



**SCHOOLS EXCESS LIABILITY FUND
BOARD OF DIRECTORS MEETING
MINUTES**

Time: Friday, December 10, 2021, 8:30 A.M.

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

Log-In Information: <https://us02web.zoom.us/j/89966857677?pwd=SUpyQWxUa3QrWHZlamlhRHIWM09zQT09>

MEMBERS

Renee Hendrick, Chair
Craig Schweikhard, Vice Chair
Toan Nguyen, Comptroller
David Flores, Secretary
Steven Salvati, Member-at-Large

Area VI Representative
Area V Representative
Area VI Representative
Area II Representative
Area VI Representative

Thuy Wong
Ryan Robison
Susan Rutledge
Terese McNamee
Stephan Birgel (voting for Jeff Grubbs)
Tony Nahale
Lisa Bailey
Charlie Ng
Bernata Slater

Area I Representative
Area III Representative
Area IV Representative
Area V Representative
Area VI Representative
Area VI Representative
Southern California Community Colleges Representative
Southern California Community Colleges Representative
Northern California Community Colleges Representative

ALTERNATES PRESENT

Cindy Wilkerson
Tien Phan
Christina Aragon
George Landon
Wael Elatar
Joe Sanchez
Fred Williams

Area III Representative
Area V Representative
Area VI Representative
Area VI Representative
Area VI Representative
Area VI Representative
Southern California Community Colleges Representative

GUESTS

Leilani Aguinaldo
Ian Skelly
Simon David
Jason Palmer
Nicole Koenes
Lori Jundt
Byrne Conley
Craig Bowlus

School Services of California, Inc.
Gallagher Re
Gallagher Re
Gallagher Re
Risk Program Administrators
Risk Program Administrators
Counsel
AON

SELF 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
Jessica Vega	Member Services Specialist
Zakiya Jahan	Accounting Specialist
Alan Grant	System Analyst

EX OFFICIO

Amanda Voe	California Community Colleges Chancellor's Office
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I. CALL TO ORDER

Board Chair Renee Hendrick called the meeting to order at 8:32 a.m. Executive Assistant Susan Casey called the roll and confirmed the presence of a quorum.

II. INTRODUCTIONS

Board members, alternates, staff, and guests took turns introducing themselves.

III. AGENDA –December 10, 2021

A. Amendments/Adjustments

None.

B. Approval

Nahale made a motion, seconded by Birgel, to adopt the agenda as proposed.

Vote: Hendrick – aye
Schweikhard – aye
Nguyen – aye
Flores – aye
Salvati – aye
Wong – aye
Robison – aye
Rutledge – aye
McNamee – aye
Birgel – aye
Nahale – aye
Bailey – aye
Ng – aye
Slater – aye

Motion passed.

IV. MINUTES – October 6-8, 2021

A. Amendments/Adjustments

None.

B. Approval

Flores made a motion, seconded by Schweikhard, to approve the minutes of the October meetings as presented.

Vote: Hendrick – aye
Schweikhard – aye
Nguyen – aye
Flores – aye
Salvati – aye
Wong – aye
Robison – aye
Rutledge – aye
McNamee – aye
Birgel – aye
Nahale – aye
Bailey – aye
Ng – aye
Slater – aye

Motion passed.

V. ACTION ITEM

A. Resolution of the Board Relating to Teleconference Meetings and Agendas

Hendrick explained that the proposed resolution will allow SELF to continue with teleconferencing meetings without having to post all addresses.

Schweikhard made a motion, seconded by Wong, to approve the resolution as proposed.

Vote: Hendrick – aye
Schweikhard – aye
Nguyen – aye
Flores – aye
Salvati – aye
Wong – aye
Robison – aye
Rutledge – aye
McNamee – aye
Birgel – aye
Nahale – aye
Bailey – aye
Ng – aye
Slater – aye

Motion passed.

VI. PUBLIC COMMENTS

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

VII. COMMITTEE REPORTS

A. Executive Committee

1. December 1, 2021 – Renee Hendrick

Committee Chair Renee Hendrick said the committee met on December 1 and most of the topics discussed appear on the Board's agenda.

