



## **SCHOOLS EXCESS LIABILITY FUND EXECUTIVE COMMITTEE MEETING MINUTES**

**Time: Thursday, May 14, 2020, 12:30 P.M.**

**Webinar Meeting Location: Pursuant to Executive Order: N-35-20**

**Log-In Information:** <https://us02web.zoom.us/j/83173399573?pwd=T0pRMEVoRXAvam43bWZKalhPZlladz09>

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### **MEMBERS**

Peter Hardash, Chair	Southern California Community Colleges Representative
Renee Hendrick, Vice Chair	Area VI Representative
Toan Nguyen, Comptroller	Area VI Representative
Karla Rhay, Secretary	Area VI Representative
Craig Schweikhard, Member-at-Large	Area V Representative

### **ALTERNATES**

David Flores, Liability Claims & Coverage Committee Chair	Area II Representative
Nancy Anderson, Member Services & Communications Committee Chair	Area VI Representative
Tony Nahale, Workers' Compensation Claims & Coverage Committee Chair	Area VI Representative

### **GUESTS**

Mary Wray	WillisRe
Mike Wedel	WillisRe
Simon David	WillisRe
Edward Torres	WillisRe

### **STAFF**

Dave George	Chief Executive Officer
Phil Brown	Chief Fiscal Officer
Lois Gormley	Director of Communications and Member Services
Jimmy Rowe	Director of Claims
Susan Casey	Executive Assistant

## **I. CALL TO ORDER**

Committee Chair Peter Hardash called the meeting to order at 12:32 p.m. Executive Assistant Susan Casey called the roll and confirmed the presence of a quorum.

Hardash welcomed everyone and thanked them for their willingness to participate in the meeting electronically.

Hardash noted that the governor was just releasing his revised May budget, which likely contains substantial cuts to education funding.

## **II. AGENDA – May 14, 2020**

### **A. Amendments/Adjustments**

George proposed taking Item VI.B. after Item VI.D.

### **B. Approval**

Rhay made a motion, seconded by Flores, to adopt the agenda as amended.

Vote: Hardash – yes  
Hendrick – yes  
Nguyen – yes  
Rhay – yes  
Schweikhard – yes  
Flores – yes  
Anderson – yes  
Nahale – yes

Motion passed.

## **III. MINUTES –February 20, 2020**

### **A. Amendments/Adjustments**

None.

### **B. Approval**

Schweikhard made a motion, seconded by Hendrick, to approve the minutes of the February 20 meeting as presented.

Vote: Hardash – yes  
Hendrick – yes  
Nguyen – yes  
Rhay – yes  
Schweikhard – yes  
Flores – yes  
Anderson – yes  
Nahale – yes

Motion passed.

## **IV. PUBLIC COMMENTS**

There were no members of the public who wished to address the Executive Committee.

## **V. CHIEF EXECUTIVE OFFICER’S REPORT**

George reviewed highlights of the meeting agenda. He noted that reinsurance renewal would be the major focus of the meeting, and he said WillisRe representatives were available by phone to answer questions. He advised that Chief Fiscal Officer Phil Brown would be presenting a more detailed proposed AB218 funding plan. He added that Director of Claims Jimmy Rowe would provide a claims

update, and Director of Communications and Member Services Lois Gormley would provide a communications update.

George invited Rowe to discuss the status of AB218 claims.

Rowe reported that as of May 7, SELF received 17 claims, representing 46 plaintiffs, from 1987 to 2007

George thanked Rowe for his report. He noted that the Board will be discussing two of the AB218 claims in more detail on May 29. He observed that the Board needs to consider the timing of the funding plan, especially in light of the state shutdown and its effect on state funding.

George stated that the staff has been doing considerable work reaching out to members regarding AB218 and its impact on insurance costs. He asked Gormley to provide an update on recent communications.

Gormley said that after the last Board meeting, SELF held webinars for current JPA members. She noted that staff conveyed information regarding the AB218 funding plan and communication preferences to their member districts. She stated that a similar webinar was held for former JPA members, and there were separate calls with two other JPAs.

Gormley indicated that in terms of communication preferences, SELF offered to either funnel all information through the JPA, or communicate directly to individual member districts. Gormley advised that 4 of the 12 current member JPAs offered to serve as conduits to their members, and the rest would like SELF to provide information directly to individual members as well as to the JPA. She said 11 of the former JPA members have expressed a preference for acting as conduits to their members.

Gormley reported that SELF sent a communication to all current and former members in April advising them of the creation of the AB218 funding plan, the budget indications approved by the Board, and conveying a sheet of frequently asked questions. She thanked Casey for her efforts in updating the contact information for former members, and she said information was sent to them both electronically and via U.S. mail. She expressed her appreciation to Jessica Vega and Zakiya Jahan for their help with stuffing, stamping, and mailing the envelopes.

