



EDUCATION

LAWSUITS

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SCHOOLS CUT BACK AS LITIGATION COSTS EAT INTO BUDGETS

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INTRODUCTION

As Californians prepare to send their children back to school, local school districts are preparing to welcome students, teachers, and staff back into the classroom. In recent years, however, high litigation costs have contributed to cutbacks in school budgets placing added pressure on the budgets of school districts, parents and teachers.

During the recession, the faltering economy forced many districts to reduce costs by slicing budgets and reducing teachers' paychecks. While funding for schools has improved somewhat in the current state budget, limited funding continues to force school districts to examine which programs and personnel are absolutely essential and allocate funding accordingly. These constraints often require cutting libraries, popular arts programs, or after-school sports programs. The budget cuts have also forced parents to bear more of the cost of public education, from school supplies to paying for athletic and art programs.

With schools already facing budget crunches, high litigation costs only siphon more money away from classrooms. There will always be legitimate lawsuits involving school districts so some litigation costs should be expected.

Too often, however, unscrupulous attorneys and litigants view school district budgets as a coffer to be raided, and file abusive lawsuits against school districts seeking a quick payday. Far from enabling California's school districts to quickly handle abusive lawsuits, California's civil justice system allows plaintiffs and their attorneys to drag out lawsuits, increasing the probability that school districts will choose to settle, providing a taxpayer-funded payout to those who abuse the law for their personal profit. As a result, California's schools have fewer dollars to spend on educating their students.

Several of these lawsuits have delivered large and unpredictable verdicts against local school districts in California, throwing budgets out of balance and leading to cuts in education spending. Here are some examples of how lawsuits have hurt school districts:

- In 2010, the Elk Grove Unified School District was on the state's fiscal early warning list for the second year in a row, putting it one step away from a state takeover, because it needed to find money to fund its projected budget. In the 2010-2011, the district spent **more than \$1.5 million on verdicts, settlement and outside counsel.**¹
- In Elk Grove Unified School District, the district **eliminated librarians** to save \$1.1 million in 2010-2011, but **spent \$1.6 million on litigation.**
- In 2011, the Long Beach Unified School District **laid off 789 employees including 20% of its teaching staff**, while paying more than **\$2.3 million in litigation costs.**² The average teacher in California makes between \$50,000 and \$60,000 a year.³
- In 2012, the San Bernardino City Unified School District **eliminated 240 employees and the bus service**, while spending **more than \$2.2 million on litigation.**⁴ The average bus driver has an average salary of \$29,380 per year.⁵

This report examines the cost of verdicts, settlements and outside counsel to some of California's largest school districts. It does not take into account the cost of in-house counsel and other administrative costs associated with the enormous volume of lawsuits facing school districts.

While this report does not present an exhaustive accounting of the cost of litigation to school districts in California, the data it contains make one point exceedingly clear: high litigation costs reduce the financial resources available to California's K-12 students. If California passed common sense legal reforms to reduce the incentives for abusive lawsuits against school districts, districts could focus more of their limited resources where they belong: providing students a higher quality education.

Methodology

In order to examine the impact of litigation costs on school district budgets, California Citizens Against Lawsuit Abuse (CALA) made inquiries to the following districts:

- Central Unified School District (Fresno)
- Elk Grove Unified School District
- Kern High School District
- Long Beach Unified School District
- Los Angeles Unified School District
- San Bernardino City Unified School District
- San Diego Unified School District
- San Francisco Unified School District
- San Jose Unified School District
- Santa Ana Unified School District
- Stockton Unified School District

Each school district was asked for the amount they spent on verdicts and settlements and outside counsel for fiscal year 2010 through fiscal year 2013. Several of the school districts examined do not differentiate in their records between amounts paid for settlements and amounts paid for jury awards/verdicts.

Once CALA received the litigation costs, it examined school district budget documents published on the Internet to find line items for cost comparison purposes. The full sources for these items are noted throughout this report.

