including any correspondence and communication with the injured **Employee**, the JBWCP may be required to make decisions on behalf of the **Covered Party**. JBWCP will continue to contact and work with the member before making any final decisions. This requirement is a condition precedent to coverage under this MOC.

B. SUBROGATION - RECOVERY FROM OTHERS

1. The JBWCP has the **Covered Party's** rights, and the rights of persons entitled to workers' compensation benefits from the **Covered Party**, to recover the JBWCP's loss from any third person liable for the injury, illness, or disease.
2. The **Covered Party** shall not take any action after injury or disease that would jeopardize the JBWCP's right of recovery.
3. Any subrogation recovery by the JBWCP will be used to reduce the JBWCP's **Loss**

C. MEMORANDUM CONFORMS TO LAW

If terms of this MOC are in conflict with any laws applicable to this Memorandum this statement amends this MOC to conform to such law or document.

D. ACCEPTANCE

By acceptance of this MOC, the **Covered Party** agrees that the statements made on the Declarations Page are the **Covered Party's** agreements and representations, that this MOC is issued in reliance upon the truth of such representations, and that this MOC embodies all agreements existing between the **Covered Party** and the JBWCP or any of the JBWCP's agents relating to this coverage.

E. INSPECTION

The JBWCP has the right, but is not obligated to review the **Covered Party's** programs and operations relating to safety. The JBWCP may give the **Covered Party** reports on the conditions the JBWCP finds. The JBWCP may recommend changes. While they may help reduce losses, the JBWCP does not undertake to perform the duty of any person to provide for the health or safety of the **Covered Party's Employees** or the public. The JBWCP does not warrant that the **Covered Party's** workplaces are safe or healthful or that they comply with law, regulations, codes, or standards.

F. OTHER INSURANCE

If the **Covered Party** carries other valid and collectible insurance with any other insurer or reinsurer covering a **Loss** also covered by this MOC, the coverage afforded by this MOC shall apply in excess of and shall not contribute with such other insurance.

G. TRANSFER OF THE COVERED PARTY'S RIGHTS AND DUTIES

The **Covered Party's** rights and duties under this MOC may not be transferred without the JBWCP's written consent.

H. DISPUTES AND APPEALS

Final decisions by the JBWCP concerning a claim (including, but not limited to, decisions regarding claim resolution, negotiation, investigation, defense, appeal, or settlement, and decisions about whether coverage exists for a particular claim or part of a claim) shall be made by the Advisory Committee of the JBWCP or its designee within sixty (60) days.

Any matter in dispute between the **Covered Party** and the Program Administrator, outside of a coverage dispute outlined in the MOC, shall be called to the attention of the Program Administrator, and heard by the Advisory Committee or its designee. The Advisory Committee or its designee will review the dispute and respond to the **Covered Party** within sixty (60) days of submittal. The **Covered Party** agrees to accept the Advisory Committee or its designee's decision as final.