Gormley noted that in response to the communication, SELF has received a number of requests by email, and the staff has engaged in conference calls to help members understand the information in the budget indications. She said George attended meetings at ASCIP and CSRM to brief them on the AB218 funding plan, and the staff has been responding to calls and emails and they come in. She remarked that most members understand their obligation and they want to know how long they were in SELF and what they will owe.

Gormley observed that certain groups in the state are rallying with their superintendents to make legislators aware of the costs of AB218 for schools. She advised that SELF has a system in place for tracking the costs associated with AB218 claims so this data can be presented to the legislature to document the financial impacts. She added that SELF will continue to work with School Services of California, CAJPA, the Tort Reform Coalition, and others to advocate for changes.

Hardash asked if the staff had provided AB218 information to CSU. Gormley confirmed that CSU was contacted, and a representative attended one of the webinars.

George informed the Board that SELF recently experienced a “ransomware” attack, which caused a massive disruption, but Alan Grant was well prepared and everything was recovered. He commended Grant for his expertise and effectiveness.

George noted that SELF submitted a webinar to CASBO to take the place of the planned presentation at the CASBO conference at the end of March.

George reported that the subcommittee reviewing the memorandum of coverage (MOC) expects to have a working draft for the committee's review in September and a full draft for the Board's review and approval in October.

George said he had not yet signed a contract for the strategic planning meeting pending the Board's decision about how best to proceed in light of the COVID-19 situation.

George remarked that some insurance carriers have been quick to impose COVID restrictions on coverage, but carriers have not seen fit to reduce premiums to take school closures into account. He noted that some employers have expressed concern recently about liability exposure for furloughing or laying off employees during the crisis.

Hardash thanked George for his report.

## **VI. INFORMATION/DISCUSSION ITEMS**

### **A. AB218 Resources & Staffing**

George presented an analysis of the estimated staff and resources SELF will need to address AB218 claims. He said the Board will be approving a litigation management contract with AON. He emphasized the importance of making sure cases are handled efficiently and that best practices are being applied. George explained that this contract will also help Rowe expand his capacity with the increased litigation management workload. He added that as the Excess Workers' Compensation Program is winding down, more of Rowe's time will be devoted to liability claims.

Nahale asked what resources will be available to support the Excess Workers' Compensation Program. George said he envisioned part-time assistance with future medical claims. He added that the staff will work with the Excess Workers' Compensation Claims and Coverage Committee to determine the best approach, and Rowe will develop the scope of work.

George stated the Board was being asked to authorize hiring an additional person, and the staff has been investigating use of Origami software and other resources for data management.

George said another important aspect is training and risk management resources. He indicated that SELF may want to consider expanding its level of engagement in terms of risk management. He noted that SELF currently offers the Risk Services Clearinghouse, but SELF makes no financial commitment. He suggested thinking about allocating resources to help subsidize costs or negotiate lower rates for members. George indicated that the staff will bring these ideas to the Member Services and Communications Committee for consideration.

Schweikhard asked about resources available through Praesidium. George noted that Praesidium offers a comprehensive range of products, so SELF needs to identify which resources would be best to offer to members as a baseline. He said more advanced training can be added by individual pools or members, but SELF might want to offer basic products to everyone. George stated that Praesidium will be making a presentation to the Member Services and Communications Committee in May, and the staff will talk with JPA members in the fall about their needs and group options.

Schweikhard said his JPA currently uses Praesidium's Armatus program and plans to provide Praesidium Guardian training for a person in each member district. He offered to participate in the meetings and share his input.

Hardash thanked George for his report.

C. \$45M xs \$10M Reinsurance Renewal

George presented SELF's current reinsurance renewal structure, rates, and terms, and the changes proposed for 2020/21. He said rates are still being negotiated, so the figures may change when final rates are set.

For the \$5 million excess of \$10 million layer, George noted, the premium more than doubled, in line with actuarial projections, but the terms are the same as last year.

Simon David, WillisRe, provided an update on the status of rate negotiations for each layer. He reported that the London marketing effort earlier in the year has paid off in terms of attracting new markets. He added that WillisRe was still waiting to hear from some carriers, and more details should be available within a week or so.

Mary Wray, WillisRe, reported that she had received another authorization from a carrier within the past hour. She observed that the situation remains very fluid now, with WillisRe receiving numerous updates and questions. She expressed her hope that the rate negotiations would be completed before the May 29 Board meeting.

George displayed a slide showing proposed rates for each layer to fund the program at a 75 percent confidence level. He noted that premiums are less for claims-made coverage versus occurrence-based coverage. George explained that occurrence-based coverage means a loss is treated and paid on the date it was alleged to have happened. He said SELF's MOC for this year is still on an occurrence basis, including for SAM claims.