“Large Legal Expenses Hit School Districts”

Centinela Valley school district spends up to 10 times more on attorneys' fees than nearby school districts

“... it turns out the district is a golden goose client for law firms. The district has been charged for tens of thousands of such billable hours over the past three years, amounting to an average of \$1.7 million a year in legal fees, according to documents acquired by this news organization... That amounts to about 10 times the legal spending of Redondo Beach Unified in the same period.”¹⁵

Twin Rivers Unified School District still facing big legal fees

“Trustees who ran campaigns calling for an end to exorbitant legal fees in the Twin Rivers Unified School District have faced two bills totaling \$1.3 million in the past two months... ‘A majority of us want to get rid of them, but we want to do this right,’ [Trustee John] Dexter said before the board meeting. ‘From what I’ve been told, if you cut them loose and bring in an auditor, they could drag this out.’ Trustees were voted into office in June after promising major changes, including swift action to address the mounting legal fees.”¹⁶

School District Litigation Costs

From fiscal years 2010-2011 to 2012-2013, Central Unified School District (Fresno), Elk Grove Unified School District, Kern High School District, Long Beach Unified School District, Los Angeles Unified School District, San Bernardino City Unified School District, San Diego Unified School District, San Francisco Unified School District, San Jose Unified School District, Santa Ana Unified School District, and Stockton Unified School District combined spent more than \$125.6 million on litigation, spending \$96.1 million on outside counsel, and \$29.4 million on verdicts and settlements (See Table 1). Because the districts examined account for less than 20 percent of the total enrollment of California, K-12 public school districts, the total economic impact of litigation to California's K-12 education system is likely much higher than the cost reported here.⁶

These costs placed a large burden on school districts that in many cases already faced severe budget shortfalls during the years examined. To illustrate the weight of these costs, the following are examples of school programs or initiatives that could be funded by what was spent on litigation:

- In Elk Grove Unified School District, the district **eliminated librarians** to save \$1.1 million in 2010-2011, but **spent \$1.6 million on litigation**.⁷
- In Long Beach Unified School District, the **nearly \$1.9 million spent on litigation** in 2011-2012 could have paid for the entire district's textbooks plus **more than 90% of the district's low-cost durable goods**, or items costing between \$1,000 and \$5,000 and lasting one year or more.⁸
- In San Bernardino City Unified School District the **more than \$600,000 spent on paying legal settlements** could have paid the **majority of the district's costs for books and supplies** in the child development fund.⁹
- In San Diego Unified School District, the **nearly \$2.5 million spent on litigation** in 2012-2013 was **nearly one quarter of the amount the very large district spent on all materials** and supplies.¹⁰
- In San Francisco Unified School District, one of the state's largest districts, the **nearly \$3 million spent on litigation** was **more than twice** the amount the district spent on athletics, junior ROTC, textbooks, library and media services, and summer school combined.¹¹
- In Santa Ana Unified School District the **more than \$2.3 million spent on paying legal settlements and outside counsel** was **nearly double the amount spent** on classified instructional salaries, salaries for classroom assistants and other non-teachers aiding in student instruction.¹²
- In Stockton Unified School District, the **more than \$1.2 million spent on litigation** in 2010-2011 was **nearly four times the amount the district spent on total books and supplies** which includes textbooks, other books, low-cost durable goods, and all other materials and supplies.¹³

