



MEMORANDUM

Schools
Excess
Liability
Fund

To: SELF Members
From: Dave George, Chief Executive Officer
Date: April 17, 2020
Subject: AB 218 Revived Liability Funding Plan

With the signing of AB 218 (the California Child Victims Act) by the Governor in the fall of 2019, SELF began to prepare for the litigation that was certain to come our way following the January 1 implementation date. While the legislature passed this bill and its author presented it as having no fiscal impact, we are writing to you now to tell you it will have an immediate fiscal impact on your 2020/21 budget. This warning was given to the legislature on many occasions by the community involved in school insurance, including those of us here at SELF.

This new law imposes a significant **unfunded mandate** on public educational agencies, on both a prospective and retroactive basis. Going forward the cost of the sexual assault and molestation (SAM) claims are likely to increase due to provisions in the law that extend the statute of limitations, from age 26 to age 40, provide for treble damages if a “cover up” can be proven and significantly broaden the type of misconduct covered by changing the term “childhood sexual abuse” to “childhood sexual assault”.

Along with these significant prospective changes, **this law also allows the filing of litigation against public educational agencies for claims arising from childhood sexual assault for the next three years for an event at any time in the past**, from January 1, 2020 through December 31, 2022. The cost of this litigation must be funded now as it is already occurring.

Formed in 1986 during a nationwide insurance crisis, SELF was largely self-insured in the early years with the majority of members attaching at \$1 million. Additionally, the SELF membership has included most every school and community college district in the State, which means our exposure in these older years is unparalleled by any other joint powers insurance authority serving California public schools.

Statewide, SELF is already seeing these revival claims reported. As of February 29, SELF has received 12 claims, from 12 different districts across the state, spanning 11 coverage years going back as far as 1987. Most of the impacted years have been considered closed from a fiscal perspective. In fact, SELF has returned \$70 million to the membership in rebates and rate credits for these older years and the rates the Board set in those years never contemplated the revived AB 218 SAM liabilities we now face.

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Based on claims already filed as of February 29, exposure data and actuarial estimates, the SELF Board approved the creation of a new program to protect both current and former members from these revived liabilities at its March 13 meeting. The Board authorized additional funding of \$46.5 million, to be collected over a three-year period. The invoice for your entity will depend primarily on three factors:

1. The type of entity you are; e.g. K12/K8, higher ed, etc.
2. Whether you purchased coverage with us starting at \$1M or \$5M
3. The years in which you participated

In no case would an entity receive an invoice for a year in which they did not participate.

Conscious of the timeline to complete your budget for next year and the countless demands on our member's finances, the Board also directed staff to share estimated per/ADA-FTES cost on the enclosed Indications Rate Sheet for budgeting purposes.

It is anticipated that invoices for the AB 218 Revived Liability Funding Plan will go out in the fall of 2020, however there will be additional communication coming your way as SELF further develops the program parameters. Final details will be presented to the Board for approval at its May meeting and communicated to the members thereafter.

We have also enclosed a Frequently Asked Questions reference sheet for the AB 218 Revived Liability Funding Plan in anticipation of questions you may have. If you have a question we have not addressed, please don't hesitate to contact our office, either via email at info@selfjpa.org or by phone at (866) 453-5300.

Sincerely,

Dave George
Chief Executive Officer
Schools Excess Liability Fund



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