

Governance Committee Agenda

Thursday, September 23, 2010

William Green Building

Level 2, Room 3

4:00 PM – 5:30 PM

Call to Order

Alison Falls, Committee Chair

Roll Call

Jill Whitworth, Scribe

Approve Minutes of June 17, 2010 meeting

Alison Falls, Chair

Review and Approve Agenda

Alison Falls, Chair

New Business/ Discussion Items

1. Review of Governance Guidelines
Donald C. Berno, Board Liaison
Ann Shannon, Legal Counsel

2. Review of Committee Charters
Ann Shannon, Legal Counsel
Donald C. Berno, Board Liaison

3. Committee Calendar

Adjourn

Alison Falls, Committee Chair

Next Meeting: Thursday, November 18, 2011

*Not all agenda items have material.

** Agenda Subject to change

9/13/2010 1:31 PM

**OHIO BUREAU OF WORKERS' COMPENSATION
BOARD
GOVERNANCE GUIDELINES**

Approved by the Board:

May 28, 2010

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INTRODUCTION AND PURPOSE

The Ohio Bureau of Workers' Compensation ("BWC") is a state agency that provides medical and compensation benefits to Ohio employees for work-related injuries, diseases and deaths. Ohio employers pay premiums for these benefits to Ohio's State Insurance Fund and/or its specialty funds: Disabled Workers' Relief Fund, Coal-Workers' Pneumoconiosis Fund (CWPF), Public Work-Relief Employees Compensation Fund (PWREF), the Marine Industry Fund (MIF), and the Administrative Cost Fund (ACF). In addition to benefits paid, the BWC makes available and provides loss prevention services to Ohio employers. Ohio's workers' compensation system has the largest state fund in the nation and is the fourth largest underwriter of workers' compensation insurance in the country. Also, the BWC oversees compliance with statutes and rules of employers who choose to self-insure. There is also oversight of the Self-insured Employers Guaranty Fund (SIEGF) which provides payment for workers who were injured while working for self-insured employers who are now bankrupt.

The BWC Board of Directors ("Board") was created by Ohio law and its authority and responsibilities are set forth in detail in the Ohio Revised Code.¹ The primary areas of Board focus are to establish the overall administrative policy of the BWC, to review the progress of the BWC in meeting its cost and quality objectives and to provide advice and consent regarding actions proposed by the BWC Administrator, who is responsible for the management of the day-to-day operations of the agency.² The Board operates in collaboration with other state entities, including the Office of the Attorney General, the Inspector General, the Workers' Compensation Council, Workers' Compensation Board of Directors Nominating Committee, the State Office of Internal Audit, the Industrial Commission, and the Ombuds Office.

The Board and its members have fiduciary responsibilities to the BWC. A fiduciary is a person having a duty, created by an undertaking, to act *primarily for the benefit of another* in matters connected with that undertaking. The monies paid into the workers' compensation funds constitute a trust fund for the benefit of employers and employees.³ The members of the BWC Board are obligated by law to adhere to the highest standards of judgment and care when making decisions or taking actions that may affect the financial integrity and soundness of the workers' compensation funds.⁴ In order to properly discharge the Board's fiduciary responsibilities, the Board should be guided by three primary considerations with respect to matters that come before it: (1) the provisions of Ohio law that directly impact the Board's activities; (2) the duty of loyalty to protect the workers' compensation funds and to act in good faith and in the interests of all the stakeholders of the BWC, taken as a whole; and (3) the duty of care in ensuring

that all Board decisions and actions are the result of an informed deliberative process in which the significant information items relevant to the proposed decision or action are identified and considered by the Board. The Board's fiduciary duties are further outlined in the memorandum authored by fiduciary counsel, and attached hereto as Exhibit A.

Accordingly, it is incumbent upon the Board to operate with the integrity appropriate to its fiduciary duties as it oversees the business of BWC. The Board aspires to implement the best practices of corporate governance and to incorporate all significant developments in this area into its policies and procedures. The Board has adopted the measures set forth in this document to describe the governance structure and guidelines by which the Board shall conduct its business. It is the intention of the Board to review these guidelines at least annually.

ORGANIZATION OF THE BWC BOARD OF DIRECTORS

Board Composition

The BWC Board of Directors consists of eleven (11) members. Board members are appointed by the Governor of Ohio from a list of candidates prepared by the Workers' Compensation Board of Directors Nominating Committee and with the advice and consent of the Ohio Senate. It is provided by statute that one member of the Board shall be a representative of employees; two members of the Board shall be representatives of employee organizations; three members of the Board shall be representatives of employers with one of the three representing self-insuring employers; two members of the Board shall be investments and securities experts; one member of the Board shall be a certified public accountant (CPA); one member of the Board shall be an actuary; and one member of the Board shall represent the public.⁵ The Governor of Ohio selects the Chair of the Board of Directors, who serves at the pleasure of the Governor.

Ohio law established that the members of the Board of Directors will serve staggered three year terms of office. One group consists of the employee representative, one of the employer representatives, and the public representative. The second group consists of another employer representative, one of the employee organization representatives, one of the investment and securities expert and the CPA representative. The third group consists of the third employer representative, the other employee organization representative, the other investment and securities expert, and the actuary representative. There are no term limits. Ohio law sets forth detailed procedures for the filling of vacancies occurring as a result of the expiration of a Board member's term of office or otherwise.⁶ The current Board members and their respective terms of office are listed in a document attached hereto as Exhibit AB.

Board members shall aspire to maintain the highest ethical standards and integrity in fulfilling their responsibilities, and shall demonstrate a willingness to act on and be accountable for Board decisions. Members shall strive to utilize their diverse backgrounds, talents and experiences to provide wise, informed and thoughtful counsel to BWC management. Members shall demonstrate loyalty and commitment to the success

of the BWC. It is expected that members may hold differing points of view on issues before the Board and are encouraged to express their points of view. Regardless of their particular points of view, members shall at all times act in the best interests of the BWC and its stakeholders as a whole. Members shall devote an appropriate amount of effort in preparation for meetings, participate fully in the activities of the Board and its Committees, and shall strive to be prompt and regular in attendance at Board and Committee meetings. Board members shall be compensated for their attendance at Board and Committee meetings (i.e. Actuarial, Audit, and Investment Committees), and shall be reimbursed for all reasonable and necessary expenses while engaged in the performance of their duties, all as provided by statute.⁷

Duties & Responsibilities

Under Ohio law,⁸ the Board's responsibilities include the following:

- establish overall administrative policy for BWC;
- review BWC's progress in meeting cost and quality objectives, and its compliance with the Ohio Revised Code;
- meet with the Governor of Ohio annually to discuss the Administrator's performance;
- advise and consent on rules that BWC wishes to pursue;
- contract with an actuarial firm, outside investment consultant and independent fiduciary counsel to assist the Board in fulfilling its duties;
- contract with an actuarial consultant to prepare an annual actuarial report, an actuarial investigation of employers' experience and injured workers' benefits every five years (by 2012), and actuarial analysis of legislation expected to have measurable financial impact on the system;
- review investment policy annually, approve investment policy changes for BWC, prohibit investments that are contrary to Board-approved investment policy, vote to open investment classes, and adopt rules establishing due diligence standards for BWC employees to follow when investing in an open investment class and establish policies and procedures to review and monitor the performance and value of each investment class;
- contract with an independent auditor to conduct a fiduciary performance audit of BWC's investment program at least once every ten years (by 2017).
- review all independent financial audits of BWC;
- submit an annual report to the Ohio General Assembly, the Governor, and the Workers' Compensation Council regarding BWC operations and progress;
- submit an annual report on the performance and value of BWC investments to the Governor and the Ohio General Assembly;
- develop and participate in an education program for the Board members, and submit the education program to the Workers' Compensation Council; and
- study issues as requested by the Governor or the Administrator.

Administrator's Performance Objectives & Evaluation

Annually the Board shall oversee a process for the evaluation of the Administrator's performance and shall also develop prospective performance objectives for the

Administrator for the coming fiscal year. At the end of the review year, the Board will examine the Administrator's actual performance against the Board's objectives as well as the Governor's objectives. The Board's process for the Administrator's evaluation shall include (i) a review by the Governance Committee of the Specific Performance Objectives contained in the Administrator's Flexible Performance Agreement with the Governor, as well as leadership attributes that the Board believes are important to an overall evaluation of the Administrator's performance, (ii) the development of an evaluation form to be completed by all qualified Directors⁹ with respect to the Administrator's evaluation, (iii) the review by the Board of the compilation of all Director responses to the evaluation form, (iv) the review, comment and finalization of a draft Annual Evaluation Report prepared by the Governance Committee with the assistance of fiduciary counsel, revised to reflect input from individual Board members, (v) the review, comment and finalization of the Annual Evaluation Report by the full Board, and (vi) the discussion of the Annual Evaluation Report first with the Administrator and then with the Governor at a meeting of the Board for that purpose. The final written Annual Evaluation Report shall be made publicly available.

Board Self-Assessment Process

Although not required by Ohio law, the Board of Directors shall engage in a yearly self-assessment process for the purpose of continuous self-improvement. This process provides an occasion for input from all Board members regarding their opinion on a range of Board issues, including receipt of information, discussion and decision-making. The objective is for the Board to take time to be introspective and then use the self-assessment process to be proactive in recommending action steps to continuously develop the Board's processes and effectiveness. The self-assessment will assist the Board members to identify opportunities for improvement, as well as recognition of past areas of success. The self-assessment will contain a balance of both objective and subjective observations. The self-assessment process shall be evaluated on a yearly basis to ensure continued relevancy of all questions posed.

Duty of Oversight

In general, the Board is responsible for approving the strategic direction proposed by BWC management. In order to approve any such plans, it is necessary and appropriate for the Board to develop a depth of knowledge regarding BWC operations that shall enable the Board to analyze the effectiveness and feasibility of the strategic proposals of the Administrator. In addition, the Board shall monitor the performance of BWC as it works to fulfill the business approach adopted by the agency. As the Board monitors BWC performance, it shall be necessary for the Board to review and approve BWC's financial objectives, plans and actions, as well as to review and approve any transactions not in the ordinary course of business. To enable successful fulfillment of BWC objectives, the Board shall ensure that BWC is structured to encourage ethical behavior, to require compliance with the law, and that sound accounting principles, actuarial standards and auditing practices are instituted.

In exercising their fiduciary responsibilities, Board members shall be guided by the specific provisions of Ohio law relative to the Board and the BWC. To assist the Board

in fulfilling its fiduciary responsibilities, the Board shall retain independent fiduciary counsel.¹⁰ BWC shall obtain fiduciary liability insurance for the Board.

The Board of Directors may be required to provide information to the Workers' Compensation Council as it fulfills its duties. Such information shall be provided with all due speed. The Board of Directors shall provide its annual report, as well as its actuary report to the Workers' Compensation Council. The Board shall submit its annual education program to the Workers' Compensation Council.

The process of Board oversight of the Administrator and Staff of the BWC is an interactive one. The Administrator is required to obtain the advice and consent of the Board prior to proceeding with recommended measures in fulfillment of the Administrator's statutory responsibilities (a "Recommendation"). As part of the Board's review of a Recommendation in connection with its oversight duties, it is appropriate for the Board to request the BWC Staff to consider matters deemed relevant and important by the Board as a matter of policy. In that connection, the Board may request the BWC Staff to consider changing the way in which certain matters in a Recommendation are treated in order to address what the Board may perceive as important policy considerations.

BOARD PROCEDURES

Board of Directors' Meetings

The Board of Directors conducts its business through open and public meetings in compliance with the Ohio Open Meetings Act. Members of the public and press are invited to attend these meetings. Advance notice of the time and place of all meetings shall be provided to the media at least twenty-four (24) hours in advance, and shall be posted on BWC's web site. Notice shall be provided subject to a test of reasonableness. The Chair of the Board shall set the meeting dates of the Board as necessary to perform the duties of the Board. The Board shall meet at least twelve times a year.¹¹ Minutes of all Board and Committee open public meetings shall be taken and maintained. Robert's Rules of Order is generally followed at both Board and Committee meetings. The Chair of the Board presides at Board meetings. In the event that the Chair is unable to attend, the Vice Chair of the Board shall preside at the Board meeting.

Conduct at Meetings

A Board member desiring to speak shall address the Board Chair and, upon recognition by the Board Chair, shall confine discussion to the issue before the Board and shall observe appropriate courtesy of behavior including: avoiding discussion of personalities or personal matters, avoiding the use of indecorous language, and refraining from personal attacks and verbal abuse. A Board member, once recognized, shall not be interrupted while speaking unless called to order by the Board Chair, unless a point of order is raised by another Board member, or unless the speaker chooses to yield to questions from another member. If a Board member is called to order while speaking, that member shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in

order, the member shall remain silent or make additional remarks in accordance with the rules of the Board.

A Board member desiring to question a BWC staff member shall address such questions to the Board Chair, the Administrator or the appropriate Board Committee Chair. Such person shall be entitled either to answer the inquiries or to designate some member of the BWC staff for that purpose. Board members shall treat with respect members of the BWC staff, who shall observe the same rules of decorum as the BWC Board members.

Whenever possible, motions and amendments to motions should be in writing and distributed to all Board members prior to the Board and Committee meetings. Formal motions shall be made to approve the minutes of the Board and Committee meetings, and to approve meeting agendas as well as modification to the agendas. To adjourn a Board or Committee meeting, a motion shall also be made. All votes taken by the Board and its Committees shall be done by roll call vote.

Agenda Development & Distribution

The Board Chair, in cooperation with the Administrator and/or the Board Liaison, shall prepare the agenda for the Board meeting. Any Board member desiring to do so is encouraged to submit suggestions or requests for agenda topics relevant to the conduct of the Board's duties to the Board Chair. At a minimum of a week prior to each regular Board meeting informational material with respect to that meeting shall be delivered to the Board, including a preliminary agenda and supporting documents with respect to the matters to be considered at the meeting. Whenever practical, and particularly for major policy initiatives or major rule changes, background and informational material shall be provided to the members of the Board more than a week in advance of scheduled Board meetings to allow addition time for review and reflection. This same process shall be followed for Committee meetings. A Board member may request that an agenda item be deferred, removed or added by making the request to the Board or Committee Chair. The request to defer, remove or add an agenda item shall be considered by the Board or Committee Chair and implemented where practical. Should the Board member's request to defer, remove or add an agenda item be refused, the Board member may make a motion to have the Committee or the full Board consider the request by vote.

Reports by Board Committees

At the Board's monthly meeting, the Committee Chairs shall regularly provide a report of the activities of the Committees. This agenda item enables Committee Chairs or designated representatives to report any actions or pending actions taken by Committees and to request Board approval of Committee recommendations as appropriate.

