



# 2020-21 FINANCIAL MAILING



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October 2020

Dear PTA/PTSA Leader:

We know 2020 has brought many changes, but we want you to know we appreciate all that you do on behalf of children, families and communities. This annual financial mailing is intended to assist you in your work in overseeing a successful PTA. If you have any questions concerning the PTA financial packet, please contact your local council or district PTA treasurer.

Included in this packet:

- Important Dates
- PTA Insurance Premium Invoice/Notice
- Tax Filing Support Center Flier
- Financial Filing Requirements for Tax-Exempt Groups Including PTAs
- State of California Attorney General's Tips and Resources for Charities Flier
- Workers' Compensation Annual Payroll Report (Instructions only)
- PTA as an Employer – What You Need to Know
- PTA Contract and Finance Issues During the the COVID-19 Era - Legal Memorandum
- Purchasing and Liability Guidelines During COVID-19 - FAQs
- Additional resources and information:
  - PTA Finances and Email Phishing Scams
  - Electronic Membership System Flier & Important Financial Updates
  - 2021 Convention Flier
  - MyPTEZ Flier
  - PTA Store Flier
  - AIM Insurance Flier
  - California Emerging Technology Fund (CETF) Flier
- 2020-21 Insurance Guide

**The 2021 policy year insurance premium is \$258 for units and \$178 for councils/districts.** Premiums are forwarded through the same channels as membership, and must be received by California State PTA on or before December 20, 2020. More in-depth information about our insurance coverage is contained in our enclosed insurance guide. Additional coverage can be purchased through AIM separately.

**Every unit, council and district is also required to complete** and submit a **Workers' Compensation Annual Payroll Report each year.** This year the process for submitting these reports will look slightly different and include PTAs at all levels submitting these items directly to AIM, California State PTA's insurance broker. Please do NOT submit those items using the form or process from prior years, and stay tuned for additional information coming your way in the next few months.

Thank you for your attention to this important information and your dedication as a PTA leader!

Sincerely,

Celia Jaffe  
President

Melinda Kirkland  
Treasurer



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## Important Dates

Dates	Action
<b>Anytime</b>	Sign up for PTA’s Electronic Membership System TOTEM
<b>November 15, 2020</b>	Deadline to file Internal Revenue Service (IRS) Form 990 Series <i>(if your fiscal year ends June 30)</i>
<b>November 15, 2020</b>	Deadline to file CA Franchise Tax Board (FTB) Form 199 Series <i>(if your fiscal year ends June 30)</i>
<b>November 15, 2020</b>	Deadline to file CA Office of the Attorney General (OAG) Form RRF-1 <i>(if your fiscal year ends June 30)</i>
<b>December 2020</b>	Units – Remit insurance premiums for 2020 policy year through channels. Check with your council and/or district for appropriate due dates.
<b>December 20, 2020</b>	Districts - Insurance premiums due to California State PTA
<b>January 2021</b>	Workers’ Compensation Annual Payroll Report due. Information about an updated process for reporting, due date, and remitting related surcharge, if applicable, will be coming soon. The updated process will include PTAs at all levels submitting these items directly to AIM, California State PTA’s insurance broker. Please do NOT submit those items using the form or process from prior years.
<b>May 14-16, 2021</b>	California State PTA Annual Convention in Sacramento/Virtual

Visit [www.capta.org](http://www.capta.org) for updates and information.

## PUBLICATION INFORMATION

The contents of this mailing are available online at the links listed below.

- Insurance Guide in English and Spanish:  
<https://capta.org/resource/pta-insurance-guide/>
- Financial Mailing in English:  
<http://downloads.capta.org/fin/FinancialMailing2020.pdf>
- Financial Mailing in Spanish:  
[http://downloads.capta.org/fin/FinancialMailing2020\\_Spanish.pdf](http://downloads.capta.org/fin/FinancialMailing2020_Spanish.pdf)

