

# Quarterly Update

## PUBLIC SCHOOL VACCINATION REQUIREMENTS AND THE COVID-19 VACCINE

On May 10, 2021, the U.S. Food and Drug Administration expanded the emergency use authorization for the Pfizer-BioNTech COVID-19 Vaccine to include adolescents 12 through 15 years of age. Many commentators view vaccination of both school personnel and students as crucial to safely transitioning from remote learning back to in-person instruction. Nevertheless, parents may be reluctant to allow their children to be vaccinated against COVID-19. School districts may therefore receive calls from parents asking whether the districts will require students to be vaccinated before they are allowed to return to campuses.

There is no question that the state can require students to be vaccinated against particular diseases before they are allowed to attend school. In the 1890 case of *Abeel v. Clark*, the California Supreme Court rejected a constitutional challenge to an 1889 statute that required schools to exclude any child who had not been vaccinated against smallpox. In 1905, in *Jacobson v. Massachusetts*, the U.S. Supreme Court upheld the rights of states to pass mandatory vaccination laws. In 2018, two California appellate court cases, *Brown v. Smith* and *Love v. State Department of Education*, rejected constitutional challenges to amendments to California’s immunization requirements for children that repealed the personal belief exemptions to those requirements for children attending educational facilities.

California’s Health and Safety Code therefore sets forth a series of statutes imposing immunization requirements on children attending public and private schools. In particular, Health and Safety Code section 120335 bars school district boards from unconditionally admitting any person as a pupil of any elementary or secondary school unless, before his or her first admission, he or she has been fully immunized against various childhood diseases. The diseases listed in the statute include diphtheria, measles, mumps, whooping cough, rubella, polio, and similar conditions.

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### PROPERTY & LIABILITY DIVISION

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## By the Numbers

SISC member districts use a variety of motorized vehicles to serve the students and families of their community. While COVID-19 presented a variety of challenges for transportation departments, each district made accommodations to best serve the children and families in their district. Below is a breakdown by type of transportation vehicles insured through SISC.

- 2,369 School Buses
- 823 Vans
- 1,740 Vehicles



## VEHICLE PROOF OF INSURANCE

As the fiscal year is drawing to a close, it's the perfect time to do a final check on your vehicle inventory. SISC utilizes a third party platform for our vehicle database. All of our member districts are given access to update and modify vehicles as needed. The 2021-2022 policies have been created and the Certificates of Insurance are available to print. The district's entire fleet's certificates can be accessed all together or individually. To access all of the certificates, log in to Asset Management Platform [AMP](#). Click on the Insurance tab towards the top and then select Print Certificates of Insurance located on the left. All active vehicles will be provided a certificate. This is a great opportunity to make sure all of your vehicles have an active certificate before the district's final premium invoice is issued. In the case that you do need to add a vehicle after you have printed your entire fleet, you can still access the individual certificate.

In order to access the individual certificates, click on Property Risk on the top menu and then select Licensed Vehicle on the left side menu. This will show your entire active inventory. Once you have located the vehicle that you need a certificate for, click on the pencil icon associated with that vehicle. Scroll to the bottom of the screen where you will find Insurance Policies. There is a drop down menu that will show all policies active and expired. The newest policy should be listed as the first option and noted as 21-22 in the title. Click on the paper icon under Print COI. This will bring up the printable certificate of insurance associated with only that vehicle.

If you have had a change in staff or responsibilities, please complete and submit a Vehicle Database Contact form available on our [website](#). We're happy to assist in getting your staff familiar with the system and able to access documentation as needed.

## SUPPLEMENTAL STUDENT ACCIDENT COVERAGE

SISC provides a Self-Insured Basic Plan that provides up to \$2,500 for accidental injury, at no cost to parents, while attending school and participating in school sponsored activities and athletics (high school tackle football is excluded).

### Why consider SISC Supplemental Accident Coverage?

Physical activity is a healthy, normal part of childhood. Kids are kids and accidents happen on the playground, in PE class, sports activities, and many times even with health insurance, the extra expenses from an accidental injury can add up. That is where SISC Supplemental Accident Coverage comes in.

