



## SELF Core Program Rates Hold Flat for 2015/2016

### OEL Rates Decrease

The SELF Board of Directors voted at its April 10 meeting to hold the rates flat in the core Excess Liability Program for the second year in a row, citing better than average loss experience and a solid financial foundation.

Members attaching to SELF at \$5 million in the Excess Liability Program will see no change in rate for the core program, while the handful of members participating in the \$4 million in excess of \$1 million layer will see a 2% decrease.

The good news continued in the Optional Excess Liability coverage offering. Participation in that layer (\$25 million in excess of \$30 million) more than doubled last year, driving the price down by 5% per ADA. Fixed rate and minimum contributions in that layer will remain flat for 2015/2016. More than half of SELF's covered ADA currently purchases the additional limits.

A strong position and good reputation in the reinsurance marketplace allowed SELF to increase the core limit from \$25 million to \$30 million at no additional cost to the membership last year. Those same factors allow the Board to hold the rate steady for another year while maintaining the limit increase.

The adopted rates for 2015/2016 are as follows:

### Excess Liability Program

Coverage	K-12	Community Colleges	Non-ADA	Minimum
\$29M x \$1M	\$12.57/ADA	On request	On request	\$1,235
\$25M x \$5M	\$3.14/ADA	\$2.22/FTES	\$2,370	\$335

### Optional Excess Liability Coverage

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

The OEL Coverage can be added at any time of the year. Contact Lois Gormley, Director of Communications & Member Services for a quote or an application.

## Free Title IX Webinars This Month

SELF is hosting two "Title IX – It's Not Just About Athletics" webinars in April with speakers from Atkinson, Andelson, Loya, Ruud & Romo. There will be a webinar April 16 specifically for Community Colleges and one April 30 for K-12 members. Check our website for dates and times and contact our office to register. For those members who cannot attend, the webinars will be recorded and stored in the SELF Resource Center for later viewing.

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### Conferences & Events

#### APRIL

#### Title IX: It's Not Just About Athletics\*

Community College Webinar – April 16  
K-12 Webinar – April 30, 10 a.m.

#### MAY

#### When Bad Things Happen to Good Schools Webinars\*

#### Liability Transfer Best Practices

Tuesday May 5, 1:30 p.m.

Wednesday May 27, 10 a.m.

#### ACBO Spring Conference

May 18-20, Santa Rosa

#### School Services May Revise

May 19, Sacramento

May 20, Ontario

\*Webinars will be recorded and stored in the SELF Resource Center for later viewing

### 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](mailto:info@selfjpa.org).

### Board

Area II	Adam Hillman
Area III	Richard Hare
Area V	Cathy Reineke Dave George
Area VI	Nancy Anderson Diane Crosier Renee Hendrick Tony Nahale Toan Nguyen Karla Rhay

### Community Colleges

Michael Gregoryk, John Didion,  
Teresa Scott, Kevin McElroy

## A Message from Eric Lucas



I recently participated in a town hall type discussion on issues facing schools in California. Many issues were discussed throughout the day including catastrophic losses and how can districts be prepared. Obviously, no matter how much training or loss control is undertaken, events do occur as is evidenced

by what we see in the media weekly if not almost every day.

The question asked of me focused on limits of coverage and what is considered adequate. The examples of losses discussed convinced all who participated that the liability landscape for schools in California regarding settlements and verdicts is one of deep valleys and even deeper canyons.

To avoid these hazards, the discussion focused on how to be prepared for a catastrophic liability event from an adequate liability limits standpoint. I suggested that they look around the state and see what is happening to their colleagues—take the highest dollar case as to verdict or published settlement and ask yourself this question—if this was my district, is our insurance structure adequate to handle the loss?

That same question is one that the SELF Board asks and discusses with our reinsurers at all points of the year but particularly in the spring when the renewal process for the coming policy year is under way. The SELF Optional Excess Liability (OEL) offering provides \$25m in coverage over and above the SELF core program. If you participate in the SELF OEL, your coverage ground up is \$55 million. Many of our members realized in 2014/15 that the OEL would provide them the financial security to handle a catastrophic event. As a result, the enrollment in that offering doubled to nearly half of the SELF membership. We expect to see another jump in enrollment for the coming 2015/16 program year as well.

