



## MEMORANDUM

**To: SELF Members**

**From: Dave George, Chief Executive Officer**

**Date: May 20, 2024**

**Subject: AB 218 Revived Liability Funding Plan Invoice**

Following our communication in April, you are now receiving an invoice for the third funding round declared by the Schools Excess Liability Fund Board of Directors at its March meeting to meet funding needs for the ongoing liabilities associated with AB 218.

The invoice is being sent to you now, so that you will have the flexibility to pay in either the 2023/24 or the 2024/25 fiscal year. **Payment is due by December 31, 2024.**

We know that districts have a number of challenges facing them at this time, not the least of which is the significant reductions in state revenue projections and the resulting impact on schools. We at SELF are committed to working with our members to navigate the financial demands created by this unfunded mandate. As an organization built ***By Schools, For Schools***, our focus will continue to be aligning the funding needs with district budgets and smoothing, as best we can, the fiscal volatility a law like this creates.

Additional information is included for you here and on our AB 218 Resources page on our website. Please don't hesitate to contact us at [info@selfjpa.org](mailto:info@selfjpa.org) if you have additional questions.

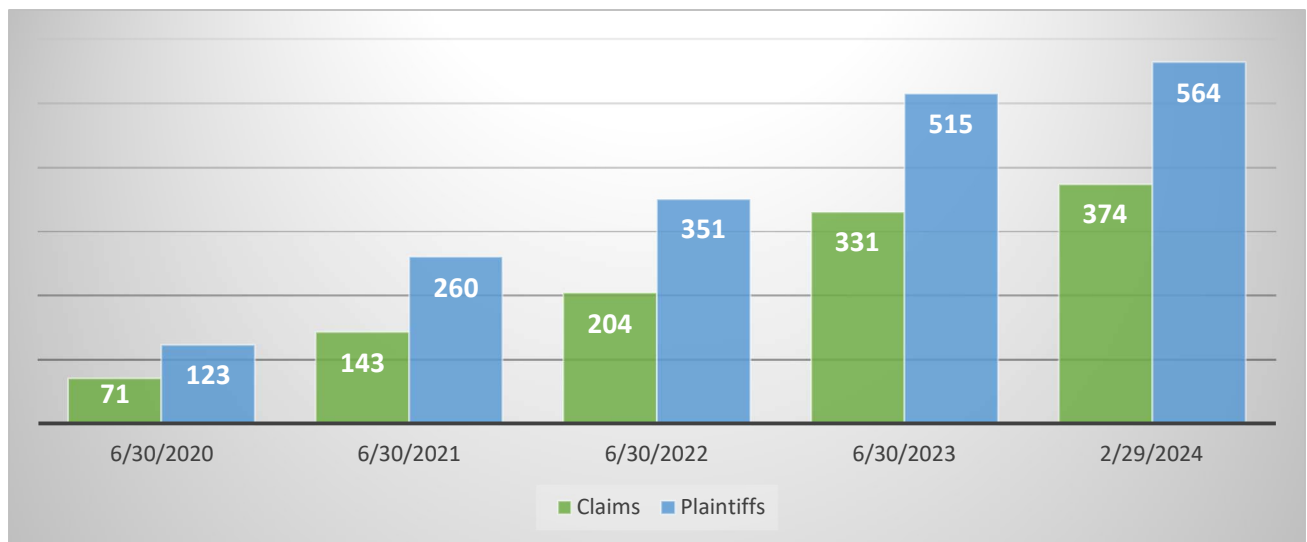


May, 2024

Dear SELF Member,

We have created this document as supplemental information accompanying the AB 218 Revived Liability Funding Plan invoice your district/JPA has received. The AB 218 funding plan is an assessment of SELF's current and past members to fund the retroactive liability exposures brought on through the California legislature's enactment of AB 218 and signed into law effective January 1, 2020.

