PUBLIC ENTITY GUIDELINES AND FREQUENTLY ASKED QUESTIONS FORMS P-1 AND J-1 AND ANNUAL REPORT ADDENDUM

AUGUST 2021

# GENERAL QUESTIONS

1. Which self-insured employers are required to file?

* County
* City
* City and county
* Municipal Corporation
* Public District
* Special District
* Public Agency
* Political subdivision of the state
* Joint Power Authorities (JPA) providing dollar one primary coverage 2. Will self-insured employers be required to continue to file AR-2?
* Yes. There is no change to this requirement. The new reporting requirements are to be submitted in addition to currently required forms.

3. Do these new forms take place of the business profile and aggregate data in the current AR-2?

* No. The existing business profile and aggregate data in the current AR-2 will continue to be completed. The forms P-1, J-1, and the AR-2 Addendum are supplemental reports.
* At this time, the forms P-1, J-1, and the AR-2 Addendum cannot be uploaded via the online services portal at this time and will need to be emailed or mailed to your OSIP Analyst.

4. Where do I find definitions for the new forms?

* In general, terminology used is based on standard industry meaning and usage for workers’ compensation claims and coverage in the State of California.
* In addition, definition of terms are found in the Appendix of Forms J-1 and P-1, as well as the end of this document.

5. Which forms must be submitted?

* P-1
	+ Standalone public entity
	+ Revoked public entity with runoff claims
	+ Revoked public entity with runoff claims that are currently part of a JPA
* J-1
	+ JPA providing dollar one primary coverage
* Annual Report Addendum (AR-2 Addendum)
	+ All public entities

6. What happens if a public self-insured employer files for bankruptcy? Who pays for the claims cost?

* + Public self-insured employers who file for bankruptcy typically elect to continue paying their claims and this requires approval by the Bankruptcy Courts.
	+ If a public self-insured employer files for liquidation bankruptcy and defaults on their obligations, there is no monetary source for providing ongoing benefits to the injured workers. There may be some remedies, depending on the type of entity. For example, if the city defaults, the county be liable for payment of claims. However, this would entail increase in taxes.

7. What does the TPA do if their public entity files for bankruptcy and is not funding the account to pay the claims?

* + Under Title 8, CCR Section 15459, the TPA must notify OSIP within 3 days.
	+ Regulations language: *“The claims administrator shall notify the Manager in writing within three days of a self insured employer's willful failure to provide adequate funding for the timely payment of workers' compensation benefits in accordance with provisions of the Labor Code.”*

8. How will OSIP be determining a self-insured certificate holder’s financial solvency?

* + Information provided in forms P-1 and J-1 will help OSIP determine if there is proper funding and allocation for their workers’ compensation claims and exposure.

9. Will OSIP be posting all information provided by self-insured employers and primary JPAs on the website for benchmarking?

* + No. If an employer or JPA would like to receive benchmarking for their program, they can request this from OSIP on an individual basis.

# FORMS J-1 AND P-1

10. What forms do JPA members have to complete?

* + Individual members of a dollar one primary JPA do not have to complete the annual report for claims covered under the program. However, if the member has claims that were self-insured prior to joining the program, the member must complete Form P-1 and report information in AR-2 Addendum for those claims in addition to the existing AR-2.

11. If a public entity is both self-insured and partially part of a JPA for dollar one primary WC coverage, do they still need to complete submit all of the P-1 to the JPA and OSIP for their JPA participation portion? Or only the P-1 Form for all of their coverages combined?

* + The public entity must submit Form P-1 for the standalone certificate number covering the employees under that certificate number. In addition, they need to submit information on employees covered by the JPA to the JPA.

12. If a JPA for dollar one primary WC coverage has members that have left the program, resulting in revoked member certificates, is the JPA still required to include the revoked members’ demographic information in the Form J-1?

* No. The JPA is only required to submit active members’ demographic information.

13. If a public entity is a part of a JPA for dollar one primary WC coverage, does that entity still need to complete part of or all of P-1?

* + No. The JPA will provide aggregated data. However, OSIP may request information on specific members of the JPA.