SELF, along with our insurance broker, is always exploring what the market has to offer with regard to higher liability limits. As the insurance professionals, it is our responsibility to our members to provide the opportunity to purchase limits that will allow the financial security to navigate the liability landscape of California.

## Mandated Reporter Training Requirement Provides Opportunity to Address Serious Issues

By Dan Shinoff, Steve Sonnich and Glenn Lipson



### Introduction of AB 1432

As of January 1, 2015 California Assembly Bill 1432 (AB 1432) became the law and requires school employees to receive yearly training as mandated reporters.

The bill replaced Section 44690 of the Education Code, and added in its place Section 44691. Simultaneously, Section 11165.7 of the Penal Code, which defines who is a mandated reporter, was amended. AB 1432 requires school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools do the following: “(1) annually train, using the online training module provided by the State Department of Social Services, or other training, as specified, employees and persons working on their behalf who are mandated reporters on the mandated reporting requirements, as specified; and (2) develop a process for all persons required to receive training under the bill to provide proof of completing this training within the first six weeks of each school year or within six weeks of that person’s employment.” This legislation arose in part as a response to incidents that had occurred in schools where abuse reports were not made.

Fortunately, the California Constitution permits local agencies and school districts to seek reimbursement for certain costs mandated by the state. Statutory provisions establish procedures for obtaining that reimbursement. Currently the legislation has not been determined to be a reimbursable mandate by the Commission on State Mandates. Approval by the Commission on State Mandates would occur approximately a year after a test claim is filed by a school district claiming increased costs directly related to the activities mandated by the legislation. It is advised school districts document their related expenses, should the legislation and the related activities be affirmed as a reimbursable mandate.

### Applicability to Volunteers

Section 11165.7 of the Penal Code suggests that although, “volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters” nonetheless they “are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.” This

suggests that even volunteers should receive some mandated reporting training, although perhaps not to the same extent as employees.

### Application to Schools

Through conference presentations and working with schools during the past six years, the authors of this article have been trying to decrease the harm caused by school-based employee sexual misconduct. Politically this is been an uphill struggle. The combination of the words; “sexual”, “misconduct” and “employee” result in a minefield of issues. Labor representatives do not like the word employee. No one likes the phrase “sexual misconduct”. Superintendents and school boards know that the taint from this discussion might rub off on all those involved if they suggest something needs to be done. Thus, the elephant remains in the room, and it is easier to exclusively blame the predators while the settlement values go larger and preventative training is not embraced by most.

For the last several years one of our key, fact-based speaking points was that sexual abuse training is not synonymous with employee sexual misconduct prevention training. Mandated reporters traditionally and exclusively were taught to recognize the signs of abuse that were apparent on a child coming to school. This abuse was seen as likely originating at home or in the neighborhood. However, this training for mandated reporters changes the landscape dramatically and provides new opportunities.

Including a section on employee sexual misconduct prevention while providing mandated reporter training lessens the potential for labor representative pushback. Focusing on the mandated reporter responsibilities avoids the politics inherent in this discussion. AB 1432 avoids issues as to whether such conduct has occurred, is occurring or will occur in the future. Since mandated reporting includes other forms of abuse in addition to sexual, the knee-jerk reactions to these words are also avoided.

Although this mandate creates a new obligation and responsibilities, it provides an opportunity to address pressing issues facing our schools. These issues include the rise of peer sexual abuse, the need to address the emotional abuse involved in cyber bullying and more. Fortunately these events create the need for the filing of a mandated report and the civil protections that are in the law. The opportunity here is to use this required training to decrease risks in our schools and improve the quality of the environment, with the goal of providing training that has more value than just a “check off the box” type of endeavor. We can now more easily apply our courage to address these issues with this new legislated tool. AB 1432 is essentially a gift that will enable us to better navigate the resistance to addressing all the forms of abuse that may be taking place in our schools.



## Legislative Update

### School Services of California, Inc.

The return of the Legislature from its Spring Recess brought a lot of activity to the State Capitol as policy committees worked diligently to reduce their dockets of bills as the deadline to pass them along quickly approaches in the coming weeks.

