

AB 218

ANNUAL
REPORT
2022-2023



SELF
SCHOOLS EXCESS
LIABILITY FUND

AB 218

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SCHOOLS EXCESS LIABILITY FUND produces this annual report to keep you apprised of the evolving financial impact that has been created by AB 218. In this third annual report, we will provide you with both a current snapshot of district liabilities as relates to this retroactive law; as well as a brief overview of prospective repercussions that are indelibly changing the liability landscape for California's schools going forward.

AB 218 CLAIM STATUS

SELF has received a total of 333 claims with 451 plaintiffs, from January 1, 2020 through September 30, 2023. As noted in previous reports, the majority of the fiscal impact of these claims remains within the period from 1986 and 2008, a time in which nearly all public educational entities in California were participating in SELF's Excess Liability Program.

Although the three-year revival period closed at the end of December 2022, SELF has received more than 79 claims in the last nine months and continues to see new cases coming in, further impacting the liabilities in those older years.

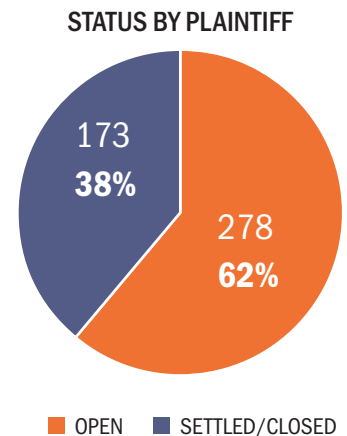
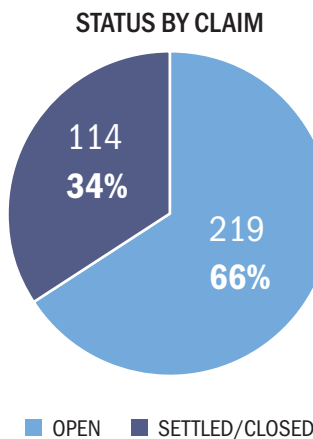
The data on these claims tell us that many of the plaintiffs are under the age of 40 and these claims will continue to come in for quite some time into the future. It's important to note that only those born in 1982 and prior, were beyond the statute of limitations as of December 31, 2022.

NUCLEAR VERDICTS

SELF was created and designed to withstand the catastrophic losses impacting its members, but in recent years, extreme and fundamentally unpredictable verdicts—nuclear verdicts among them—have been steadily increasing in both frequency and severity and public schools are not immune to this trend. Within the last two years alone, two California school districts were hit with verdicts in excess of \$100 million, spurred on by incendiary trial tactics that inflame juries and encourage them to “send a message”.

Unfortunately, the message that gets lost in the fervor around these highly publicized headlines is that public dollars are funding these losses, being spent in the courtroom instead of the classroom.

CSA CLAIM STATUS



Claims: 333
Plaintiffs: 451

This is a trend that started before AB 218. In the 10 years prior to the implementation of the law (2010-2019) California was ranked second in the top 10 states producing the highest levels of nuclear verdicts, with 211 verdicts, totaling \$9 billion awarded in that period, according to a U.S. Chamber of Commerce ILR study released last year.

LEGISLATION

There are currently 20 U.S. jurisdictions with no civil statute of limitations for child sexual assault. This includes 17 states, two territories and the Federal Government. California will be added to these ranks when AB 452 (Addis) takes effect, eliminating the statute of limitations on these cases entirely for claims occurring after January 1, 2024.

Amendments to the bill in committee removed a retroactive element to AB 452, bringing it in line with Federal law signed in 2022, which opponents of the bill considered a win. However, Governor Newsom also signed SB 558 a week later, which further expands the previously broadened definition of childhood sexual assault to include electronic images of minors of a sexual nature. Because this legislation was introduced in its final form very late in the legislative process, the impact of this legislation is not yet known, but further claims against school districts should be expected.

