SELF
Schools Excess Liability Fund
AWARENESS

Shift in Liability Climate Drives Rate Change
Core Program Rates to Increase in 2016/17

OEL Rates Remain Flat

A child is killed as he dashes across a busy street from his bus stop, hit by driver who says she never saw him—yet the district is liable. Another collapses during a PE class run/walk, those around him unaware he has a serious health condition that could stop his heart at any time. A freshman football player takes a hit during a game, ultimately resulting in permanent brain damage. The family alleges a delay in medical care and holds the district responsible.

Since July 1, nearly $19 million has been paid or put in reserve for these and other cases like them. As the SELF Board prepared to set rates for the 2016/2017 program year, this unprecedented frequency and severity after many years of predictably stable loss development weighed heavily on their decision. Was it an anomaly year? Something the pool would see once every 10 years? Or, was it a trend—a new normal for California—a harbinger of a grim future?

The insurance markets are treating it as a trend. Spooked by the high dollar value of brain trauma cases, the unpredictability of repressed memory sexual abuse cases and legislative efforts to eliminate the statute of limitations for the recovery of damages in abuse cases, carriers across the board are calling for higher retentions while also handing down double-digit rate increases, or in some cases, pulling out of the California public entity space entirely—creating a sense of déjà vu for those who were around for the insurance crisis of 1986.

The Board is keenly aware that its members are already facing increases in their liability rates at the primary level but also recognizes that school funding this year is such that the increase may be more easily absorbed than in years to come. If in fact this last year is an indicator of the frequency and severity we will see in liability losses in the future, the Board feels it must take the necessary steps to ensure the stability of the pool.

Armed with the December actuarial study, in which the program's IBNR increased by 106%, the impact of recent claims payments and its fiduciary and moral duty to the membership, the Board has concluded that the only responsible course of action is to increase the rate by $1.26 per ADA for those attaching at $5M and $1.18 per ADA for those attaching at $1M.

Responsibly funding for future losses will guarantee that SELF has the financial resources to continue protecting California's schools and colleges for another 30 years and to weather any adversity that the insurance markets, courts or legislature send our way.

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In This Issue

Conferences & Events

MAY

ACBO Spring Conference
Monterey – May 22-25

SEPTEMBER

CAJPA Fall Conference
South Lake Tahoe – Sept. 13-16

About Us

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Our Mission

SELF is a member-owned, statewide partnership of public educational agencies providing quality pooled programs for excess coverage that benefit our students.

By the Numbers

SELF is the leading statewide excess liability provider for California's public schools and colleges, serving nearly 3 million students.

SELF Awareness

Comments should be sent to the above address or info@selfjpa.org.

Board

RUN BY SCHOOLS FOR SCHOOLS

A Message from Eric Lucas

"To see what is right and not do it, is the want of courage."
—CONFUCIUS

The preceding quote comes to mind for me during the just completed annual SELF rate setting exercise. After an unprecedented combination of severity **and** frequency of excess injury claims, the SELF Board exercised courage and vision in setting a rate to position SELF, financially, for the coming years.

Was this recent activity to be seen as an anomaly and typical of the cyclical nature of the insurance business? Will this combination of severity and frequency not be repeated for another 5 years or so? Or, is this the leading edge of the new normal for and the future landscape of excess liability claims for schools in California? These questions are a few that faced the SELF Board in April.

Reflecting on their implied fiduciary duty to act for the benefit of the membership and subordinating their own personal beliefs to that of the membership, the SELF Board determined that SELF needs to be ready for this claim activity. Also considering their fiscal responsibility to maintain a financially sound program as well as the desire to be well funded and capable of weathering good and bad market conditions, the Board showed great courage.

The message from this Board to its members is clear—they met the duty owed, the responsibility assumed, and the desire expressed to conservatively fund SELF for any and all future unpredictability.

That is the definition of courage.

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The adopted rates for 2016/2017 are as follows:

Excess Liability Program

Coverage	K-12	Community Colleges	Non-ADA	Minimum
$29M x $1M	$13.75/ADA	On request	On request	$1,729
$25M x $5M	$4.40/ADA	$3.11/FTES	$3,320	$470

Optional Excess Liability Coverage

Coverage	K-12	Community Colleges	Non-ADA	Minimum
$25M x $30M	$0.95/ADA	$0.68/FTES	$275	$160

SELF is designed to pay claims for its members. The JPA is financially sound and its ability to pay any and all claims is not in question. While rate increases are never popular, it is a price worth paying to ensure the strength of this pool does not waver. As we move forward into the 2016/17 program year and beyond, the fickle and cyclical nature of the insurance markets make entities like SELF that much more necessary and relevant for California schools.

SELF was created because of a lack of suitable coverage in the market for public entities. Over the years, we've seen that swing to the other extreme as insurers attempted to buy business with low rates and coverage enhancements. Now, as the pendulum again begins to swing the other way, SELF will continue to be there for its membership and under the guidance and leadership of an experienced, responsible Board, the JPA will emerge from this cycle all the stronger for it.