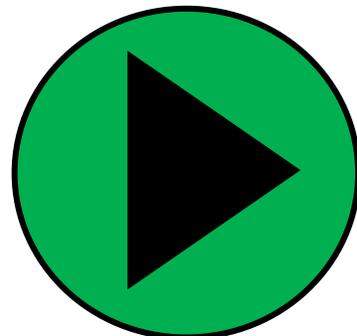
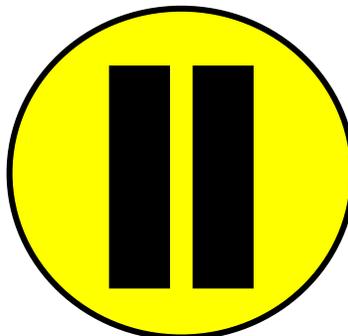
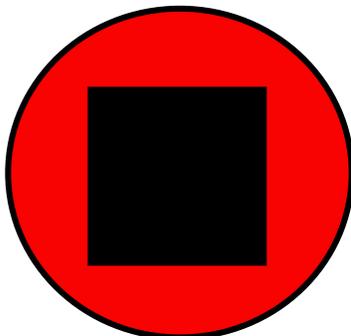
For printed copies, please contact the California State PTA office at (916)440-1985 or email at [info@capta.org](mailto:info@capta.org) for more information.

## INFORMACIÓN DE LA PUBLICACIÓN

El contenido de este correo está disponible en línea en los enlaces que se enumeran a continuación.

- Guía de seguros en inglés y español:  
<https://capta.org/resource/pta-insurance-guide/>
- Correo financiero en inglés:  
<http://downloads.capta.org/fin/FinancialMailing2020.pdf>
- Correo financiero en español:  
[http://downloads.capta.org/fin/FinancialMailing2020\\_Spanish.pdf](http://downloads.capta.org/fin/FinancialMailing2020_Spanish.pdf)

Para copias impresas, comuníquese con la oficina de la PTA de California al (916)440-1985 o correo electrónico a [info@capta.org](mailto:info@capta.org) para obtener más información.



# INSURANCE INFORMATION



## IMPORTANT NOTICE:

Association Insurance Management Inc. (AIM), California State PTA's insurance broker, will be reaching out to all units, councils, and districts to request additional information and acknowledgements related to coverage. This information will help AIM to create a profile for each unit, council, and district that will enable leaders at each level to easily make requests including adding Additional Insureds, acquiring additional elective coverage, and obtaining a Certificate of Insurance for your PTA.

You can also reach out to AIM directly by phone at (800) 876-4044 or by email at [captata@aim-companies.com](mailto:captata@aim-companies.com) for coverage questions and to inquire about additional elective coverage.



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## PTA INSURANCE PREMIUM INVOICE

Units and councils **DO NOT** send insurance premium payments directly to California State PTA. Submit payments through appropriate channels (unit to council to district). After **December 20, 2020** a late fee of \$25 will be assessed by and payable to California State PTA. There is no grace period.

**Units - comply with your council and district PTA due dates.**  
**Send your insurance premium payment through channels to next level of PTA.**  
**For additional information, please contact your council or district PTA.**

To: Units, Councils, and Districts
Re: Insurance Premium for the 2021 Policy Year.
Terms: The policy year covers January 5, 2021 through January 4, 2022. Insurance premium payments must be sent through appropriate channels (PTA unit to PTA council to PTA district) in order to be received in the California State PTA office no later than December 20, 2020. Out-of-council units are to remit payment to districts.

DESCRIPTION	COST
<b>Unit Premium</b> <i>Refer to table below for coverage included.</i>	\$258
<b>Council Premium</b> <i>Refer to table below for coverage included.</i>	\$178
<b>District Premium</b> <i>Refer to table below for coverage included.</i>	\$178
<b>Late Fee</b> <i>After December 20, 2020, a late fee of \$25 is assessed by California State PTA. There is no grace period.</i>	\$25
The premiums above <b>include</b> the following coverage: <ul style="list-style-type: none"> <li>• General Liability \$1,000,000</li> <li>• Umbrella Liability \$10,000,000</li> <li>• Directors &amp; Officers \$1,000,000</li> <li>• Workers Compensation \$1,000,000</li> <li>• Fidelity Bond \$25,000</li> <li>• Extended Medical Payments \$20,000</li> </ul>	The premiums above <b>do not include</b> : <ul style="list-style-type: none"> <li>• The 5 percent surcharge that PTAs with gross payments to workers in excess of \$1,000 during the policy year must pay for Workers' Compensation.</li> <li>• <b>Child Care Programs</b> under General Liability Insurance. If your PTA is sponsoring such a program, additional insurance will need to be purchased.</li> </ul>