George observed that claims-made coverage is desirable for anyone providing the insurance product because it lessens the lag time in identifying potential exposure. David said another benefit of claims-made coverage is that it significantly reduces the reinsurer's credit risk. He pointed out that some reinsurers go out of business in a twenty- or thirty-year span, so having a short tail on claims helps ensure that coverage will still be available.

George advised that the shift to claims-made coverage is the consequence of a hard market. He said reinsurers are unwilling to cover any program funded at less than a 75 percent confidence level, and investment income is not available to offset underwriting losses. George added that this trend is likely to continue for the next few years.

Hardash thanked George and the WillisRe representatives for their report.

D. \$5M xs \$5M Funding Option

Hardash noted that for the past three years, the Board has asked for estimates of purchasing reinsurance for the \$5 million excess of \$5 million layer currently covered by SELF.

George said the staff's investigations in prior years yielded few options for dealing with what has become the "working layer." He explained that the purpose of insuring the working layer is to reduce volatility. He advised that WillisRe investigated options this year and found a fixed three-year product. He noted that when SELF reinsured the \$5 million excess of \$5 million layer in the

past, it was always with multi-year deals, with two five-year structures, one from 1998 to 2002, and one for 2003 to 2007.

Mary Wray introduced her colleagues, Mike Wedel and Edward Torres, WillisRe analysts, and invited them to discuss the funding option in more detail.

Wedel noted that the traditional reinsurance market presents limited opportunities for the \$5 million excess of \$5 million layer because the price is increasingly expensive, and reinsurers require huge up-front premiums. As a result, he said, WillisRe moved away from the traditional market and began exploring the structured market. Wedel explained that the structured market allows consumers to mix and match various features to tailor products to their individual needs; one of the most notable features is a multi-year term that allows coverage to be locked in for the next three years.

Wedel explained how a funds withheld account is used. He said SELF's premium would be bifurcated into two components, a small cash payment that goes directly to the reinsurance company, and a deposit to an account that grows over time to provide a primary source for paying claims in the \$5 million excess of \$5 million layer. He noted that if the account is exhausted, the reinsurer would pay the remaining portion of the claim, and any unused funds at the end of the term would be refunded to SELF.

Schweikhard asked if money in the funds withheld account would be subject to Government Code limitations on investments or invested in the broader insurance market. Wedel clarified that the funds deposited by SELF will become an interest credit to the account to help pay losses. George added that to the extent funds remain with SELF, they would need to be invested in ways that comply with SELF's investment policy.

Wedel reviewed the feedback WillisRe obtained from reinsurance carriers. He stated that a couple individuals estimate average losses at about \$20 million per year for the \$5 million excess of \$5 million layer, and their premiums are tied to these expected losses.

Wedel described the options available and indicated that all propose a multi-year structure and a funds withheld account.

Wedel gave four hypothetical loss scenario examples and explained how the options would work compared with the costs of continuing to self-fund the layer.

Wedel noted the multi-year term allows SELF to budget confidently for the next few years, and the profit-sharing feature of the funds withheld account helps offset SELF's premium costs.

George thanked Wedel for his presentation. He said the purpose of reinsuring the \$5 million excess of \$5 million layer is to create a buffer against exceptionally adverse year, and a structured option offers financial protection, increases the confidence level, provides three years of rate stability, and has profit-sharing potential. He recognized that this option costs more in the near term, but it is very effective if losses are higher than expected. George added that the numbers work at SELF's current ADA level.

George welcomed input and feedback from the committee as to whether staff should continue to explore the reinsurance options. Rhay expressed support for the concept of creating a buffer to protect SELF.

Hendrick asked if recent school closures would reduce SELF's liability. She questioned whether it might be prudent to postpone further discussion of this option given the coronavirus pandemic.

Hardash said the Finance Committee discussed the possibility that schools will likely be closed next fall, so there will probably be few incidents leading to claims. He acknowledged that rate stability is an important consideration, and he noted that SELF needs to evaluate its risks.

George stated that the staff has not yet formulated a recommendation regarding reinsurance of the \$5 million excess of \$5 million layer. He said the options appear to be helpful in terms of moderating volatility and are worthy of consideration. He indicated that SELF does not need to make a decision by July 1 because a different inception date can be negotiated.

Hardash asked about the current pricing proposed for the \$5 million excess of \$5 million layer. David replied that expected losses are \$12.5 million and funding at the 75 percentile is \$21.4 million. George noted that SELF uses net present value, so funding in that layer is about \$19.6 million. He said 70 to 90 percent of the proposed reinsurance premium stays in the funds withheld account until the end of the terms. He added that purchasing reinsurance would commit all of the dollars allocated, but it would not require a new rate for members.