The Assembly and Senate Education Committees each had densely laden

hearings with a plethora of bills ranging from safety door locks to career technical education to after school programs and additional funding for Common Core State Standards implementation, although the bill that garnered the most public attention was Senate Bill (SB) 277 (Pan, D-Sacramento) which would limit waivers for childhood vaccinations. That bill passed out of the Senate Health Committee. Notable bills and the committee actions on them are as follows:

#### Senate Education Committee

**SB 645 (Hancock, D-Berkeley):** After School Programs: Grant Amounts—This bill would, for the 2015-16 fiscal year, appropriate \$54,000,000 more to the California Department of Education (CDE) for purposes of the program and would require the CDE to proportionately adjust the maximum grant amounts and those related amounts to reflect this appropriation.

#### Assembly Education Committee

**AB 713 (Weber, D-San Diego):** Elementary Education: Kindergarten—This bill, beginning with the 2017-18 school year, would require a child to have completed one year of kindergarten before he or she may be admitted to the first grade, thereby imposing a state-mandated local program.

**AB 677 (Dodd, D-Napa):** School Safety: Door Locks—This bill would require all modernization projects submitted to the Division of the State Architect to include locks that allow doors to classrooms and rooms with occupancy of five or more persons to be locked from the inside.

**AB 1226 (Chavez, R-Oceanside):** School Accountability: Local Control and Accountability Plans (LCAPs): State Priorities—This bill would add to the enumerated LCAP priorities the degree to which the certificated instructional personnel of the school district are offered the opportunity for professional development and growth in effectiveness.

## Board Changes

The SELF Board of Directors bid farewell to long time Board member and Finance Chair Eva Lueck at its December meeting. Lueck, who had served on the Board since 1998, submitted her resignation from the Board effective December 29 upon her retirement from Glendale Unified School District. Area VI Alternate Renee Hendrick, Assistant Superintendent Administrative Services at Orange County Department of Education, was appointed by the Board to fill Lueck’s term, which expires in June.

Appointed at the same meeting to fill the alternate vacancy left by Hendrick, was Christina Aragon, Assistant Superintendent Business Services, Arcadia Unified School District.

At its April meeting, the SELF Board accepted the resignations of two alternate members.

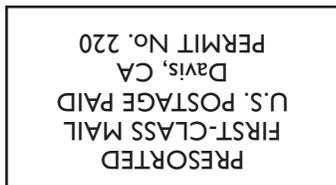
Long-time Area VI Alternate Denise Smith, Imperial County Office of Education, submitted her resignation in February. Smith had served on the SELF Board since 2002

as both an elected representative and alternate for Area VI, and was Board Comptroller on the Executive Committee from 2006 to 2009. Her contributions to SELF during the past 13 years were greatly appreciated and she will be missed.

Area VI Alternate Elaine Marshall, Placentia-Yorba Linda Unified School District also submitted her resignation in February. Marshall had served on the Board for just over a year.

The Board appointed Debra Quinones, Director of Risk Management of Hesperia Unified School District to fill one of the vacancies. There is still one alternate position in Area VI that needs to be filled.

The SELF Board is made up of 16 elected representatives and 16 alternates. Additional alternates may be appointed as the Board deems necessary. Half of the SELF Board is up for election every two years.



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## KMTG Legal Alert

### **Court of Appeal Holds Six Month Time Limitation for Government Claims Was Extended When Parents of Molestation Victims Were Encouraged by District to Maintain Confidentiality During Investigation**

In *J.P. v. C. Unified School District*, the California Court of Appeal for the Fourth District found that the district could not assert that government claims were untimely when the district prevented the parents of molestation victims from filing their government claims. (Cal.Ct. App. 2014) No. D062912, 2014 WL 7012111.)

A government claim is an administrative remedy that is a prerequisite to filing a civil claim against a public entity. It requires that if there is a claim for personal injury against the public entity, the claim must be filed with the entity within six months.