B. Finance Committee

1. December 1, 2021 - Toan Nguyen

Committee Chair Toan Nguyen noted that most of the items discussed by the Finance Committee on December 1 are on the agenda for full Board consideration. He said the committee reviewed and accepted the investment compliance reports, the investment report, the financial reports for the first quarter of the fiscal year, a revised budget, and the proposed contract with Risk Program Administrators to help during the interim before a new CFO comes on board. He added that the committee also had a thorough presentation on investments from Sarah Meacham, PFM, SELF's investment advisor.

Nguyen thanked Chief Fiscal Officer Phil Brown for his services and said he enjoyed working with him. He noted that Brown has been very responsive, thorough, and professional, and he expressed his appreciation to Brown and wished him well in his future endeavors.

C. Liability Claims and Coverage Committee

1. December 9, 2021 – David Flores

Committee Chair David Flores indicated that the committee met on December 9 to review recent claims activity, especially claims pertaining to AB 218

D. Member Services and Communications Committee

1. December 9, 2021 – Cindy Wilkerson

Committee Chair Cindy Wilkerson reported that the committee discussed the AB 218 annual report, the regular annual report, recent events, and upcoming outreach activities. She advised that there are only five spots left for the Risk management Practitioner Program scholarships, so members interested in participating should apply as soon as possible.

Wilkerson said the development of the SAM Risk Management Project and customized JPA landing pages for SELF members is progressing well.

E. Workers' Compensation Claims & Coverage Committee

1. December 9, 2021 – Tony Nahale

Committee Chair Tony Nahale thanked the staff for filling in during Director of Claims Jimmy Rowe's recent leave of absence and he welcomed Rowe back. Nahale said Rowe gave a presentation regarding recent claims activity and discussed ESM Solutions' ongoing work with selected members to assist in resolving legacy claims.

Nahale stated that the committee members gave staff guidance on one old claim in closed session.

VIII. CHIEF EXECUTIVE OFFICER'S REPORT

George welcomed Lori Jundt and Nicole Koenes, Risk Program Administrators, who will be assisting SELF on an interim basis during the search for a new CFO. He noted that Brown has been doing two jobs since the beginning of November, and he thanked Brown and his new employer, Schools Insurance Authority, for their flexibility during the transition.

George provided an update on the CFO search. He said he would be seeking volunteers from the Finance Committee to help with second round of interviews.

George reported that SELF will be hosting another JPA symposium on January 27 to foster collaboration and provide education and professional development information to JPA leaders and senior staff. He indicated that SELF typically offers these sessions three times a year, and the January symposium is planned as an in-person event.

George stated that SELF is currently in the midst of the CAJPA accreditation process, and the auditor's report will be presented to their committee on January 18. He noted there were only a few flagged items, all of which have been addressed.

IX. CONSENT ITEMS

- A. Accept Investment Report – First Quarter 2021/2022
- B. Accept Financial/Treasurer's Report Ending September 30, 2021
- C. Accept Investment Compliance Report – Month Ending July 31, 2021, August 31, 2021, and September 30, 2021
- D. Approve Changes to Underwriting Policy
- E. Approve Contracts
- F. Accept Resignation of Area NCC Board Alternate - Susan Cheu

Schweikhard made a motion, seconded by Birgel, to approve the Consent Items.

Vote: Hendrick – aye
Schweikhard – aye
Nguyen – aye
Flores – aye
Salvati – aye
Wong – aye
Robison – aye
Rutledge – aye
McNamee – aye
Birgel – aye
Nahale – aye
Bailey – absent during voting
Ng – aye
Slater – aye

Motion passed.

X. ACTION ITEMS

A. Approve Corridor Deductible Option for 2022/23

Nguyen made a motion, seconded by Schweikhard, to approve offering the corridor deductible option for 2022/23 as proposed.

Hendrick noted that this idea came up at the October strategic planning session, and she asked George to discuss the option in more detail.

George observed that for the past several years, SELF has been talking about exploring options for taking on some risk above \$5 million, and recently, ASCIP has expressed interest in this kind of coverage.

George explained the concept of a corridor deductible. He said this one-time deductible option would allow SELF to offer members either a \$2.5 million or \$5 million corridor deductible, meaning the primary pool would cover a loss, or losses, up to that limit.

George indicated that the bylaws require Board approval before SELF can offer any such options, and any member wishing to make a change must notify SELF by March 1. He recommended that the Board approve the proposed corridor deductible options.