SISC is pleased to be able to offer Supplemental At-School coverage for purchase by the parents of your students for the 2021-2022 school year.

This program will be completely underwritten by SISC, with **no cost** to the school district.

At this time, only At-School coverage is available. SISC invites you to consider the following:

- ◆ SISC Supplemental Coverage: Voluntary purchase by parent
- ◆ Rate: **\$25.00** one-time fee per student
- ◆ Deductible: \$2,500.00 (maximum payable under SISC Student Accident Coverage)
- ◆ No need to complete another claim form.
- ◆ Maximum benefits: \$25,000.00 subject to limitations of the contract

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## ALLOW US TO INTRODUCE RANDYE ROGERS



Randy Rogers joined the SISC Safety and Loss Control department in 2008 as a Safety and Loss Control Specialist. In January of 2018, she was promoted to the Lead Safety and Loss Control Specialist. In this position, she is not only responsible for maintaining contact with her own list of member districts but also serves as an important mentor to our most recent additions to the Safety and Loss team. Her

years of experience plays an integral part in providing new staff with firsthand experience in the field performing inspections and interacting with member district personnel.

Randy has assisted in developing many of the training programs that are available to our member districts including Asbestos 2- Hour General Awareness, Playground Supervision and Playground Maintenance. She regularly conducts these trainings for her districts along with many site inspections. She provides AHERA Management Plan support to our member districts by conducting the AHERA Asbestos three year re-inspections.

Randy's years of risk management experience aids in providing quality site inspections including facility safety reviews, playground inspections and indoor air quality inspections.

Randy provides consultations to member districts on a wide array of topics. These can include student activities, field trips and fundraisers. In addition to these topics, she consults on issues related to asbestos and lead paint.

Randy is committed to expanding her knowledge and has received multiple certifications including Certified School Risk Manager (CSRM), Certified Playground Safety Inspector (CPSI), as well as a Certified Asbestos Consultant (CAC) and Lead Paint Inspector/Assessor.

Along with her Safety and Loss Control duties, Randy also manages the SISC Property Database with an inventory of over 17,000 buildings at 1,157 locations.

Prior to working for SISC, Randy worked for the Kern County Superintendent of Schools in Facilities and Property Management. This division oversees planning and development for new school and modernization construction projects.

When Randy is not working, she enjoys the outdoors including camping, traveling, photography and hiking. She loves spending time with her husband and four children. She is looking forward to the wedding of her oldest daughter this month.

### PROPERTY & LIABILITY

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## **Maintaining District Contacts**

Communicating with our member districts is a top priority for SISC. Communicating items such as coverage summary memos; Memorandums of Coverage (MOC); insurance and school industry updates and memos; and information of training opportunities are types of information important to share with our members. In that effort, we strive to maintain current contact information for our district administrative contacts.

If you have changes in administrative staffing, e-mail addresses, phone numbers or mailing addresses for your district, please e-mail Lilia Beck, Administrative Secretary at [libeck@kern.org](mailto:libeck@kern.org)

## **SEVCP Reimbursement Submissions for 2020-21 School Year**

For those districts who elected to purchase the Special Education Voluntary Coverage Program (SEVCP) coverage, the deadline for claims submission is August 1, 2021. Districts will be reimbursed by September 30, 2021. Supporting documentation for claims consists of copies of all law firm invoices, along with copies of the check(s) and/or warrant(s) issued to law firms for legal fees and costs. If you have questions, please contact Hilda Tabora at [hitabora@kern.org](mailto:hitabora@kern.org). Claims can also be faxed to 661-636-4868.

## **BUSINESS PARTNER SPOTLIGHT**

Ferra and Associates is a long time business partner of the SISC Property and Liability division. Linda Ferra's expertise falls in the areas of disability management and ergonomics. Our member districts can utilize her expertise when they request her assistance with the "interactive process." On May 20, 2021, we sat down with Linda to learn more about the services she provides.