Committee Meetings

Committee meetings are conducted as often as determined necessary by majority vote of the Board of Directors. Only members of the Committee may participate in voting on Committee matters. All members of the Board are encouraged to attend and participate in discussion at Committee meetings. The Committee Chair shall develop the agenda for the Committee meetings. Ample opportunity shall be given for any Board member to

submit suggestions or requests for agenda topics to the Committee Chair. Committee agendas and supporting documents shall be provided to the Board and appropriate BWC staff prior to the Committee meeting. Minutes of Committee meetings shall include identification of Committee members and other Board members present, agenda items and official actions taken by the Committee. Committee minutes shall follow all the requirements for minutes for the full Board meetings, as noted below in "Minutes of Board Meetings and Committee Meetings".

Rules/New Business Submittal Process

Generally, BWC staff should submit proposed rules and ~~new business items~~ major policy decisions to the Board Liaison at least two weeks prior to the upcoming Board meeting or Committee meeting. It is recognized that unforeseen circumstances may prevent such advance submission. For issues concerning the various Committees, the Board Chair, with the advice and consent of the Committee Chair, shall determine whether issues are presented to the Board for resolution.

Information regarding ~~major policy initiatives~~ major policy decisions or rule changes that may be contemplated by BWC should be submitted for the agendas of the Committees for a "first reading" and subsequent reporting by the Committee chair to the full Board. The same ~~major policy initiative~~ major policy decisions or rule change would then be included on the agendas of the Committee at a later meeting for a "second reading" and possible approval. The first and second readings provide the Board and its Committee members the opportunity to obtain background information, ask questions of BWC staff members, and engage in discussion regarding the topics that are under consideration. The same ~~major policy initiative~~ major policy decisions or rule change would proceed from a first reading to a second reading at a later Committee meeting before the Board would consider approval.

This process of providing both a first and second reading ensures a fully informed vote by the Board concerning a ~~major policy initiative~~ major policy decision or rule change. However, the Committee may wish to waive a "second reading" of a ~~major policy initiative~~ major policy decision or rule change. In the event a Committee wishes to waive the second reading of a ~~major policy initiative~~ major policy decision or rule change, a motion to waive shall be submitted for consideration, and voted upon by roll call vote. If the motion to waive the second reading passes at the Committee level by a majority vote, the Committee may then proceed to consider the underlying ~~major policy initiative~~ major policy decision or rule change for recommendation to the Board.

Administrator's Report

At the Board's monthly meeting, the Administrator shall regularly provide a report. This agenda item provides an opportunity for the Administrator to present information on issues of interest to the Board and others.

Minutes of Board Meetings & Committee Meetings

There shall be detailed minutes kept of each Board and Committee meeting. The minutes record the formal actions taken by the Board and Committees and a summary of important reports and discussions. These minutes should reflect the length and intensity

of the discussion of key issues before the Board or Committee, and also record with precision the actions of the Board or Committee with respect to the matters on which it takes action. Minutes should contain appropriate details of the meetings, and should reflect the Board's or Committee's fulfillment of applicable fiduciary standards of conduct. In its decision-making processes, the Board and Committees shall give thoughtful attention to the issues before it; the minutes shall indicate the full consideration given by the Board or Committee. The minutes should also document such matters as whether further follow up was requested from the Administrator or Staff. The minutes shall demonstrate the Board's or Committee's adherence to the Governance Guidelines. Board or Committee members may request that specific comments be included in the minutes. Minutes should usually be reviewed and voted on for approval at the next subsequent Board meeting, at which individual Board members may offer suggestions of amendment to the minutes. Accordingly, a draft of the Board and Committee minutes, in substantially final form, shall be furnished to the Board members in the next subsequent Board package. The Board shall approve the Board minutes by majority vote; the members of each Committee shall approve the minutes of the respective Committees by majority vote. Once approved, the minutes constitute the official record of the Board's or Committee's actions and decisions.

Executive Session

Consistent with Ohio law,¹² the Board and its Committees may move to go into Executive Session (i.e. exclude the public from attendance) under a limited set of circumstances by stating the reason for the executive session and taking a roll call vote, with passage requiring a majority vote. The proper purposes for Executive Session are to discuss any of the following issues:

- personnel (to consider appointment, employment, performance evaluation, dismissal, discipline, promotion, demotion or compensation of a public employee or official, or to consider the investigation of charges or complaints against a public employee or official);¹³
- property (to consider the purchase or sale of property if disclosure of the information would result in a competitive advantage to the other side);
- court action (to discuss pending or imminent court action with legal counsel);
- collective bargaining (to prepare for, conduct or review collective bargaining strategy);
- confidential matters (to discuss matters required to be kept confidential by federal law, rules or state statute);
- security arrangements (to discuss details of security arrangements and emergency response protocols where disclosure could be expected to jeopardize the security of the Board of Directors); and
- As otherwise permitted by law and approved by legal counsel.

No action or any votes may be taken in Executive Session. A motion to adjourn the executive session and return to public session is not necessary.¹⁴ Any voting on matters discussed in Executive Session shall be taken in public session. Attendance at Executive Sessions is limited to Board members and others invited by the Board Chair or Committee Chair as necessary.

Director Education Program¹⁵

The Board of Directors shall develop an education program for its members with the oversight of the Governance Committee. The education program shall contain an orientation component for newly appointed members, as well as a continuing education component for members who have served at least one year. For orientation of new members, information regarding all activities of BWC shall be provided, as well as information regarding the roles of the Board and its Committees. The Board Liaison shall schedule new members for briefing sessions with other Board members, Board legal counsel, as well as BWC staff. The briefing sessions and ongoing education curriculum shall cover the following topics:

- information about Board member duties and responsibilities;
- information concerning injured worker compensation and benefits paid under Chapters 4121, 4123, 4127, and 4131 of the Ohio Revised Code;
- summary of HB 100 legislation and amendments thereto;
- Ohio ethics statutes and rules, BWC ethics policy, and all ethics opinions from the Ohio Ethics Commission concerning Board members;
- fiduciary responsibility including memorandum from fiduciary counsel;
- governance processes and responsibilities;
- BWC Administrator and agency goals and objectives (e.g. "Restoring Operational Excellence" for fiscal year 2008-09);
- Administrator evaluation process;
- Board self-assessment process;
- Concepts of actuarial soundness;
- Investments;
- Budgeting and financial reporting;
- Auditing processes and procedures;
- any other topic reasonably related to the duties of the Board.

The Board of Directors shall submit the education program it develops to the Workers' Compensation Council. All sessions, classes, and other events for the education program developed by the Board and approved by the Workers' Compensation Council shall be held in the State of Ohio. Education sessions can be conducted at Committee or Board meetings, as long as a majority of Board members attend. ~~If a Board member is unable to attend a particular session, that member should attend a "make-up session."~~ Materials for all educational sessions shall be provided to the Board members in advance for review. If a Board member is unable to attend an educational session, it is the responsibility of that Board member to review the material provided and follow up with any questions. The Board shall review and approve its education program annually and submit it to the Workers' Compensation Council. At least annually, both the Director of the Ethics Commission as well as Board fiduciary counsel shall be invited to address the Board on their respective areas of subject matter expertise.

Public Forum Process

The Administrator, in consultation with the Board, shall annually create a plan for public forums to solicit views from the public on various issues, to be held periodically

throughout the coming year. Each public forum shall address a topic or topics deemed by the Administrator or the Board to be of interest to BWC stakeholders. Members of the public shall be provided notice of and have an opportunity to provide comments and/or register to speak at such forums. The Administrator and the Board may also invite certain stakeholders with an interest in the topic to speak. Appropriate written comments provided during the meeting shall be posted on the BWC web page. The Board and BWC shall follow the Policies and Procedures for Public Forums, as adopted by the Board and attached hereto as Exhibit BC.

Communication Guidelines

As a general rule, it is the Board's position that the BWC Administrator, or BWC management appointed for such purpose by the Administrator, speaks for the agency as a whole.

Members of the public can provide written submission of comments to BWC's website at OhioBWC.com. Comments on pending legislation should be limited to those necessary to conduct the business of the Board of Directors. Comments beyond that should be directed to members of the Ohio General Assembly or the Workers' Compensation Council. The Chair of the Board of Directors reserves the right to limit comments from the public during meetings.

As a matter of policy, the Board shall acknowledge and respond to any letter sent to its attention. Communications received directly by Board members from persons outside the BWC shall be forwarded to the Board Liaison. If the communication is to the entire Board, the Board Liaison shall work with the Board Chair and prepare the appropriate response. The response shall be shared with the Board. If the communication is addressed to an individual Board member, the Board member receiving such communication shall work with the Board Liaison to prepare the appropriate response. The original communication and response shall be provided to the entire Board. The Board Liaison shall be responsible for retention of the Board's public records and communications with the public. The Board Liaison shall follow state law and BWC policies for records retention.

BOARD COMMITTEES – COMPOSITION AND RESPONSIBILITIES

By law,¹⁶ the Board of Directors shall establish three Committees: the Actuarial Committee, the Audit Committee, and the Investment Committee. Additional Committees may be established by the Board of Directors as needed.¹⁷ Currently, the Board of Directors has established a Governance Committee and a Medical Services and Safety Committee in addition to the statutorily mandated Committees. At least annually, shortly after scheduled Board appointments, the appointment of Committee members, the Committee Chair, and the Committee Vice Chair shall be considered and shall be approved by the majority vote of the Board.

The Committee Chairs shall preside at Committee meetings. In the absence of a Committee Chair, the Vice Chair of the Committee shall preside at the Committee meeting. If both the Chair and Vice Chair are not available, the Chair of the Board shall appoint an acting Chair for that Committee meeting. Additional detail regarding the Board's Committees, including the roles and responsibilities of all Committees, are further defined by the Committee Charters, as approved by the Committees and adopted by the Board. Each Charter shall be reviewed and updated as necessary on an annual basis. The Charters of the Board's Committees are attached hereto as Exhibit CD.

Actuarial Committee

Although Ohio law requires a minimum of three members to be part of the Actuarial Committee, the Board has determined that the Actuarial Committee should consist of a minimum of five members of the Board of Directors. One member shall be the member of the Board who is an actuary. The Board, by majority vote, shall appoint additional members of the Board to serve on the Actuarial Committee. The Board may also appoint additional members who may not be on the Board, as the Board determines necessary through majority vote. Members of the Actuarial Committee serve at the pleasure of the Board and the Board, by majority vote, may remove any member except the member of the Committee who is the actuary member of the Board.

The Actuarial Committee performs several functions mandated by law.¹⁸ It recommends actuarial consultants for the Board to use for actuarial analysis of BWC funds, and reviews the annual report of the actuarial valuation of the assets, liabilities, and funding requirements of the State Insurance Fund. In addition, the Actuarial Committee reviews the calculations on rate schedules and performance prepared by the actuarial consultants retained by the Board. The Actuarial Committee reviews all administrative code rules proposed for change, rescission, or addition that concern rate making. The Actuarial Committee has actuarial analysis conducted for any legislation expected to have a measurable financial impact on the BWC system. At least once every five (5) years, the Actuarial Committee arranges for an actuarial investigation of: the experience of employers; mortality, service and injury rate of employees; and payment of benefits, in order to update the assumptions on the annual actuarial report. This actuarial investigation shall be conducted next in the year 2012.

Audit Committee

Although Ohio law requires a minimum of three members to be part of the Audit Committee, the Board has determined that the Audit Committee shall consist of a minimum of five members of the Board of Directors. One member shall be the member of the Board who is the certified public accountant. The Board, by majority vote, shall appoint additional members of the Board to serve on the Audit Committee. The Board may also appoint additional members who may not be on the Board, as the Board determines necessary through majority vote. Members of the Audit Committee serve at the pleasure of the Board and the Board, by majority vote, may remove any member except the member of the Committee who is the certified public accountant member of the Board.

The Audit Committee performs several functions mandated by law.¹⁹ It makes recommendations to the Board regarding the accounting firm that performs BWC's annual audits. It also recommends to the Board the accounting firm(s) that the Board uses when conducting the fiduciary performance audit of BWC's investment program, and other management and financial audits that the Board may deem necessary under R.C. §4121.125. The Audit Committee reviews the results of each annual financial audit and management review, assessing and developing appropriate courses of action to correct any problems that may arise. The Audit Committee also monitors the implementation of any action plans it creates, and reviews all internal audit reports on a regular basis. The committee follows the process as described in the "Board Procedures" section of this document. The Audit Committee also oversees the annual and biennial agency budget process by providing initial review to BWC budget materials prior to Board review and approval. The Audit Committee assists the Board in providing oversight of the integrity of BWC's financial statements.

The Audit Committee is responsible for strategic financial policies for assuring the appropriate level of net assets for the appropriate BWC funds. The Audit Committee is responsible for an annual review of the funding ratio and the net leverage ratio pursuant to BWC's Net Asset Policy, which is attached hereto as Exhibit DE. As part of this policy, the Audit Committee and then the Board shall review BWC staff recommendations in order to establish guidelines for funding ratio and net leverage ratio. The Audit Committee shall also take the lead in the process for establishing the discount rate for reserves. Pursuant to BWC's Reserve Discount Rate Policy, attached hereto as Exhibit EF, the Administrator has the responsibility and authority to establish the discount rate for reserves with the review and guidance of the Audit Committee and the concurrence of the Board.

Investment Committee

Although Ohio law requires a minimum of four members to be part of the Investment Committee, the Board has determined that the Investment Committee shall consist of a minimum of five members. Two of the members shall be the members of the Board who serve as the investment and securities experts on the Board. The Board, by majority vote, shall appoint additional members of the Board to serve on the Investment Committee. The Board may also appoint additional members who may not be on the Board, as the Board determines necessary through majority vote. Each additional non-Board member appointed shall have at least one of the following qualifications: a) experience managing another state's pension or workers' compensation funds; or b) expertise that the Board determines is needed to make investment decisions. Members of the Investment Committee serve at the pleasure of the Board and the Board, by majority vote, may remove any member except the members of the Committee who are the investment and securities expert members of the Board.

The Investment Committee performs several functions mandated by law.²⁰ It develops the investment policy for BWC, and submits it to the Board for approval. The Investment Committee must assure that BWC invests in accordance with its investment policy, and that the best possible return on investment is achieved while protecting the

solvency of the State Insurance Fund. The Investment Committee monitors implementation by BWC of the investment policy. It recommends an outside investment consultant for the Board. Finally, the Investment Committee reviews the performance of BWC's Chief Investment Officer and the investment consultants retained by BWC.

Governance Committee

The Governance Committee was established by the Board of Directors under its authority to create additional Committees as it deemed necessary.²¹ The Governance Committee consists of a minimum of three members. One member is the Chair of the Board of Directors. Members of the Governance Committee serve at the pleasure of the Board and the Board, by majority vote, may remove any member except the member of the Committee who is the Board Chair.