Aragon clarified that the corridor deductible would apply to one or more claims up to the \$2.5 million or \$5 million limit. George confirmed that understanding. He stated that the deductible applies to one claim or any combination that totals that dollar amount. If there are claims beyond that point, he noted, SELF would reimburse underlying members for claims in the normal fashion.

Schweikhard asked if the option would affect SELF's equity targets, assuming that lower rates would be charged to members who chose the deductible. George acknowledged that there would be a reduction in revenue corresponding to the reduction in exposure.

Hendrick observed that SELF has also considering raising the attachment point, but there was not as much support for that approach. She remarked that the corridor deductible is a way of offering more flexibility to individual members. George agreed with that assessment.

Vote: Hendrick – aye
Schweikhard – aye
Nguyen – aye
Flores – aye
Salvati – aye
Wong – aye
Robison – aye
Rutledge – aye
McNamee – absent during voting
Birgel – aye
Nahale – aye
Bailey – aye
Ng – aye
Slater – aye

Motion passed.

B. Approve Reinsurance Profit Sharing

Nahale made a motion, seconded by Flores, to approve the reinsurance profit-sharing program as proposed.

George noted that part of SELF's reinsurance in the \$5 million to \$10 million layer is coverage through Lloyds of London, and the reinsurance contract gives SELF the option of requesting a "no claims" bonus. He indicated there were no claims in 2020/21, so SELF is eligible for the "no claims" bonus of 15 percent of the net premium paid, \$2.9 million, or a return of \$440,000 to SELF.

Vote: Hendrick – aye
Schweikhard – aye
Nguyen – aye
Flores – aye
Salvati – aye
Wong – aye
Robison – aye
Rutledge – aye
McNamee – aye
Birgel – aye
Nahale – aye
Bailey – aye
Ng – aye
Slater – aye

Motion passed.

C. Approve Revised Salary Schedule

Hendrick drew attention to the revised salary schedule in the meeting packet. She clarified that the staff salaries are not changing, but there was no established uniform salary schedule for the chief executive officer position, a PERS requirement. She said the proposed salary range was based on the current salary with a 15 percent variation on both sides.

Salvati made a motion, seconded by Schweikhard, to approve the revised salary schedule.

Vote: Hendrick – aye
Schweikhard – aye
Nguyen – aye
Flores – aye
Salvati – aye
Wong – aye
Robison – aye
Rutledge – aye
McNamee – aye
Birgel – aye
Nahale – aye
Bailey – aye

Ng – aye
Slater – aye

Motion passed.

XI. INFORMATION/DISCUSSION ITEMS

A. Reinsurance Marketing

Ian Skelly, Gallagher Re, introduced his colleagues, Simon David and Jason Palmer, and they gave a presentation about Willis Re's transition to Gallagher Re, the state of the current insurance market, and the marketing approach and outreach activities planned for SELF's renewal.

Skelly said Willis Re was officially acquired by A J. Gallagher on December 1, and the new entity has been branded as Gallagher Re. He advised that from SELF's perspective, the transition means business as usual, with no changes to accounting, marketing, client services, resources, and capabilities that Willis Re provided to SELF. He noted that Gallagher has a suite of new and expanded capabilities that will be offered to clients.

Skelly discussed the current state of the renewal market. He said most of Gallagher Re's renewals occur on January 1, so there is data available from those deals that reflects present trends. He noted that excess casualty and liability remains challenging, but some reinsurers see opportunities, largely driven by material rate increases over the past two years. Skelly commented that incumbent markets are retrenching, assessing their portfolios, and looking at cutting back or non-renewing in areas of concern, and redeploying that capacity in other areas. He noted that some carriers remain concerned about high jury awards and liberal legislation in California.

Skelly advised that fear of social inflation is affecting all casualty lines, prompted by huge jury awards recently publicized in the media. He said the long-term impacts of COVID are still uncertain, but there has been a noticeable slowdown in processing claims due to court closures and restrictions. He expressed concern that there could be a major influx of claims once the court system gets back to a more normal pace.

Skelly noted that although the market is getting better, it is still considered a hardening market. He stated and Gallagher Re's approach to the 2022/23 marketing effort for SELF will be similar to last year: identify as much capacity as possible, engage markets early, and build relationships with prospective markets that may be helpful in the future.