Table 1: City Litigation Costs

School District	2010-2011	2011-2012	2012-2013	Total
Central Unified (Fresno)				
Verdicts/Settlements	\$0	\$0	\$0	
Outside Counsel	\$159,180.27	\$171,234.45	\$144,136.72	\$474,551.44
Elk Grove Unified				
Verdicts /Settlements	\$156,581.00	\$131,341.00	\$120,105.00	\$408,027.00
Outside Counsel	\$1,435,491.00	\$1,271,893.00	\$983,854.00	\$3,691,238.00
Kern High School District				
Verdicts/Settlements	\$0	\$0	\$25,000.00	\$25,000.00
Outside Counsel	\$30,655.50	\$9,490.00	\$12,710.80	\$52,856.30
Long Beach Unified				
Verdicts/Settlements	\$370,994.52	\$131,213.71	\$457,365.78	\$959,574.01
Outside Counsel	\$2,006,842.15	\$1,760,379.28	\$2,643,880.99	\$6,411,102.42
Los Angeles Unified				
Verdicts/Settlements	\$4,331,375.24	\$8,012,447.91	\$10,298,482.57	\$22,642,305.72
Outside Counsel	\$23,060,508.50	\$19,837,891.74	\$15,827,223.82	\$58,725,624.06
San Bernardino City Unified				
Verdicts/Settlements	\$1,488.19	\$604,251.26	\$6,537.08	\$612,276.53
Outside Counsel	\$1,395,222.00	\$1,602,113.42	\$1,045,725.62	\$4,043,061.04
San Diego Unified				
Verdicts/Settlements	\$253,608.31	\$456,630.06	\$412,524.17	\$1,122,762.54
Outside Counsel	\$1,970,846.00	\$2,091,083.00	\$2,043,424.00	\$6,105,353.00
San Francisco Unified				
Verdicts/Settlements	\$824,629.70	\$604,335.04	\$567,689.43	\$1,996,654.17
Outside Counsel	\$1,793,449.76	\$1,778,545.94	\$1,425,340.64	\$4,997,336.34
San Jose Unified				
Verdicts/Settlements	\$0	\$0	\$0	\$0
Outside Counsel	\$671,040.19	\$742,054.00	\$826,187.17	\$2,239,281.36

Table 1: City Litigation Costs

School District	2010-2011	2011-2012	2012-2013	Total
Santa Ana Unified				
Verdicts/Settlements	\$137,372.09	\$69,604.85	\$12,250.00	\$219,226.94
Outside Counsel	\$1,654,839.22	\$2,251,855.82	\$2,334,850.15	\$6,241,545.19
Stockton Unified				
Verdicts/Settlements	\$67,222.24	\$0	\$1,403,000.00	\$1,470,222.24
Outside Counsel	\$1,133,959.98	\$1,042,581.97	\$987,026.71	\$3,163,568.66
Total	\$41,455,306	\$42,568,946	\$41,577,315	\$125,601,567

Discussion

Despite an improvement in state finances, school districts are still struggling to balance their budgets and offer programs and services to students that were available before the recession. School district expenditures on litigation rarely grab headlines, but the \$125.6 million spent on litigation by just a handful of California’s school districts demonstrate that litigation costs place an enormous burden on school district budgets. The money spent on litigation could undoubtedly have been better spent on teachers, supplies, equipment, or additional staff.

Of course, some lawsuits against school districts are justified. But abusive lawsuits – those filed to pursue greed, not justice – absorb valuable court resources while siphoning dollars away from our education system. With little transparency associated with these lawsuits and the school districts, it can be difficult for the public to see the difference between the abusive and legitimate lawsuits.

Of the \$125.6 million, the majority – roughly 83% – goes to pay for outside counsel. Central Unified School District in Fresno during the 2011-2012 fiscal year, for example, paid more than \$171,000 in outside counsel costs, including paying more than \$145,000 to a single law firm.

Many school districts have faced ongoing budget problems since the economic recession began, which resulted in cuts to bus service, teachers laid off, increased furlough days, larger class sizes, districts using reserve funds, and extracurricular programs eliminated. However, the amount spent by these school districts on litigation is often about the same, and in some cases is even more, than what it costs to pay for librarians, child development programs, books and other supplies, and extra-curricular programs like Junior ROTC and athletics.

Even though taxpayers may be unaware that a portion of their tax dollars are going toward litigation costs, the additional tax burden these costs place on the districts and those in the districts is substantial. For example, the Elk Grove Unified School District was forced to lay off all librarians, increase class sizes by up to 4 students, and recommended that all participating athletes donate up to \$300 to play sports in 2010.¹⁴ This additional cost can cause a substantial hit on a family's budget. Parents are also being asked to purchase supplies that are traditionally provided by schools, such as paper towels, sanitary wipes, Kleenex and reams of paper. If students' families don't provide them, teachers are often forced to pick up the tab.