The Governance Committee is responsible for developing governance policies and advising as to best governance practices for the Board. The Governance Committee assists in the establishment of the Board's annual performance objectives for the Administrator and coordinates and facilitates the process for the Board's annual performance evaluation of the Administrator. ~~The Governance Committee is responsible for the initial review of rules with the exception of actuarial ratemaking rules and other rules specific to another committee.~~ In addition, the Governance Committee coordinates and facilitates the Board's annual self-assessment process, and monitors any follow up or action steps that may result from that assessment. The Governance Committee oversees the Board's educational programs, recommends the selection of independent fiduciary counsel to the Board for its approval, and makes recommendations to the Board Chair for the Vice Chair of the Board, Committee Chairs, Vice Chairs of the Committees, and Committee memberships.

Comment [A1]: Do we want to keep this?

Medical Services and Safety Committee

The Medical Services and Safety Committee was established by the Board of Directors under its authority to create additional Committees as it deemed necessary.²² The Medical Services and Safety Committee consists of a minimum of three members. The Board may also appoint additional members who may not be on the Board, as the Board determines necessary through majority vote. Members of the Medical Services and Safety Committee serve at the pleasure of the Board and the Board, by majority vote, may remove any member.

The Medical Services and Safety Committee is responsible for assisting the Board of Directors and BWC in the development of strategic policy for the provision of quality, cost-effective prevention, treatment, and rehabilitation of workplace injuries for the mutual benefit of injured workers and employers. The Committee will provide review and oversight of BWC's policies with respect to its medical provider network and practice guidelines; managed care and disability prevention delivery models; and outcome metrics for the above.

BOARD GOVERNANCE -- GENERAL

Ethics

The Board of Directors is committed to following ethical standards that promote the integrity of the workers' compensation system in Ohio. The Board is charged to comply fully with all federal and state laws, rules, regulations and policies applicable to the BWC. In particular, it is necessary that Board members become familiar with the applicable ethics requirements in order to ensure compliance with them. These requirements include the provisions of the Ohio Revised Code, the Governor's Executive Orders addressing ethics, and the opinions of the Ohio Ethics Commission pertaining to the BWC Board of Directors. An outline of Ohio ethics law prepared by the Ohio Ethics Commission as well as copies of the opinions of the Ohio Ethics Commission pertaining to the BWC Board of Directors are attached and, as identified in as Exhibits F-G and H respectively, hereto. The Board Liaison shall provide copies of the ethics requirements within the Ohio Revised Code on a yearly basis to all Board members.

The Board is also subject to BWC's Code of Ethics, as found in the BWC Employee Handbook. To meet its obligations under Ohio law, each Board member is required to submit an annual Financial Disclosure Statement to the Ohio Ethics Commission for any year, in whole or part, in which the Board member served. ~~e~~Each Board member shall submit to the Board's legal counsel at the Attorney General's office a copy of the annual Financial Disclosure Statement, ~~required by the Ohio Ethics Commission.~~ The BWC Legal Counsel and the Board's legal counsel at the Attorney General's office shall review the statements for potential conflicts of interest. In keeping with the guidance of the Ethics Commission, the Board shall give broad interpretation to the requirements to report any other board membership, fiduciary relationship, business or other association when completing the annual Financial Disclosure Statement. The Board views the requirements of Ohio law and BWC policy with respect to ethics as a minimum measure for its standard of conduct. It is the aspiration of the Board to perform its duties in accordance with the highest ethical standards.

To adhere to these standards, the Board's Directors must avoid conflicts of interest. A conflict of interest is a situation in which a Director has professional or personal interests that compete with the interests of BWC. Because each Director has a duty of loyalty to BWC, a conflict of interest should not be permitted to breach that duty. To avoid any potential conflict each Director should determine if there is a possibility of an actual conflict of interest or the appearance of a conflict of interest with any issues coming before the Board. If there is an actual conflict of interest or even the appearance of a conflict of interest the Director should recuse himself/herself from participating in any way in the decision, ~~including discussions,~~ as well as any decisions of the issue creating the conflict of interest or appearance of a conflict of interest. As the issue arises on the agenda, ~~The~~ Director should state for the record the reason for the conflict of interest or appearance of a conflict of interest, and excuse himself/herself from the Committee or Board ~~table-room~~ for the duration of discussion and possible voting on the issue that created the conflict of interest or the appearance of a conflict of interest. Finally, the record should indicate that the Director in question did not participate in any way on the matter requiring recusal.

Board Oversight Process Guidelines

In order for the Board to fulfill its fiduciary responsibilities regarding oversight of the BWC, it must receive accurate and reliable information from the Administrator and BWC staff. Further, the Board must do its part in promoting the provision of quality information by making sure that measures are in place to ensure, to the extent practicable, that it is receiving the best information available. A related responsibility of the BWC, as an Ohio state governmental agency, is to develop, implement, and enforce policies and procedures that prevent or reduce the risk of wrongful acts and omissions by its officers and employees. In furtherance of the Board's oversight role, the Board has regularly scheduled meetings in which information exchange between it and BWC takes place. In addition, Charters have been established for all Committees and the Governance Committee was created to oversee governance issues. Furthermore, information exchange between the Board and the Inspector General's ("IG") office has been established. The Board Chair shall periodically contact the IG to invite sharing of information regarding IG investigations relative to the BWC. It was acknowledged in this connection that, in some cases, the IG may not be able to share information due to the confidentiality and other constraints imposed by statute on the IG's office. The Board Oversight Process Guidelines are attached hereto as Exhibit G.

As detailed in its charter, the Audit Committee is the arm of the Board that has the formal responsibility of interacting with the Auditor of State, the State Office of Internal Audit, and other agencies within the Ohio and federal governmental systems. In the event there is an internal BWC investigation which is not referred to the deputy IG, and the Administrator has determined that there is no need for confidentiality with respect to such matter, the Audit Committee shall be informed of such matter at a regular meeting. If there is a need for confidentiality, as determined by the Administrator, in consultation with the Board Chair, the Audit Chair shall be informed of such matter, and the Audit Chair shall make a judgment as to whether or not there is a need to inform others on the Board regarding the investigation. The policy underlying this procedure is that, in any such event, either the Board, the Board Chair, or the Audit Chair shall know what is occurring.

There are several reports mandated by law that the Board of Directors must submit to various bodies. In order to coordinate the preparation, review and release of these reports, the Board has asked the Governance Committee to assume appropriate oversight of the general process and assign responsibility to the various Committees for oversight of specific reporting processes. Generally speaking, no Board of Director reports that are required by statute may be released without express Board review and approval. The Governance Committee of the Board provides general oversight of this process. However, the respective committees with specific expertise with respect to any such report will provide the supervision necessary for completion of the report. The various committees will work with BWC staff, review the report product, and provide any feedback necessary for finalization of the documents to be released. The timetables for completion of these reports shall be established by the committee responsible for the report, and the responsible parties shall comply with any mandatory due dates set forth therein or with respect thereto. A document detailing the division of responsibility and

accountability for each report, as well as a general timetable for completion has been established called "Board of Directors Schedule of Mandatory Reports," which has been adopted by the Board of Directors and is attached hereto as Exhibit HJ.

Delegation of Authority

Under some circumstances, the Board of Directors may find it necessary to designate an individual Board member or Board members to carry out a specific task or duty on behalf of the Board. In situations where such delegation of authority may be recommended, the Board shall consider the matter through formal motion and after thorough discussion regarding the task or duty. The motion to be voted upon must specify the task or duty to be performed, the individual to whom the task or duty will be assigned, and the timeframes in which the task or duty must be performed. After a formal roll call vote by the Board affirming the motion delegating authority, the Board member(s) shall complete the task or duty according to the terms specified in the motion. Upon completion of the delegated task or duty, the individual Board member or Board members shall report back to the Board with a complete explanation regarding the actions of the Board member(s) in fulfilling the terms of the motion voted upon by the Board.

Referral Process for Wrongdoing

The Board of Directors is fully committed to the detection, investigation and prevention of wrongdoing at BWC. In the event a Board member receives information concerning possible wrongdoing at BWC, it is the member's obligation to promptly notify the Board Chair and the Administrator of the information so that the matter can be fully investigated and handled. In some instances, matters may be referred to the IG's office for investigation.

The Board of Directors shall comply with BWC's Employee Handbook regarding requirements for the reporting of wrongdoing. In addition, the Board shall also follow the Governor of Ohio's requirements for the reporting of wrongdoing, as contained in the memorandum from the Governor's Chief Legal Counsel Kent Markus dated October 11, 2007, which is attached hereto as Exhibit IK.

BWC staff is responsible for keeping the Board of Directors fully informed of investigations and their outcomes. To this end, the Administrator shall provide updates to the Board as necessary. In some instances, updates regarding investigations of wrongdoing shall be provided in executive session, as permitted by Ohio law.

R.C. 124.341 establishes the procedures and responsibilities incumbent upon all state agency employees with respect to the reporting of wrongdoing, as well as the responsibilities of supervisory personnel within state agencies with respect to whistleblowing occurrences, including referral of the report to the appropriate authority and the protection of the whistleblower. The Board shall similarly follow such procedures and observe the requirements of Ohio law regarding whistleblowing.

Revision & Approval 5/28/10 Board of Directors
Annual Review, Revision & Approval 11/20/09 Board of
Directors
Annual Review, Revision & Approval 11/21/08 Board of
Directors
Annual Review, Revision & Approval 2/29/08 Board of
Directors

¹ R.C. 4121.12(F)

² R.C. 4121.121(B)

³ R.C. 4123.30

⁴ Ohio Attorney General Opinion No. 89-033 (1989)

⁵ R.C. 4121.12(A)

⁶ R.C. 4121.12(C)

⁷ R.C. 4121.12(D)

⁸ R.C. 4121.12(F)

⁹ Ohio Ethics Commission Opinion dated July 30, 2007 provides that a Director who receives compensation to represent clients on matters before the BWC is disqualified from any matters before the Board that directly affect an individual official or employee of the BWC. For example, a Director who is an attorney representing clients before BWC is disqualified from participating in the evaluation of the Administrator's performance.

¹⁰ R.C. 4121.12(F)(6)(c)

¹¹ R.C. 4121.12(D)(4)

¹² R.C. 121.22

¹³ Memorandum, "Executive Session (Evaluation of BWC Administrator/Board Self-Assessment)," James Barnes, BWC General Counsel, (August 16, 2010).

¹⁴ Ohio Sunshine Laws: An Open Government Resource Manual, 2009-2010; Richard Cordray, Attorney General; Mary Taylor, CPA, Auditor of State; p. 40493

¹⁵ R.C. 4121.12(F)(16)

¹⁶ R.C. 4121.129

¹⁷ R.C. 4121.12(G)(2)

¹⁸ R.C. 4121.129(B)

¹⁹ R.C. 4121.129(A)

²⁰ R.C. 4121.129(C)

²¹ R.C. 4121.12(G)(2)

²² R.C. 4121.12(G)(2)

Exhibit A

MEMORANDUM

DATE: August 16, 2010
TO: William J. Lhota, Chairman, Board of Directors, Ohio Bureau of Workers' Compensation
FROM: F. Ronald O'Keefe, Esq., Hahn Loeser & Parks LLP
SUBJECT: Overview - Fiduciary Duties of Members of the Board of Directors

Purpose: The Board of Directors (the "Board") of the Ohio Bureau of Workers' Compensation ("BWC") has retained fiduciary counsel. The Board Chairman has requested that fiduciary counsel make a presentation to the Board regarding the fiduciary responsibilities of the BWC Board members.

Fiduciary Responsibilities Defined: A fiduciary has been defined as "a person having a duty, created by his undertaking, to act *primarily for the benefit of another* in matters connected with his undertaking."ⁱ The monies paid into the worker's compensation fund "constitute a trust fund for the benefit of employers and employees."ⁱⁱ The members of the BWC Board each have the duties of a trustee with respect to the workers' compensation fund. A trustee must exercise "such care and skill as a man of ordinary prudence would exercise in dealing with his own property" and that, if a "trustee has greater skill than that of a man of ordinary prudence, he is under a duty to exercise such skill."ⁱⁱⁱ

- **Fiduciary Standards of Conduct:** The members of the BWC Board are obligated by law to adhere to the highest standards of judgment and care when making decisions or taking actions that may affect the financial integrity and soundness of the workers' compensation fund.^{iv}
- **Oversight Responsibilities:** In addition to observing fiduciary standards of conduct with respect to making decisions and taking actions, the BWC Directors are charged with oversight responsibility of the BWC and its Administrator.

Discussion and Analysis: In order to properly discharge their fiduciary responsibilities, the BWC Directors should be guided by three primary considerations with respect to matters that come before the Board:

- The provisions of Ohio law that directly impact the BWC and the Board's activities.
- The duty of loyalty to protect the workers' compensation fund and to act in the interests of all the stakeholders of the BWC, taken as a whole, and.
- The duty of care in ensuring that all Board decisions and actions are the result of an informed deliberative process in which the significant information items relevant to the proposed decision or action are identified and considered by the Board.

Discussion and Analysis

1. Ohio Law.

- Under Ohio law, the Board is charged with a number of responsibilities.
- The paramount responsibility of the Board is to "safeguard and maintain the solvency" of the workers' compensation fund. In this connection, Ohio law requires the Administrator to "fix and maintain, with the advice and consent of the Board, for each class of occupation or industry, the lowest possible rates of premium consistent with the maintenance of a solvent state insurance fund and the creation and maintenance of a reasonable surplus."^v
- Further, Ohio law requires the Administrator to "adopt rules, with the advice and consent of the Board, governing rate revisions, the object of which shall be to an equitable distribution of losses among the several classes of occupation or industry," and, in this connection, to develop "fixed and equitable rules controlling the rating system, which rules shall conserve to each risk the basic principles of workers' compensation insurance."^{vi}
- Other significant statutory duties of the Board include establishing the overall administrative policy for the BWC and reviewing the progress of the BWC in meeting its cost and quality objectives.^{vii}

2. Duty of Loyalty.

- The duty of loyalty is observed by the Directors by keeping in the forefront the Board's legal duties with respect to the interests of the workers' compensation fund and all the stakeholders of the BWC, taken as a whole.
- An important element of the duty of loyalty is the requirement that the fiduciary act in "good faith," which means making an honest effort to put one's own interests aside with respect to the consideration of, and taking action on, a particular matter.
- The duty of loyalty is of particular importance to members of the BWC Board. In carrying out their responsibilities, Board members must separate themselves

from whatever relationships they may have to any constituency that brought that member to the Board, and focus solely on his or her fiduciary responsibilities as a Board member to the BWC and the fund administered by the BWC.

- If a Board member believes that his or her personal interests in a particular matter are so compelling that the Board member cannot, in good conscience, act in "good faith" with respect to that matter, then the Board member should decline to participate in taking action on such matter. By exercising recusal under these circumstances, that Board member is, in fact, carrying out his or her fiduciary responsibilities by not breaching the duty of loyalty.