Skelly remarked that he and his team have always emphasized face-to-face meetings as a critical step in building close relationships with reinsurers, and he encouraged SELF to visit as many reinsurers as possible in person. He presented a slide showing a list of more than 70 reinsurance markets Gallagher Re will be contacting this year.

Skelly reviewed the reinsurance marketing timeline. He said Gallagher Re plans to have face-to-face and remote meetings with reinsurers beginning in February, obtain indications in March, with the goal of providing the Board with enough information to bind the reinsurance coverage by next June. He noted that Gallagher Re will work with the staff to compile data and background information on SELF for reinsurers, and Gallagher Re will complete its own actuarial study to validate expected losses and reinsurance pricing. Skelly advised that the

actuarial analysis includes a layer efficiency study to look at ways of restructuring the layers to ensure the best coverage value for the price.

Skelly talked about the factors underwriters use to price coverage. He explained that actuaries look at both exposure and experience, as well as the reinsurance marketplace conditions and other variables, and actuaries will change their trend assumptions when they see certain types of losses increasing more than expected. In SELF's case, he said, reinsurers are concerned about potential exposure to auto losses and sexual abuse and molestation claims.

Hendrick commented that school shootings and traumatic brain injuries were big issues in the reinsurance renewal talks with carriers last year. She observed that news headlines and large jury verdicts, especially in California, have had a huge impact on reinsurers' perceptions. She added that the Skelly and his team do an excellent job of explaining SELF's actual exposure.

B. Captive Insurance Discussion

George said there was an initial discussion about the captive insurance concept at the October strategic planning meeting, and he drew attention to the written materials in the meeting packet. He explained that a "captive" is an internal insurance company operating as its own entity, and the Board expressed interest in exploring the possibility of establishing a stand-alone insurer to serve the needs of SELF.

George stated that a captive program would allow SELF to invest in equity instruments beyond the current Government Code restrictions. He noted that this flexibility could be beneficial because SELF is in a long-term business and tends to hold capital for very long period of time. In addition, he observed, a captive program could provide a solution to the run-off of the Excess Workers' Compensation Program, and the program could allow SELF to provide unique kinds of coverage that do not necessarily apply to the entire membership.

George advised that hard insurance markets tend to drive more interest toward captives as a way of giving insurance programs greater flexibility.

For example, George observed that with the shift to claims-made coverage for SAM cases, SELF's memorandum of coverage (MOC) gives the Board the option of offering tail coverage for SAM claims for exiting members, or nose coverage for members coming in.

George concluded by saying that a captive entity should be viewed as a long-term strategic tool, not something to be implemented as a short term solution. However, he noted, structures such as captives need to be set up ahead of time so they are ready to go when wanted.

He said the next step will be to conduct a feasibility study to determine the viability of a captive program and a cost-benefit analysis.

Jason Palmer, Willis Towers Watson, explained that the purpose of the captive feasibility study is to provide SELF with the value a captive entity can offer to the organization so the Board can make a decision about moving forward. He indicated that the study will examine possible capital structures, available domiciles, and financial parameters to support SELF's goals and objectives.

Palmer said captive insurance companies are licensed and operate like traditional insurance companies, but they are not subject to the same kinds of regulations and governance that traditional insurance companies have. He indicated that losses are estimated based on

actuarially determined factors, and the captive can retain or reinsure as much of the risk as they wish. Palmer indicated that there are certain regulatory obligations and governance features of captives, as well as general and administrative expenses. He added that the feasibility analysis will look at whether those general and administrative expenses can be offset by greater value to SELF.

Palmer advised that regulators will require a certain level of capital and surplus in order to support the insurance transactions. He noted that establishing a captive entails presenting a business plan to the regulatory agencies and demonstrating sufficient capital to support the business and exposures.

Palmer described the process for creating a captive insurance company. He displayed a chart showing a general time parameter, starting with the feasibility study, cost parameters, and the parties involved in the process. He advised that actuarial work needs to be done as part of the process, as well as tax and legal matters that need to be coordinated.

George invited comments and questions from Board members.

Schweikhard asked where the captive would be domiciled. George said that decision would be made after the feasibility study. Palmer stated that 36 states now allow captives, and there are also a number of offshore jurisdictions, all of which will be considered as part of the captive feasibility study.