Board Welcomes New Alternate Member

The Board welcomed Ryan Robison, Superintendent/Principal of Sutter Union High School as the new Alternate for Area II at its January meeting in Napa.

The alternate position for Area II had been vacant since October with the retirement of Board Representative Richard Hare and the appointment of then alternate Bev Wilkinson, Executive Director of Schools Insurance Group, to finish out Hare's term.

Robison's district is a longtime member of Hares' former JPA, Tri-County Schools Insurance Group, and Robison serves as President of that Board as well. He has a long career in education, starting out as a teacher in 1988.

The SELF Board is made up of 16 elected representatives and a host of alternates employed by member districts in various positions from chief business officials, top-level administration, risk management and human resources.

Half of the Board is up for election every two years. The next election will be held in the spring of 2017.

Legislative Update

By Ron Bennett & Nancy LaCasse, School Services of California, Inc.

On March 29, 2016, the Supreme Court of the United States issued their decision in the case of *Friedrichs v. California Teachers Association* (CTA). The single-sentence decision upheld the Ninth Circuit Court of Appeals decision in favor of CTA. With the per curiam decision, no precedent is set.

At issue was the constitutionality of agency fees for public union membership. Plaintiffs in the case sought to overturn a 1977 ruling that required non-union workers to pay a portion of the dues to the employee union associated with negotiating the labor agreement.

Former Justice Antonin Scalia, who passed away in February, was expected to be the pivotal vote in deciding the case.

Plaintiffs in the case have indicated their intent to pursue a rehearing of the case once a replacement for Scalia is confirmed. However, with the 2016 presidential election as a backdrop, it is unclear whether Judge Merritt Garland, President Barack Obama's recent nominee to fill the vacancy, will be considered by the Senate before Obama leaves office or whether Obama's successor will make his or her own nomination instead.

The other big news of the week was the announcement and subsequent legislative approval of a compromise to increase the state's minimum wage.

The agreement, struck between Governor Jerry Brown, Democratic leadership, and labor activists, would increase the state's minimum wage to $15 per hour by 2022 and then annual increases based on changes in the nation's Consumer Price Index.

Proposals to raise the state's minimum wage were likely headed to the voters for consideration via initiative. One measure has already qualified, with a second proposal still collecting signatures.

However, the Legislature fast tracked Senate Bill (SB) 3, the compromise proposal. On March 30 the Assembly Appropriations Committee considered the bill, and floor votes approved the measure in both the Assembly and Senate on March 31. SB 3 passed on a primarily party line in both houses. Governor Brown signed the bill on Monday, April 4.

With passage the signing of SB 3 proponents of the two initiatives are expected to drop their campaigns, thus preventing an ugly and expensive November campaign.

IRITRANS Safety & Security System Added to SELF Risk Services Clearinghouse

An iris scanning device that helps keep track of children as they get on and off district busses is the latest product to be inducted by the Board into the SELF Risk Services Clearinghouse.

Throughout the state, millions of children climb aboard district buses every day to head to school or return home. That daily routine presents schools with an enormous risk exposure to manage as children get on the wrong bus, get off at the wrong stop, fail to return home from field trips or in some cases don't get off the bus at all—sometimes with fatal consequences.

The IRITRANS® Safety and Security System provides school districts a tool to manage that risk and keep students safe. IRITRANS is a ground-breaking biometric solution that is nonintrusive and employs the highest levels of ID security. It was developed by the Iritrak Corporation, primarily to address special needs transportation issues because those children are most at risk and other options previously available were found to be unreliable.

The system provides school districts with instantaneous bus locations via GPS technology and the specific identity of all students on board. Each student is scanned with a handheld iris scanner when boarding or exiting the bus. The scan takes only one to two seconds per student and provides the district with tracking history reports for each child and if the district chooses, the system can also provide parents with notifications via text message when their child boards or exits the school bus.

All student data is encrypted and securely stored and is not retrievable from the handheld device if it's lost or stolen. The equipment is leased to a district for a three-year term, allowing for ongoing upgrades and improvements and eliminating the need for a capital expenditure.

The IRITRANS System was inducted by the SELF Board into the Clearinghouse at its December meeting. The Clearinghouse, which was established in 2010, is designed to inform SELF members of products and services of high quality that promote student and staff safety.

Active SELF members will receive an exclusive 10% discount on the lease of the system. For more information contact Iritrak President/CEO John Devries at 888-643-0186 or visit the IRITRANS website at **wwww.iritrans.com**.

SELF Esteem

Our heartfelt congratulations to SELF Board Chair John Didion of **Rancho Santiago CCD** who received the Association of California Community College Administrators (ACCCA) Leadership Award for Administrative Excellence at its annual conference in February.

Didion, RSCCD's Executive Vice Chancellor of Human Resources & Education Services, has 34 years of administrative experience in California's community college system. During his career he has also held administrative positions in the Long Beach Community College District and the Cerritos Community College District.