3. Duty of Care.

- Directors may discharge their duty of care in the context of decisions to be made by the Board by doing whatever is reasonably prudent, under the circumstances, to obtain and review information relevant to the matter at hand and examine in sufficient detail, and with the aid of the appropriate resources, the significant relevant factors with respect to that matter.
- Where the responsibility of the Board involves the actions and proposed actions of the Administrator which are to be undertaken with the Board's "advice and consent" under the applicable statute, the Board should consider the specific standards imposed by law on the Administrator, and should generally be guided by the preservation of the solvency of the BWC fund, while considering what is fair and equitable to all BWC stakeholders.^{viii}
- In fulfilling its oversight responsibilities, it is imperative that the Board be reasonably well informed regarding the matters of significance affecting the BWC and the fund.
- In this connection, case law precedent regarding board oversight responsibilities has held that the Board has the responsibility to make certain that internal information and reporting systems are in place within the BWC to provide timely, accurate information sufficient to allow the Board to reach informed judgments concerning the matters before it, including compliance by the BWC with the laws that govern it and evaluating the progress of the BWC in meeting its cost and quality objectives.^{ix}
- The duty of care requires that the Board devote an appropriate amount of time for assimilation and deliberation among its members regarding the information obtained with respect the matter under consideration. The appropriate amount of time for deliberation, however, will have to be balanced on a case-by-case basis against the need for prompt action with respect to the matter under consideration.

Please advise if you require any further information or clarification with respect to the items set forth in this memorandum. The advice set forth herein is provided with respect

to the specific purpose set forth above, and is intended solely for the use of the Board and its Committees.

ⁱ Haluka v. Baker, 66 Ohio App. 308, 312 (1941) [Emphasis in original.]

ⁱⁱ Ohio Revised Code Section 4123.30.

ⁱⁱⁱ Restatement (Second) of Trusts, Section 174 (1959).

^{iv} Ohio Attorney General Opinion No. 89-033 (1989).

^v Ohio Revised Code Section 4123.34 [preamble].

^{vi} Ohio Revised Code Section 4123.34 (B).

^{vii} Ohio Revised Code Section 4121.12 (F) (1, 2).

^{viii} Ohio Revised Code Section 4123.29 (A) (2).

^{ix} *Stone v. Ritter*, 911 A.2d 362 (Del. 2006), citing *In Re Caremark Int'l Inc. Derivative Litigation.*, 698 A.2d 959, 971 (Del. Ch. 1996)

Exhibit B

Name	Expertise	Term Expires
Bryan, Charles A	Actuary	6/12/13
Caldwell, David Lee	Employee Org. Rep. (AFL-CIO Exec. Cmte)	6/12/12
Falls, Alison L	Investments	6/12/13
Haffey, Kenneth M	CPA	6/12/12
Harris, James W	Employee Org. Rep.	6/12/13
Hummel, James A	Employer Rep (state fund employer with > 100 employees)	6/12/11
Lhota, William J	Self-insuring employer	6/12/13
Matesich, James	Employer Rep (state fund employer with < 100 employees)	6/12/12
Pitts, Thomas R	Employee Rep	6/12/11
Price, Larry	Public member	6/12/11
Smith, Robert C	Investments	6/12/12

Exhibit C

Policies and Procedures for Public Forums
Board of Directors
Ohio Bureau of Workers' Compensation

The Board of Directors of the Ohio Bureau of Workers' Compensation is committed to providing an opportunity for members of the public to share information directly with the Directors. They will also solicit comments and suggestions for the efficient and effective administration of the bureau and its programs. To that end, the board has established a series of public forums.

I. Purpose

The purpose of this policy is to encourage public comment in a fair, consistent and informative manner.

II. Coverage

This policy, upon approval by the Board of Directors, shall remain in effect until such time as it is altered, modified, or rescinded by the board.

III. Procedure

- a. Anyone desiring to speak at the public forum must register in advance of the meeting. Electronic registration will be available, or participants may register up to 15 minutes after the forum begins, if time is available.
- b. The speakers will be called in the order they have registered.
- c. Speakers will be allotted between 3 and 5 minutes, depending on the number of registrants and the time available. The Board chair has the authority and the discretion to adjust the time allocation.
- d. Speakers should direct any questions to the Chair, who may, at the Chair's discretion, solicit response from the appropriate person.
- e. Directors may ask questions of the speaker to clarify the presentation. The Chair has discretion to count the time for the question(s) and answer(s) against the allocated time of the speaker.
- f. The Chair has the authority and discretion to invite experts to speak during the public forum. If an individual is invited by the Chair to speak, the Board may approve an appropriate time allocation.

Exhibit D

Charters to be inserted after Board approval.

Exhibit E

Net Asset Policy
Ohio Bureau of Workers' Compensation
Board of Directors

BWC requires a prudent level of net assets to protect the fund against financial and operational risks that may threaten the ability to meet future obligations. These financial and operational risks include, but are not limited to, the following:

- Uncertainty in the ultimate amount and timing of future payments on known claims;
- Legislative and court actions that may affect future operations;
- Substantial catastrophic events, either through acts of nature or acts of man;
- Significant market fluctuations resulting in material changes in the valuation of the investment portfolio; and
- Economic factors impacting BWC's ability to collect premiums.

In an effort to maintain a solvent and stable state fund, BWC should maintain a sufficient level of net assets to handle these risks.

Business Rationale

- Adoption of a net asset policy will enable the organization to maintain prudent funded net assets to support the financial strength of the State Insurance Fund and maintain stability in premium costs.
- Adoption of a net asset policy will enable the organization to fulfill the statutory requirements of maintaining a solvent state fund while keeping premiums as low as possible.
- Adoption of a net asset policy with guidelines provides flexibility in decision-making with respect to options such as premium credits or surcharges.

Methodology

- Should use methodology supported by customized metrics to calculate key results used in measuring funding adequacy.
 - Funding Ratio is defined as funded assets divided by funded liabilities (funded assets= cash, investments, and current receivables less deposits and current payables; funded liabilities=reserves for unpaid claims and funded claim expenses, excluding any risk margin, discounted at a rate as approved by the Board of Directors).

- Net Leverage Ratio is premium income plus reserves for compensation and compensation adjustment expense divided by net assets.

Guiding Principles

- Sound fiscal principles would dictate the need to maintain sufficient assets to meet current and future obligations. Therefore, as a matter of policy, the minimum guideline for a funding ratio should never be below 1.00.
- Should reflect the unique characteristics of the Ohio system. We have less stress on premiums and have more flexibility on the level of liabilities than a private carrier. The guidelines also reflect the statutory obligation to maintain a solvent fund with the lowest possible premiums.

The Net Asset policy

- Should incorporate the concept of ranges to be responsive to changes and to maintain a degree of stability in operating results over time.
- Should incorporate appropriate options for premium credits or surcharges, if metrics indicate excessive or inadequate financial reserves.
- Should enable BWC to make limited peer comparisons.
- Should be tailored to each fund where a material amount of a fund's obligations are funded, as opposed to pay-as-you-go (Pay-as-you-go funds include the DWRF I and II, SIEGF and ACF).
- Should include consideration of risks associated with estimates inherent in financial reporting including, but not limited, to medical inflation, discount rate, and portfolio market valuation.

The following steps should be taken when establishing guidelines for the funding ratio and net leverage ratio:

1. The Administrator, with approval from the BWC Board of Directors, should establish guidelines for a Funding Ratio and a Net Leverage Ratio.
2. The guidelines for a Funding Ratio and a Net Leverage Ratio should be monitored as a component of the monthly Enterprise Report (or comparable financial report).
3. Deviations from the established guidelines shall be reported monthly and evaluated at least annually. At least annually, the Administrator, in conjunction with the appropriate senior executives, should prepare a recommendation to address variations from the guidelines.
4. The Administrator shall present these recommendations to the Board of Directors for review and approval.
5. The Board of Directors shall review guidelines for the Funding Ratio and Net Leverage Ratio on an annual basis.

Policy Guidelines

Review Date	Funding Ratio Guideline	Net Leverage Ratio Guideline
July 31, 2009	1.02 to 1.35	3.0:1 to 8.0:1
April 30, 2010	1.15 to 1.35	3.0:1 to 7.0:1

Historical State Insurance Fund Information*

FY Ended June 30	Net Assets (in millions)	Funding Ratio	Net Leverage Ratio
2000	\$6,644,827	1.552	2.1555
2001	\$4,643,351	1.373	3.1594
2002	\$1,886,585	1.148	8.3538
2003	\$417,937	1.029	39.8767
2004	\$644,444	1.044	26.4196
2005	\$507,491	1.038	34.4908
2006	\$1,278,845	1.091	13.5202
2007	\$2,080,045	1.144	8.2621
2008	\$2,206,923	1.152	7.9323
2009	\$2,515,342	1.14	8.22
Policy Guidelines			
2010		1.02 to 1.35	3.0:1 to 8.0:1
2011		1.15 to 1.35	3.0:1 to 7.0:1

*Net asset policy with Guidelines adopted by the Board of Directors in July 2009. Data previous to 2009 is for historical purposes only.

Audit Committee: Reviewed and approved July 30, 2009, Ken Haffey, Chair
 Board of Directors: Reviewed and approved July 31, 2009, Bill Lhota, Chair

Audit Committee: Reviewed and approved April 29, 2010, Ken Haffey, Chair
 Board of Directors: Reviewed and approved April 30, 2010, Bill Lhota, Chair

Exhibit F

Process for Development of the Reserve Discount Rate

Workers' compensation claims are generally paid over a period of several years. A reserve for compensation is set based on the total of all estimated amounts that will be paid in future years on reported claims and claims incurred but not reported. BWC's practice is to discount the reserve to reflect the time value of money (one dollar of future claims liability can be paid by setting aside less than one dollar today due to expected investment earnings).

BWC has been discounting reserves for at least 30 years. Since 1997, BWC has established a practice to review and evaluate the current discount rate on an annual basis using a documented approach. The approach relies on GASB 10. Prior to FY 2006, BWC performed this evaluation at the time of the actuarial audit. In FY 2006, BWC began its current practice of performing the evaluation in conjunction with the rate making process for private employers. This results in better matching of the ratemaking and reserving processes. The discount rate is utilized for rate making purposes effective July 1. The discount rate is utilized for auditing the reserve for compensation and compensation adjustment expense effective June 30.

Under Ohio Revised Code 4121.121(B)(1) the Administrator has the responsibility to establish a discount rate. Every March, the Administrator presents the discount rate decision to the Board for review, discussion and concurrence.

The business rationale and methodology and guiding principles for the establishment of the discount rate are:

Business Rationale

- The discount rate recognizes the economic benefit of the time value of money. It is an appropriate accounting treatment that recognizes that benefit. However, the discount rate does not create income.
- The discount rate enables the organization to present a prudent picture of its liabilities that is consistent with economic forces and BWC's mission to provide benefits for injured workers at the lowest possible cost while maintaining a solvent state insurance fund.

Methodology and Guiding Principles

- Should use a methodology supported by accounting and actuarial literature, especially the provisions of Governmental Accounting Standards Board (GASB) Statement No. 10 ("Accounting and Financial Reporting for Risk Financing and Related Insurance Issues") and Actuarial Standard of Practice No. 20 ("Discounting of Property and Casualty Loss and Loss Adjustment Expense Reserves") as approved by the Actuarial Standards Board.
 - GASB 10 requires an examination of past portfolio performance, historical payment patterns and settlement rates

- Actuarial Standard of Practice #20 requires that explicit provisions for risk accompany reserve discounting and suggests the uncertainty in the timing and amounts of future payments be considered along with historical payment patterns
- Both standards recommend consideration of a risk-free investment yield
- Should be established with a long term view to reduce volatility in BWC's balance sheet and premiums
- Should not exceed highly probable investment returns over long periods of time
- Should enable management to focus on business enterprise goals
- Should be reviewed annually

The Administrator completes the following steps to establish the discount rate:

1. Meets with the Chief Actuarial Officer, Chief Investment Officer, Chief Fiscal and Planning Officer and other senior executives as appropriate to review reserves, investment returns, and cash flow needs
2. Follows the Actuarial Standard of Practice #20 concerning discounting
3. Follows the Government Accounting Standards Board Statement 10
4. Considers the following questions:
 - Is it consistent with BWC's practice of establishing a conservative discount rate?
 - Is it consistent with industry standards?
 - Is there a decreasing or increasing return on BWC's investment portfolio?
 - Are there changes in BWC's investment strategy?
 - What are the trends of risk free investment yields?
 - Do we anticipate changes in the financial markets?
5. Administrator presents a recommendation and rationale to the Board for review, discussion and concurrence

Discount Rate Assumptions used in actuarial audits and rate indications

Evaluation Date	Discount Rate
12/1991-12/1996	7.00%
12/1997	6.75%
6/1998	6.50%
6/1999	6.25%
6/2000 – 6/2001	6.00%
6/2002	5.80%
6/2003 – 6/2004	5.50%
6/2005 – 6/2006	5.25%
6/2007	5.00%
6/2008	5.00%
6/2009	4.5%
6/2010	4.0%

Approved by BWC Board of Directors
February 20, 2009
April 30, 2009
April 2010

Exhibit G

THE OHIO ETHICS LAW OUTLINE

I. INTRODUCTION TO OHIO'S ETHICS LAW

A. **Purposes of the Ethics Law:**

- Protect the public from the financial, family, or business conflicts of its public servants
- Encourage impartiality in governmental decisions by restricting public actions on matters in which public officials and employees have direct and definite conflicts of interest
- Promote citizen confidence in the actions of public agencies

B. **Ethics Law History:**

- Created by the General Assembly in 1973
- Found in Ohio Revised Code Chapter 102 and R.C. 2921.42, 2921.421, and 2921.43
- Established the Ohio Ethics Commission, and two similar state ethics agencies in the Legislature and Judiciary, to oversee all within the three branches of government
- Ethics Commission is one of nearly 40 similar state ethics boards and commissions

C. **The Ethics Commission Oversees:**

- All state and local public officials and employees (except legislative and judicial members)
- Private parties and corporations who do business with public offices

D. **The Ethics Law:**

- Requires personal financial disclosure to identify and protect against conflicts;
- Restricts unethical conduct through laws that have criminal sanctions; and
- Allows uniform review and guidance regarding ethics issues.

II. THE OHIO ETHICS LAW – A WORKING UNDERSTANDING

General Rule: Whenever the interests of the public official or the public official's family or business associates are present in an issue before the public official, there is an ethics question.

A. **General Public Protections** – The Ethics Law contains *criminal* restrictions to:

- Restrict participation in public matters involving direct and definite personal, family and business interests of a public official or employee;
- Limit compensation for public duties to their public employer;
- Restrict personal, family, and business interests in public contracts;
- Prohibit nepotism in public hires and services;
- Condition former officials and employees' post-employment activity;
- Control the disclosure of confidential information, and;
- Provide protections against influence peddling in public agencies for personal benefit.