### Claims filed against SELF members by date received

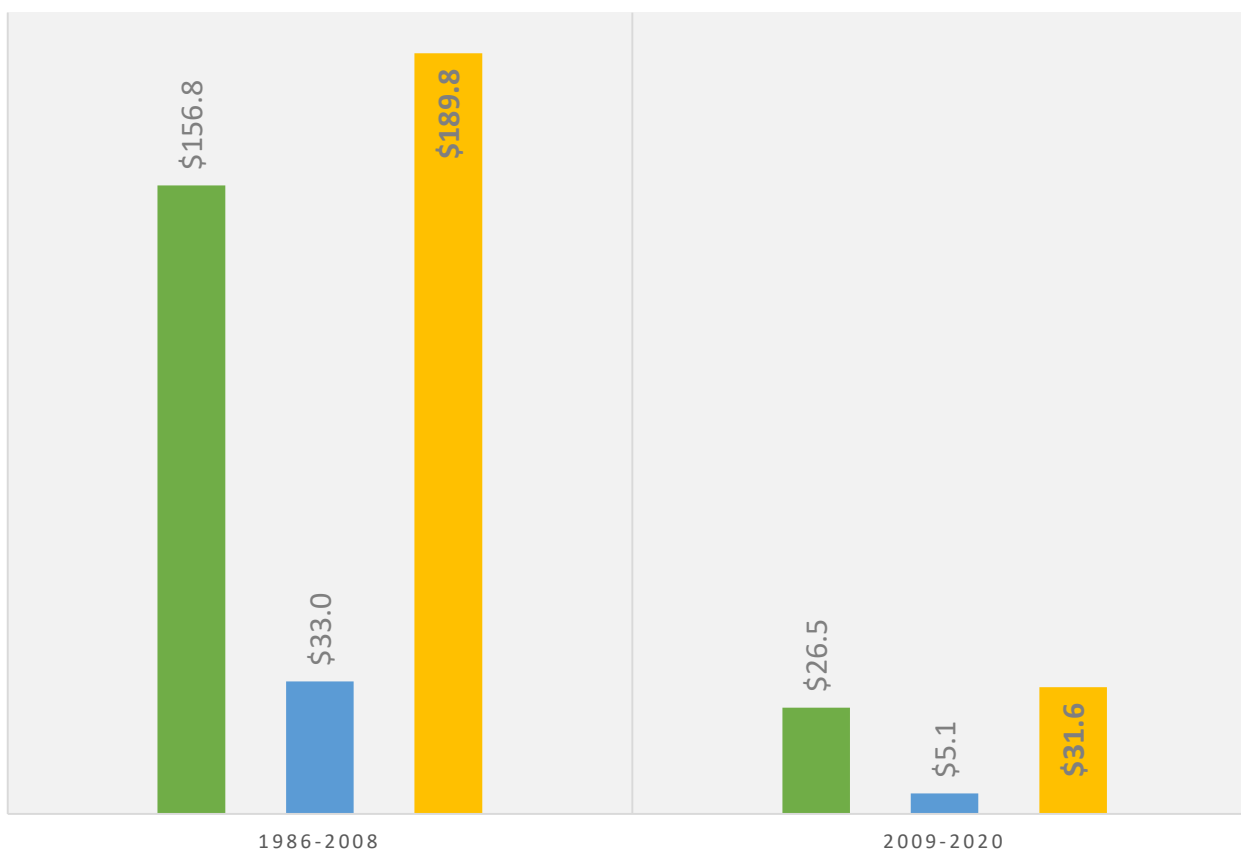


The following chart outlines exposures in two time periods; 1986-2008 and 2009-2020. The reasons for that are the historic membership of SELF largely attached at \$1M in the years 1986-2008, as opposed to \$5M thereafter, significantly increasing the liabilities through the SELF program in these years.



## EXPOSURE ESTIMATE (IN MILLIONS) BASED ON 10/31/23 ACTUARIAL REPORT

■ Paid/Reserves ■ IBNR ■ Total



It is important to remember three things as we move through this funding and claim settlement period.

1. This assessment is based on known data as of 10/31/23.
2. While the focus has been the three-year retroactive filing period, this law also moved the statute of limitations from age 26 to age 40. Therefore, only individuals over the age of 40 were excluded from filing claims after 12/31/22.