### **How long have you been in Kern County and what prompted the creation of Ferra and Associates?**

By way of background I earned my Bachelor's in Psychology from UCLA and later went on to earn a Master's degree in Rehabilitation Counseling from Fresno State. I moved to Bakersfield in 1983 and went to work for Associates in Vocational Management where I met my husband. Eventually AVM evolved into Ferra and Associates. We originally did a good amount of work for the Self-Insured Schools of Kern (SISK) back in the early 1980's. Our focus was on workers' comp rehabilitation. Prior to the existence of the Americans with Disabilities Act (ADA) many employers took the position that if an employee was not 100% there was nothing the entity could do by way of accommodation. Most employers said no to an accommodation request under these circumstances. Our job at Ferra and Associates became trying to come up with something the employee could do as an alternative to their normal job.

### **How did Ferra and Associates get started?**

My husband Ken and I began the operation of Ferra and Associates in 1990. In addition to the work we do with the Interactive Process provided to SISC and our other clients, our company will often testify in Social Security Disability Hearings. Our work in the social security arena primarily involves helping the Administrative Law Judge (ALJ) hearing the appeal better understand whether or not the employee receiving disability can be or should be back at work based on a medical records review by the ALJ. I will admit that a large knowledge base is needed in order to be effective and helpful to the ALJ. Our larger local clients over the years have included the State Compensation Insurance Fund and the County of Kern.

### **What prompts your involvement with a SISC matter?**

Usually we will receive a request for assistance with an interactive process meeting from a school district. On other occasions we may receive a call from a district after they have consulted with Schools Legal Service (SLS). In many cases the employee we meet with will have their union representative come along and sit in on the meeting.

These cases involve someone who has requested an accommodation. We typically start out by contacting the Superintendent or Human Resources Director. Following that initial call, arrangements are made to meet with the employee and employer by telephone, Zoom or on-site.

As many know, employees will often report an injury that is non-industrial and the injury is interfering with their work. We will begin with a review of the employee's job description. Critical to the interview is that we want the



employee to tell us what he or she actually does as opposed to just what is in the job description. Often times a job description is outdated and the employee's actual duties may not involve what is written in the description. This is why it is so important for SISC member districts to keep their job descriptions updated. Employers need to be mindful of the importance of job descriptions being tied to actual job duties. A good practice for employers to follow is to consider doing a review of an employee's job description when doing his or her annual review.

For example, a job description may have originally been written for a custodian to be able to lift 100 pound boxes from a supplier. After the original job description was written the supplier stopped sending 100 pound boxes and substituted the delivery of supplies to boxes that weighed 30 pounds.

### **What is the interactive process?**

The interactive process is an opportunity for an employee to tell their administration how they believe they can perform the essential functions of their job given their physical or mental limitations. It is also an opportunity for administration to consider those ideas and determine how they can accommodate the employee but still get the essential functions done.

For example, we had a teacher who was assigned yard duty during part of the day. However, due to a respiratory condition she could not perform this part of her job when it was windy. So the question for the employer, the school district or site principal becomes, "Is there a way to manage this circumstance?" In this instance the site principal determined that there was enough staff available to trade and not place too much burden on any one employee. On days when it was not windy the employee being accommodated realized she would have to participate in yard duty. Every incident or accommodation must be treated on a case by case basis. Sometimes the solution comes down to the personality and flexibility of the employee, the administrator and staff, and the solution may change over time.

## **SISC Podcasts**

SISC Property and Liability has launched a new podcast series. Each podcast includes information that pertain to property and liability coverage for our member districts. Robert Kretzmer, Director of SISC Property and Liability sits down with a wide variety of special guests to provide additional insight and information that districts will find valuable. Topic areas currently available:

- Understanding Government Code
- Options for Supplemental Coverages
- Property Excess Insurance in the Age of Wildfires
- Liability Excess Insurance in the Age of Social Inflation
- COVID-19 and the Impacts on Mental Health in the School Community
- COVID 19 and the Impact on Health
- COVID-19 and the Impact on Education

To access any of the above podcast please visit our [website](#).

## FROM THE DIRECTOR

Our member districts continue to weave their way through the multiple issues surrounding COVID-19. In particular, now that vaccinations are available for children as young as 12 years of age, we understand that our member districts are receiving requests for county public health vaccine clinics to be allowed on their school sites.

