



SELF Board Increases Funding Levels

Sets Rates for 2018/2019 Program Year

To ensure sustainability for the long term, the SELF Board voted Friday to increase funding levels in the Excess Liability Program.

Following a lengthy discussion in which the likelihood of another impending recession, the nature of the claims activity California is seeing, and the uncertainty the future holds were taken into consideration; the Board adopted rates for 2018/2019 that will result in an increase of \$2.65 per ADA for K-12 members and an increase of \$0.91 per FTES for community college members attaching at \$5 million.

While the Board understands that an increase in rate is never popular, that factor is outweighed by the need to plan effectively for a future that could be fraught with unforeseen and unknown risks and properly prepare our funding reserves to meet any and all obligations. To put that in perspective, since inception, SELF has paid out more than \$320 million in claims for its members.

Several years ago, there was a significant shift in the liability climate in California. Severity—that ultimate catastrophic loss that SELF was designed to manage—became paired with frequency—a factor more commonly experienced by primary coverage providers.

These two factors combined, resulted in nearly \$19 million in payments and reserves during the 2015/2016 fiscal year alone. At the time, the Board debated whether this unprecedented frequency and severity, after many years of stable loss development was a harbinger of things to come, or simply a bad year. In the end, the Board chose to act conservatively and honor its moral and fiduciary duty to the membership by responsibly funding the program as if this trend would continue.

As we prepare to enter into the 2018/2019 program year, we now understand that this is the new normal for the liability world we live in. A world where the #MeToo and #TimesUp anti-sexual harassment movements are on the tip of everyone's tongue. A world where legislative efforts to completely eliminate the statute of limitations for third party liability in sexual abuse cases continue to surface; and now the ability of local agencies to set deadlines for filing these claims against them is also under attack.

The possibility that the future may take an unfavorable turn for schools and public entities is high. The Board must take that into consideration when setting rate and planning for the funding of future losses, which is a very important part of pooling. This is what distinguishes and separates SELF from a commercial insurance company. SELF was here yesterday; is here today; and will be here tomorrow for its members.

State budget allocations to our schools, the current economy and fiscal experts' best determination as to whether it is likely to improve or continue to negatively impact our members' budgets are issues that the Board gives substantial weight to when making rate decisions.

(continued on page 2)

In This Issue

CEO Column	2
A Guest View	2
Board Changes	4

Conferences & Events

MAY

ACBO Spring Conference

Santa Rosa – May 20-23

JUNE

Board of Directors Meeting

Sacramento – June 22

About Us

1531 "I" Street, Suite 300
 Sacramento, CA 95814
 Toll-Free (866) 453-5300
 Facsimile (916) 321-5311
 Web Address: www.selfjpa.org

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.

Board

Area II	David Flores
Area III	Ryan Robison
Area IV	George Linn
Area V	Dave George Craig Schweikhard
Area VI	Nancy Anderson Diane Crosier Renee Hendrick Tony Nahale Toan Nguyen Karla Rhay

Community Colleges

Michael Gregoryk, Peter Hardash,
 Kevin McElroy, Mario Rodriguez

A Message from Eric Lucas



It remains a mystery as to who should be credited with the following: “The definition of insanity is doing the same thing over and over again and expecting different results.” Depending on whom you read, some say Einstein, some say Twain, and some say an ancient Chinese philosopher should be given the credit.

Regardless of who gets credit for coining the phrase, I was reminded of it during a recent mediation I attended that was not unlike many of the mediations I have attended over my 34-plus-year career. You have sympathetic plaintiffs who are represented by capable counsel—a common occurrence in our world—as is the guarantee of that counsel over-reaching as to their opinion of the settlement value.

In my opinion many of these plaintiff attorneys use tactics that border on unethical, unprofessional, and, I would even go so far as to say immoral. In my opinion, as a lawyer and also as a member of the American Bar Association (ABA), these peers proceed down this path which blurs the line and goes beyond what the ABA’s Modern Rules of Professional Conduct intends by allowing “zealous representation of your client.” Many of these peers of mine forget they are also guided by personal conscience and the approbation of their professional peers.