3. Many districts may continue to receive claims going back to the early 2000s, or even earlier, depending on the age of the victim at the time of the alleged abuse.

We have referenced our AB 218 annual report most recently issued (fall 2023) and we will continue this annual update as we process the influx of claims districts are receiving. The next annual report will be issued in fall, 2024.

For additional supplemental information we refer you the following documents attached here or accessible via link in the invoicing email:

- AB 218 RLFP FAQ
- SELF's AB 218 Annual Report -2022/2023

If you would like further information on AB 218 and previous communications that have been sent out, please visit our website at <https://www.selfjpa.org/ab218res>.

Dave George  
Chief Executive Officer



## FAQ – AB 218 Revived Liability Funding Plan

<b>What is SELF?</b>	<p>SELF is a not-for-profit Joint Powers Authority (<b>JPA</b>) dedicated to public schools' catastrophic liability coverage needs. The formation of the JPA in 1986 during a nationwide insurance crisis allowed public educational agencies to join together for the purpose of <b>pooled risk sharing</b> (or "self-insuring") for excess liability risks.</p> <p>SELF provides excess liability coverage to its members beyond the primary coverage they purchase from an underlying JPA or a commercial carrier, covering claims that exceed \$1 million or \$5 million. SELF has offered coverage limits from \$10 million per member in the early years to \$55 million per member currently.</p> <p>Excess liability coverage is designed to handle the truly catastrophic claims, such as serious injuries involving traumatic brain injury, fatalities or cases of sexual assault and molestation (SAM), particularly where there have been multiple victims involved.</p>
<b>What is AB 218?</b>	<p>AB 218, or the California Child Victims Act, was authored by then Assembly Member Lorena Gonzalez, D-San Diego and signed into law effective January 1, 2020.</p> <p>AB 218 has multiple implications for CA educational agencies, it:</p> <ul style="list-style-type: none"><li>• <b>Opened a three-year revival period</b>, during which a claim for childhood sexual assault could be filed from any point in the past. This window closed 12/31/22 for persons over the age of 40.</li><li>• <b>Extends the general statute of limitations</b> in which to file a claim going forward from age 26 to age 40 (once the revival period closed).</li><li>• <b>Deleted the requirement of filing a government tort claim.</b></li></ul>
<b>Why am I receiving this?</b>	<p>Your public educational agency was a member of SELF's Excess Liability Program during at least one of the prior coverage years affected. By joining SELF, as with all Joint Powers Authorities, members agree to pay contributions set by the SELF Board in</p>

	exchange for coverage to fund liabilities. Those include liabilities retroactively imposed by law, such as the law the California Legislature enacted in this case.
<b>Why is this necessary?</b>	JPA's such as SELF hold school district funds in reserve based on actuarial science. Actuaries only forecast liabilities based on current state law, so we would not hold funds belonging to school districts or forecast losses that do not legally exist at the time. This retroactive unfunded mandate on schools has necessitated, in turn, a retroactive funding solution based on this law.
<b>How was the assessment calculated?</b>	Utilizing our independent actuarial analysis, SELF developed per-year funding amounts calculated as a pro-rata share of your original contributions in the effected years.
<b>Which years are being impacted?</b>	Currently SELF has childhood sexual assault claims in every program year from 1986/87 to 2019/20. The majority of the fiscal impact remains in the period of 1986 to 2008 when SELF's membership was at its largest. The third assessment is for the following years: 1990/91, 1996/97-2004/05, 06/07- 2007/08 and 2010/11- 2017/18.
<b>Where did SELF get the ADA that is on my invoice?</b>	This is the original Lottery ADA your district was billed on for the original SELF coverage in that historic year. This is also your districts proportional share for any given year.
<b>How is my invoice calculated?</b>	<p>Based on a Per ADA/FTES Rate</p> <p><u>Example: 2000-2001</u></p> <p>Funding amount: \$13,403,056 Total Membership: 5,560,400 ADA/FTES</p> <p>K-12 rate: \$3.12/ADA Community College rate: \$1.74/FTES (Rate relativity among member type is actuarially determined)</p> <p><u>K12</u> District ADA x Funding per ADA= Total Due</p> $10,000 \quad \times \quad \$3.12 \quad \quad \quad = \quad \$31,200$ <p><u>CCD</u></p> $10,000 \quad \times \quad \$1.74 \quad \quad \quad = \quad \$17,400$ <p>Rates based on \$1M SIR</p>
<b>What's ahead?</b>	Due to the volume of claims, we are advising all members to plan for this to be an annual expense until all AB 218 claims are



