

**ATLANTIC COUNTY MUNICIPAL JOINT INSURANCE FUND**  
**RESOLUTION #2024- 30**

**A RESOLUTION ADOPTING THE LITIGATION MANAGEMENT GUIDELINES CONFLICT OF INTEREST POLICY.**

**WHEREAS**, the Atlantic County Municipal Joint Insurance Fund has been organized pursuant to *N.J.S.A. 40A:10-36 et. seq.*; and

**WHEREAS**, the Atlantic County Municipal Joint Insurance Fund (ACMJIF) is duly constituted as a Municipal Self Insurance Fund to provide insurance coverage to its member municipalities; and

**WHEREAS**, the Fund Commissioners of the Atlantic County Municipal Joint Insurance Fund have determined that the ACMJIF is distinguished from commercial insurance providers by virtue of the fact that it is formed by municipalities, it is funded by public monies appropriated by the member municipalities, it serves a public purpose and is responsible for the discharge of its function in a manner consistent with policies applicable to municipal government; and

**WHEREAS**, on April 17, 2024, Atlantic County Municipal Joint Insurance Fund adopted Resolution #2024-23 which adopted the Revised Litigation Management Guidelines, and those Guidelines contained a Conflict of Interest Policy; and

**WHEREAS**, the Fund Solicitor had previously determined that the Conflict of Interest Policy required revisions based upon Supreme Court of New Jersey decisions and New Jersey Office of Attorney Ethics Opinions, and therefore, he provided a draft of the revised Conflict of Interest Policy to the Claims Review Committee and all Fund Commissioners of the ACMJIF in May of 2024 for their review and approval, and the Claims Review Committee of the ACMJIF has recommended the adoption of the revised Conflict of Interest Policy to be attached to the Litigation Management Guidelines by the Fund Commissioners, a copy of which are attached hereto; and

**WHEREAS**, the Commissioners of the Atlantic County Municipal Joint Insurance Fund have deemed it appropriate to adopt the revised Conflict of Interest Policy to be attached to the Litigation Management Guidelines.

**NOW THEREFORE BE IT RESOLVED**, by the Commissioners of the Atlantic County Municipal Joint Insurance Fund, assembled at a public session on June 17, 2024, that:

1. The Conflict of Interest Policy which is attached hereto is hereby adopted as the Conflict of Interest Policy for the Litigation Management Guidelines of the Atlantic County Municipal Joint Insurance Fund.

**BE IT FURTHER RESOLVED** that copies of this Resolution shall be provided to the Executive Director, Fund Solicitor, Claims Administrator and all Fund Commissioners and Claims Coordinators for the ACMJIF Member Municipalities for their information and attention.

This Resolution was duly adopted by the Atlantic County Municipal Joint Insurance Fund at a public meeting held on June 17, 2024.

**ATLANTIC COUNTY MUNICIPAL JOINT INSURANCE FUND**

Attest:   
Secretary

By:   
Chairperson

Date: June 17, 2024

## **ATLANTIC COUNTY MUNICIPAL JOINT INSURANCE FUND CONFLICT OF INTEREST POLICY**

The Commissioners of the Atlantic County Municipal Joint Insurance Fund have determined that the Atlantic County Municipal Joint Insurance Fund is distinguished from commercial insurance providers by virtue of the fact that it is formed by Municipalities, it is funded by public monies (Taxpayer Dollars) appropriated by the Member Municipalities, it serves a public purpose and is responsible for the discharge of its function in a manner consistent with the ethical policies applicable to Municipal Government. As a result, the Fund has adopted a policy applicable to potential conflicts of interest by the Officials and Professionals of the Atlantic County Municipal Joint Insurance Fund.

### **Findings:**

1. The Atlantic County Municipal Joint Insurance Fund is a joint enterprise of the following municipalities:

City of Absecon, Borough of Avalon, City of Brigantine, Borough of Buena, City of Cape May, Borough of Cape May Point, Commercial Township, Deerfield Township, Dennis Township, Downe Township, City of Estell Manor, Borough of Folsom, Galloway Township, Hamilton Township, City of Linwood, Borough of Longport, Lower Township, City of Margate, Middle Township, City of Millville, Mullica Township, Borough of Newfield, City of North Wildwood, City of Northfield, City of Ocean City, City of Pleasantville, City of Sea Isle City, City of Somers Point, Borough of Stone Harbor, Upper Township, Upper Deerfield Township, City of Ventnor, Waterford Township, Weymouth Township, Borough of West Cape May, Borough of West Wildwood, City of Wildwood, Borough of Wildwood Crest and Borough of Woodbine,

which provides those municipalities with General Liability, Police Professional, Property, Workers' Compensation, Cyber Liability, Employment Practices Liability and Public Officials Liability coverage.

2. The Member Municipalities of the Atlantic County Municipal Joint Insurance Fund are jointly responsible to defend and pay claims which are brought against the Member Municipalities in accordance with the standards and limitations applicable to the Atlantic County Municipal Joint Insurance Fund.