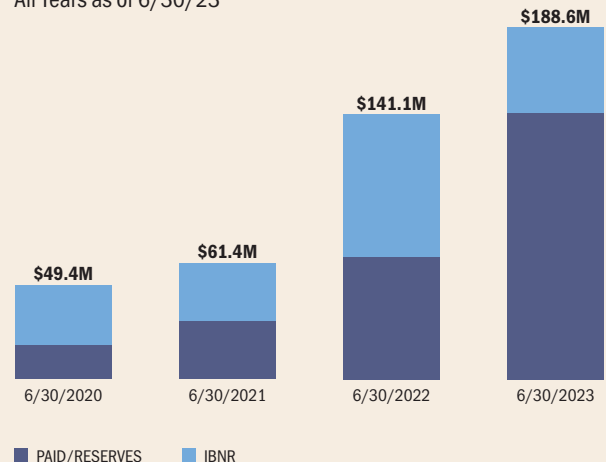
COVERAGE AVAILABILITY

The perfect storm of revival statutes, social inflation, nuclear verdicts and a continued erosion of the statute of limitations in civil cases nationwide has resulted in a significant contraction of available insurance coverage going forward for all public entities and perhaps felt most acutely in California. Insurance and reinsurance pricing continues to be pressured upward and that can be expected to continue into 2024.

Prevention and training efforts at the district level are critical in turning this trend with the goal of keeping all students safe and significantly reducing the number of claims being presented.

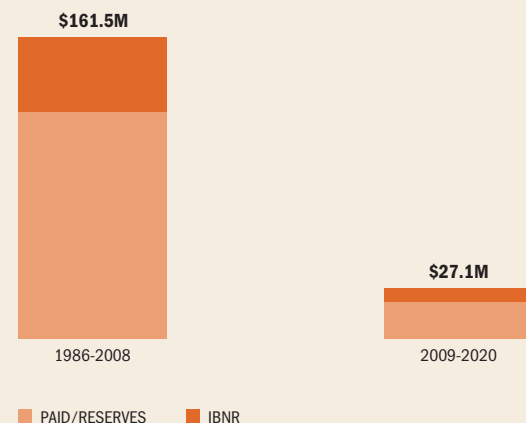
ACTUARIAL FORECAST - CSA CLAIMS

All Years as of 6/30/23



ACTUARIAL FORECAST - CSA CLAIMS

By Years as of 6/30/23



WHAT'S NEXT

The fiscal impacts of AB 218 continue to increase. Because claims continue to be reported by districts, putting more final numbers on that ultimate impact is not possible. The SELF Board monitors this impact continually and evaluates future funding needs. The current funding call is being collected in the 2023/24 and 2024/25 fiscal years for those paying in installments. When the Board determines that another funding initiative is necessary, collection will operate very similar to this last round, with early notice giving members the voluntary option to pay the invoice in full, or be billed in installments starting in the 2025/26 fiscal year at the earliest. Districts will be advised of further funding needs well in advance of budget cycles. The SELF Board, consisting of CBOs and other executives, is acutely aware of district financial considerations when developing further funding requirements.

SELF maintains contact with the California Department of Finance and both houses of the legislature to keep them apprised of the financial impact that AB 218 is having on our public schools and colleges. We continue to work through your professional organizations as well, to educate and promote training and risk management efforts aimed at reducing these claims in the future.

SELF is in its 38th year as a risk pool with public educational entities as its sole focus, **By Schools, For Schools**. Our path forward together is the same since our inception in 1986; meet the needs of school districts and community colleges for catastrophic claims. While times are challenging in this arena at the moment, we will work through challenges best as a unified community of public education.

As always, we will communicate any further funding decisions well in advance so that SELF members can appropriately plan and budget for additional AB 218-related costs.

For additional resources and background on AB 218, visit our website at: <https://www.selfjpa.org/ab218res>.

AB 218

BACKGROUND

Enacted effective January 1, 2020, AB 218 has multiple implications for California's schools:

- Allows for a three-year "revival period", effective January 1, 2020, with no statute of limitations for claims to be filed alleging improper sexual conduct against a minor from any time in the past, not just against the perpetrator, but against employers based on claims of negligent supervision or hiring.
- Broadens the type of misconduct it covers by changing the term "abuse" to "assault", significantly increasing the risk exposure of educational agencies.
- Permanently extends the statute of limitations on child sexual assault claims to age 40 from age 26, and potentially even longer in repressed memory cases.
- Deletes entirely the requirement of filing a government claim.



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