B. **Conflict of Interest and Supplemental Compensation** – R.C. 102.03(D), (E), (F), 2921.43

- **Core of Ethics Law restrictions that often appear together in analysis and violations. Ethics Law does not replace, but supplements, bribery and theft prohibitions. No quid pro quo required.**

1. **R.C. 102.03(D):**

- a. Prohibits a public official's *active use of authority to secure* anything of value that could have a substantial and improper influence on the official. Includes voting, discussing, deliberating, or formally or informally lobbying on matters of conflict [OEC 2007-01].
 - b. Not necessary that thing of value is received by the official—could be received by family member or business associate.
2. **R.C. 102.03(E):**
 - a. Prohibits a public official's *acceptance or solicitation* of anything of value that could have a substantial and improper influence on the official [OEC 2001-03]. A thing of substantial value from an improper source would have a substantial and improper influence.
 - b. Anything of value includes money, goods, *future employment*, interest in realty, and every other thing of value [R.C. 1.03].
 - c. Improper sources include parties doing or seeking to do business with, regulated by, or interested in matters before a public agency [OEC 2003-03].
 - d. Receipt or acceptance alone creates potential violation [OEC 2001-03].
3. **R.C. 102.03(F):**
 - a. Prohibits a private party from *giving or promising* anything of value. [OEC 2008-01]
 - b. Prohibited regardless of whether official solicits the item.
4. **Application to issues of:**
 - a. Employment: A public official is prohibited from soliciting, accepting, or using his position to seek employment from "improper" sources unless the official can withdraw from participating in any actions that affect the prospective employer and his abstention is approved by supervisors, where required. Official must withdraw from participation in official matters if attempting to secure, or approached about, employment [OEC 2008-02]
 - b. Travel, meals, and lodging: A public official cannot accept anything of value, including travel, meals, and lodging, from an improper source. [OEC 2001-03]
 - c. Gifts: Cannot accept gifts from any party that is doing or seeking to do business with, regulated by, or interested in matters before the public agency [OEC 2001-04].
5. **Other Governance:**
 - a. Executive Order 2007-01S – State officials and employees under Governor
 - b. Other Agency Specific Restrictions – i.e. PUCO, public investment systems
6. **R.C. 102.03(G):** Campaign Contributions not ordinarily governed under Ethics Law, unless another violation of law. [OEC 2002-03; see also R.C. 2921.43 below].
7. **R.C. 102.01 (H)(1) – Honoraria:** Most public officials and employees who file financial disclosure are prohibited from receiving honoraria [OEC 99-003].
8. **R.C. 2921.43 - Supplemental Compensation:**
 - a. Prohibits the acceptance or giving of any compensation, other than allowed by law, for the performance of any public duty or responsibility. Separate notion of conflict; attempt to prohibit the conflict inherent in being compensated by dual employers. Public and private sectors *both* subject to supplemental compensation prohibitions [OEC 2008-01]

b. Prohibits the coercion of a campaign contribution [State v. Conese (2004), 102 Ohio State 3d 435]

9. **R.C. 102.03(C) - Licensing Conflicts:** Bars participation in license or rate-making where public official or immediate family members (spouse residing with official and any dependent children) own more than 5 percent.

C. Public Contract Restraints - R.C. 2921.42 and R.C. 102.04(B)

1. R.C. 2921.42: Five restrictions; The three most common are:

- a. Public officials cannot secure public contracts for himself, family member, or a business associate (includes hiring a family member into public employment) [OEC 79-005; 98-004].
- b. Public officials cannot have an interest in profits or benefits of a public contract entered into by a public agency with which he is "connected" [OEC 2008-04].
- c. Public official cannot profit from a public contract he approved or that was authorized by a body of which he was a member unless the contract was competitively bid and awarded to the lowest and best bidder [OEC 88-008].

2. **R.C. 2921.42(A)(2) - Investing Public Funds:** Public officials cannot secure the investment of public funds in any share, bond, mortgage, or other security, if he, a member of his family, or any of his business associates either has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees.

3. Public contract includes public purchases or acquisitions of any property or service, including employment, grants, or improvement or maintenance of public property [OEC 87-002; 89-006].

4. Exceptions:

- Stockholding below 5 percent; with an affidavit.
- Four-part exception—*All four must exist* and the burden is upon official to demonstrate:
 - Necessary supplies or services;
 - Unobtainable elsewhere for the same or lower cost or continuing course of dealing;
 - Equal or preferential treatment given agency; and
 - Arm's length, full disclosure, no participation [OEC 2000-02].

5. **R.C. 102.04(B):** Restricts state employees from conducting business with any state agencies except through competitive bidding. (See F(5)(b) below for R.C. 102.04(D) exception) [OEC 2004-04].

D. Post-Employment and Representation Restrictions – R.C. 102.03(A), (B), and 102.04

1. **R.C. 102.03(A)(1):** Revolving door prohibitions on a public official, during public service and for one year afterwards, from representing anyone on any matter in which he personally participated while he was a public official [OEC 2004-04].

2. Statutory Definitions:

- a. Matter includes any case, proceeding, application, determination, issue, or question [OEC 99-001].
- b. Personal participation includes decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other substantial exercise of administrative discretion, including supervision [OEC 91-009].
- c. Representation is formal or informal appearance before, or any written or oral communication with, *any* public agency [OEC 86-001].

3. **Exceptions:**
 - Not prohibited from representing public agency the official formerly served.
 - New matters and matters in which public official did not participate; prohibition is tied to personal participation.
 - Ministerial functions - Not prohibited from performing functions like filing or amending tax returns, incorporation papers, and similar documents.
 - Proposal, consideration, or enactment of statutes, rules [OEC2004-04].
4. **R.C. 102.03(B) – Confidentiality:** Lifetime prohibition on disclosure of confidential information both during and after leaving public position [OEC93-012].
5. **R.C. 102.04(A) - Representation and Influence Peddling**
 - a. Prohibits state officials from receiving compensation directly or indirectly, other than from own public agency, for any service rendered personally on any case, application, or other matter before any public agency [OEC 93-010].
 - b. **R.C. 102.04(D):** Exemption applies to non-elected employees who render services before, or sell goods and services to, state agencies other than the agency they serve [OEC 93-010].

III. THE OHIO ETHICS COMMISSION AND REMEDIES AVAILABLE

A. **Composition:**

- The Commission is a bipartisan body comprised of six members who are appointed by the Governor and subject to confirmation by the Senate. The members serve staggered, six-year terms, and are compensated \$75 per meeting, to a maximum of \$1800 per year.
- Current members are:

- <i>Merom Brachman, Bexley</i>	- <i>Vacant</i>
- <i>Vacant</i>	- <i>Ben Rose, Chair, Lima</i>
- <i>Betty Davis, Mason</i>	- <i>Diana Swoope, Akron</i>
- The Ethics Commission employs an Executive Director who supervises a staff of 21 that carries out the duties of administering the Ethics Law on a day-to-day basis.

B. **Statutory Responsibilities of the Ohio Ethics Commission:**

1. **Advice:** The Commission possesses the unique authority to interpret and provide advice regarding the Ethics Law to public servants before they act. The Commission's written advisory opinions provide immunity to those who follow the advice. In 2009, 182 requests for advice were closed.
2. **Education:** The Commission provides free ethics education and informational materials related to ethics, conflicts of interest, and financial disclosure. In 2009, 195 educational sessions were conducted by the Commission to a total audience of 15,000 people.
3. **Financial Disclosure:** The Commission administers the financial disclosure requirement for most public employees required to file annual disclosure statements. More than 11,000 forms are filed annually with the Commission.
4. **Investigation:** The Commission confidentially investigates alleged violations of the Ethics Law and related statutes for potential referral for criminal charges. In 2009, 168 active investigations were conducted.

5. **Legislation:** The Commission recommends legislation to the General Assembly related to ethics, conflicts of interest, and financial disclosure.

IV. QUESTIONS:

Contact the Ohio Ethics Commission at (614) 466-7090. For more information about the Ethics Commission and its duties, searches of more than 300 formal Advisory Opinions, and common sense guidance regarding Ohio's Ethics Law, please go to www.ethics.ohio.gov, or contact the Commission.

Exhibit H

Opinions of Ohio Ethics Commission will be inserted in final copy.

Exhibit I

Board of Directors

Ohio Bureau of Workers' Compensation

Oversight Process Guidelines

Introduction

In order for the Board to fulfill its fiduciary responsibilities regarding oversight of the Bureau of Workers' Compensation (BWC), it must receive accurate and reliable information from the Administrator and BWC staff. Further, the Board must do its part in promoting the provision of quality information by making sure that measures are in place to ensure, to the extent practicable, ~~that it is receiving the best information available. The legal precedent applicable to corporate boards in the private sector is exemplified by the holding of the Delaware Chancery Court in the Caremark case, which suggests that, in order to properly discharge its oversight responsibilities, the Board should take appropriate steps to ensure, to the extent practicable, the quality of the information received regarding the entity.~~ⁱ

A related responsibility of the BWC, as an Ohio state governmental agency, is to develop, implement, and enforce policies and procedures that prevent or reduce the risk of wrongful acts and omissions by its officers and employees.ⁱⁱ

Ohio Law

As the board of a governmental agency, the BWC Board does not have the same control over the entity it governs that, for example, the board of directors of a private corporation would have with respect to the entity. Ohio law provides for the Office of Inspector General, whose statutory responsibility is to conduct investigations into matters involving any Ohio state governmental agency or official.ⁱⁱⁱ Further, Ohio law provides for a Deputy Inspector General to be assigned to the BWC, one of only two Ohio state government agencies to which such an assignment has been mandated by law.^{iv} The Inspector General may not be permitted to share information with the Board or the Administrator with respect to investigations that are ongoing or in process; however, the Inspector General is required to (a) consult with state agencies and advise them in developing, implementing, and enforcing policies and procedures that will prevent or reduce the risk of wrongful acts and omissions by their state officers or state employees; and (b) after detecting a wrongful act or omission, review and evaluate the relevant policies and procedures of the state agency in which the wrongful act or omission occurred, and advise the state agency as to any changes that should be made in its policies and procedures so as to prevent recurrences of similar wrongful acts or omissions.^v

Information learned by the Inspector General in the course of investigations involving the BWC may be relevant to the Board in fulfilling its oversight responsibility. In this connection, it has been suggested that an informal arrangement be made with the Inspector General that provides for the sharing of relevant information with the Board Chair as the Inspector General may deem appropriate (see "Additional Reporting Procedures – Office of the Inspector General," below).

The purpose of these Oversight Process Guidelines is to summarize the measures that the BWC Board has put in place to promote the provision of quality information to the Board and to identify the processes that are in place which are not within the Board's control but which are

designed to prevent or reduce the risk of wrongful acts and omissions by BWC officers or employees.

Board and Committee Structure and Meetings

The recent steps that the new Board has taken in furtherance of its oversight responsibilities include:

- The Board and its standing statutory Committees, being the Actuarial, Audit and Investment Committees, shall meet monthly..
 - The Administrator shall attend each Board meeting and those specific Committee meetings as requested by the Board Chair or the appropriate Committee Chair.
 - The BWC staff appropriate for the matters scheduled for discussion shall be available to be present at and/or participate in meetings of the Board and its Committees at the request of the Board Chair or the appropriate Committee Chair to the Administrator.
 - The Chief Legal Officer of the BWC and a representative of the Attorney General's office shall attend each Board meeting and those specific Committee meetings as requested by the Board Chair or the appropriate Committee Chair.
- Charters for each of the standing statutory Committees of the Board, setting forth the specific responsibilities of each Committee, have been prepared, discussed and adopted by each Committee and ratified by the Board.
- The Board has formed a Governance Committee, the responsibilities of which include: advising the Board Chair as to the utilization of best practices in corporate governance; the retention of fiduciary counsel to the Board; and the coordination with the Administrator of educational sessions for the new Board members as to the workings and administration of the BWC and their fiduciary responsibilities as members of the BWC Board.
- Independent fiduciary counsel to the Board has been appointed and reports to the Board Chair and the Governance Committee. Fiduciary counsel was requested to make and has made a presentation to the Board regarding the fiduciary duties of Board members. Fiduciary counsel is available to address matters relative to the fiduciary duties of the Board and its members at the direction of the Board Chair and/or the Governance Committee.

BWC Internal Compliance Resources and Procedures

Internal Auditor. The BWC has an Internal Audit Division headed by the Internal Auditor. The Internal Auditor reports to the Administrator on a weekly basis and at least monthly to the Board's Audit Committee.

Ethics Officer. There is an Ethics Officer for the BWC. The Ethics Officer is responsible for educating staff members regarding ethics issues to ensure compliance with the BWC Ethics Policy. The BWC Code of Ethics and Gift Acceptance Policy are contained in the BWC Employee Handbook. Further, there is an email address monitored by the Ethics Officer to which BWC employees can send questions and receive responses regarding ethics matters (Ethics4BWC@bwc.state.oh.us). The Ethics Officer, with support from the BWC Legal Division, also responds to ethics questions posed by staff members and is also BWC's liaison with the Governor's Office on ethics issues.

Complaint Process; Deputy Inspector General. There is a process within the Bureau for the receipt, handling and investigation of employee complaints of suspected wrongdoing as well as complaints from persons outside the BWC. This process and the follow-up on complaints received are supervised by the Deputy Inspector General dedicated to the BWC who reports directly to the Inspector General.

Coordination. The Internal Auditor, Ethics Officer and Deputy Inspector General share information and coordinate activities as appropriate. The Ethics Officer also leads the BWC Special Investigations Unit,^{vi} which has regular communication with the onsite Deputy Inspector General.

Additional Reporting Procedures

Office of the Inspector General

Fiduciary counsel to the Board was requested to review the statutory powers of the office of the IG and determine whether and to what extent the office of the IG has preempted the Board's responsibility with respect to investigations regarding wrongdoing within the BWC. The Ohio legislature has established an office of deputy IG which is given specific investigative powers by statute with respect to allegations of wrongdoing at the BWC. In that connection, counsel also advised that the duties of the Board are to cooperate with the deputy IG with respect to any such investigation. Counsel further noted that Ohio law is silent with respect to the specific responsibility of the BWC Board to establish, maintain and oversee a proactive investigative program, independent of the Administrator or the deputy IG, targeted to internal wrongdoing.

Accordingly, in keeping with the Board's oversight responsibilities, the Board Chair shall periodically contact the IG to invite sharing of information regarding IG investigations relative to the BWC. It was acknowledged in this connection that, in some cases, the IG may not be able to share information due to the confidentiality and other constraints imposed by statute on the IG's office.

Audit Committee

The Audit Committee Charter provides that the Audit Committee "Will serve as the primary liaison for the BWC Board and provide a forum for handling of matters related to audits, examinations, investigations or inquiries of the Auditor of State and other appropriate State or Federal Agencies." (Charter at Item 4.) Accordingly, the Audit Committee is the arm of the Board that has the formal responsibility of interacting, on behalf of the Board, with the Auditor of State and other agencies or within the Ohio and federal governmental systems.