14. Does a JPA need to complete a Form P-1 for each of its members?

* + Not if the JPA provides primary dollar one coverage, the JPA completes the Form J-1.
	+ JPAs who only provides excess coverage do not complete Form J-1. However, each member who has a self-insured certificate must complete Form P-1.

15. How will the P-1 and J-1 Forms be submitted?

* + The forms will be submitted via email or via USPS to the OSIP assigned employer’s analyst until OSIP has the ability incorporate filing through its online filing services.

16. What if the JPA cannot determine the number of volunteers for each of its members?

* + Each of the members must report the number of volunteers to their JPA in order to accurately understand the number of workers that are covered under self-insurance.

17. Does the number of JPA employees mean those employed by the JPA or collectively of the membership, or both combined?

* + The question is asking for the total number of employees employed by the JPA.

18. If we do not have a Resolution covering volunteers for workers’ compensation benefits, and do not intend to, does OSIP still want the employer to report this information?

* + Volunteers that are deemed employees per the statutes without the need for resolution must be reported in this information. If there is no resolution covering volunteers, the employer does not need to report this information. However, those covered under Labor Code Section 3367(a) need to be reported, regardless of the lack of resolution.
	+ Labor Code Section 3367(a): *“For purposes of this division any person voluntarily rendering technical assistance to a public entity to prevent a fire, explosion, or other hazardous occurrence, at the request of a duly authorized fire or law enforcement officer of that public entity is deemed an employee of the public entity to whom the technical assistance was rendered, and is entitled to receive compensation benefits in accordance with the provisions of this division. Rendering technical assistance shall include the time that person is traveling to, or returning from, the location of the potentially hazardous condition for which he or she has been requested to volunteer his or her assistance.”*

19. Do we have to report our volunteers if they are covered by separate volunteer insurance?

* No.

20. Our audited financial statement is generated once every two years. Do we need to change the cycle and generate it every year?

* + There is no need to change the cycle, as the financial information should come from the most recent audited financial statement, as long as it is not older than 3 years.

21. Our FY 19/20 Final Audited Financials will not be available until after October 1. Can we provide the draft of the audited financials instead?

* + Yes. You may provide the draft audit report, as well as the most recent fully executed report.

22. The total number of employees fluctuates throughout the year. Do we report the total number as of June 30 or the total number aggregated throughout the year?

* + Employers must report the total number of employees covered throughout the year. Does the total number of employees include positions that were vacant?
	+ Yes. The total number of employees should include all budgeted positions, including vacant positions that have not been filled as of June 30.

23. On Form P-1, Part A, Question 6, and Form J-1, Part A, Question 7 (total wages), is the whole section only specific to public safety employees or education employees?

* + No. The total wages and salaries paid should reflect wages and salaries of all employees, regardless of classification. Subsection questions a, b, and c provide additional breakdown of the information provided in the main question.

# AR-2 ADDENDUM

24. What amounts are reported pursuant to CCR Section 15251(c)(4):

* + The intent of the regulations is to capture the expenditures of the workers’ compensation program. Report the total amounts paid as of the end of the reporting year so that OSIP may evaluate the yearly expenditures of the program.

25. Why is the AR-2 Addendum which is effective July 1, 2020, trying to capture data that predates the existence of the form?

* + The AR-2 Addendum is an aggregate of information from all claims which is already in the claims software. It is not meant to be gathering information that was provided starting July 1, 2020. It is meant to gather information available on July 1, 2020, for all claims as of the end of the prior fiscal year.

26. How are the aggregate claims information extracted – by dates of injuries or by date reported to the employer?

* + The aggregate information on the AR-2 Addendum should be extracted by dates of injuries.
	+ The list of open indemnity information and liabilities information must be extracted by the year claims are reported.

27. The AR-2 aggregate claims information is based on the date claims were reported, whereas the AR-2 Addendum is based on the date the claims the claims occurred, leaving a discrepancy between the two. Is that the expectation?

* + We recognize the differences. However, they are used for different purposes. The aggregate claims information will continue to be reported at a high level overview of the claims reported during that period, whereas the AR-2 Addendum provides more detail of the claims activity for better benchmarking for claims occurring year over year.