Congratulations to Dr. Steven Kinsella, Superintendent/ President of Gavilan Joint CCD, who was awarded the Harry Buttimer Distinguished Administrator Award at the ACCCA Annual Conference in February. Kinsella has been with Gavilan CCD since 1996 and working in the California community college system since 1991.

Hats off to the six California schools chosen as 2015-16 Exemplars of 21st Century Learning! The schools are six among only 19 to earn this prestigious designation nationwide. They are: **Bullis Charter School**, Montgomery Middle School, National University Academy – Kearney Mesa Campus (**Lakeside Union Elementary School District**), Rancho Minerva Middle School, Vitoriano Elementary School, Visalia Technical Early College High School, and Hacienda La Puente USD (pre-K program).

SELF

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AWARENESS

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KMTG Legal Alert

Inconsistent Deadlines In the Government Claims Act Can Provide A Potential Defense – Or Trap

Before filing a lawsuit seeking damages against a California public agency, a person must generally file a claim with the agency within the statutory time period (usually six months after the accrual of the cause of action). If the claim is not timely, the claimant must file an application with the agency for leave to present a late claim. If the agency then denies leave to present the late claim, the claimant must file a petition with the trial court for an order relieving him or her from the claims presentation requirement before filing a lawsuit. Government Code section 946.6(b) requires that a claimant file such a petition within six months after the public agency denies leave to present the late claim. In *City of San Diego v. Superior Court* (Dec. 29, 2015, D068353) __ Cal.App.4th __, ordered published Jan. 20, 2016, the Court rejected the argument that Government Code section 915.2 extends the filing deadline by five days when the public agency provides notice of the denial by mail.

The Court noted that "the plain language of section 946.6 shows its six-month period begins to run on denial of an application for leave and not on notice of that denial." Since the date of denial rather than the date of any notice governs, the statute extending the filing period based upon mailing of the notice is inapplicable. A claim filed more than six months after the date of denial is untimely and should be dismissed even if the agency provides the claimant with notice of the denial by mail.

In contrast to section 946.6, Government Code section 945.6, which governs the deadline for filing a lawsuit when

the public agency denies a timely claim, is based upon the date of notice rather than the actual date of denial. Courts have previously noted this difference, and suggested the Legislature should address this inconsistency. However, the Legislature has opted not to take such action.

Consequently, as noted by this recent case, public agencies and claimants must be aware that the deadline for filing a court action is calculated differently depending upon whether the initial claim to the agency is timely. The date of notice applies to denial of a timely claim, and the date of denial applies to the denial of leave to present a late claim. This distinction presents a potential defense to public agencies and a potential trap to claimants who wait until the end of the time period to file any court action

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2016/17 Meeting Schedule

Meetings are held at the SELF office in Sacramento unless otherwise noted.

Date		Future Meetings
August 18, 2016	9:30 a.m.	Liability Claims & Coverage Committee
September 13, 2016	4:00 p.m.	Executive Committee (Lake Tahoe Resort, South Lake Tahoe)
October 6, 2016	10:00 a.m.	Finance Committee
October 13, 2016	10:00 a.m.	Member Services & Communications Committee
October 13, 2016	1:00 p.m.	Liability Claims & Coverage Committee
October 13, 2016	2:30 p.m.	Workers' Compensation Claims & Coverage Committee
October 14, 2016	8:30 a.m.	Board of Directors
November 17, 2016	10:00 a.m.	Finance Committee
November 18, 2016	9:30 a.m.	Executive Committee
December 8, 2016	10:00 a.m.	Member Services & Communications Committee
December 8, 2016	1:00 p.m.	Liability Claims & Coverage Committee
December 8, 2016	2:00 p.m.	Workers' Compensation Claims & Coverage Committee
December 9, 2016	8:30 a.m.	Board of Directors
January 13, 2017	9:30 a.m.	Executive Committee
January 19, 2017	9:30 a.m.	Liability Claims & Coverage Committee
January 20, 2017	8:30 a.m.	Board of Directors
March 14, 2017	10:00 a.m.	Finance Committee
March 15, 2017	9:30 a.m.	Executive Committee
April 6, 2017	10:00 a.m.	Member Services & Communications Committee
April 6, 2017	1:00 p.m.	Liability Claims & Coverage Committee
April 6, 2017	2:00 p.m.	Workers' Compensation Claims & Coverage Committee
April 7, 2017	8:30 a.m.	Board of Directors
May 19, 2017	9:30 a.m.	Executive Committee
June 8, 2017	10:00 a.m.	Finance Committee
June 22, 2017	10:00 a.m.	Member Services & Communications Committee
June 22, 2017	1:00 p.m.	Liability Claims & Coverage Committee
June 22, 2017	2:00 p.m.	Workers' Compensation Claims & Coverage Committee
June 23, 2017	8:30 a.m.	Board of Directors