**Thanks to the units whose payments have already reached the state office!**

Please note that **Association Insurance Management, Inc. (AIM), California State PTA's insurance broker, will be reaching out to all units, councils, and districts** to request additional information and acknowledgments related to coverage. This information will help AIM to create a profile for each unit, council, and district that will enable leaders at each level to easily make requests including adding Additional Insureds, acquiring additional elective coverage, and obtaining a Certificate of Insurance. You can also reach out to AIM directly by phone at (800)876-4044 or by email at [capta@aim-companies.com](mailto:capta@aim-companies.com) for coverage questions and to inquire about additional elective coverage.

# TAX FILING INFORMATION



Failure to file can result in daily penalties, in addition to loss of your PTA's exempt status and termination of your PTA charter.

California State PTA can help! Visit  
<http://capta.org/pta-leaders/services/tax-filing-support-center/>

## FINANCIAL FILING REQUIREMENTS

### Tax-exempt organizations, including PTAs, must file annual returns

Tax-exempt organizations operating in the State of California, including PTAs, are legally required to file annual returns with the following federal and state agencies:

- 1) **United States Department of the Treasury *Internal Revenue Service (IRS)***
- 2) **State of California *Franchise Tax Board (FTB)***
- 3) **State of California *Attorney General's Registry of Charitable Trusts (AG/RCT)***

California State PTA is committed to providing information to help your PTA remain in compliance with its annual filing requirements. Please visit the California State PTA Tax Filing Support Center at <http://capta.org/pta-leaders/services/tax-filing-support-center/> for step-by-step pointers on what your PTA needs to file and other useful materials.

If your PTA requires assistance completing any of the required filings beyond information provided in the applicable forms, instructions and publications, contacting a Certified Public Accountant (CPA) or tax professional, such as an Enrolled Agent (EA), specializing in nonprofit organizations exempt from federal and state income tax as public charities is recommended.

### 1) Internal Revenue Service - Form 990 Series

- There are three forms in the Internal Revenue Service (IRS) Form 990 series. **Only ONE should be filed** which is generally based on your PTA's financial activity (refer to the chart below).

IF YOUR PTA'S GROSS RECEIPTS ARE...	FILE FORM...	COMPLEXITY
Normally \$50,000 or less ( <i>refer to Appendix B of the Form 990-EZ Instructions for guidance regarding "normally"</i> )	<b>990-N</b>	<b>Low</b>
Normally greater than \$50,000, less than \$200,000 during the year, <b>AND</b> total assets are less than \$500,000 at the end of the year	<b>990-EZ</b>	<b>Medium</b>
Equal to or greater than \$200,000 <b>OR</b> total assets are equal to or greater than \$500,000 at the end of the year	<b>990</b>	<b>High</b>

- The IRS requires the applicable form in the 990 series to be filed no later than 4 ½ months after your PTA's fiscal year ends. For example, if your PTA's fiscal year ends on June 30, the applicable form must be **filed with the IRS by November 15**.
- For 990 series forms and instructions, please visit the following page at the IRS website: <https://www.irs.gov/charities-non-profits/form-990-series-which-forms-do-exempt-organizations-file-filing-phase-in>
- If your PTA generates *unrelated business income* equal to or greater than \$1,000 during the year, it may be required to file IRS Form 990-T, *Exempt Organization Business Income Tax Return*, in addition to form 990-N, 990-EZ, or 990. For more information, please visit the following page at the IRS website: <https://www.irs.gov/charities-non-profits/unrelated-business-income-tax>

## 2) Franchise Tax Board - Form 199 Series

- There are two forms in the Franchise Tax Board (FTB) Form 199 series. **Only ONE should be filed** which is generally based on your PTA's financial activity (refer to the chart below).