28. Does the AR-2 Addendum for years prior to FY 15/16 only include the OPEN claims data for those years (like the AR-2)?

* Yes, with the following specifications. Line items 6 through 12 pertain to open claims and are measured at the end of the reporting period. Line items 13 through 47 pertain to benefits paid and should include all payments *made during the reporting period* on any claim for indicated FY and priors, regardless of the claim’s status at the end of the reporting period. Line items 48 through 55 pertain to future liabilities and should be measured as of the last day of the reporting period on OPEN claims only.

29. We currently do not have separate codes for indemnity benefits. How do we report this until we are able to modify our claims software?

* + In order to get accurate data, it is important that benefit types are coded separately. However, OSIP realizes that this cannot be resolved quickly and will allow reporting that consolidates different benefit types until the claims administrator is able to correct this, no later than June 30, 2021. Until then, provide the information under one of the types of benefits. Put an asterisk in the row heading and note the benefit types that are included in the aggregate amount.

30. With the creation of new data elements in the AR-2 Addendum, some employers or TPAs will need to create new coding within their claims systems. Does OSIP expect the claims administrators to re-code claim data from all prior years to fit into the more detailed categories? If so, how far back?

* + OSIP does not expect the claims administrators to re-code claim data from all prior years, recognizing that the data may be inaccurate for a number of years after the claims administrator correctly codes data.

31. How many years of old data does OSIP want? The last column years could easily contain data for over 30-40 years.

* + Line items 6 through 12 are for open claims only.  Line items 13 through 47, provide benefit payments made *during the reporting period* for any claim that was open during the reporting period.  Line items 48 through 55 are for open claims only.

32. We have safety employees who receive public safety employee benefits. How do we report the amount of benefits paid?

* + In the Annual Report itself, the amount of salary continuation payments made pursuant to LC section 4800 or 4850 shall continue to be reported as it always has.
	+ In the AR-2 Addendum, the safety employee benefits should be reported at the amount that the employees were being paid in lieu of temporary disability payments. Since the employees are receiving safety employee benefit payments (4800, 4850, etc.), temporary disability benefits for that period should not be reported. Temporary disability benefits will be reported after the public safety employee benefits are exhausted and the employee starts receiving temporary disability benefits. The reason is that this better captures the actual cost of these types of benefits to the employer whereas the Annual Report is separated out because it is used for assessment purposes.

33. What is the difference between public safety salary continuation and industrial disability leave benefits?

* + Public safety salary continuations include those covered under Labor Code sections 4800 and 4850. Industrial disability leave incudes benefits paid under the Education Code and any other equivalent statute of employer policy. The Appendix to forms P-1 and J-1, as well as the end of this document, include definition of Industrial Disability Leave.

34. We are a TPA for the public self-insured employer. We do not have information on the amount of public safety employee benefits or industrial disability leave benefits (IDL) received by the injured workers. Do we have to report this information?

* + It is important that these benefit amounts are reported to OSIP for accuracy of the expenditures of the workers’ compensation program. Therefore, this must be reported. Many claims administrators track salary continuation in lieu of temporary disability via journal vouchers. A similar system may be used by the claims administrator for safety employee benefits/industrial disability leave benefits to capture this information. For the purpose of this reporting, refer to the definition of IDL in the Appendix and include leave benefits “pursuant to Education Code Section 45192, Education Code Section 89529.03, Government Code Section 19871.”

35. Regarding line item 13: When the district is providing IDL benefits to the injured worker, we pay TD benefits directly to the school district. Once the injured worker no longer qualifies for IDL benefits, we pay TD benefits directly to the injured worker. Which benefits are reported?

* + Both are reported in line 13. The portion of the salary continuation paid by the district in lieu of temporary disability benefits should be reported under line 13. This is typically the temporary disability benefits paid to the employer/district during the period the employee is receiving salary continuation. Temporary disability paid to the injured worker directly is also included here.

36. Regarding line item 14: Which claims are counted as TD claims?

* Count all claims with TD payments, whether the payment was paid to the employer or the employee directly.

37. We do not reserve for public safety employee benefits or IDL benefits, even though the employer has employees who receive these benefits. Do we need to report this?