As to my recent mediation attendance, this unfortunate behavior was in full affect. In all settlement discussions, each side is seeking “good faith” behavior from the other. However, during this particular session, the attorneys on the other side continued to inflate their client’s claims beyond typical and threaten the defendant entity with financial ruin. This scenario played out without any of their clients in attendance, though I will submit that even if their clients were there, the same tactics would have been in use.

We see this scene play out over and over and over again in California. Where is it getting us? These inflated demands bring inflated settlements, executed possibly out of the fear of receiving a “shock” jury verdict; and then later garner some temporary attention to the plight of schools in California from the media.

Change the names of the parties and attorneys and we repeat this scenario ad nauseam. The question remains, when and how do we expect sanity to come into this scenario?

(continued from page 1)

While the pool is financially strong—there is still more than \$30 million available to meet our obligations—the Board knows that it must continue to responsibly fund to ensure the sustainability of the Excess Liability Program. The decisions made by the Board in setting the rates for 2018/2019 were not made lightly and are based on the best information available. The Board is committed to providing a stable, financial foundation that will yield, over time, the financial security that SELF members have come to expect when they have a catastrophic event.

The adopted rates for 2018/2019 are as follows:

Excess Liability Program

Coverage	K-12	Community Colleges	Non-ADA	Minimum
\$54M x \$1M	\$23.01/ADA	On request	On request	\$3,190
\$50M x \$5M	\$8.60/ADA	\$5.12/FTES	\$5,800	\$1,045



Security is Not Safety: America’s Urgent Need to Transform School Culture to Stop Violence

By Rick Phillips, MS, Ed
Community Matters

School shootings—Parkland, Sandy Hook, Virginia Tech, Columbine, etc., etc.—are horrific events that are forever imprinted into our collective psyche. However, as tragic as they are, school shootings represent a small percentage of the physical and emotional violence that plagues our schools. More often it is the in-school incidents of bullying, harassment, cyber-bullying and other types of mistreatment, that foster the conditions where some targeted students seek revenge through physical attacks and gun violence.

The Need for a Balanced Approach:

Any rational approach for making our schools safe learning environments must begin by first unpacking and understanding this premise; **security and safety are not the same thing**. Security and safety are two different and necessary responses to effectively preventing and stopping school violence.

Security addresses the external, physical and logistical actions taken to “secure the perimeter” of our schools, recently referred to as “hardening the target”. Security is one element of the “Outside-In Approach”, which emphasizes:

- Security equipment and personnel
- Staff “on guard”, looking for trouble and threats
- Zero tolerance policies and practices
- Highly controlled environment

Security measures are extremely expensive and by themselves have not resulted in significantly safer schools. While schools can keep most weapons from entering the campus, they can’t keep the students out, and every day they bring undetectable weapons to school. These include prejudice, grudges from their neighbors, values that regard violence as a valid problem-solving option and cyber aggression.

Safety on the other hand, focuses internally on the importance of building a positive social and emotional culture and climate inside the school. We characterize this response as the “Inside-Out Approach”, which emphasizes:

- Relationships and connection as job #1
- Students viewed as allies by adults in keeping school safe
- Connective and corrective discipline policies and practices
- The school as a community

Safety is more than “hardening the target” and locking trouble out. It’s an environmental strategy in which staff and students are committed to the values of acceptance of others, respect for differences, the willingness to resolve disagreements peacefully, and to speak up for one another when mean and hurtful things are being said or done. Safety is about engaging, equipping and empowering everyone in the school community to look out for one another, thereby influencing and changing social norms, make it “cooler to be kind” rather than “cooler to be cruel”.

