SCHOOLS EXCESS LIABILITY FUND
EXECUTIVE COMMITTEE MEETING
MINUTES

Time: Thursday, November 14, 2019, 12:30 P.M.

Location: SELF Office, 1531 I Street, Suite 300, Sacramento, CA, 95814

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

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 12:30 p.m.

II. AGENDA – November 14, 2019

A. Amendments/Adjustments

Schweikhard made a motion, seconded by Anderson, to adopt the agenda as proposed.

B. Approval

Vote: Hardash – aye
Hendrick – aye
Nguyen – aye
Rhay – aye
Schweikhard – aye
Flores – aye
Anderson – aye
Nahale - aye

Motion passed.

III. MINUTES –September 10, 2019

A. Amendments/Adjustments

None.

B. Approval

Schweikhard made a motion, seconded by Nahale, to approve the minutes of the September 10 meeting as presented.

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

Motion passed.

IV. PUBLIC COMMENTS

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

V. STAFF REPORT

A. Chief Executive Officer

George provided a recap of the strategic planning meeting. He said an orientation session was held for new Board members. He displayed the results of the evaluations and reviewed suggestions and comments regarding future strategic planning meetings. George noted a recommendation to continue the insurance market update, there was interest in further discussion about ways SELF can work more actively on legislation, and there were suggestions about having a more detailed review of the actuarial study and how it ties to rate setting. He added that there was also a suggestion to provide a case study on a large loss from start to finish.

Hardash emphasized the importance of explaining the rate-setting process so everyone receives the same information and can move forward at the same pace.

George advised that he planned to meet individually with three newer Board members who were unable to attend.

George reported that SELF had two recent policy limits claims, and he recommended that the Board give some thought to recession forecasting and/or planning in relation to funding cycles for schools. He noted that SELF set rates at a 65 percent confidence level in 2017/18 and at a 75 percent confidence level for 2018/19 and 2019/20. He observed that although rates are higher, claims are also high, so SELF's financial position has had headwinds. George recommended that the Board either consider raising the rate to a level higher than 75 percent or consider other avenues to augment funding. George observed that a competitor has implemented assessments for two claim years over a five-year period. He expressed his opinion that an assessment may be the only prudent way to deal with the implications of AB 218. He pointed out that schools are still being funded at a healthy level, so it might be best to take action now before the situation changes.

Rhay asked for more details about the competitor's assessment. George said the assessment was not driven by AB 218, but rather because of the way the competitor's program was funded. He noted that the competitor provides much shallower coverage than SELF does, and more claims penetrated the pooled layer during two recent claim years. He added that the amount of the assessment was about $7.5 million, not a significant amount.

Flores commented that the competitor's assessment has not dropped down to district-level members yet. George noted that NCSIG and some other larger members decided to absorb the assessment within their own pool. One committee member noted that the competitor is calling the assessment a "liability funding initiative."

George welcomed feedback from the committee. He offered to present further information at the February committee meeting and the March Board meeting.

The committee discussed a variety of ideas to further improve the financial position and how they might be applied.

Hendrick advocated taking action soon. She pointed out that other insurers are raising rates and facing the same challenges. She cautioned that SELF may lose its opportunity if it waits two or three years.

Hardash asked what underlying JPAs are planning to do. George said he did not know, and he noted that this would be a good topic for discussion at the next Best Practices Coalition meeting.

Rhay stated that her pool is preparing by identifying the members and the type of coverage in previous years and contacting pools in New York and other states that have similar legislation. She offered to share the results of that analysis when the information is available. She remarked that she has seen ads from law firms specializing in sexual assault and abuse.

George commented that claims consultant Craig Wheaton has been in communication with the New York school pool, and they reported receiving 50 claims since their law took effect on August 1, some of which have arisen from very old years. He added that about half the states in the U.S. have amended their statutes to expand the statute of limitations for abuse claims.

Flores stated that there was considerable discussion about AB 218 at the NCSIG annual board retreat recently.

Rhay proposed having the staff explore different scenarios to determine what the impacts would be. She advocated proceeding carefully and deliberately.

Anderson said ASCIP determined that half of its claim costs before AB 218 were related to sexual abuse and molestation claims. She indicated that ASCIP is considering carving out a separate line of coverage for SAM claims and adjusting the MOC to reflect the distinction.

Director of Claims Jimmy Rowe stated that the language of AB 218 says the law applies to "any case or cause of action that is unresolved." He noted that SELF has denied claims in the past that were barred by the statute of limitations, but AB 218 could reopen those possibilities. Committee members clarified that AB 218 provides a three-year window for filing claims, after which claims can be filed until a claimant is 40 years old.

George advised that the staff will explore options for funding AB 218 claims.

VI. INFORMATION/DISCUSSION ITEMS

A. CAJPA Accreditation Update

George indicated that there have been a couple accreditation developments recently. He said he had a telephone call with the chair of the accreditation committee to clarify a couple points. He reported that CAJPA removed the financial position requirement and determined that SELF is in compliance. He stated that SELF is still gathering signed JPA agreements from every member, and that process is moving slowly. George advised that he clarified that CAJPA requires a signed JPA agreement for each member, but they do not necessarily have to be new agreements. He added that there was a miscommunication from CAJPA in writing about this point.

B. AB 218 Planning

George said the staff met the previous week to begin planning for implementation of AB 218. He noted that School Services has asked SELF to draft a general communication, and the staff is working on a coverage history and explanation for current and former members.

George stated that he talked with the Finance Committee earlier about the fiscal implications of AB 218. He said the staff is working to create a system that will track all costs in detail. He noted that this information will be useful in developing a plan, and it may be helpful to the State legislators and DOF as well.

Hendrick remarked that many districts are not yet aware of their potential exposure.

C. Reinsurance Marketing

George reported that the staff has begun working with SELF's brokers to plan this year's reinsurance marketing effort. He said one reinsurance underwriter recommends budgeting for a significant increase in premiums to purchase the same coverage SELF currently has. He noted that this is due in part to the second large claim that penetrated SELF's layer. He added that some reinsurers may place limitations on SAM coverage and require coverage to be on a claims-made basis.

George advised that the staff is continuing to explore possibilities for restructuring the $5 million excess of $5 million layer.

Hardash asked what would happen if some underlying JPAs went to a claims-made basis and SELF stays with occurrence-based coverage. George said SELF's revised MOC will not be ready until the 2021/22 fiscal year, so there may be a one-year period when coverage will be inconsistent. He clarified that the change will not affect the coverage itself, only the way claims are accounted for, and there will be no coverage gaps for members.

Anderson observed that underlying members can purchase gap coverage if they are aware of the problem. George agreed, but he pointed out that gap insurance is usually quite expensive.

D. Equity Policy

Chief Fiscal Officer Phil Brown drew attention to the updated equity policy in the meeting packet. He said the policy was presented to the Finance Committee for feedback, and there was a good discussion about a number of issues. He noted the committee talked about how the minimum and ultimate equity targets are defined, and there were recommendations to change the term "ultimate funding target" and define "closed years" as the twentieth back to the tenth year, as the policy was before. He proposed adding language to explain SELF's intent and purpose in making the changes and to clarify that the equity policy applies exclusive of what may happen with SAM claims in the future.

Brown indicated that he would bring a revised version to the committee in February.

VII. FUTURE MEETINGS

The committee reviewed the schedule of upcoming meetings. Casey noted that the Executive Committee and Finance Committee will meet jointly on February 20 to discuss rate setting.

VIII. ADJOURNMENT

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

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

Motion passed. The meeting was adjourned at 1:37 p.m.