* + IDL benefits provided by statute in lieu of temporary disability benefits are considered temporary disability benefits. OSIP Regulations section 15300(b)(1) requires reserving for all temporary disability benefits. Therefore, you must reserve for these types of benefits and report this to OSIP.
	+ IDL benefits provided by the employer in addition to TD does not need to be reserved for, as these benefits are negotiated by the employer and is not mandated by the Labor Code. However, the TD amount itself must be reserved for.

38. On the AR-2 Addendum, does Industrial Disability Leave include COVID-19 specific payments provided to employees?

* + Yes, if it was provided in lieu of temporary disability on a claim.
	+ Non-industrially related leave due to COVID-19 do not need to be included.

39. We code life pension benefits separately from permanent partial disability. Are we required to report life pension benefits and if so, how do we report it?

* + Life pension benefits are a part of permanent partial disability benefits if the permanent disability is at least 70 but less than 100 percent. You are required to report life pension benefits under permanent disability benefits.

40. When we estimate future liabilities for indemnity, we do not break them out in the categories requested in the Annual Report Aggregate Addendum. How to we report this?

* + In order to get accurate data, it is important that benefit types are coded separately. However, OSIP realizes that this cannot be resolved quickly and will allow reporting that consolidates different benefit types until the claims administrator is able to correct this, no later than June 30, 2021. Until then, provide the information under one of the types of benefits. Put an asterisk in the row heading and note the benefit types that are included in the aggregate amount.

41. On the AR-2 Addendum, if there is a reserve category that was not separated in the past (e.g. death benefits, industrial disability leave), how should prior years reserve information be provided for past years?

* + Historical reserves do not need to be modified.
	+ For reserves moving forward, you should create the appropriate reserve category and report accordingly.

42. What is the difference between lines 9 & 16 and 10 & 18?

* + Line 9 is the number of claims filed by public safety employees whereas line 16 is the number of employees who actually received public safety benefits (4800/4850)
	+ Line 10 is the number of claims filed by those who could receive IDL benefits whereas line 18 is the number of employees who actually received IDL benefits.

43. On Line 11 of the AR-2 Addendum, what are you looking for in reference to Catastrophic Claims?

* + Definitions for catastrophic claims can be found in the Appendix of Forms P-1 and J-1, as well as the end of this document.
	+ “Catastrophic claim means a claim for workers’ compensation based on a severe injury to the brain or spinal cord, loss of a limb, paralysis, severe burn or severe head injury, and includes any injury that would result in a conclusive presumption of total disability under Labor Code Section 4662(a).”

44. What is reported under line item ~~51~~ 52 – Industrial Disability Leave benefits?

* + Report all amounts that the employee received under IDL in lieu of temporary disability. (includes differential).

45. Will the new reporting affect the annual self-insurance assessments?

* + No, it does not.

46. Prior to July 1, 2012, the fees associated with medical cost containment payments were paid under the medical expenses. Subsequently, they were paid under loss expense. How do we report these on the AR-2 Addendum?

* + Report the amounts paid as it was coded, depending on when payment was made. For years through 6/30/2012, report the medical cost containment fees under medical. For years on or after 7/1/2012, report the medical cost containment fees under loss expense.

47. On the AR-2 Addendum, what if all surgery costs were previously coded as inpatient hospital? Do we need to recode all historical payments?

* + No. We recognize that there may be some historical data that is not captured for some of the new paycodes. However, these should be completed where available and starting July 1, 2020 forward.

## A P P E N D I X

Terms used in Public Self-Insurer Report Forms P-1 and J-1 (§ 15203.11) and AR-2 (§ 15251(c)) The definitions in section 15201 of the Self-Insurance Plan regulations (Title 8, California Code of

Regulations § 15201) apply to the terms used in these reporting forms. All terms shall be construed in a manner that is consistent with their usage in Division 4 (commencing with Section 3700) of the Labor Code and Chapters 1 (commencing with section 1), 4.5 (commencing with section 9700), and Subchapter 2 of Chapter 8 (commencing with section 15201) of Division 1 of Title 8 of the California Code of Regulations, including any definitive construction of a term by the Workers’ Compensation Appeals Board or a court. However, if there is a conflict between a definition in section 15201 and a definition of the same terms found in another Title 8 regulation, the definition in section 15201 shall apply.