Too often, security and safety are viewed as being in direct competition with one another, rather than being seen as integral components of a comprehensive, effective and sustainable school safety plan. As a result, many educators feel the pressure to choose one approach at the expense of the other, compromising the ability to work together in developing the most effective solutions to school violence.

After nearly 20 years of providing consultation, assessments and trainings to more than 2,000 schools and youth-serving organizations, we, at Community Matters, have learned this:

Preventing school violence—attacks from without and attacks from within, requires a comprehensive and balanced plan, one that is built on the pillars of both the Outside-In and Inside-Out approaches.

Students Can Make the Difference:

Recent history has demonstrated that adults can’t make schools safe by themselves. While adults are in the best position to make school more **secure**, students are in the best position to make the school **safer**. Consider the following:

- Students see, hear and know things that adults don’t
- Students can intervene in ways that adults can’t
- Students are generally on the scene of an incident well before adults know about it
- Students can influence the behavior of their peers by their actions

Unfortunately, in spite of these attributes, many educators don’t recognize their students’ potential and their capacity for being an active partner with adults in making schools safer; doing things to them, for them, and at them, rather than with them.

At the same time, many of these very same schools implore students to report what they see, hear or know through the use of electronic reporting tools and then wonder why they are not getting the level of student participation and involvement they anticipated.

Why is it that many students are reluctant to report? In a youth culture that has adopted the phrase, “snitches get stitches”, students first need to feel respected, engaged, empowered and connected to caring adults, before they’ll be motivated and feel safe enough to bring vital information forward.

When schools engage, equip and empower students to speak up persuasively and effectively with aggressors, neutralize destructive gossip and rumors, support targeted students, reach out to excluded or isolated students and mediate everyday conflicts, the evidence is clear. Your people will step up, speak up, take action and report risks and potential incidents to trusted adults.

For more information on Community Matters and its Safe School Ambassadors Program, a groundbreaking student centered approach to address school climate, visit the SELF Risk Services Clearinghouse at <https://www.selfjpa.org/self-risk-services-clearinghouse>.

Board Changes

Retirements and other factors resulted in some new appointments to the SELF Board and some recent movement in officer positions.

Cathy Reineke, Area V Representative and Controller on the Executive Committee, retired from her position as Executive Director at San Mateo County Schools Insurance Group in October. Reineke had served on the SELF Board since 2012 and her contribution to the Board and the Workers' Compensation Claims & Coverage Committee will be greatly missed.

Her retirement and a decision by Board Chair Karla Rhay to step down as Board chair for personal reasons, left two vacancies on the Executive Committee. Rhay remains on the Board as an Area VI Representative. The new slate for the committee was proposed and accepted at the December Board meeting and is as follows: Dave George, Board Chair; Peter Hardash, Vice Chair; Renee Hendrick; Comptroller, Diane Crosier, Secretary; and Michael Gregoryk, Member-at-Large.

Craig Schweikhard, the new Executive Director of San Mateo County Schools Insurance Group, was appointed in October to fulfill the remainder of Reineke's term, which expires in 2021.

Teresa Scott, Northern Community Colleges Representative and a 22-year veteran of the SELF Board, also retired from the Yosemite Community College District at the end of 2017 and submitted her resignation to the SELF Board. Scott began her tenure with SELF as a Board Alternate for the NCC region, before becoming an elected representative and served as both Chair and Vice Chair of the Finance Committee. Her dedication and knowledge will be greatly missed.

Mario Rodriguez, Associate Vice Chancellor, Finance for Los Rios Community College District was appointed by the Board in December to fulfill the remainder of Scott's term, which expires in 2019.

1531 I Street, Suite 300
Sacramento, CA 95814
Toll-Free (866) 453-5300

Schools Excess Liability Fund



PRESORTED
FIRST-CLASS MAIL
U.S. POSTAGE PAID
Sacramento, CA
PERMIT No. 2550



SELF Office
1531 "I" Street, Suite 300
Sacramento, CA 95814

SELF Resource Center

Here's What Should Not Go in Personnel Files

By Erika Tyner Allen, J.D., Ph.D.