In the event there is an internal BWC investigation which is not referred to the deputy IG, and the Administrator has determined that there is no need for confidentiality with respect to such matter, the Audit Committee may be informed of such matter at a regular meeting. If there is a need for confidentiality, as determined by the Administrator, in consultation with the Board Chair, the Audit Chair shall be informed of such matter, and the Audit Chair shall determine whether and when it would be appropriate to inform others on the Board. The policy underlying this procedure is that, in any such event, either the Board or the Board Chair and Audit Chair will know what is occurring.

Procedures for Notification of Employee Wrongdoing and/or Suspected Illegal Activity

The Governor's office has distributed a memorandum dated October 11, 2007, regarding procedures for all state agencies with respect to notification of employee wrongdoing and/or suspected illegal activity, and that the BWC has incorporated the procedures set forth therein within the BWC's internal procedures.

Whistleblowing

Ohio Revised Code Section 124.341 provides for the procedures and responsibilities of all state agency employees with respect to the reporting of wrongdoing, as well as the responsibilities of supervisory personnel within state agencies with respect to whistleblowing occurrences, including referral of the report to the appropriate authority and the protection of the whistleblower.

ⁱ *Stone v. Ritter*, 911 A.2d 362 (Del. 2006), citing *In Re Caremark Int'l Inc. Derivative Litigation.*, 698 A.2d 959, 971 (Del. Ch. 1996)

ⁱⁱ ORC Section 121.45 (A)

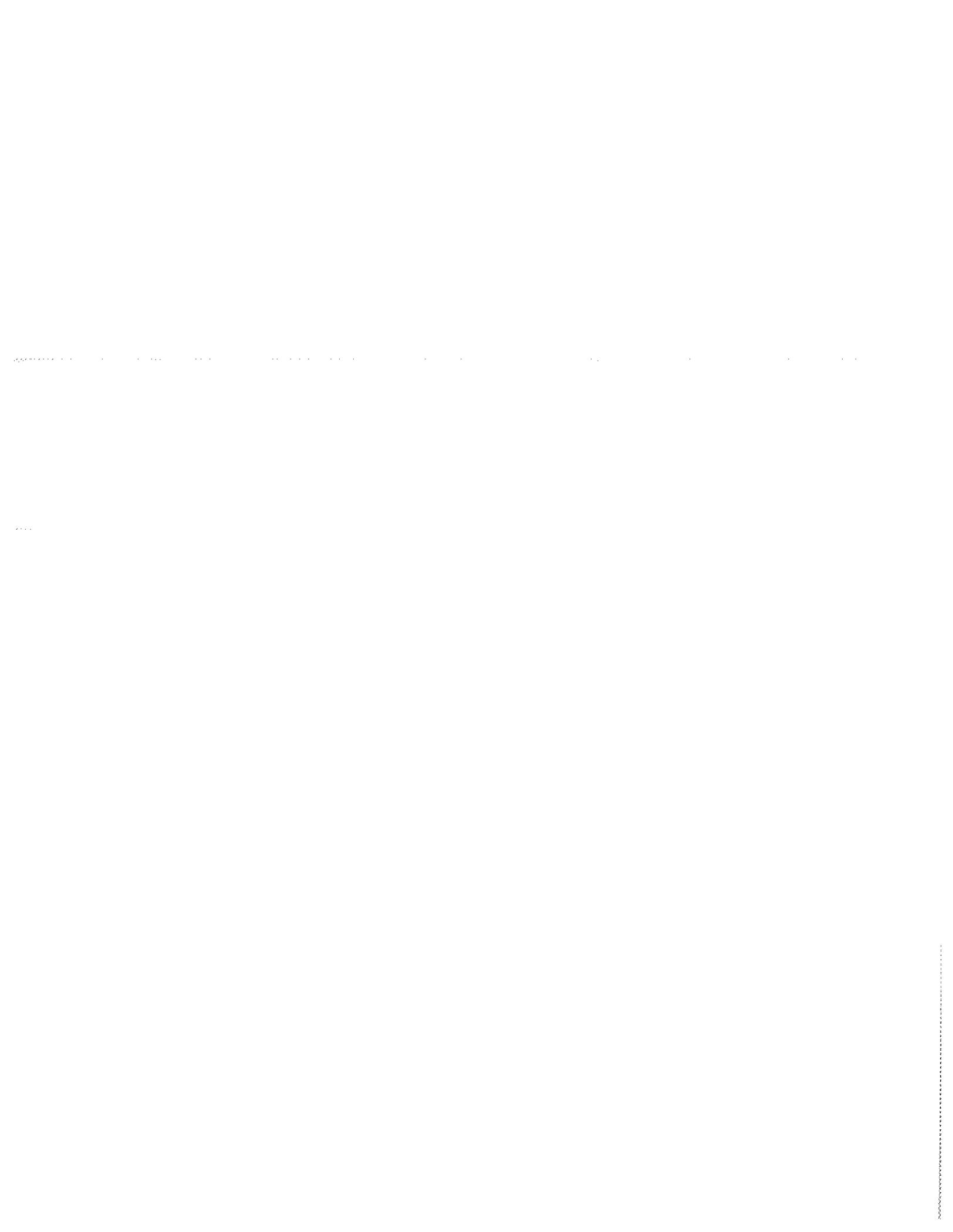
ⁱⁱⁱ ORC Section 121.42

^{iv} ORC Section 121.52

^v ORC Sections 121.42 (I) and (J)

^{vi} ORC Section 121.131

Exhibit J



**Board of Directors
Schedule of Mandatory Reports**

	Board Report	Staff Member	Responsible Committee/ Month	Final Delivery Date	Submit To
1	Education Program Approval	D. Berno	Governance/ July		WCC
2	Annual Actuarial Report by Deloitte <i>includes</i> At least once yearly actuarial audits of all funds arranged by Administrator	J. Pedrick	Actuarial/Sept	9/1/2010 (per HB 100)	standing legislative committees with primary responsibility for WC legis., WCC
3	Comprehensive Report of BWC Operations <i>includes</i> Annual Report on the performance & value of each investment class Administrator's Annual Report of BWC & IC operations, info from preceding year Directed by Administrator, Supt of Safety & Hygiene's annual report on purpose & amount of expenditures, research results and investigations. <i>The Comprehensive Annual Report will be submitted to the Gov, legislative leaders, standing committees for WC legislation, WCC, & LSC, & public</i>	J. Pedrick T. Valentino	Audit/ongoing Audit/ September (audited)	Covered in Deloitte Reports Oct/Nov pending release by the State Auditor	Audit Committee and (at cost) to the public Gov, Sen. Pres, Speaker and WCC
4	Actuarial Analysis of Legislation	J. Pedrick	Investment/August (pre-audit) Audit/October	Oct/Nov pending release by the State Auditor Oct/Nov pending release by the State Auditor	Gov, 4 legislative caucus leaders Governor and for public view
5	Review of Actuarial Assumptions used in Annual Actuarial Audit	J. Pedrick	Audit/September	Oct/Nov pending release by the State Auditor	Governor
6	Fiduciary Performance Audit of BWC Investment Program	Chief Auditor	Actuarial/ongoing Actuarial/October Audit/Investment	60 days after introduction At least once by Nov. 1, 2012, every 5 years after At least once every 10 years	LSC, standing legislative committees with primary responsibility for WC legis., WCC Standing legislative committees with primary responsibility for WC legis., WCC Auditor of State

Exhibit K





TED STRICKLAND
GOVERNOR
STATE OF OHIO

TO: Department / Agency Directors and Chief Legal Counsels
FROM: Kent Markus
Chief Legal Counsel
DATE: October 11, 2007
SUBJECT: Procedures for Notification of Employee Wrongdoing and/or Suspected Illegal Activity

The purpose of this Memorandum is to set forth the procedures to be followed when illegal activity and/or wrongdoing by any state employee or official is suspected. This policy sets forth the procedures for processing such matters and provides for the careful, expeditious handling of all allegations and claims made against state employees. The procedure does not affect the rights and obligations set forth in any Collective Bargaining Agreement and/or any Statutory Notification Requirements. Any questions concerning the application of the procedures described below to a particular situation should be directed to:

Jose A. Torres
Deputy Legal Counsel
Office of the Governor
77 South High Street, 30th Floor
Columbus, OH 43215
614.644.0095
Jose.Torres@governor.ohio.gov

I. Definitions:

- “Department” as used in this Memorandum shall include all agencies, offices, boards, commissions and similar entities directly responsible to the Governor, and/or whose members are appointed by the Governor.
- “Director” as used in this Memorandum shall include all directors or other heads of any department and their designees.

- “Illegal Activity” as used in this Memorandum includes fraud, theft, assault and other violations of local, state and/or federal law, including violations of state ethics laws, committed or in the process of being committed, by a state employee on any property owned or leased by the state or during the course of executing official duties.
- “Wrongdoing” as used in this Memorandum includes a serious act or omission, committed by a state employee on any property owned or leased by the state or during the course of executing official duties. Wrongdoing is conduct that is not in accordance with standards of proper governmental conduct and which tends to subvert the process of government, including, but not limited, to gross violations of departmental or agency policies and procedures, executive orders, and acts of mismanagement, serious abuses of time, and other serious misconduct. For purposes of this reporting procedure, wrongdoing does not include illegal or suspected illegal activity. Likewise, wrongdoing does not include activity that is most appropriately handled through the department’s human resources personnel.
- “Chief Legal Counsel” as used in this Memorandum includes the Chief Legal Counsel at each of the departments and their designees.
- “Director of Public Safety” as used in this Memorandum includes his/her designee.

II. **Emergency Procedure:**

1. Whenever it appears that any alleged illegal activity was committed, or is in the process of being committed, and an *immediate* law enforcement response is *necessary* to protect life, physical safety, property and/or preserve evidence, the State Highway Patrol’s Office of Investigative Services should be the first police agency to be notified. No employee will be disciplined if the call is made to 911 instead of the Highway Patrol number. However, a faster response will be received in many cases by calling the State Highway Patrol first.
2. In central Ohio, the State Highway Patrol should be called at (614) 752-0234 during normal business hours. After hours, call (614) 466-2660. In other areas of the state, reports should be directed to the local State Highway Patrol post. Attached is the list of local State Highway Patrol posts addresses and telephone numbers. A trooper will be dispatched to start an investigation. An Illegal Activity written notice, as outlined in section III, shall also be prepared and submitted.
3. If an emergency procedure is not necessary, the procedure outlined in Section III should be used instead.

III. Illegal Activity Procedure:

1. Any state employee that becomes aware of suspected non-emergency illegal activity shall immediately notify the Director or the Chief Legal Counsel of the department for which the reporting employee works.
2. Although the departments and agencies are reminded of their duty to comply with the whistleblower statutes Ohio R.C. § 124.341 and Ohio R.C. §4113.52, employees who report conduct that they believe is illegal or unethical should have a reasonable factual basis for believing that improper activities have occurred, and should provide as much specific information as possible to allow for proper assessment of the nature, extent, and urgency of the incident.
3. When a Director or Chief Legal Counsel of a department is notified or becomes aware of suspected or alleged illegal activity by any employee, the Director or the Chief Legal Counsel of the department shall notify the Chief Legal Counsel to the Governor and the Director of the Ohio Department of Public Safety as soon as possible in writing. To the extent possible, said written notice shall include:
 - a. Activity believed to be illegal
 - b. What action/investigation, if any, has been taken by the department
 - c. Where the activity occurred
 - d. Name of the person to be investigated
 - e. Time frame in which the activity is believed to have occurred
 - f. How and when the agency learned of the activity
 - g. Agency contact person

Attached is an example of the suggested format for this notification

4. Upon the receipt of a written notice of suspected illegal activity, the Director of the Ohio Department of Public Safety and the Chief Legal Counsel to the Governor will confer to determine how to proceed with the investigation. The Director of the Ohio Department of Public Safety and the Chief Legal Counsel to the Governor will involve the Inspector General, the State Highway Patrol, the Ethics Commission, the State Auditor and/or any other law enforcement authority deemed appropriate. The Director of the Ohio Department of Public Safety or the

Chief Legal Counsel to the Governor will notify the reporting department of this action.

5. Because a criminal investigation may be necessary, the department in question should not conduct an internal investigation unless and until specifically directed to do so by the Chief Legal Counsel to the Governor or the Director of the Ohio Department of Public Safety. Administrative inquiries must give way to criminal investigations and no one suspected of illegal activity should be approached, disciplined or placed on administrative leave without clearance from the office of the Chief Legal Counsel to the Governor or the Director of the Ohio Department of Public Safety.

IV. Serious Wrongdoing Procedure:

1. Whenever any state employee becomes aware of wrongdoing by any state employee, that employee shall immediately notify the Director or the Chief Legal Counsel of the department for which the reporting employee works. The notification may be either oral or written.
2. When a Director or Chief Legal Counsel of a department becomes aware of suspected wrongdoing by any employee, the Office of the Inspector General should be contacted directly, as soon as possible. To the extent possible, said written notice shall include:
 - a. Alleged Wrongdoing
 - b. What action/investigation, if any, has been taken by the department
 - c. Where the activity occurred
 - d. Name of the person to be investigated
 - e. Time frame in which the activity is believed to have occurred
 - f. How and when the agency learned of the activity
 - g. Agency contact person

Attached is an example of the suggested format for this notification

3. If appropriate, the Inspector General will then initiate an investigation or will involve The State Highway Patrol, the Ethics Commission, the State Auditor and/or any other law enforcement authority deemed appropriate.

4. A copy of the written notification shall be sent to the Chief Legal Counsel to the Governor and the Director of the Ohio Department of Public Safety.

V. Additional Procedures:

1. ~~Any reporting employee may also contact the Inspector General and file a~~ written complaint or file a complaint using the Inspector General's anonymous hotline at (800) 686-1525 in the case of wrongdoing or non-emergency illegal activity.
2. If the Governor or any member of his immediate staff, a Department Director and/or Chief Legal Counsel, is suspected of illegal activity or wrongdoing, the Inspector General should be contacted directly. The Inspector General will then initiate the appropriate investigation.
3. The normal procedure for notification to the Chief Legal Counsel to the Governor or the Director of the Ohio Department of Public Safety is suspended in the cases covered by Section V.2.

VI. Designations

1. Kent Markus has designated Deputy Legal Counsel, Jose A. Torres, to receive all communications on his behalf with respect to this memorandum.
2. Any Director or Chief Legal Counsel who delegates responsibilities under this Memorandum to a designee, should inform the Director of Public Safety and Jose A. Torres.

VII. Record Keeping:

1. The reporting department shall keep a record of the cases reported by the department. To the extent possible, this record should include an updated status of the investigation. The investigating entity shall notify the Director of Public Safety, the Chief Legal Counsel to the Governor and the reporting department when the illegal activity investigation is completed.
2. All records pertaining to an active investigation are confidential law enforcement investigatory records pursuant to R.C. § 149.43 (A)(1)(h).