Nguyen questioned the need to form a captive insurance company rather than just continuing to fund programs as we have in the past. Schweikhard noted that one reason is that SELF's return on investment would be substantially higher if funds can be invested in equities and other longer-term securities. Nguyen said if SELF's purpose in forming a captive would be to earn better yields, that intent should be clearly stated. He cautioned that investing in higher-yield instruments also entails higher risk, and he cited the Orange County bankruptcy as an example.

Palmer commented that the groups he knows that manage captives are utilizing the captives very conservatively and seeing substantial investment appreciation. He pointed out that if inflation continues to grow, SELF could see a negative position in its investment portfolios.

George confirmed that investment income was an important aspect of forming a captive. He said the feasibility study will only be undertaken if the Board is open to the possibility. He noted that any captive entity would be wholly owned and controlled by SELF, so the Board would have oversight in terms of investment policies and investment decisions.

Hendrick expressed her opinion that a captive insurance company allows SELF to earn more without being too risky. She said the ability of SELF and other government agencies to invest is highly restricted. She advocated adopting some clear guidelines pertaining to investments if SELF forms a captive.

Birgel recommended proceeding with a feasibility study. He said ASCIP has a captive that addresses issues that do not necessarily apply to the membership at large, such as transportation insurance. He proposed moving forward and having the staff and consultants come back with more specific examples of how a captive would benefit SELF.

Hendrick asked about a timeline for the next steps. George stated that SELF would solicit bids from various firms and have a recommendation at the March meeting. Hendrick observed that this discussion was for information only, with no action at this point.

Wilkerson said her district was currently going through the process of implementing a captive. She remarked that having a captive can significantly increase investment revenue. She acknowledged that although SELF would be taking on some additional risk, the change could make a significant difference for the portfolio. She emphasized the importance of consulting with experienced consultants and legal counsel in the domicile state to help expedite the process. Wilkerson commented that most of the people on her board are CBOs, and when they saw the difference in investment income described in the feasibility study, they wanted to fast-track the process. She suggested taking action on a feasibility study as soon as possible.

George said the staff can solicit bids for a feasibility study and make a recommendation in March, at which time the cost of the feasibility study will be defined. Conley estimated that it would probably take about a year to form a captive.

Wong asked if a captive could be used for multiple purposes, for example, starting with transferring the risk of the Excess Workers' Compensation Program, and possibly transferring risk from the Excess Liability Program in the future. Hendrick confirmed that a captive could be used for both purposes.

After some discussion, there was consensus among Board members that the staff should proceed as George described, with a recommendation for a vendor and expenditure authority at the March meeting.

C. AB 218 Revived Liability Funding Plan

George stated that SELF recently completed collection of the first round of the \$46.6 million AB 218 assessment, and the three-year revival window for claims closes on December 31, 2022. He observed that school budgets are very healthy now, making the timing of the next assessment important, so the sooner SELF provides members with an estimated amount, the better they can plan and budget for the expense.

George said Bickmore is analyzing data as of October 31 to allow SELF to set rates next spring, and Mark Priven indicated that Bickmore could conduct a separate actuarial analysis of the AB 218 program in the spring. He proposed having discussions during the winter and spring about assessment options, amounts, and timing, so budget numbers can be provided to member districts in May. He noted that some members may want to pay their assessment from their 2022-23 budgets, and it would be helpful to identify a range. George said that once the Board approves a range, a specific assessment amount can be set within that range next winter, with invoicing going out early in 2023. He recommended allowing members the option of paying in 2022-23 or 2023-24.

Hendrick noted that the Finance Committee and Executive Committee both asked George to accelerate the plan to take advantage of the current favorable budget year and provide members with at least a range.

D. Revised Budget

Brown said the Finance Committee reviewed and approved the revised budget at its December 1 meeting. He noted that SELF's procedure is for the Board to adopt the original budget, with subsequent revisions approved by the Finance Committee.

Brown displayed the revised budget and summarized the main revisions. He advised that there was a minor improvement in the projected ending balance of about \$115,000. Brown indicated that general and administrative expenses increased by about \$197,000 to cover contracts that were approved since the budget was adopted, and the budget includes \$440,000 in income from the reinsurance no-claims bonus under "Other Income and Expense." He observed that some of the income was offset by interest costs on the new three-year structured program.