Courtesy SELF Resource Center & in2vate LLC

We all have that junk drawer at home. We may even have a junk drawer at the office. The junk drawer is a catchall for things you don't take the time to find the right place to store.

Junk drawers are fine, as long as you're able to quickly get your hands on the item you need when you need it. But there is one scenario in which a catchall space can get you into trouble.

The personnel file is not a catchall for all things related to the employee, even if you can quickly get your hands on what you need when you need it. There are certain things that must not be stored in personnel files. Keeping the wrong things in personnel files could mean you're violating the Americans with Disabilities Act (ADA) or putting your organization at risk for litigation. In this article we'll explore what does not go in the personnel file.

Personal documents

Copies of personal documents, such as a driver's license, social security card or birth certificate, are not to be kept in personnel files. These documents can identify an employee's gender, race or age, factors that could be used to determine who recruiters interview or hire. Supervisors, managers and recruiters should not have access to personal documents. These items should be stored in a separate confidential file.

Medical records

The Americans with Disabilities Act (ADA) has stringent rules for medical records. Employers who are covered by the ADA must keep these medical records separate from the personnel file. NOLO Law for All explains cases when employee medical records can be shared.

"Medical information may be revealed only to safety and first aid workers, if necessary, to treat the employee or provide for evacuation procedures; to the employee's supervisor, if the

employee's disability requires restricted duties or a reasonable accommodation; to government officials as required by law; and to insurance companies that require a medical exam."

Medical records should be kept in a separate and confidential file labeled "Medical records."

Photographs

Like personal documents, photographs of employees identify gender, race and approximate age and should not be kept in the personnel file.

Background checks

Background checks, credit reports, and drug test results cannot be kept in the personnel file. This information needs to be in a separate confidential file or it can be stored with medical records.

Investigations

Investigations, completed or ongoing, should not be placed in the personnel file. Investigations include employee complaints, attorney recommendations, etc. This information should be stored in a separate file labeled "investigations."

Form I-9s

Form I-9 is a form from U.S. Citizenship and Immigration Services (USCIS). Employers must complete a Form I-9 for all new employees hired after November 6, 1986, to document verification of the identity and employment authorization of each new employee (both citizen and non-citizen) hired to work in the United States. Form I-9 does not go in the personnel file. This form should be kept on file separately from the personnel file.

Payroll information

Salary information is typically kept in the personnel file, but you need to keep direct deposit information in separate payroll file.

(continued on page 2)

Court orders

Court orders such as garnishments, notices, or restraining orders are not to be kept in the personnel file.

The personnel file is not a catchall file. Be clear on what should not be stored in the personnel file and set up separate files for pertinent information that should not be kept in the personnel file. When you do, you'll sleep better at night knowing you're following the law and protecting your organization.

Sources cited

"Americans with Disabilities Act: Questions and Answers." *Americans with Disabilities Act*. 4 Feb. 2009. Web. 22 Nov. 2015. Heathfield, Susan M. "What Employers Should Not Keep In Personnel Records." *About.com Money*. Web. 22 Nov. 2015. "How the ADA Protects Your Medical Information at Work." *Arizona Center for Disability Law*, 1 Feb. 2011. Web. 22 Nov. 2015. "Instructions for Employment Eligibility Verification, Form I-9." *Department of Homeland Security*. Web. 22 Nov. 2015. "Keeping Personnel Files and Medical Records Confidential | Nolo.com." *Nolo.com*. Web. 22 Nov. 2015. Mayhew, Ruth. "Is It Legal to Keep Pictures of Employees in Their HR File?" *Small Business*. Web. 22 Nov. 2015. "What Should NOT Be in the Official Personnel File?" *What Should NOT Be in the Official Personnel File?* Web. 22 Nov. 2015.