IF YOUR PTA'S GROSS RECEIPTS ARE...	FILE FORM...	COMPLEXITY
Normally \$50,000 or less	<b>199N</b>	<b>Low</b>
Normally greater than \$50,000	<b>199</b>	<b>Medium</b>

- The FTB requires the applicable form in the 199 series to be filed no later than 4 ½ months after your PTA's fiscal year ends. For example, if your PTA's fiscal year ends on June 30, the applicable form must be **filed with the FTB by November 15**.
- For more information on filing requirements, Exempt Organization Forms and Publications, please visit the following page at the FTB's website:  
<https://www.ftb.ca.gov/file/business/types/charities-nonprofits/annual-and-filing-requirements.html>
- If your PTA generates *unrelated business income* in excess of \$1,000 during the year, it may be required to file FTB Form 109, *California Exempt Organization Business Income Tax Return*, in addition to form 199-N or 199. For more information, please visit the page listed above for FTB Exempt Forms and Publications.

## 3) Attorney General's Registry of Charitable Trusts - Form RRF-1

- The Attorney General's Registry of Charitable Trusts (AG/RCT) requires all charitable organizations operating in the State of California, including PTA units, councils and districts, to be registered with the Registry of Charitable Trusts and to file Form RRF-1 annually.
- The AG/RCT requires Form RRF-1 to be filed no later than 4 ½ months after your PTA's fiscal year ends. For example, if your PTA's fiscal year ends on June 30, Form RRF-1 must be **filed with the AG/RCT by November 15**.
- **\*\*NEW REQUIREMENT\*\*** Beginning with the 2019-20 fiscal year, all charitable organizations with gross receipts of \$50,000 or less are required to file Form CT-TR-1 Treasurer's Report with the AG/RCT together with the RRF-1 filing.
- For more information as well as the forms and instructions, please visit the following page at the AG's website: <https://oag.ca.gov/charities/renewals>
- **If your PTA does not have a CT number yet, please complete the INITIAL REGISTRATION NOW as the process can take approximately 90 days to complete.**

Don't Forget

# The Attorney General's Office

## ✓ YOUR ORGANIZATION MUST BE REGISTERED WITH THE ATTORNEY GENERAL'S OFFICE

Pursuant to Government Code sections 12585 and 12586, unless exempt by law, every charity, unincorporated association, or trustee holding assets or soliciting donations in California for charitable purposes is required to register with the Attorney General's office. To start the initial registration process visit [oag.ca.gov/charities](http://oag.ca.gov/charities)

## ✓ YOUR ORGANIZATION MUST HAVE A CURRENT REGISTRATION STATUS TO SOLICIT

Registration must be renewed each year. The Registration Renewal Fee Report must be filed annually to remain in compliance with the reporting requirements of the Attorney General's office. Failure to file required reports may result in a delinquent status.

## ✓ HOW TO VERIFY YOUR ORGANIZATION'S STATUS

The Registry Verification Search tool can be used to verify an organization's status and is located at: [rct.doj.ca.gov](http://rct.doj.ca.gov).

## [www.oag.ca.gov/charities](http://www.oag.ca.gov/charities)

- Guide for Charities
- Charity Audit Requirements
- Frequently Asked Questions
- Instructions for Registration / Reporting Forms for:

Charities

Fundraisers

Raffles

Fundraising Counsels

- Model Contract for Charities
- Using Commercial Fundraisers
- Guide for Dissolving a Charity
- Charities Search Tool

Resources and Instructions are Available on the Attorney General's Charities website



Charities with Questions, Contact the Registry of Charitable Trusts  
(916) 210 - 6400 or use the "Registry Contacts" form on the Attorney General's  
Charities website [oag.ca.gov/charities/contacts](http://oag.ca.gov/charities/contacts)



## OPERATING CHARITIES IN CALIFORNIA

### **Is your organization registered?**

To receive grants, solicit funds or receive donations, charitable organizations must be registered with the Attorney General's Registry of Charitable Trusts unless exempt by law. To register, charitable organizations must submit the required registration documents: Form CT-1 and the organization's founding records (e.g., Articles of Incorporation, Trust). Please note the registration process may take up to 90 days. For more information on the initial registration process, please visit our Registration page at <https://oag.ca.gov/charities/initial-reg>. We also have an Initial Registration Webinar available to walk you through the registration process. The Initial Registration Webinar can be accessed at <https://oag.ca.gov/charities/initial-reg#webinar>. Once registered, the charity must renew its registration each year.