Hendrick thanked Brown for his report. She expressed her appreciation to Brown for his service to SELF and wished him well in his new role. Brown thanked Board members and staff for their support.

Rutledge noted that many districts are facing loss of ADA due to COVID, and she asked how SELF planned to factor that into its revenue projections. Brown responded that loss of ADA does not affect revenues for the current year because billing this year is based on the 19-20 ADA. He added that there will be lag, but the reduction will eventually be reflected in SELF's billings.

Rutledge said her district reported no ADA at all last year, and she asked whether SELF uses funded ADA or actual ADA in calculating premiums. Director of Communications and Member Services Lois Gormley stated that SELF uses audited lottery ADA obtained from the California Department of Education, which runs about two years behind.

Elatar recommended clarifying to members that SELF uses reported ADA, not actual ADA. George thanked Elatar for the suggestion and said SELF can certainly communicate with members about how ADA is determined.

Board members discussed concerns regarding fiscal difficulties schools will face when the current state hold-harmless policy that allows use of past reported ADA expires, and they acknowledged that there could be significant budget cuts if schools are required to use actual ADA again.

Elatar observed that the influx of TK students in K-12 schools will help offset some of the reductions.

Leilani Aguinaldo, School Services of California, Inc., said that school districts have enjoyed an ADA hold-harmless policy, but charter schools and county offices of education do not have the benefit of using the prior year figure. She clarified that under the Local Control Funding Formula (LCFF), districts are allowed to use ADA for either the prior year or the current year, whichever is greater, but the prior year has been used since the 2019-2020 school year. She said no ADA was collected by the state for 2020-21 school year, and districts used 2019-20 data; for 2021-22, the state is again collecting ADA, but districts still have the benefit of using either prior or current year ADA.

Aguinaldo observed that the fiscal cliff for school districts will likely occur in 2022-23, because both that current year and the prior year ADA will probably show a steep drop. She said a solution would be another one-year extension of the ADA hold harmless, but there is little interest in the legislature or the administration to enact such legislation. She indicated

that one concept the legislature and administration are open to exploring is allowing a three-year or five-year rolling average for ADA.

Aguinaldo also noted that the expansion of TK to a fully implemented universal TK in 2025-26 will help offset declining enrollment in districts that serve elementary school students.

Hendrick thanked Aguinaldo for her comments.

E. Legislation Update

Aguinaldo drew attention to the written report in the meeting packet identifying the status of all legislation SELF considered in 2020-21.

Aguinaldo reported that SELF took a position on three of the four bills that were signed into law. She said SELF opposed two of the bills that passed: AB 438, which radically changes the layoff process for classified employees starting in 2022, and SB 606, which establishes enterprise-wide violations and egregious violations for employers. She indicated that SELF supported one bill that was signed, which requires CPR-trained staff at school functions.

Aguinaldo noted that SELF opposed SB 788, pertaining to workers' compensation risk factors, and that bill was vetoed by the governor. She added that the governor's veto message was quite clear, so it is unlikely this legislation will come back again next year.

Aguinaldo remarked that 2020-21 was the first year of a two-year legislative session, so a majority of the bills considered by SELF are still alive and could be resurrected in 2022. She said School Services will continue to monitor these closely and bring any new developments to SELF's attention.

Aguinaldo discussed what School Services expects in terms of legislation in 2022. She noted the question of ADA and the fiscal impact on schools came up during the budget discussions and will be a significant part of this year's budget negotiations. She said local school districts are very concerned about how ADA will impact general fund resources through the LCFF. On the other hand, she observed, Proposition 98, K-14 education will be getting significant money in 2022.

On the aggregate, Aguinaldo noted, this means there will be lots of money that will need to be distributed to the K-14 system because of Prop. 98 requirements, but local districts are concerned about ADA under the LCFF. She commented that there will be considerable advocacy regarding how some of the additional new revenues can go down to school districts and help fund existing obligations, rather than creating new programs districts will need to implement.

Aguinaldo advised that the number one issue facing the legislature next year will be mandatory vaccinations for students. She said the governor already moved forward with his regulations for K-12 students, but they will not take effect until July of 2022. She observed that there are various local school districts around the state that have moved forward with their own local vaccination mandates.

