

# Westchester Municipal Advantage<sup>®</sup> Public Entity Liability

Westchester recognizes that public officials' responsibilities to their constituencies are growing more and more complex. Their management and professional liability insurance program should reflect this. Using our underwriting expertise in the directors and officers, professional liability and employment practices liability (EPL) arenas, Westchester offers a hybrid policy that provides comprehensive coverage to address the exposures created by the day-to-day operations of a public entity.

## Key Features

- **Distinct and Identifiable Coverage Grants for Management Liability, Professional Liability and Employment Practices Liability**
  - Unlike most Public Officials Liability (POL) policies in the market, the Westchester Municipal Advantage<sup>®</sup> policy provides specific coverage for public officials' management liability exposures, including first dollar protection for non-indemnifiable claims
  - Professional liability coverage extends to employed architects, engineers, accountants and lawyers
- **Modified Defense Outside the Limits Provision**
  - A defense sidecar for claims expenses equal to the policy aggregate; claims expenses do not erode the policy aggregate limit until the sidecar is fully eroded
- **Broad Definition of "Damages"**
  - Punitive and exemplary damages (where allowed)
  - Front and back pay (EPL coverage)
  - Liquidated damages awarded pursuant to the Age Discrimination in Employment Act and the Equal Pay Act (EPL coverage)
- **Broad Definition of "Insured Person"**
  - Elected or Appointed officials and employees
  - Commissions, boards and other units under the jurisdiction of the public entity
  - Persons providing services under a mutual aid agreement
  - Public officials and employees acting as directors or officers of 501c(3) non-profit organizations
  - Volunteers providing services on behalf of the public entity
- **Broad EPL Coverage, including Coverage for Third Party Claims**
  - Wrongful termination, discrimination, harassment and employment-related misrepresentation
  - Mental distress, pain and suffering arising out of a wrongful employment practice
  - Employment-related libel, slander or defamation
  - Third party claims arising out of discrimination or harassment of non-employees by Insured Persons
- **Broad Definition of "Claim"**
  - Includes proceedings by or in association with the Equal Employment Opportunity Commission or similar federal, state or local governmental authorities
- **A Separate Limit for Crisis Management**
  - A separate \$25,000 limit covers expenses incurred by the public institution to hire a crisis management firm and to disseminate information regarding a specific crisis

## Coverage Highlights

- Full Prior Acts coverage
- Duty to Defend policy
- Settlement Provision (50%/50% Claims Expenses)
- Automatic 60-day extended reporting provision with an optional extended reporting provision available for up to three years
- Full application severability for Insured Persons
- Fraud exclusion applies only upon an adverse finding of fact or final adjudication and does not apply to EPL claims
- Optional coverage available for privacy liability

## Loss Control and Risk Management Benefits

Westchester recognizes that employers today face a dizzying array of employment laws, regulations and ongoing employment issues. To help our policyholders reduce losses and avoid litigation, Westchester provides EPL policyholders with access to a cutting edge risk management program at no additional cost. The program includes a wide variety of legal content, forms and analysis, combined with the ability to interface directly with nationally recognized employment lawyers dedicated to assisting Westchester insureds.

## The Westchester Advantage

- Coverage available on an admitted basis in most states
- Sound claims handling by experienced professionals
- Policy may be tailored to meet specific coverage needs of the public entity

## Claims Scenarios

A suit was filed against a county water authority by a non-profit environmental action group alleging that the water authority failed to implement state mandated water conservation measures. The non-profit sought declaratory and injunctive relief requiring implementation of water conservation measures and declaring the water authority ineligible for state grant funds unless such measures were implemented.

A suit was filed against a county asserting violations of the state's Open Public Records Act and the common law right of access to public records. The Plaintiff asserted that the County records custodian unlawfully denied access to government records and sought a judgment directing the County to identify the records responsive to the Plaintiff's request and grant access thereto.

The Plaintiff filed a lawsuit alleging that in the course of her employment, she was subject to unlawful sexual harassment and ultimately terminated in retaliation for her "whistleblower" activities. The suit alleged further that as a result of Defendants' conduct, the Plaintiff suffered emotional distress and damage to her reputation. The suit set forth four causes of action including breach of contract, violation of state employee protection statutes, sexual harassment and defamation. The Plaintiff sought compensatory and punitive damages, attorney's fees, interest and costs.

The claimant filed a complaint in state court against a large city, alleging age discrimination and wrongful termination in retaliation for making and pursuing workers' compensation claims during his employment with the city fire department. He further alleged tortious interference with his rights under the state workers' compensation statute.

## Target Classes

- State and local governments, including counties, cities, townships and villages
- Special district authorities, including housing, utility, water and sewer, mass transit and ports
- Airports and airport authorities
- Municipal boards and commissions

### CONTACT US

For more information on Westchester Municipal Advantage<sup>®</sup>, please contact your local underwriter or visit [www.westchester.com](http://www.westchester.com).