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**CALIFORNIA ASSOCIATION OF
INDEPENDENT SCHOOLS (CAIS)
TRUSTEE/SCHOOL HEAD
CONFERENCE**

**WHAT INDEPENDENT SCHOOLS
NEED TO KNOW ABOUT THE
AFFORDABLE CARE ACT
WORKSHOP**

1/25/2014

PRESENTED BY:

Heather DeBlanc

What Independent Schools Need to Know About the Affordable Care Act

CAIS Trustee/School Head Conference | January 25, 2014


Presented by: Heather DeBlanc

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**What Independent Schools
Need to Know About the
Affordable Care Act**

California Association of Independent Schools
(CAIS) Trustee/Head of School Conference
January 25, 2014

Presented By: Heather DeBlanc



What is Healthcare Reform?

- Signed into law March 23, 2010
- The Patient Protection and Affordable Care Act
- “ACA”
- “PPACA”
- “Healthcare Reform”
- “Obamacare”
- Rolled out over several years

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OVERVIEW

- Individual Mandate and Exchanges
- Notice of Exchange
- Summary of Benefits & Coverage
- Anti-Retaliation Policies
- Form W-2 Reporting
- New Consumer Protections/Mandates
- New Flexible Spending Account Rules
- 2018 “Cadillac Tax”
- Large Employer Mandate
 - Large Employer Determination
 - Look Back Measurement Method Safe Harbor
 - Affordability
- 2016 Reporting (Large Employers; Self-Insured Plans)

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The Requirement to Have Health Insurance



The Individual Mandate


- ACA Imposes an “Individual Mandate”
- Starting January 1, 2014
- Tax penalty for not **having** health insurance coverage for self and dependents
- Applies to all (with limited exceptions)

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Applies to All Employers Subject to the FLSA Notice of Exchange



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What is the Exchange?

- Health Insurance Marketplace
- On-line place for individuals & small businesses to shop for and purchase coverage
- Covered California

www.coveredca.com

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Notice of Exchange aka Notice of Coverage Options

- Content:
 - Informs of Covered California,
 - Eligibility for subsidies &
 - Employee may lose tax benefit/employer contribution
- **Employer must provide to new hires within 14 days of hire**
- **New COBRA Notice**
- Model Notices on DOL Website

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**Applies to All Employers
Summary of Benefits & Coverage**




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Summary of Benefits and Coverage


- Summarizes Key Plan Provisions
- Allows comparison of coverage options
- Uniform glossary of terms
- Applies to group health plans and self-insured plans
- Does not apply to HIPPA-excepted benefits

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Summary of Benefits and Coverage: What this Plan Covers & What it Costs Coverage for: _____ | Plan Type: _____


This is only a summary. If you want more detail about your coverage and costs, you can get the complete terms in the policy or plan document at [www.\[insert\]](#) or by calling 1.800.[insert].

Important Questions	Answers	Why this Matters:
What is the overall deductible?	\$	
Are there other deductibles for specific services?	\$	
Is there an <u>out-of-pocket</u> pocket limit on my expenses?	\$	
What is not included in the <u>out-of-pocket</u> limit?		
Is there an overall annual limit on what the plan pays?		
Does this plan use a <u>network of providers</u> ?		
Do I need a referral to see a <u>specialist</u> ?		
Are there services this plan doesn't cover?		

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Summary Benefits & Coverage

- Employer must provide SBC
- When to provide:
 - Upon enrollment
 - Re-enrollment
 - Upon request (w/in 7 days)
 - Material modification to plan

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New Flexible Spending Account Rules



New FSA Rules

- Previously, “use it or lose it” applied
- Employers may now select one (but not both) of the following options:
 - \$500 carryover into next plan year; or
 - Grace period of 2.5 months to use \$\$
- To adopt carryover: if current plan contains a grace period, must amend plan to eliminate grace period, adopt carryover and inform participants

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All Employers Update Anti-Retaliation Policies



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Protected Activities

- No retaliation against employee who:
 - **Receives subsidy in exchange**
 - Reports certain ACA violations
 - Testifies in proceeding re: ACA violations
 - Participates in a proceeding re: ACA violation; or
 - Objects to, or refuses to participate in activity, policy or task employee believes is an ACA violation.


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What an Employer should do?