Aguinaldo stated that there are legislators ready to introduce legislation in January to further beef up the vaccination requirement and to change the Health and Safety Code and the Education Code to remove personal belief exemptions. She pointed out that the regulations

announced by the governor are constrained by current statute, which allows a personal belief exemption.

Aguinaldo said other issues facing schools in California are staffing shortages, funding for special education, and the role of SELPAs.

Aguinaldo noted that in negotiations for how Prop. 98 funds are used, the state wants to transform the role that schools play within their communities by expanding the breadth and services provided by local educational agencies and community colleges.

Hendrick asked about the possibility of enacting legislation on an urgency basis. Aguinaldo advised that if legislation goes forward that changes the list of state-mandated vaccines as a requirement for students to enter the K-12 system, it would go through the process and be signed by the governor in 2022 and take effect on January 1, 2023. She said an urgency clause can be included in any legislation, which means it would take effect immediately upon signature.

Aguinaldo noted that the big hurdle proponents would face if they pursued an urgency clause is that it would require two-thirds approval of the legislature in order to get to the governor's desk. She observed that although there is currently a Democratic super-majority in both houses of the legislature, the proposed author recognizes it will be a steep hill to get two thirds of his colleagues to sign on, so chances of an urgency clause are slim.

Elatar asked whether the regulations make a distinction between high school districts and other K-12 districts. Aguinaldo replied that the proposed statewide vaccine mandate is contingent on full authorization under FDA, so it would only apply to students age 12 and up.

Hendrick commented that there has been vocal opposition to the mandate in some parts of the state, and some parents have withdrawn their children from school districts because of the mandate. She remarked that publishing the list of immunizations could change people's perspectives. Aguinaldo said the list has been provided to legislators. She added that she expected that voices on both sides of the debate will continue to get louder over the course of the next year.

Aguinaldo said there was a battle in the legislature over previous legislation, SB 277, that removed the personal belief exemption, and the conflict is likely to get worse over new legislation. She noted that 2022 is an election year, and there are very vocal stakeholders on both sides of the issue. She added that she had heard of legislators planning to introduce legislation to retain the personal belief exemption.

Hendrick observed that the list of immunizations does not apply to district staff. Aguinaldo confirmed that understanding. She said the governor included in his order a requirement that as soon as the vaccine requirement for students age 12 and up takes effect, the mandate will also apply to all local education agency employees. She noted that the new requirement will remove the option for employees to do testing in lieu of showing their COVID vaccine status. Aguinaldo added that the personal belief exemption will remain for employees, as required by federal law.

Hendrick thanked Aguinaldo for her report. Aguinaldo said she looked forward to providing updates to the Board in 2022.

XII. CLOSED SESSION

Salvati made a motion, seconded by McNamee, to adjourn to closed session for the purpose of discussing pending claims and litigation.

Vote: Hendrick – aye
Schweikhard – aye
Nguyen – aye
Flores – aye
Salvati – aye
Wong – aye
Robison – aye
Rutledge – aye
McNamee – aye
Birgel – aye
Nahale – aye
Bailey – aye
Ng – aye
Slater – aye

Motion passed. The committee adjourned to closed session at 11:06 a.m.

- A. Liability Claims (Gov. Code, § 54956.95)
- Discussion of existing pending litigation claims:
 - Navarrete vs. Pierce Joint Unified School District
 - Doe vs. Alhambra Unified School District
 - Doe vs. Tamalpais Union High School District
 - Doe vs. El Monte Union High School District
 - Doe vs. Brawley Union High School District
 - Doe vs. Los Gatos-Saratoga Joint Union High School District
 - Doe vs. Millbrae Elementary School District
 - Doe vs. San Marino Unified School District
 - Doe vs. Berkeley Unified School District
 - Doe vs. Sonora Union High School District
 - Doe vs. Redlands Unified School District
 - Doe vs. Vallejo City Unified School District
 - Doe vs. Gateway Unified School District
 - Doe vs. Victor Elementary School District
 - Doe vs. Riverside Unified School District
 - Doe vs. Shasta Union High School District
 - Doe vs. Newport-Mesa Unified School District
 - Doe vs. Long Beach Unified School District
 - Doe vs. Berkeley Unified School District
 - Doe vs. Union School District
 - Doe vs. Porterville Union High
 - Doe vs. Rialto Unified School District
 - Doe vs. Pomona Unified School District
 - Doe vs. San Diego Unified School District
 - Doe vs. California State University
 - Doe vs. Saddleback Valley Unified School District
 - Doe vs. Berkeley Unified School District