CONFIDENTIAL MEMORANDUM

To: Henry Guzman, Director
Ohio Department of Public Safety

Jose A. Torres, Deputy Legal Counsel to the Governor
Office of the Governor

From: (Director or Chief Legal Counsel)

Date:

Subject: Notification of Employee Suspected Illegal
Activity (Department Case Number, if any)

1. Activity believed to be illegal: [be specific]
2. What action/investigation, if any, has been taken by the agency:
3. Where the activity occurred:
4. Name of the person to be investigated:
5. Time frame in which the activity is believed to have occurred:
6. How and when the agency learned of the activity:
7. Agency contact person:

CONFIDENTIAL MEMORANDUM

To: **Thomas P. Charles, C.I.G. -- Inspector General**
Office of the Inspector General

CC: Henry Guzman, Director
Ohio Department of Public Safety

Jose A. Torres, Deputy Legal Counsel to the Governor
Office of the Governor

From: (Director or Chief Legal Counsel)

Date:

Subject: Notification of Employee Suspected Wrongdoing (Department Case Number, if any)

1. Activity believed to be wrongdoing: [be specific]
2. What action/investigation, if any, has been taken by the agency:
3. Where the activity occurred:
4. Name of the person to be investigated:
5. Time frame in which the activity is believed to have occurred:
6. How and when the agency learned of the activity:
7. Agency contact person:



OBWC Board of Directors Actuarial Committee Charter

Purpose

The Actuarial Committee has been established to assist the Ohio Bureau of Workers' Compensation Committee Board of Directors in fulfilling its responsibilities through:

- monitoring the actuarial soundness and financial condition of the funds and reviewing rates, reserves and the level of net assets
- monitoring the integrity of the actuarial audit process
- monitoring compliance with legal and regulatory requirements
- monitoring the design and effectiveness of the actuarial studies
- confirming external actuarial consultants' qualifications and independence
- reviewing any independent external actuarial work product
- reviewing opportunities and challenges the Board of Directors needs to discuss as they fulfill the statutory requirement to “. . . fix and maintain the lowest possible rates of premium consistent with the maintenance of a solvent state insurance fund . . .”

In order to constitute the will of the Board of Directors, Committee actions must be ratified or adopted by the Board of Directors to become effective.

Membership

The Committee shall be composed of a minimum of five (5) members. One member shall be the member of the Board who is an actuary. The Board, by majority vote, shall appoint at least four additional members of the Board to serve on the Actuarial Committee and may appoint additional members who are not Board members, as the Board determines necessary. Bureau management personnel cannot serve as a committee member.

The Chair and Vice Chair are designated by the Board, based on the recommendation of the Board Chair. If the Board Chair is not a member of the Committee, he/she shall be an ex-officio member. As an ex-officio member, the Board chair shall not vote if his/her vote will create a tie.

The Committee Chair will be responsible for scheduling all meetings of the Committee and providing the Committee with a written agenda for each meeting. The Committee will have a staff liaison designated to assist it in carrying out its duties.

Members of the Actuarial Committee serve at the pleasure of the Board and the Board, by majority vote, may remove any member except the member of the committee who is the actuary member of the Board.

Meetings

The Committee shall meet at least nine (9) times annually. The Committee Chair will provide a meeting report at the next subsequent Board meeting. Additional meetings may be requested by the Committee Chair, 2 or more members of the Committee, or the Chair of the Board.

A quorum shall consist of a majority of Committee members. Committee meetings will be conducted according to Robert's Rules of Order. All Directors are encouraged to attend the Committee meetings.

The Committee will invite members of management, external actuarial firms, internal actuarial staff and/or others to attend meetings and provide pertinent information, as necessary.

Minutes for all meetings of the Committee will be prepared to document the actions of the Committee's in the discharge of its responsibilities.

Duties and Responsibilities

1. The Actuarial Committee shall be responsible for the following statutory requirements:

- Recommend actuarial consultants for the Board to use for the funds specified in Chapters 4121, 4123, 4127, and 4131 of the Revised Code (RC 4121.129 (B)(1))
- Review the calculation of rate schedules prepared by the actuarial consultants with whom the Board contracts (RC 4121.129 (B)(2))
- Supervise, for the Board's consideration, the preparation of an annual report of the actuarial valuation of the assets, liabilities and funding requirements of the state insurance funds to be submitted to the Workers' Compensation Council and the Senate and the House. (RC 1421.125(C) and 4123.47)
- Arrange for an actuarial analysis of any legislation expected to have measurable financial impact on the system, within 60 days after introduction of the legislation. (RC 4121.125(C)(6) and (7) and 4121.125(G)).
- At least once every five (5) years, contract for an actuarial investigation of experience of employers; mortality, service

and injury rate of employees; and payment of benefits in order to update the assumptions on the annual actuarial report. (RC 4121.125(C)(4) and RC 4121.125(F)

- Review, and make recommendations to the Board, regarding rate-making administrative code rules. (RC 4121.12(F)(13)(a))

2. Coordinate with other Board Committees on issues of common interest, including but not limited to an annual discussion of actuarial issues which would impact the Board's statutory requirement to "... fix and maintain the lowest possible rates of premium consistent with the maintenance of a solvent state insurance fund ...".
3. At least annually, review this charter and submit any proposed changes to the Governance Committee and to the Board for approval.
4. Create, by majority vote, a subcommittee consisting of one or more Directors on the Committee. As appropriate, and in consultation with the Chair, appoint other Board members to the subcommittee. The subcommittee shall have a specific purpose. The subcommittee shall keep minutes of its meetings. The subcommittee shall report to the Committee. At any time, the Committee, by majority vote, may dissolve the subcommittee.
5. Perform such other duties required by law or otherwise as are necessary or appropriate to further the Committee's purposes or as the Board may from time to time assign to the Committee.

Draft 092607
Review & Approved 112107, Chuck Bryan, Chair
Revised 012408
Revised 092408
Annual Review and Revision 112108
Annual Review and Revision 112009
Annual Review and Revision 111910

OBWC Board of Directors Audit Committee Charter

Purpose

The Audit Committee has been established to assist the Board of Directors of the Ohio Bureau of Workers' Compensation in fulfilling its fiduciary oversight responsibilities through:

- providing oversight of the integrity of financial reporting process;
- ensuring compliance with legal and regulatory requirements;
- monitoring the design and effectiveness of the system of internal control;
- confirming external auditor's qualifications and independence
- reviewing performance of the internal audit function and independent auditors
- reviewing opportunities and challenges the Board of Directors needs to discuss as they fulfill the statutory requirement to “. . . fix and maintain the lowest possible rates of premium consistent with the maintenance of a solvent state insurance fund . . .”.

In order to constitute the will of the Board of Directors, Committee actions must be ratified or adopted by the Board of Directors to become effective.

Membership

The Committee shall be composed of a minimum of five (5) members. One member shall be the member of the Board who is a certified public accountant. The Board, by majority vote, shall appoint at least four additional members of the Board to serve on the Audit Committee and may appoint additional members, who are not Board members, as the Board determines necessary. Bureau management personnel cannot serve as a committee member.

The Chair and Vice Chair are designated by the Board, based on the recommendation of the Board Chair. If the Board Chair is not a member of the Committee, he/she shall be an ex-officio member. As an ex-officio member, he/she shall not vote if his/her vote will create a tie vote.

The Committee Chair will be responsible for scheduling all meetings of the Committee and providing the Committee with a written agenda for each meeting. In the absence of the Committee Chair, the Committee Vice-Chair will assume the Chair's responsibilities. The Committee will have a staff liaison designated to assist it in carrying out its duties.

Members of the Audit Committee serve at the pleasure of the Board, and the Board, by majority vote, may remove any member except the member of the committee who is the certified public accountant member of the Board.

Meetings

The Committee shall meet at least nine (9) times annually. The Committee chair will provide a meeting report at the next subsequent Board meeting. The Board grants the Committee authority to have additional meetings. Additional meetings may be requested by the Committee Chair, 2 or more members of the Committee, or the Chair of the Board.

A quorum shall consist of a majority of Committee members. Committee meetings will be conducted according to Robert's Rules of Order. All Directors are encouraged to attend the Committee meetings.

The Committee will invite members of management, external auditors, internal auditors and/or others to attend meetings and provide pertinent information as necessary.

Minutes for all meetings of the Committee will be prepared to document all actions of the Committee in the discharge of its responsibilities.

Duties and responsibilities

1. The Audit Committee shall be responsible for the following statutory requirements:

- Recommend to the Board an accounting firm to perform the annual audit required under RC 4123.47. (RC 4121.129 (A)(1))
- Recommend an auditing firm for the Board to use when conducting audits under RC 4121.125. (RC 4121.129 (A)(2))
- Review results of each annual audit and management review; if problems exist, assess appropriate course of action to correct, and develop action plan. (RC 4121.129 (A)(3))
- Monitor implementation of any action plans created to correct problems noted in each annual audit. (RC 4121.129 (A)(4))
- Review management's biennial appropriation requests and recommend approval to the Board. (RC 4121.121 (B)(10)).
- Review and recommend to the Board the proposed annual fiscal year Administrative Cost budget prepared by management. Also, advise the Board of any adjustments made to the proposed budget. (RC 4121.121 (B)(10)).

- Review all internal audit reports on a regular basis. (RC 4121.129(A)(5))
 - At least once every 10 years, have an independent auditor conduct a fiduciary performance audit of BWC's investment program, policies and procedures. Provide a copy of audit to the Auditor of State. (RC 4121.125(I))
 - Provide input to the Board when the Administrator seeks the advice and consent of the Board on the appointment and/or removal of the Chief of Internal Audit. (RC 4121.125 (J))
2. Oversight of the integrity of the financial information reporting process:
 - a. Review with management and the external auditor significant financial reporting issues and judgments made in connection with the preparation of the financial statements.
 - b. Review with management and the external auditor the results of the audit.
 3. Coordinate with other Board committees on issues of common interest, including but not limited to an annual discussion of audit issues which would impact the Board's statutory requirement to "... fix and maintain the lowest possible rates of premium consistent with the maintenance of a solvent state insurance fund ..."
 - ~~3-4.~~ _____ Serve as the primary liaison for Bureau of Workers' Compensation Board of Directors and providing a forum for handling all matters related to audits, examinations, investigations or inquiries of the Auditor of State and other appropriate State or Federal agencies.
 - 4-5. _____ Develop an oversight process to assess the adequacy and effectiveness of internal controls and provide the mechanisms for periodic assessment of system of internal controls on an ongoing basis.
 - ~~5-6.~~ _____ Oversee the assessment of internal administrative and accounting controls by both the external independent financial statement auditor and internal auditor.
 - 6-7. _____ Ensure the independence of the external auditor and approve all auditing, other attestations services and pre-approve non-audit services performed by the external auditor.
 - 7-8. _____ Review the internal financial statements upon the request of a committee member or BWC staff.
 - 8-9. _____ Receive and review reports from management regarding the status of appropriations bills.
 - 9-10. _____ At least annually, meet with General Counsel and Chief of Internal Audit to review BWC Code of Ethics to ensure that it is adequate and up-to-date. Report on review and recommended changes, if necessary, to the Board.
 - ~~10-11.~~ _____ Retain and oversee consultants, experts, independent counsel, and accountants to advise the Committee on any of its responsibilities.
 - ~~11-12.~~ _____ Seek any information it requires from employees—all of whom are directed to cooperate with the Committee's requests, or the requests of internal or external parties working for the Committee. These parties include, but are not limited to internal auditors, all external auditors,

consultants, investigators and any other specialists working for the Committee.

~~12.~~13. The Audit Committee is responsible for strategic financial policies for assuring the appropriate legal-level of net assets for the appropriate BWC funds, including an annual review of the funding ratio and the net leverage ratio pursuant to BWC's Net Asset Policy. The Audit Committee shall also take the lead in the process for establishing the discount rate for reserves.

~~13.~~14. At least annually, review the Audit Committee charter and submit any proposed changes to the Governance Committee and to the Board for approval.

~~14.~~15. The Committee by majority vote may create a subcommittee consisting of one or more Directors on the Committee. In consultation with the chair, other board members may be appointed to the subcommittee as appropriate. The subcommittee shall have a specific purpose. The subcommittee shall keep minutes of its meetings. The subcommittee shall report to the Board of Directors through the Committee. The Committee by majority vote may dissolve the subcommittee at any time.

~~15.~~16. Perform such other duties required by law or otherwise as are necessary or appropriate to further the Committee's purposes, or as the Board may from time to time assign to the Committee.

Audit Committee Charter.doc
Draft 092607
Review & Approved 112107, Ken Haffey, Chair
Revised 012408
Revised 012508
Revised 092408
Annual Review and Revision 112108
Annual Review and Revision 112009

OBWC Board of Directors Governance Committee Charter

Purpose

The Ohio Bureau of Workers' Compensation Board of Directors has created the Governance Committee under authority granted by RC 4121.12(G)(2). The Governance Committee is a standing committee of the Board of Directors. The Committee shall assist the Board of Directors in fulfilling its oversight responsibilities relating to developing and implementing sound governance policies and practices. The Committee is responsible for:

- -reviewing and recommending to the Board the adoption of governance guidelines and committee charters;
- -overseeing compliance with federal and state laws, regulations, policies and ethical requirements;
- -developing a process for the Board's assessment of its performance and the performance of Board committees;
- -overseeing the process for orientation of new Board members and the continuing education program for all Board members;
- -making recommendations for Board Vice-Chair, Committee Chairs and Vice-Chairs and Director assignments to Board committees for the Chair's consideration; and
- coordinating processes and procedures for the Administrator's annual performance review.
- reviewing opportunities and challenges the Board of Directors needs to discuss as they fulfill the statutory requirement to "... fix and maintain the lowest possible rates of premium consistent with the maintenance of a solvent state insurance fund ...".

In order to constitute the will of the Board of Directors, Committee actions must be ratified or adopted by the Board of Directors to become effective.

Membership

The Committee shall be composed of a minimum of three (3) members. One member shall be the Chair of the Ohio Bureau of Workers' Compensation Board of Directors. The Board, by majority vote, shall appoint at least two (2) additional members of the Board. Bureau management personnel cannot serve as a Committee member. The Chair and Vice-Chair are designated by the Board based on the recommendation of the Board Chair.

The Committee Chair will be responsible for scheduling all meetings of the Committee and providing the Committee with a written agenda for each meeting.

The Committee will have a staff liaison designated to assist it in carrying out its duties.

Members of the Governance Committee serve at the pleasure of the Board, and the Board, by majority vote, may remove any member except the Board chair.

Meetings

The Governance Committee shall meet at least four (4) times annually. The Committee chair will provide a report of the meeting at the next subsequent Board meeting. Additional meetings may be requested by the Committee chair, 2 or more members of the Committee, or the Board Chair.