- Policies & Procedures
 - Review and revise to include ACA's anti-retaliation provisions
- Training
 - Management & Supervisors
 - Protected Activities
 - OSHA appeal procedures

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Employers w/ 250+ Form W-2s
Form W-2 Reporting Requirements



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Reporting Cost of Health Coverage on Form W-2

- Includes Both Employer Cost & Employee Cost Paid
- Must Include all Applicable Employer-sponsored Coverage (except FSA, HSA contributions)
- Only Information – Doesn't Cause Excludable Coverage to Become Taxable!
- Started in 2012 for Employers who Issued 250 or more W-2s – Transitional Relief
- Will Apply to all Employers

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New Consumer Protections/Mandates



New Consumer Protections

- No pre-existing condition exclusions
- No lifetime caps or yearly dollar limits on coverage of essential health benefits
- Cannot charge more for insurance because of gender or occupation
- Cannot cancel coverage arbitrarily
- Appeal rights if coverage is canceled or denied
- Preventive care at no out of pocket cost

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Contraceptive Mandate

- Contraceptive mandate
 - Requires employers who provide insurance coverage to include no-cost FDA-approved contraceptive services as preventive care.
 - Nonprofits may opt out by certifying to religious objections
 - Challenged by
 - Religious-oriented nonprofit organizations and
 - For-profit corporations whose owners object to providing some or all forms of birth control.

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**All Employers
2018 Excise Tax**



Excise Tax 2018

- Health Care Plans That Provide “Excess Benefit” (i.e. too rich in coverage)
- Impose Excise Tax if:
 1. Employee covered under applicable employer-sponsored coverage at any time during tax period; and
 2. Any excess benefit with respect to coverage (cost of premium paid by both employer & employee – fully insured plan).

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Excise Tax 2018

- Excess Benefit = Coverage Exceeds Threshold Amount (subject to 3 adjustments)
 - \$10,200 for Individual coverage
 - \$27,500 for Family coverage
 - Multiplied by health cost adjustment percentage
 - Increased by age & gender adjusted excess premium amount
- 40% of the amount by which the excess benefit exceeds threshold amount.

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Excise Tax 2018

- Coverage provider is responsible for tax:
 - Fully Insured Plan = Insurer
 - Employer makes HSA/MSA contributions = Employer
 - Self-insured plan or FSA = Third Party Administrator (TPA)
- Coverage provider pays tax on its proportionate share (based on cost of its coverage) of excess benefit
- **Employer responsible** for determination of excess benefit & share applicable to each coverage provider

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**Employer Responsibilities
Excise Tax 2018**

- Calculating Excess Benefit
 - Calculation is per coverage provider, if employee is covered by more than one group health plan
- Reporting taxable excess benefit to each coverage provider and to IRS
- Employer may be subject to tax penalties for underreporting of excess benefit

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2015 Large Employer Mandate Penalties
Are you a Large Employer?



Large Employer Determination

- 50 Full-Time employees, including FT equivalents
- Full-time employee = average at least 30 hours of service per week or 130 hours in a calendar month.
- Use data from preceding year

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Large Employer Determination

Step 1: Calculate number of full-time per month

Step 2: Calculate number of full-time equivalents per month

Step 3: Add full-time employees + FTE per month

Step 4: Add monthly totals and divide by 12

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Step 2 – How to calculate FTE

For each month:
Total hours of service for all part-time employees [capped at 120 hours per employee]
divide by
120

**Take Fractions into account

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Seasonal Employee Exception

- If resulting # is 50+ look to exception:
- If sum exceeds 50 for 120 days or less during the calendar year

And

- Employees in excess of 50 employed during that period are seasonal, then
- Not a Large Employer

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2015 Large Employer Mandate
If you are a Large Employer, this applies to you...



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**Employer Mandate:
Large Employer Penalties**

- Effective January 1, **2015** (was 2014)
- Large Employers
- Trigger: FT employee purchases subsidized coverage in exchange


(Penalty A) Employer does not offer “minimum essential coverage” to “substantially all” FT employees & dependents; or

(Penalty B) Coverage is “unaffordable” or doesn’t provide “minimum value”

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**2015 Large Employer Mandate
Must Offer Coverage 95% Full-Time
Employees & Dependents
To Avoid Penalty A**



To Avoid Penalty A

A = \$2,000/mo x (# full-time ee less 30)

- **Offer** coverage to 95% of full-time employees & their dependents
 - Substantially all = 95%
 - Dependents = children, not spouses
- Challenge? Who is “full-time”
 - 30 Hours of Service per week

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ACA's Impact on Schools, Colleges, and Universities

- US House of Representatives Committee on Education & the Workforce:
 - <http://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=361472>
- Challenges ACA poses for education:
 - How to calculate hours of service for part-time faculty and student employees
 - Unintended consequences such as caps on teaching loads
 - Custodial staff, part time coaches, substitutes affected

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American Council on Education's Comments to Proposed Regs.