Terms that are not defined by statute or regulation should be understood as having the same meaning commonly understood and used by workers’ compensation program administrators in the state of California. A good faith error or discrepancy in how reportable information is characterized for purposes of one of these reports shall not be treated as a reporting violation under Labor Code Sections 3702.3 or 3702.9.

The following additional guidance is provided for specific report terms.

**Allocated Loss Adjustment Expense** or **ALAE** means claim administration costs and expenses that are allocated to individual workers’ compensation claims, including but not limited to medical cost containment expenses.

**Catastrophic claim** means a claim for workers’ compensation based on a severe injury to the brain or spinal cord, loss of a limb, paralysis, severe burn or severe head injury, and includes any injury that would result in a conclusive presumption of total disability under Labor Code Section 4662(a).

**Certificated employee** has the same meaning used in the Education Code and refers to an employee in an academic, supervisory, or administrative position with a school or school district, community college or community college district, or state university who is required to hold a credential or similar certificate as a condition of employment.

**Classified employee** has the same meaning used in the Education Code and refers to an employee of a school or school district, community college or community college district, or state university who is not a certificated employee.

**Diagnostics** refers to medically-prescribed tests used to determine a diagnosis, the cause of symptoms, the nature or severity, or course of treatment for an illness or injury. It includes but is not limited to imaging and laboratory tests.

**Full-Time Equivalent** or **FTE** refers to the ratio of the total number of paid hours for all employees, whether full or part-time, divided by the number of hours in the employer’s regular full-time work week. If the employer has a regular work week of 40 hours and 10 employees working a total of 200 hours during a regular work week, the full-time equivalent or FTE would be 5. (200 ÷ 40 = 5).

**Industrial Disability Leave** claims and benefits refers to salary-based payments made to public employees in lieu of workers’ compensation temporary indemnity benefits pursuant to Education Code

Section 45192, Education Code Section 89529.03, Government Code Section 19871, or equivalent statutes or employer policies governing compensated absences for job related illnesses or injuries, insofar as those payments are categorized separately from other types of indemnity payments. For reporting purposes, Industrial Disability Leave claims and benefits do not include salary continuation benefits provided to Public Safety Employees pursuant to Articles 6 and 7 (commencing with Sections 4800 and 4850 respectively) of Chapter 2 of Part 2 of Division 4 of the Labor Code, even if designated Industrial Disability Leave by the employer. Those payments instead should be reported as Public Safety Employee claims and benefits.

**Public Safety Employee** means an employee of a fire department, police or sheriff’s department, or other public protection or public safety agency who is entitled to receive salary continuation benefits in lieu of workers’ compensation benefits pursuant to one or more statute within Articles 6 and 7 (commencing with Sections 4800 and 4850 respectively) of Chapter 2 of Part 2 of Division 4 of the Labor Code. For reporting purposes, employees of the California State University Police Department who are entitled to enhanced Industrial Disability Leave benefits pursuant to Labor Code Section 4816, shall be counted as “public safety employees,” including for public safety employee payroll purposes, and their claims and benefits payments should be reported as public safety employee claims and benefits payments, even if designated by the employer as Industrial Disability Leave claims and benefits payments.

**Surgery** refers to payments made to surgeons, assistant surgeons, anesthesiologists, and other medical personnel for surgical services that are billed and paid for separately from facility costs. It does not include hospital and facility expenses.

**Unallocated Loss Adjustment Expense** or **ULAE** means claim administration costs and expenses that are not allocated to individual workers’ compensation claims.

**Volunteer** means a person who provides volunteer services for the employer and includes persons for whom the employer has elected to provide workers’ compensation coverage pursuant to Labor Code Section 3361.5, 3363.5, 3364, 3364.5, 3364.55, 3364.6, 3364.7, or equivalent statutes. The number of persons, if any, who are neither employees or volunteers, but for whom the employer is required to provide workers’ compensation when participating in court-ordered community service, work for relief, or similar reasons should be estimated separately and entered on the line provided for that purpose in the Profile section (Part B) of the P-1 and J-1 forms.