To date, only the Pfizer vaccine is allowed to be used on children as young as 12. It should be noted that this is being done under an Emergency Use Authorization from the U.S. Food and Drug Administration. Our member districts should be aware that a special consent form has been developed for use of the Pfizer vaccine on children 12 and older. A sample form can be located at:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Pfizer-Vaccine-Minor-Consent-Guidance.aspx>

In addition, and whenever possible, it is advisable for our member districts to have the county public health department complete a facilities use form and to attach the appropriate Certificate of Insurance and applicable endorsement naming the district as an additional insured.

In some cases, the local county public health department may wish to utilize school district nurses for the consent process and/or administration of the vaccine. Whenever possible it is advisable to have the county public health department agree to defend and indemnify the district nurse, who they may designate as a volunteer, for this purpose.

In summary, if our member districts are making certain that those administering the vaccine are utilizing the appropriate consent, operating with a facilities use form completed, and are seeking indemnification for school district nurses from county public health, all should feel comfortable that the appropriate mitigation and risk transfer tools have been utilized.

In addition to the above, it is advisable that our member districts inform their administrative legal counsel of the request for the establishment of a vaccine clinic and the mitigation efforts being taken to protect the financial interests of the district.

In the event you have questions regarding any of these measures please feel free to contact me on my direct line at 661-636-4709 or by e-mail at [rokretzmer@kern.org](mailto:rokretzmer@kern.org)

## BUSINESS PARTNER SPOTLIGHT (CONTINUED)

### Are there other resources you might recommend?

The Job Accommodation Network (JAN) is a great resource. This is a service of the U. S. Department of Labor's Office of Disability Employment Policy. Recently I had a case that involved an employee with epilepsy. I was able to get valuable information on their website including an article on epilepsy that helped me understand the particular situation I was dealing with at the time. The website also has many tips for employers seeking accommodation alternatives for their employees. The website is at [askjan.org](http://askjan.org)

My best advice for school districts as well as other entities is to 1) keep your job descriptions updated, 2) document behavior problems immediately after they occur so they don't later interfere with decisions made regarding accommodation and, 3) remember that the accommodation process is ongoing and takes follow up with the employee. If these basic rules are followed it can make for a much more enjoyable and productive work environment for everyone.

*If you would like to know more about Ferrera and Associates and the services she offers through SISC please contact Robert Kretzmer, Director, at 661-636-4709.*

## PUBLIC SCHOOL VACCINATIONS (CONTINUED)

Whether California will add COVID-19 to the list is currently uncertain. Section 120335 allows the State Department of Public Health to require vaccinations for diseases that are not listed in the statute if the department deems such vaccinations appropriate. The statute requires that the department take into consideration the recommendation of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians. Each of those organizations has recommended the use of the Pfizer-BioNTech COVID-19 vaccine for adolescents aged 12-15. On the other hand, there is controversy over whether vaccination should be required while the vaccine is authorized only for emergency use. In a May 11, 2021 article in the Mercury News, the Department of Education was cited as reluctant to mandate vaccines that are under emergency authorization.

Given these uncertainties, school district superintendents and their boards should consult with their retained administrative legal counsel before making policy changes to their districts' vaccination requirements.

*This article was prepared by Mr. Daniel Barer, Esquire. He is an attorney on the SISC Property & Liability panel of defense firms and is recognized as a Certified Specialist in the area of Appellate Law by the State Bar of California, Board of Legal Specialization. Daniel is a partner at the Law Firm of Pollak, Vida & Barer located in Los Angeles, CA.*

## SUPPLEMENTAL STUDENT INSURANCE (CONTINUED)

The district will have **no obligation** in the enrollment process of the Supplemental Coverage other than to offer the application brochure to the student or parent. All enrollment, payments and questions will be directed to SISC.

The coverage is effective the day the application and payment is received in the SISC office and continues until June 30<sup>th</sup> of that school year.

If you have any questions, please contact Elsa Lara at (661) 636-4736. Our brochure is available on the forms page of our SISC [website](#).