### **Registration must be renewed each year. Is your organization current in its registration and reporting requirements?**

Every year, charitable organizations are required to file the Registration Renewal Fee Report, known as the RRF-1 form, with the Attorney General's Registry of Charitable Trusts. Other requirements may include submitting renewal fees and filing copies of the organization's IRS Form 990 or the CT-TR-1 form. Failure to file annual reports may result in a delinquent status and may subject the organization to late fees and penalties. For more information about annual registration renewal requirements, please see our Annual Registration Renewal page at <https://oag.ca.gov/charities/renewals>.

### **Verifying your organization's registration status**

Charitable organizations may view their registration status with the Registry of Charitable Trusts by using the Registry Verification Search Tool on the Attorney General's website located at <http://rct.doj.ca.gov>. A status of *Current* means the organization is in compliance with its registration and reporting requirements and can operate in California. Organizations showing a *Not Registered* or *Delinquent* status should visit the Attorney General's website for additional information. Please see the Registry contact information below.

### **Is your organization listed as *Delinquent* or *Suspended* with the Registry of Charitable Trusts?**

An organization listed as *Suspended* or *Delinquent*- is not in good standing and may not operate. The organization must remedy the problems that resulted in its delinquent or suspended registration status. Please see our Delinquency page at <https://oag.ca.gov/charities/delinquency>. You can also view our Delinquency Webinar which covers all of the steps required to cure a delinquency status. The Delinquency Webinar can be accessed at <https://oag.ca.gov/charities/delinquency#webinar>.

### **Contact Information and Publications**

The Attorney General's Guide to Charities provides tips for operating a charity can be found here: <https://oag.ca.gov/charities#guide>. You can also download forms required to register and you can renew registration online. For more information, please visit the Attorney General's website at <https://oag.ca.gov/charities>. For further assistance or questions, please visit our Registry contacts page located at <https://oag.ca.gov/charities/contacts>.

# WORKERS' COMPENSATION



## IMPORTANT NOTICE

Information about an updated process for submitting the Workers' Compensation Annual Payroll Report and the related surcharge payment, if applicable, is coming soon.

The updated process will include PTAs at all levels submitting these items directly to AIM, California State PTA's insurance broker. Please do NOT submit those items using the form or process from prior years.

Information regarding payments to workers for the policy period, January 5, 2020 through January 4, 2021 is still required. It is only the process for submitting that information and related surcharge payment, if applicable, that is different this year.



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## Workers' Compensation Annual Payroll Report Instructions and Reporting Requirements of PTAs

### Who will need to report?

All unit, council, and district PTAs are required to submit a report, **even if no one was paid.**

- If your PTA **does not make any direct payments** for services between January 5, 2020 and January 4, 2021, your report will simply confirm that.
- If your PTA **does make direct payments** for services between January 5, 2020, and January 4, 2021, please gather the information below in order to report those payments.

Information about an updated process for submitting the Workers' Compensation Annual Payroll Report and the related surcharge payment, if applicable, is coming soon. The updated process will include PTAs at all levels submitting these items directly to Association Insurance Management, Inc. (AIM), California State PTA's insurance broker. **Please do NOT submit those items using the form or process from prior years.**

### What is the due date for the report?

Information about an **updated process**, including due date, for submitting the Workers' Compensation Annual Payroll Report and the related surcharge payment, if applicable, is coming soon. Please be prepared to submit the report after the end of this policy year in January 2021.

### What information will need to be submitted?

In order to submit a report, you will need the following information for each payee your PTA paid directly for services between January 5, 2020, through January 4, 2021:

#### 1) Name of Payee

- The name reported should match the name that the payment for services was actually made to.
- Donations to school districts to pay workers are **NOT reportable.**

#### 2) Work Description

- The description of work reported should be clear, concise, and accurate. This information will be used to classify the payee for purposes of the annual Workers' Compensation Premium Audit.

