SELF

FAQ's – AB 218 Revived Liability Funding Plan

Schools Excess Liability Fund is working hard to protect our current and former school district, community college district and other educational agency members from the risks, costs and ***revived liabilities*** resulting from ***AB 218***. SELF has already received a number of AB 218 related claims for current and former members stretching back as far as 1987 and the SELF Board recently approved a special funding plan to raise the needed funds to protect member districts from these lawsuits.

The following is a series of our most frequent questions:

What should I know about SELF?

- SELF is a not-for-profit Joint Powers Authority (***JPA***) formed in 1986 following a nationwide insurance crisis during which public entities were unable to purchase, or afford excess liability coverage. The formation of the JPA allowed public educational agencies to join together for the purpose of ***pooled risk sharing*** (or "self-insuring") for excess liability risks.
- 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 of $10 million per member in the early years to $55 million per member currently.
- Excess liability coverage is designed to handle the truly catastrophic claims, such as the death of a student, traumatic brain injury or cases of sexual assault and molestation (SAM), particularly where there have been multiple victims involved.

By joining SELF and signing the JPA Agreement, current and former members agree to pay contributions set by the SELF Board in exchange for coverage. The agreement also allows the Board to require each party to the agreement to contribute additional pro-rated amounts should claims against or by the parties exceed the amount available for the payment of those claims.

What is AB 218?

AB 218, or the California Child Victims Act, was authored by Assembly Member Lorena Gonzalez, D-San Diego and signed into law effective January 1, 2020.

AB 218 has multiple implications for CA educational agencies, it:

- Opens a ***three-year revival period***, during which a claim for childhood sexual assault can be filed from any point in the past
- Provides for ***treble damages*** if a "cover up" can be proven, a cost typically excluded from commercial insurance policies and JPA memoranda of coverage
- ***Broadens the type of misconduct it covers*** *by changing the term "abuse" to "assault", significantly* increasing the risk exposure of educational agencies
- ***Extends the general statute of limitations*** in which to file a claim going forward from age 26 to age 40 (when the revival period closes).

This bill exposes educational agencies to claims for ***sexual assault*** going back decades and places them in the precarious position of having to defend against them. Due to the nature of these claims, there is a very real potential for high-dollar value exposure in years that insurance coverage may be exhausted or even non-existent, and it puts those schools who receive a claim under a magnifying glass.

Why am I receiving this?

- Your public educational agency was a member of SELF's Excess Liability Program during at least one of the prior coverage years, which are affected (***revived***) by a recently filed/amended claim.
- We want inform you about AB 218 and make sure ***you can budget*** appropriately for the related ***upcoming unfunded costs***.

How big is the potential impact from AB 218?

Initial actuarial studies of the potential impact of AB 218 projected a minimum cost to CA public schools of **$560 million**. SELF statistics, January 1 through February 29, 2020 show:

- We have received 12 claims that will likely affect the SELF excess layer of pooled coverage
- Claims filed against 12 Districts from all parts of the state
- Claims span 11 different fiscal years, as early back as 1987
- These claims represent $46.5 million in claim reserves and expected liabilities
- More claims have come in since, and more are anticipated…

You collected our contributions. Didn't SELF plan for this?

- No, we didn't plan for AB 218; we could not have reasonably anticipated the actions of the legislature and Governor that effectively eliminate the statute of limitations and ***revive*** for three years the ***liability*** of claims from every year of our existence. AB 218 is essentially a ***new unfunded mandate*** on schools, risk pooling JPAs, and insurance companies.
- SELF is a school focused organization and does not unnecessarily retain member contributions in equity. In fact, historically speaking, the SELF Board has returned funds to members as recently as 2004. **Between 1986 and 2004, SELF returned some $70 million to member districts through rebates and rate credits**. This was done, at the time, consistent with industry standards assuming the coverage years were closed with no remaining liabilities. As a result, SELF does not have retained member equity on these closed years to fund these newly **revived** claims.

What is next? When will we have to pay?

- The SELF Board approved the AB 218 Funding Plan on March 13, 2020, effective for the 2020-21 fiscal year and instructed staff to work out the details of plan implementation.
- It is expected that SELF will initially collect the funding amounts currently needed in three equal annual payments, with the first of these invoices to be mailed to current and former members in the fall of 2020.
- Per member funding amounts will vary based on attachment point ($1M or $5M), years of participation and member type (K-12 or higher ed). In no case will a district be charged for a year in which it did not participate.

More information will be coming your way soon but if you have any other questions, please don't hesitate to contact our office at (866) 453-5300.