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	resolved. You will receive budget estimates annually in March until we have closed all claims and accounted for all costs.
<b>More questions?</b>	Contact us at <a href="mailto:info@selfipa.org">info@selfipa.org</a> or 916-321-5300.
<b>Prior Communications</b>	You can see all prior AB 218 Communications on our website at: <a href="https://www.selfipa.org/ab218res_">https://www.selfipa.org/ab218res_</a> .



# AB 218

ANNUAL  
REPORT  
2022-2023



**SELF**  
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# AB 218

ANNUAL  
REPORT  
2022-2023

**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.

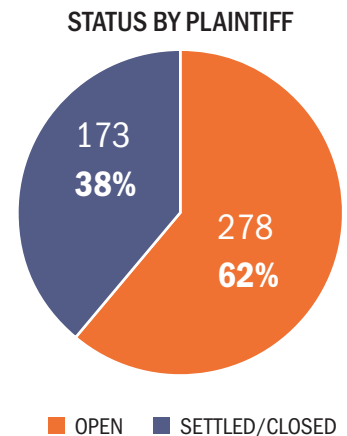
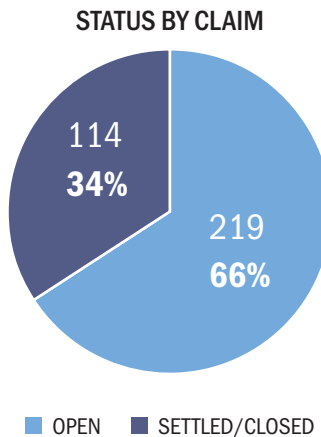
The data on these claims tell us that many of the plaintiffs are under the age of 40 and these claims will continue to come in for quite some time into the future. It's important to note that only those born in 1982 and prior, were beyond the statute of limitations as of December 31, 2022.

## 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.

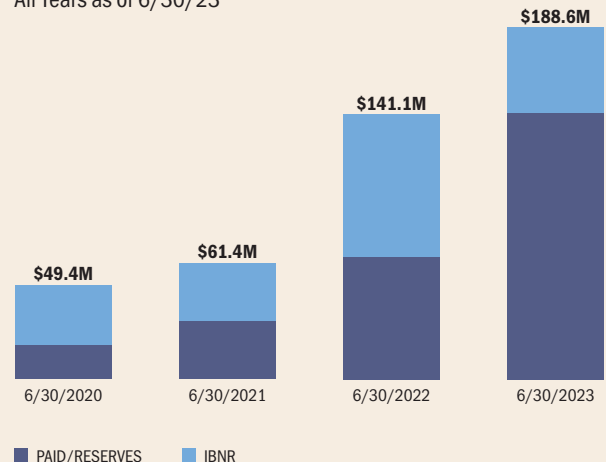
## COVERAGE AVAILABILITY

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.

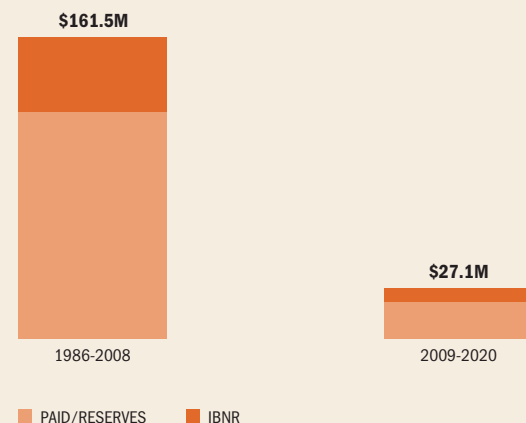
### ACTUARIAL FORECAST - CSA CLAIMS

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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