#### 3) Whether or not the Payee Carries Their Own Workers' Compensation Insurance (WCI)

- If so, please be sure to obtain a Certificate of Insurance (COI) from the payee documenting that they had active WCI during the dates on which the services provided were performed. The COI will need to be included with the report for any workers reported to have their own WCI (refer to the example attached). Payments to those workers are NOT included in the amount subject to the 5% surcharge.
- If not, payments to the worker will need to be included in the amount subject to the 5% surcharge. The amount subject to the 5% surcharge is calculated by adding all payments your PTA made between January 5, 2020, and January 4, 2021, directly to workers that do not have their own WCI and then subtracting \$1,000.

4) Dates Worked

- The actual dates or date ranges that each payee worked related to direct payments your PTA made between January 5, 2020, and January 4, 2021, will need to be reported.

5) Amount Paid

- The total paid directly to each worker between January 5, 2020, and January 4, 2021 will need to be reported.

6) Surcharge

- The first \$1,000 in payments by each unit, council, and district PTA during the policy year to workers without their own Workers' Compensation Insurance (WCI) is built into the annual premium that unit, council, and district PTAs remit to the California State PTA as part of the Insurance Program.
- If a PTA makes more than \$1,000 in payments to workers without their own WCI in this policy year, January 5, 2020, through January 4, 2021, there is a surcharge of 5% of the amount in excess of \$1,000 to offset the costs of additional risk and ultimately higher premiums.
- In order to calculate the surcharge due, if any, first total all direct payments to all workers without their own WCI between January 5, 2020, and January 4, 2021. Next, subtract \$1,000 from that total. Finally, multiply the result by 5% to arrive at the surcharge due from your PTA. If the result is negative, no surcharge is due.
- To illustrate calculating the surcharge, assume a PTA made direct payments of \$5,000 to one worker and \$3,000 to another, each without their own WCI, between January 5, 2020, and January 4, 2021. A surcharge of \$350 would be due from that PTA calculated as follows: subtract \$1,000 from the \$8,000 total payments made to workers without their own WCI and then multiply the result, \$7,000, by 5% to arrive at the \$350 surcharge due.

**Why does this information need to be submitted?**

1) California Labor Code Compliance

- The State of California generally requires any organization considered to be an employer to provide Workers' Compensation insurance for its employees. In order to help ensure compliance, California State PTA carries Workers' Compensation Insurance for all operations of the PTA as part of its Insurance Program which requires all unit, council, and district PTAs to participate.

2) California State PTA's Annual Workers' Compensation Insurance Premium Audit

- The annual premium California State PTA pays to carry Workers' Compensation Insurance for all levels of PTAs in California is primarily based on the total payments to workers without their own Workers' Compensation Insurance paid by every unit, council, and district PTA each policy year and the type of work for which those wages were paid.
- The information reported by each unit, council, and district PTA is ultimately reported to the insurance carrier for the purposes of the annual Workers' Compensation Premium Audit.





**2020-21 FINANCIAL MAILING**

# **ADDITIONAL INFORMATION AND REMINDERS**



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## PTA as an Employer

Employers are subject to extensive, complex, and constantly changing federal, state, and local compliance and tax filing requirements. **Failing to meet those requirements can result in significant civil and criminal penalties.** Since school districts generally have the ability, experience, and expertise to meet these requirements, it is **recommended that whenever possible PTAs gift funds to the school district to procure services.** If funds are gifted to procure services, it is important to communicate to the school district that the financial gift is NOT an ongoing commitment since each PTA's budget must be adopted annually.

It is recommended that PTAs choosing to directly procure services seek assistance from compliance, legal, and tax professionals to ensure all applicable compliance and tax filing requirements are identified and met. At a minimum, PTAs must seek and regularly monitor guidance from authoritative sources including but not limited to the Internal Revenue Service (IRS), Department of Labor (DOL), the State of California Employment Development Department (EDD), the State of California Franchise Tax Board (FTB), and the State of California Department of Industrial Relations (DIR).