3. While in some aspects of its operation the Atlantic County Municipal Joint Insurance Fund functions in a manner similar to that of a commercial insurance provider, it is clearly distinguished by the fact that it is created by the Member Municipalities; it is governed by Fund Commissioners appointed by the Member Municipalities; its funding is provided exclusively by the Member Municipalities (and thereby constitutes public funds); the professionals and vendors who enter into Contracts with the Atlantic County Municipal Joint Insurance Fund are compensated with those public funds; the function of the Atlantic County Municipal Joint Insurance Fund is to fulfill a public purpose by providing insurance coverage exclusively to its Member Municipalities; there is a need for those appointed by the Atlantic County Municipal Joint Insurance Fund to freely discuss and evaluate potential liability exposures of the Member Municipalities and to receive information on municipal activities and operations in the same manner as those directly appointed by the Member Municipalities to advise them; and the Atlantic County Municipal Joint Insurance Fund is bound by many of the same laws and regulations applicable to Municipalities with regard to financial records, public contracts and public meetings.

## **Conflict of Interest Policy**

4. It is hereby determined by the Fund Commissioners of the Atlantic County Municipal Joint Insurance Fund that it is in the best interests of the Atlantic County Municipal Joint Insurance Fund and the Member Municipalities to establish a policy regarding potential conflicts of interest affecting those professionals and vendors who are appointed or retained by the Atlantic County Municipal Joint Insurance Fund.

5. It is further determined that it would be inappropriate for a professional or vendor who is appointed or retained by the Atlantic County Municipal Joint Insurance Fund, or for any person owning or employed by the business entity with which the appointed professional or vendor is associated, to undertake the representation or appearance on behalf of a party in a matter or claim adverse to that of the Member Municipalities. The potential conflict of interest specifically extends to the assertion of claims against the Member Municipalities and to appearances before agencies of those Municipalities.

6. In determining the nature and extent of the conflict-of-interest policy, guidance is drawn from the Supreme Court of New Jersey Opinion in the matter of In Re: Supreme Court Advisory Committee on Professional Ethics Opinion No. 697 (2006) and the 2004 Amendments to the Rules of Professional Conduct that eliminated New Jersey's long-standing prohibition against the appearance of impropriety. In adopting this Policy, the Fund Commissioners of the Atlantic County Municipal Joint Insurance Fund are relying on the Supreme Court's opinion that attorneys who plenary represent an agency subsidiary (ACMJIF) to the governmental entity's governing body (Member Municipalities) are barred from representing private clients before the subsidiary agency (ACMJIF) only, and not the Member Municipalities. By the establishment of this Conflict of Interest Policy, the Commissioners of the Atlantic County Municipal Joint Insurance Fund hereby determine that the nature of the Atlantic County Municipal Joint Insurance Fund; its creation by the Member Municipalities; its funding by the Member Municipalities; its governance by the Municipal Officials appointed by the Member Municipalities and the need to share confidential information regarding potential liabilities affecting the Member Municipalities is sufficient to bar any professional or vendor who is appointed or retained by the Atlantic County Municipal Joint Insurance Fund, or for any person owning or employed by the business entity with which the professional or vendor is associated to undertake the representation of a party in a matter or claim that is adverse to any Member Municipality of the Atlantic County Municipal Joint Insurance Fund.

### **Exceptions.**

7. The general policy prohibiting any professional or vendor who is retained or appointed by the Atlantic County Municipal Joint Insurance Fund from undertaking the representation of a party in a matter or claim that is adverse to any Member Municipality of the Atlantic County Municipal Joint Insurance Fund shall not be applicable to the representation of parties in the Superior Court of New Jersey and the Municipal Court of any Member Municipality for criminal matters, motor vehicle violations (including DWI), provided that the defense is not based upon and the parties are not asserting any claim against a police officer, a Municipal Employee or the Municipality for any alleged wrongful or improper action. It is noted that criminal matters and traffic violations require sensitivity to potential conflicts, since charges arising out of a criminal matter, an arrest or a motor vehicle accident, could result in a subsequent claim against the Municipality. Those situations which would present a conflict of interest between the representation of a client and the interest of the Member Municipality should be avoided. Claims against Member Municipalities will need to be evaluated and defended by the Atlantic County Municipal Joint Insurance Fund and the defense should not be compromised by the representation of a party asserting a claim.

8. The general policy prohibiting any professional or vendor who is retained or appointed by the Atlantic County Municipal Joint Insurance Fund from undertaking the representation of a party in a matter or claim that is adverse to any Member Municipality of the Atlantic County Municipal Joint Insurance Fund shall not be applicable to the representation of parties for Development Applications before the Planning Board or the Zoning Board of Adjustment of a Member Municipality. However, any professional or vendor who is retained or appointed by the Atlantic County Municipal Joint Insurance Fund shall be barred from representing or participating in any action in the Superior Court of New Jersey which challenges any decision of the Planning Board or the Zoning Board of Adjustment of a Member Municipality of the ACMJIF.

9. The general policy prohibiting any professional or vendor who is retained or appointed by the Atlantic County Municipal Joint Insurance Fund from undertaking the representation of a party in a matter or claim that is adverse to any Member Municipality of the Atlantic County Municipal Joint Insurance Fund shall not be applicable to the representation of parties before the governing body of a Member Municipality (Issuing Authority) for a Liquor License Person to Person or Place to Place Transfer Application. However, any professional or vendor who is retained or appointed by the Atlantic County Municipal Joint Insurance Fund shall be barred from representing or participating in any action in the Office of Administrative Law or the Superior Court of New Jersey which challenges any decision of the governing body of a Member Municipality.

10. Nothing in the policy adopted herein shall bar an individual from representing or appearing for himself or herself or a member of his or her immediate family residing with him or her before any municipal agency.