A quorum shall consist of a majority of Committee members. Committee meetings will be conducted according to Robert's Rules of Order. All Directors are encouraged to attend the Committee meetings.

The Committee will invite members of management, fiduciary counsel, and/or others to attend meetings and provide pertinent information as needed.

Minutes for all meetings of the Committee will be prepared to document the actions of the Committee in the discharge of its responsibilities.

Duties and Responsibilities

1. The Governance Committee shall assist the Board in meeting the following statutory requirements:

- Assist in the establishment of the Board's annual prospective performance goals and objectives for the Administrator; coordinate and facilitate the process for the Board's annual performance evaluation of the Administrator (RC 4121.12(F)(15)).
- Oversee the BWC orientation process and its implementation for newly appointed members of the BWC Board. The Committee shall also regularly assess the adequacy of and need for additional continuing Director education programs. These requirements include: orientation for new members; continuing education for those Board members who have served for more than one year; Board member duties and responsibilities; injured worker compensation and benefits; ethics; governance processes and procedures; actuarial soundness; investments; and any other subject matter the Board believes is reasonably related to the duties of a Board member (RC 4121.12(F)(16)).

- Make recommendations to the Board for retaining fiduciary counsel. (RC 4121.12 (F)(6)(c)).
 - Oversee the process for all statutorily required reports of the Board for submission to the Governor, General Assembly or the Workers' Compensation Council (RC 4121.12(F)(3), 4121.125).
2. At least annually review the Board's Governance Guidelines and the charters of the Board's standing committees, and making such recommendations as the Committee determines necessary, appropriate, and consistent with Ohio law, including recommendations concerning the structure, composition, membership and function of the Board and its committees, subject to Board approval.
 3. Make recommendations for Board Vice-Chair, Committee Chairs and Vice-Chairs, and Director assignments to Board committees for the Chair's consideration and the Board's approval.
 4. Develop and coordinate the annual self-assessment of the Board and its Committees.
 5. Oversee compliance with laws, regulations, policies and ethical requirements.
 6. Act as the lead committee for rule review and changes with the exception of actuarial rules or other rules assigned to an existing committee. The Committee will follow the process for rule review as outlined in the Governance Guidelines.
 7. Coordinate with other Board committees on issues of common interest, including but not limited to an annual discussion of regulatory issues which would impact the Board's statutory requirement to "... fix and maintain the lowest possible rates of premium consistent with the maintenance of a solvent state insurance fund ...".
 8. Create by majority vote a subcommittee consisting of one or more Directors on the Committee. In consultation with the Chair, other Board members may be appointed to the subcommittee as appropriate. The subcommittee shall have a specific purpose. The subcommittee shall keep minutes of its meetings. The subcommittee shall report to the Committee. The Committee by majority vote may dissolve the subcommittee at any time.
 9. Perform such other duties required by law or otherwise as are necessary or appropriate to further the Committee's purposes, or as the Board may from time to time assign to the Committee.

Draft reviewed Oct. 4, 2007 and Oct. 14, 2007
Approved as edited 112107; Alison Falls, Chair
Revised 012308
Revised 092408
Annual Review and Revision 112108
Annual Review and Revision 112009
Annual Review and Revision 111910

OBWC Board of Directors Investment Committee Charter

Purpose

The purpose of the Investment Committee is to ensure that the assets of the Ohio Bureau of Workers' Compensation (OBWC) are effectively managed in accordance with the laws of the State of Ohio, and the Ohio Bureau of Workers' Compensation Statement of Investment Policy and Guidelines. The Investment Committee:

- assists the Board of Directors in the review and oversight of the State Insurance Fund and each Specialty Fund (collectively the Funds) assets;
- develops and monitors the implementation of the BWC's investment policy
- review opportunities and challenges the Board of Directors needs to discuss as they fulfill the statutory requirement to “. . . fix and maintain the lowest possible rates of premium consistent with the maintenance of a solvent state insurance fund . . .”

In order to constitute the will of the Board of Directors, Committee actions must be ratified or adopted by the Board of Directors to become effective.

Membership

The Committee shall be composed of a minimum of five (5) members. Two members shall be the members of the Board who are the investment and securities experts. The Board, by majority vote, shall appoint at least three additional members of the Board to serve on the Investment Committee and may appoint additional members, who are not Board members, as the Board determines necessary. Each additional non-Board member appointed must have at least one of the following qualifications: a) experience managing another state's pension funds or workers' compensation funds; or b) expertise that the Board determines is needed to make investment decisions (RC 4121.129(C)(1)). Bureau management personnel cannot serve as a Committee member.

The Chair and Vice Chair are designated by the Board, based on the recommendation of the Board Chair. If the Board chair is not a member of the Committee, he/she shall be an ex-officio member. As an ex-officio member, the Board chair shall not vote if his/her vote will create a tie.

The Committee Chair will be responsible for scheduling all meetings of the Committee and providing the Committee with a written agenda for each meeting. The Committee will have a staff liaison designated to assist it in carrying out its duties.

Members of the Investment Committee serve at the pleasure of the Board and the Board, by majority vote, may remove any member except the members of the Committee who are the investment and securities expert members of the Board.

Meetings

The Investment Committee will meet at least nine (9) times annually. The Committee Chair will provide a report of the meeting at the next subsequent Board meeting. Additional meetings may be requested by the Committee Chair, 2 or more members of the Committee, or the Chair of the Board.

A quorum shall consist of a majority of Committee members. Committee meetings will be conducted according to Robert's Rules of Order. All Directors are encouraged to attend the Committee meetings.

The Committee will invite members of management, investment advisors, fiduciary counsel and/or others to attend meetings and provide pertinent information as necessary

Minutes for all meetings of the Committee will be prepared to document the actions of the Committee in the discharge of its responsibilities.

Duties and Responsibilities

The Investment Committee is charged with overseeing all investment-related matters and activities of the BWC. The Committee evaluates proposals requiring Board action and makes recommendations for consideration by the Board. The Committee shall:

1. Assist the Board in meeting the following statutory requirements:
 - Develop and recommend the strategic asset allocation and investment policy for the Funds in accordance with RC 4123.442 and submit to the Board for approval.
 - Periodically review the investment policy in light of any changes in actuarial variables, market conditions, etc. and make recommendations for any changes, as appropriate to the Board for approval. (RC 4121.12(F)(7))
 - Assist the Board to assure that the investment policy is reviewed and approved at least annually, published, and copies are made available to interested parties. (RC 4121.12(F)(8))
 - Prohibit, on a prospective basis, any investment the Committee finds to be contrary to the investment objectives of the Funds and submit to the Board for approval (RC 4121.12(F)(9)).
 - Recommend the opening and closing of each investment class and submit to the Board for approval. (RC 4121.12(F)(10))
 - Develop and recommend rules on due diligence standards for employees of BWC to follow when investing in each asset class. Develop and recommend policies and procedures to review and monitor the performance and value of each asset class. Submit these recommendations to the Board for approval. (RC 4121.12(F)(11))

- Review the annual report on the investment performance of the funds and the value of each investment class and submit to the Board for approval. Once approved, this report must be submitted to the Governor, the president and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives. (RC 4121.12(F)(12))
 - Monitor implementation of the investment policy by the Administrator and the Chief Investment Officer (RC 4121.129(C)(2)(c)).
 - Recommend outside investment counsel with whom the Board may contract to assist the Investment Committee in fulfilling its duties (RC 4121.129(C)(2)(d)).
 - Review the performance of the Chief Investment Officer and any investment consultants retained by the BWC to assure compliance with the investment policy and effective management of the Funds (RC 4121.129(C)(2)(e)).
 - Consult with the Administrator and recommend to the Board the appointment of the Chief Investment Officer. (RC 4123.441)
2. Recommend to the Board for approval the criteria and procedures for the selection of the Investment Managers and General Partners. Approve the final selection, funding and termination of all Investment Managers and General Partners.
 3. Monitor and review the investment performance of the Funds on a quarterly basis to determine achievement of objectives and compliance with this investment policy.
 4. Coordinate with other Board committees on items of common interest, including but not limited to an annual discussion of investment issues which would impact the Board's statutory requirement to "... fix and maintain the lowest possible rates of premium consistent with the maintenance of a solvent state insurance fund ...".
 5. At least annually, review this charter and submit any proposed changes to the Governance Committee and to the Board for approval.
 6. Create, by majority vote, a subcommittee consisting of one or more Directors on the Committee. In consultation with the Chair, other Board members may be appointed to the subcommittee as appropriate. The subcommittee shall have a specific purpose. The subcommittee shall keep minutes of its meetings. The subcommittee shall report to the Committee. The Committee by majority vote may dissolve the subcommittee at any time.
 7. Perform such other duties required by law or otherwise as are necessary or appropriate to further the Committee's purposes, or as the Board may from time to time assign to the Committee.

Review & Approved 112107, Bob Smith, Chair
Revised 012408
Revised 092408
Annual Review and Revision 112108
Annual Review and Revision 112009
Annual Review and Revision 111910

OBWC Board of Directors Medical Services and Safety Committee Charter

Purpose

The Ohio Bureau of Workers' Compensation Board of Directors has created the Medical Services and Safety Committee under authority granted by RC 4121.12(G)(2). The Medical Services and Safety Committee is a standing committee of the Board of Directors. The Committee shall assist the Board of Directors in the development of strategic policy for the provision of quality, cost-effective prevention, treatment, and rehabilitation services necessitated as the result of workplace injuries for the mutual benefit of injured workers and employers.

The Committee shall review opportunities and challenges the board of Directors needs to discuss as they fulfill the statutory requirement to "... fix and maintain the lowest possible rates of premium consistent with the maintenance of a solvent state insurance fund ...".

Membership

The Committee shall be composed of a minimum of three (3) members. The Board, by majority vote, shall appoint at least three members of the Board to serve on the Medical Services and Safety Committee and may appoint additional members, who are not Board members, as the Board determines necessary. Bureau management personnel cannot serve as a Committee member.

The Chair and Vice Chair are designated by the Board, based on the recommendation of the Board Chair. If the Board Chair is not a member of the Committee, he/she shall be an ex-officio member. As an ex-officio member, he/she shall not vote if his/her vote will create a tie vote.

The Committee Chair will be responsible for scheduling all meetings of the Committee and providing the Committee with a written agenda for each meeting. The Committee will have a staff liaison designated to assist it in carrying out its duties.

Members of the Medical Services and Safety Committee serve at the pleasure of the Board, and the Board, by majority vote, may remove any member.

Meetings

The Committee shall meet at least six (6) times annually. The Committee Chair will provide a report of the meeting at the next subsequent Board meeting.

Additional meetings may be requested by the Committee Chair, 2 or more members of the Committee, or the Chair of the Board.

A quorum shall consist of a majority of Committee members. Committee meetings will be conducted according to Robert's Rules of Order. All Directors are encouraged to attend the Committee meetings.

The Committee will invite members of management, and/or others to attend meetings and provide pertinent information, as necessary.

Minutes for all meetings of the Committee will be prepared to document the actions of the Committee in the discharge of its responsibilities.

Duties and responsibilities

The Committee shall have the responsibility for ensuring the appropriateness and oversight of policy regarding BWC medical and managed care services and safety programs:

1. The Committee shall assist the Board in meeting the following statutory requirements, including but not limited to:
 - Consult with the Administrator and recommend to the Board the appointment of the Superintendent of Safety and Hygiene (RC 4121.37);
 - Review and make recommendations to the Board regarding administrative code rules related to BWC's Division of Safety and Hygiene, including specific safety rules (RC 4121.12 (F)(13)(b), and 4121.12(F)(13)(d)).
 - Review and make recommendations to the Board regarding administrative code rules related to BWC's health partnership program (RC 4121.12 (F)(13)(c)).
 - Review the Division of Safety and Hygiene annual report (RC 4121.37)
2. The Committee shall provide strategic oversight for BWC in the following areas:
 - Composition of, modification of, and/or delivery of occupational safety and health programs;
 - Composition of or modification to medical, occupational safety and health research programs;
 - Initiation and development of collaborative partnerships between BWC and other agencies in and outside Ohio for the purpose of improving medical services, managed care services and workplace safety;
 - Composition of or improvement to BWC's medical provider network and practice guidelines;

- managed care and claims policies including an appropriate disability prevention delivery model;
- research for injury prevention, treatment guidelines, the benefit plan, formularies, and corresponding fee schedules;
- Improvements to the provider bill payment services, and
- Development of metrics for all of the above showing comparative effectiveness.
- Coordinate with the other Board Committees on items of common interest, including but not limited to an annual discussion of issues under their jurisdiction which would impact the Board's statutory requirement to "... fix and maintain the lowest possible rates of premium consistent with the maintenance of a solvent state insurance fund ...".
- At least annually, review the Medical Services and Safety Committee charter and submit any proposed changes to the Governance Committee and to the Board for approval.
- The Committee by majority vote may create a subcommittee consisting of one or more Directors on the Committee. In consultation with the chair, other board members may be appointed to the subcommittee as appropriate. The subcommittee shall have a specific purpose. Each subcommittee shall keep minutes of its meetings. The subcommittee shall report to the Committee. The Committee by majority vote may dissolve the subcommittee at any time.
- Perform such other duties required by law or otherwise as are necessary or appropriate to further the Committee's purposes, or as the Board may from time to time assign to the Committee.

Draft 102909

Reviewed and approved 112009, Jim Harris, Chair

Reviewed and approved 111910

12-Month Governance Committee Calendar

Date	September 2010	NOTES
9/23/2010	1. Governance Guidelines (1 st read)	
	2. Committee Charters (1 st read)	
Date	October 2010	
10/21/2010		
Date	November 2010	
11/18/2010	1. Governance Guidelines (2 nd read)	
	2. Committee Charters (2 nd read)	
Date	December 2010	
12/15/2010	1. Administrator Performance Review and Action Items to date	
	2. Board Self-assessment and Action Items to date	
	2011 Tentative Agenda Topics	
Date	January 2011	
TBD		
Date	February 2011	
TBD		
Date	March 2011	
TBD		
Date	April 2011	
TBD	1. Launch Administrator Review	
Date	May 2011	
TBD	1. Launch Board and Committee Self-assessment	
Date	June 2011	
TBD	1. Finalize Board and Committee Self-assessment	
	2. Committee membership recommendations	
	3. Develop Education Plan	
	4. Administrator's Objectives for FY 12	
Date	July 2011	
TBD		
Date	August 2011	
TBD		

12-Month Governance Committee Calendar

Date	September 2011	Notes
TBD	1. Governance Guidelines (1 st read)	
	2. Committee Charters (1 st read)	
Date	October 2011	
TBD		
Date	November 2011	
TBD	1. Governance Guidelines (2 nd read)	
	2. Committee Charters (2 nd read)	
Date	December 2011	
TBD		