The following is a brief overview of some common employer compliance and tax filing requirements. It is not intended to be a complete list or constitute legal or tax advice.

- **Worker Classification**

Workers receiving compensation from your PTA for providing services generally need to be classified as an employee or independent contractor. This classification affects many of your PTA's employer compliance and tax filing obligations. Therefore, it is important for your PTA to identify the applicable criteria for making the classification and apply that criteria to the facts and circumstances to determine the appropriate classification of each worker.

- **Background Checks and Other Hiring Requirements**

All personnel who work on a school campus, regardless of whether they are classified as employees or independent contractors, must be fingerprinted and undergo a background check. Also, all personnel employed by your PTA must meet school district health screening requirements AND comply with school district procedures for detecting and reporting suspected child abuse, as required by state law. Finally, minors employed in the state of California must have a Work Permit.

- **Documentation**

The following documentation should generally be collected for workers classified as employees: U.S. Citizenship and Immigration Services (USCIS) Form I-9, Employment Eligibility Verification; Internal Revenue Service (IRS) Form W-4, Employee's Federal Withholding Certificate; and Employment Development Department (EDD) Form DE-4, Employee's State Withholding Allowance Certificate.

The following documentation should generally be collected for workers classified as independent contractors: Internal Revenue Service (IRS) Form W-9, Request for Taxpayer Identification Number and Certification; Franchise Tax Board (FTB) Form 590, Withholding Exemption Certificate; and Certificate of Liability Insurance (COI) demonstrating contemporary general liability, employer, and workers compensation coverage.

- **Notices and Posters**

State and federal regulations require employers to display various up-to-date posters and notices to workers.

- **Workers' Compensation**

California law mandates that every employer shall establish, implement, and maintain an effective Injury and Illness Prevention Program. Any PTA that pays wages directly to an individual and reports said employment on the Workers' Compensation Annual Payroll Report must comply with this mandate.

- **Wages, Withholding, and Employer Taxes**

There are federal, state, and local requirements regarding compensation of workers classified as employees including but not limited to minimum wage, overtime, sick leave, and other leaves of absence for a variety of reasons. PTAs with workers classified as employees must identify all applicable requirements and ensure compliance with them. The U.S. Department of Labor is an authoritative source of federal guidance and the State of California Department of Industrial Relations is an authoritative source of state guidance. Both websites are listed in the employer resources section below.

For workers classified as employees, employers generally have a number of withholding requirements including but not limited to federal and state income tax withholding, Social Security and Medicare (commonly referred to as FICA), and California State Disability. In addition, employers with workers classified as employees are generally subject to a number of employer taxes including but not limited to Social Security and Medicare (commonly referred to as FICA), California State Unemployment Insurance, and California State Employment Training Tax. Payment of withholding and employer taxes is required at regular intervals which must be determined each calendar year based on the guidance issued by the federal or state agency to which payments will be made.

- **Reporting**

Following is a list of common filing and reporting requirements related to workers classified as employees:

- ✓ IRS Form 941, Employer's Quarterly Federal Tax Return
- ✓ IRS Form 944, Employer's Annual Federal Tax Return
- ✓ IRS Form W-2, Wage and Tax Statement/Form W-3, Transmittal of Wage and Tax Statements
- ✓ EDD Form DE-9/DE-9C, Quarterly Contribution Return and Report of Wages
- ✓ EDD Form DE-34, Report of New Employees

Following is a list of common filing and reporting requirements related to workers classified as independent contractors:

- ✓ IRS Form 1099-NEC, Nonemployee Compensation (use beginning with tax year 2020 instead of 1099-MISC)
- ✓ EDD Form DE-542, Report of Independent Contractors
- ✓ FTB Forms 592/592-B Resident and Nonresident Withholding and Tax Statements

- **Planning and Approvals**

Refer to the California State PTA Toolkit at <http://toolkit.capta.org/> for requirements.

## **Failure to Fulfill Employer Responsibilities**

Failure by an employer to pay taxes due or to withhold required amounts from an employee's wages can result in substantial penalties to the employer. Refer to the current *IRS Publication 15, Circular E, Employer's Tax Guide* and the current *California Employer's Tax Guide* for detailed information regarding penalties.