- Propose Safe Harbors for Part-Time Faculty
 - 1) Safe Harbor Based on Percentage of Full-Time Course Load
 - Full-time = course load $\frac{3}{4}$ or more of course load for full-time non-tenure-track (NTT) teaching faculty member in that academic dept.
 - 2) Safe Harbor Based on One-to-One Ratio of Hours Teaching to Non-Classroom Work.
 - Credit one hour of work outside classroom for each hour teaching in classroom.

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What is a "full-time employee?"

- Basic Definition: Full-Time Employee
 - Average 30 hours of service per week in **any given month**
- Look Back Measurement Method Safe Harbor
 - Average 30 hours of service per week over a Standard Measurement Period (**up to 12 months**)

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Look Back Measurement Method Safe Harbor Pay attention to hours NOW



How It Works

- Basic Concept:
Measure employee for measurement period to determine full/part time – treat them as such during associated stability period
- Two main parts to Safe Harbor:
 - 1) Ongoing Employees
 - 2) New Variable Hour Employees

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Legal Restrictions –Timing & Length of Periods

- Ongoing employees
 - Standard Measurement Period
 - Administrative Period (optional)
 - Stability Period
- New Variable Hour employees
 - Initial Measurement Period
 - Administrative Period (optional)
 - Stability Period

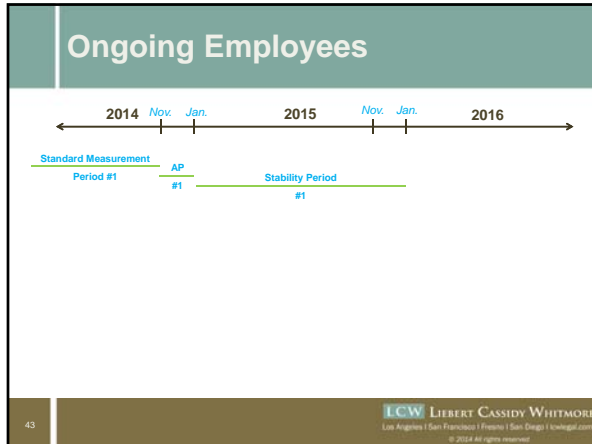
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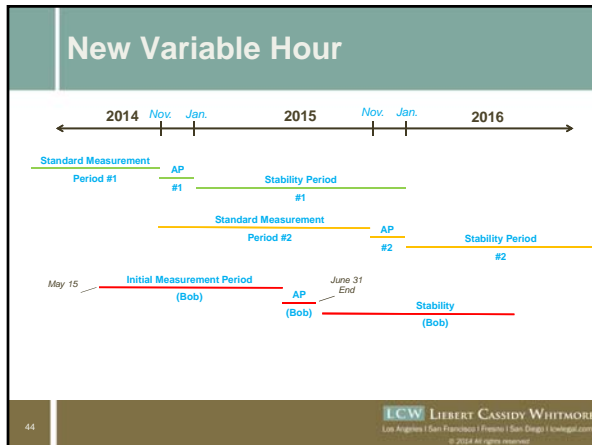
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2015 Large Employer Mandate Must Offer Affordable Coverage To Avoid Penalty B

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What is "Affordable" Coverage?

B = \$3,000/yr per ee who gets subsidized coverage through Covered CA

- To Avoid Penalty B – Offer Affordable Coverage to full-time employees
- ACA looks at the cost for the employee only (**NOT** dependents)
- ACA looks at the employee's premium cost for the **lowest-priced plan** offered by the employer

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Penalty B - Affordability

Coverage is affordable where:

- Employee's share of the premium for the employer's lowest cost, self-only plan is no more than 9.5% of household income

Safe Harbors for determining 9.5% of household income:

1. Form W-2 (Box 1 wages)
2. Rate of Pay (hourly rate x 130)
3. Federal Poverty Line (\$1,091.55/mo) = \$90.96

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2016 Reporting Requirements re: 2015 Data



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Reporting To-Do List

- Reporting requirements for schools with 50 or more FTE
- Must report on Form 1094-C or 1095-C
 - Name, date & EIN
 - Certify whether opportunity to enroll in minimum essential coverage offered to full-time employees and dependents
 - Number of full-time employees for each month of calendar year & detailed info. for each full-time covered ee/dependent

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Reporting To-Do List – Self Insured

- Schools with self-insured plans
- Must report on Form 1095-B:
 - Employer information (EIN, name, address)
 - Insured's Information (name, address, dob/TIN)
 - Covered Individuals (name, address, dob/TIN)
 - Dates each individual was covered
- Written statement to covered individuals:
 - Contact information for reporting person;
 - Information required to be shown on the return regarding the individual

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Questions?

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