- Doe vs. Tulare Joint Union High
- Doe vs. San Dieguito Union High School District
- Doe vs. Oakland Unified School District
- Doe vs. Roseville City Elementary School District
- Doe vs. Sweetwater Union High School District
- Doe vs. Barstow Unified School District
- Doe vs. Las Virgenes Unified School District
- Doe vs. Anaheim Union High School District
- Doe vs. Fontana Unified School District
- Doe vs. Orchard Elementary School District
- Doe vs. Chico Unified School District
- Doe vs. Manhattan Beach Unified School District
- Doe vs. San Bernardino City Unified School District
- Doe vs. Marysville Joint Unified School District
- Doe vs. Sylvan Union School District
- Doe vs. Escondido Union Elementary School District
- Doe vs. San Diego Unified School District
- Doe vs. Mt. Pleasant Elementary School District
- Doe vs. Clovis Unified School District
- Doe vs. California State University
- Doe vs. Yreka Union High School District
- Doe vs. Los Gatos Union Elementary School District
- Doe vs. Gorman Learning Center (Redlands)
- Doe vs. Riverside Unified School District
- Doe vs. Palm Springs Unified
- Doe vs. Santa Ana Unified School District
- Doe vs. Fontana Unified School District
- Doe vs. Vallejo City Unified School District
- Doe vs. Acalanes Union High School
- Doe vs. Fullerton Joint Union High School District
- Doe vs. Mendocino-Lake Community College
- Doe vs. Jurupa Unified
- Doe vs. Dixon Unified School District
- Doe vs. Yuba City Unified School District
- Doe vs. Moreno Valley Unified School District
- Doe vs. Alhambra City High School District
- Doe vs. Big Oak Flat-Groveland Unified School District
- Doe vs. Chaffey Joint Union High School District
- Doe vs. Downey Unified School District
- Doe vs. Mountain View School District
- Doe vs. Anaheim Union High School District
- Doe vs. Covina-Valley Unified School District
- Doe vs. Placentia-Yorba Linda Unified School District
- Doe vs. Barstow Unified School District
- Doe vs. Barstow Unified School District
- Doe vs. Barstow Unified School District
- Doe vs. Pomona Unified School District
- Doe vs. Covina-Valley Unified School District
- Doe vs. Santa Ana Unified School District

- Doe vs. Modesto City Elementary
- Doe vs. Berryessa Union Elementary
- Doe vs. South Pasadena Unified School District
- Doe vs. San Diego Unified School District
- Doe vs. Santa Ana Unified School District
- Doe vs. Hesperia Unified School District
- Doe vs. Rialto Unified School District
- Doe vs. Saddleback Valley Unified School District
- Doe vs. Cajon Valley Union Elementary
- Doe vs. Barstow Unified School District
- Doe vs. Ontario-Montclair Elementary School District

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

Vote: Hendrick – aye
Schweikhard – aye
Nguyen – aye
Flores – aye
Salvati – aye
Wong – aye
Robison – aye
Rutledge – aye
McNamee – aye
Birgel – aye
Nahale – aye
Bailey – aye
Ng – aye
Slater – aye

Motion passed. The open meeting was resumed at 11:31 a.m.

Hendrick reported that during the closed session, the Board gave direction to staff but took no other reportable action.

XIII. CHAIR’S REPORT

Hendrick thanked the staff for their support and wished everyone happy holidays.

XIV. FUTURE MEETINGS

The Board reviewed the schedule of upcoming meetings.

XV. ADJOURNMENT

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

Vote: Hendrick – aye
Schweikhard – aye
Nguyen – aye
Flores – aye

Salvati – aye
Wong – aye
Robison – aye
Rutledge – aye
McNamee – aye
Birgel – aye
Nahale – aye
Bailey – aye
Ng – aye
Slater – aye

Motion passed. The meeting was adjourned at 11:34 a.m.