Schweikhard expressed concern about impacts on members because of the uncertainty of the present environment, the hard market, and the three-year commitment. He agreed that the option should be kept on the table for further review and consideration.

Hardash thanked the WillisRe representatives for providing SELF with some baseline options. He suggested sharing the information with the full Board. George said he would provide a summary at the May 29 Board meeting.

#### B. SELF Salary Range Annual Review

Hardash noted that the governor just announced a 10 percent pay cut for all state employees said all member districts can expect considerable budget constraints for the next few years. He said SELF should keep this in mind when considering salary adjustments.

Hendrick clarified that the governor is proposing a 10 percent cut for K-12 teachers with no cost-of-living adjustment this year.

Brown stated that it is SELF's practice to review salary ranges with the Executive Committee each year and recommend changes to the Board. He reported that the employee handbook outlines that salaries schedules be updated for changes in the consumer price index, which was 2.4 percent. He drew attention to the proposed salary schedule incorporating those standard increases. Brown noted that the staff developed a job description for a new position to assist with implementation of AB218, and that position has been added to the salary schedule. Brown reported that the Finance Committee is recommending Board approval of the new position with a salary at the middle of the range.

#### E. AB218 Revived Liability Funding Plan – Policy & Amounts

Brown said the staff reviewed member histories, JPA agreements and bylaws, and the equity policy and determined that SELF has no funds to cover losses on formerly closed years. He advised that this retroactive risk related to AB218 was not contemplated or funded.

Brown reviewed and discussed the key provisions of the proposed "Retroactive Risks Programs Funding, Reserving, and Administration Policy." Brown explained the calculation methodology used to arrive at the per-ADA, per-member, per-year funding amounts. He added that SELF's bylaws provide that special assessments must be calculated pro-rata based on member contributions.

Brown showed how application of the current relativity factor would affect the amounts owed by individual members, reflecting differences in the liability exposure for the different types of members.

Nahale observed that the policy is based on the information available on February 29, and he asked if claim trends had changed since then. George said SELF has received some new claims since then. He indicated that the staff decided to use the February 29 data as the cutoff for the first year of the program, and any changes after that will be factored into the considerations for next year.

Hardash advised that the proposed policy was reviewed and supported by the Finance Committee.

#### F. Strategic Planning Meeting

George suggested deferring a commitment for an off-site meeting given all of the current uncertainty. He said that if an in-person meeting is possible next fall, the SELF office is a possible venue if the San Diego location is not available.

Hardash commented that it might be prudent to avoid a face-to-face meeting this year or have a one-day session at the SELF office. He acknowledged that strategic planning is important, but proposed making a decision later.

Committee members expressed support for this approach.

#### G. Calendar for Board Meetings and Strategic Planning

George drew attention to the proposed meeting calendar. He suggested that the Executive Committee meet jointly with the Finance Committee the week after the CAJPA conference.

Hardash said SELF will continue to hold Zoom and teleconference meetings during the pandemic shutdown.

### VII. CLOSED SESSION

Schweikhard made a motion, seconded by Anderson, to adjourn to closed session for the purpose of discussing personnel matters.

Vote: Hardash – yes  
Hendrick – absent during voting  
Nguyen – absent during voting  
Rhay – absent during voting  
Schweikhard – yes  
Flores – yes  
Anderson – yes  
Nahale – yes

Motion passed. The committee adjourned to closed session at 2:35 p.m.

- A. Public Employee Performance Evaluation – Closed Session, pursuant to Gov't Code 54957. Title: Chief Executive Officer
- B. Personnel: Conference with Labor Negotiators (Pursuant to Gov't. Code §54957.6)



Unrepresented Employee: CEO

Agency Designated Representative: Peter Hardash, SELF Board Chair

At the conclusion of the closed session, Schweikhard made a motion, seconded by Anderson, to resume the open meeting.

Vote: Hardash – yes  
Hendrick – absent during voting  
Nguyen – absent during voting  
Rhay – absent during voting  
Schweikhard – yes  
Flores – yes  
Anderson – yes  
Nahale – yes

Motion passed. The open meeting was resumed at 2:45 p.m.

#### **VIII. FUTURE MEETINGS**

The committee reviewed the schedule of upcoming meetings.

#### **IX. ADJOURNMENT**

There being no further business, Nahale made a motion, seconded by Schweikhard, that the meeting be adjourned.

Vote: Hardash – yes  
Hendrick – absent during voting  
Nguyen – absent during voting  
Rhay – absent during voting  
Schweikhard – yes  
Flores – yes  
Anderson – yes  
Nahale – yes

Motion passed. The meeting was adjourned at 2:45 p.m.