Parents of two students complained to the district that their children's third grade teacher, Raymond Firth, had molested their daughters. Mr. Firth entered into a plea bargain with the District Attorney more than a year after the parents made the initial reports against him. Six weeks after he pled guilty, the parents of the two children presented government claims to the district. The district rejected the claims as untimely. The parents then filed a civil suit against the district under causes of action for negligent supervision against the district and battery against Mr. Firth.

A jury found for the children against both Mr. Firth and the district and awarded one child \$1.8 million and the other child \$2.7 million. The jury also found that the district should be equitably estopped from enforcing the six month limitation period for filing government claims.

On appeal, the District argued that the parents had failed to file timely government claims and the trial court wrongly found that they could not enforce the six month time limitation.

However, the Court of Appeal recognized that, at trial, the parents established that they were repeatedly told by



district administrators not to discuss the matter with anyone because it would risk compromising the prosecution of Firth. The court viewed the statements by the district as threats that Firth would

not be convicted if they talked. As a result, the parents established that they waited so long to speak with a civil attorney—and to file a government claim—because of the district's directives not to speak with anyone about the molestation out of fear they would compromise the chances at conviction.

The district was estopped in this case from asserting that the claims were untimely because their conduct in repeatedly telling the victims and families not to speak to anyone about the molestation induced the families to avoid seeking legal advice or commencing litigation. Because the district actions thus caused the delay in filing a claim, they could not then assert that this delay made the claims invalid as untimely. Even though the statements to the parents encouraging them not to speak to anyone were done so in good faith and with the intent of preserving the criminal prosecution, that did not insulate the district from being estopped from asserting that the claims were untimely.

### **What This Case Means to You**

If an incident occurs that reasonably may lead to future litigation, take care when urging parents, guardians and students to keep the information confidential during either the District's investigation or the police investigation, so that your conduct is not construed as preventing them from seeking legal counsel or timely filing a government claim.

Since the events surrounding this case, the legislature added claims for damages suffered as a result of childhood sexual abuse to the enumerated exceptions from filing government claims for conduct occurring after January 1, 2009.

*(continued on page 2)*

## KMTG Legal Alert

(continued from page 1)

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*Legal Alerts are published by Kronick Moskowitz Tiedemann & Girard as a service to alert clients and others of recent changes in case law, opinions or codes. This alert does not represent the legal opinion of the firm or any member of the firm on the issues described, and the information contained in the alert should not be construed as legal advice. The alert may have been abridged, please visit [www.kmtg.com](http://www.kmtg.com) to read it in its entirety. Should further analysis or explanation of the subject matter be required please contact the attorney with whom you normally consult or contact the attorneys listed at the bottom of the alert.*

### Training Update

#### Coming in May:

#### **“When Bad Things Happen to Good Schools” Webinar**

Save the date for SELF’s Good Schools Webinar series in May on best practices in liability transfer. Join SELF and representatives from our partner JPAs for these informative webinars set for Tuesday, May 5 at 1:30 p.m. with a live repeat scheduled for Wednesday May 27 at 10 a.m.

All SELF webinars are recorded and available for later viewing on the SELF website via the SELF Resource Center.

#### **Free Training Opportunity**

AB 1432, signed by Governor Brown in 2014, requires educational agencies to annually train all employees who are mandated reporters on the mandated reporting requirements and provide proof that training has been completed within the first six weeks of the school year or the first six weeks of employment for a new hire.

For a limited time, SELF members have free access to California AB 1432 Mandated Reporter Training produced by SELF Risk Services Clearinghouse member MakingRightChoices. The training meets all requirements of the AB 1432 mandate and is free to SELF members through July 15, 2015. Following that deadline, the training can be purchased at the discounted price of \$0.95 per employee. Members will only be charged for employees who complete the training.

The training can be accessed via a link on MRC’s page in the SELF Risk Services Clearinghouse at <http://selfjpa.org/resources/clearinghouse/makingrightchoices.php>. It features a PowerPoint presentation with an audio component and takes about an hour. After taking the training employees can immediately print a certificate of completion.

The state training module is also now available online and is free to all. The training does not have audio and upon completion a certificate is produced within one to two business days. That training can be found at <http://mandatedreporterca.com/> and can take from 90 minutes to three hours.