School districts have taken multiple approaches to reduce the impact of litigation on their budgets. Some have purchased liability insurance, whereby they pay a premium to an insurance company, which investigates claims against the district and determines whether any settlement is warranted. Others have put into place aggressive risk management programs. Still more have begun to fight questionable claims as opposed to offering quick settlements. Kern High School District, for instance, spent \$2.3 million on lawsuits from 2006-2010, but reduced that total to less than \$80,000 in the three following years.

While these measures are to be applauded, they do not address the root of the problem. California's legal system not only allows, but in many cases incentivizes abusive litigation. The latest survey from the Institute for Legal Reform ranked California's legal climate fourth worst in the nation for lawsuit fairness.

Every dollar spent outside of the classroom is a dollar that could be better invested in our children and their future. When lawsuit abuse forces schools to divert those dollars to courtrooms instead of classrooms, the only winners are the personal injury lawyers and those trying to cash in at the expense of California students.

1 "9 local districts on fiscal alert list," Sacramento Bee, March 26, 2010

2 "LBUSD Oks layoffs for 789- Trustees' vote to send final notices affects mainly teachers," Long Beach Telegram, May 11, 2011
<http://www.presstelegram.com/technology/20110510/lbusd-oks-layoffs-for-789>

3 "Teacher Salaries by State," Employment Spot
<http://www.employmentspot.com/employment-articles/teacher-salaries-by-state/>

4 "SB school board cuts \$22 million," San Bernardino Sun, February 22, 2012

<http://www.dailybulletin.com/general-news/20120222/sb-school-board-cuts-22-million>

5 U.S. Bureau of Labor Statistics, May 2013, http://education-portal.com/articles/School_Bus_Driver_Job_Description_and_Requirements_for_

6 CalEdFacts
<http://www.cde.ca.gov/ds/sd/cb/ceflargesmalldist.asp>

7 Elk Grove Unified School District Budget Information Website, available at <http://blogs.egusd.net/budget/2010/02/17/february-17-2010-update/>

8 Long Beach Unified School District Fiscal Year 2011-2012 Adopted Budget, available at
http://www.lbschools.net/Main_Offices/Business_Services/financial_documents.cfm

9 San Bernardino City Unified School District Budget Information, available at
<http://ca-sanbernardinoshools.civicplus.com/index.aspx?NID=5294>

10 San Diego Unified School District 2012-2013 Adopted Budget, available at [http://www.boarddocs.com/ca/sandi/Board.nsf/files/8VNQV36B0394/\\$file/2012-13%20Budget%20Adoption%20Final%20Reading%20Presentation%2C%206-28-12.pdf](http://www.boarddocs.com/ca/sandi/Board.nsf/files/8VNQV36B0394/$file/2012-13%20Budget%20Adoption%20Final%20Reading%20Presentation%2C%206-28-12.pdf)

11 San Francisco Unified School District 2011-2012 Adopted Budget, available at <http://www.sfusd.edu/en/assets/sfusd-staff/about-SFUSD/files/FY-12RecommendedBudget.pdf>

12 Santa Ana Unified School District 2012-2013 Adopted Budget, available at
<http://www.sausd.us/cms/lib5/CA01000471/Centricity/Domain/42/2012-13%20First%20Interim%20Report.pdf>

13 Stockton Unified School District Fiscal Year 2010-2011 Budget, available at
http://www.stockton.k12.ca.us/susd/info/budget/budgetinfo/2011/2010-11_Adopted_Budget.pdf

14 "Education - Back to school, poor and crowded - Cuts Hike Class Sizes, Hurt Libraries, Sports", Sacramento Bee, August 22, 2010

15 "Centinela Valley school district spends up to 10 times more on attorneys' fees than nearby school districts," Daily Breeze, March 28, 2014 <http://www.dailybreeze.com/social-affairs/20140328/centinela-valley-school-district-spends-up-to-10-times-more-on-attorneys-fees-than-nearby-school-districts>

16 "Twin Rivers Unified School District still facing big legal fees" Sacramento Bee, August 15, 2012 <http://www.sacbee.com/2012/08/15/4726727/twin-rivers-unified-school-district.html>