## **Employer Resources:**

- California State PTA Toolkit <http://toolkit.capta.org/?s=pta+as+an+employer>
- IRS Publication 15, (Circular E) Employer's Tax Guide <https://www.irs.gov/publications/p15>
- IRS Publication 509, Tax Calendars <https://www.irs.gov/forms-pubs/about-publication-509>
- EDD California Employer's Guide (DE44) [https://www.edd.ca.gov/Payroll\\_Taxes/Employers\\_Guides.htm](https://www.edd.ca.gov/Payroll_Taxes/Employers_Guides.htm)
- State of California Department of Industrial Relations <https://www.dir.ca.gov/>
- California Tax Service Center <http://www.taxes.ca.gov/>
- U.S. Department of Labor <https://www.dol.gov/>



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Attorneys at Law

## CONFIDENTIAL MEMORANDUM

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Sacramento, CA 95814

Tel 916.978.4040  
Fax 916.978.4039

**TO:** Sherry Griffith, Executive Director  
California State PTA

**FROM:** Marilyn L. Jacobs

**DATE:** July 21, 2020

**RE:** PTA Contract and Finance Issues During the COVID-19 Era

---

We have been asked by the California State PTA (“State PTA”) to address how PTA Units can respond to requests by school districts and vendors to honor fiduciary agreements<sup>1</sup> and contracts when those PTA Units lack sufficient funds or are unable to perform due to COVID-19 shelter-in-place orders (“SIP Orders”). A generic answer is not possible because provisions are contract-specific and not uniformly drafted. For the same reason, it is not possible to provide boiler-plate language or a template letter for use by PTA Units. Instead, this Memorandum sets out issues for PTA Units to consider as they decide how to respond to school districts and vendors that are requesting performance (i.e., payment).

For purposes of this Memorandum, “contractual obligations” refer to the obligations assumed by a PTA Unit as a result of entering into a (1) contract to pay a vendor for services to be provided; and (2) fiduciary agreement (in the form provided in the California State PTA Toolkit) to provide financial or other contributions to its local school district. If a PTA Unit has entered into contracts, instead of fiduciary agreements, with its local school districts, the guidance provided herein for vendor contracts should be applied.

### Step 1. Review Contract Provisions

The PTA Units should consider the following questions as they review the terms of the contracts or fiduciary agreements:

A. Scope of Services.

(1) What does the contract say about the services to be provided by the vendor to the PTA Unit? About the PTA Unit’s contractual obligation to its local school district?

(2) Can the vendor’s services or the PTA Unit’s contractual obligations continue to be provided during the SIP Orders?

(3) Can the vendor’s services or the PTA Unit’s contractual obligations be modified? For example, is it possible to extend the timing of when the services or contractual obligations are to be performed/completed by the vendor or the PTA Unit, respectively?

B. Payment.

(1) Is the payment being requested by the vendor or school district consistent with terms of the contract?

(2) Are the PTA Unit’s contractual obligations for payment based on the services having been completed? Or, for payment that is not directly tied to completion of the service?

(3) Is it possible to extend the timing of the payments made by the PTA Unit?

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<sup>1</sup> We understand that some PTA Units enter into “fiduciary agreements” with their local school districts to provide financial or in-kind contributions as a donation. By donating funds directly to a local school district, the responsibility for any hiring and oversight is shifted from the PTA Unit to the school district so that the PTA Unit does not have a relationship or direct obligation to any district employees or independent contractors.

## CONFIDENTIAL MEMORANDUM

July 21, 2020

Page 2

C. Force Majeure. The PTA Unit should review its contract with its vendor or local school district for a force majeure clause. The fiduciary agreement in the Toolkit does not contain a force majeure clause so an alternative argument, such as one of those discussed in Step 2, may have to be used.

Force majeure provisions are triggered when the occurrence of a force majeure event, typically referred to as an “act of God,” makes performance so impracticable that it is excused.

When considering whether force majeure will excuse performance, the courts will consider whether (1) the event giving rise to nonperformance is specifically listed as a qualifying force majeure event in the contract; (2) the risk of nonperformance was foreseeable and able to be mitigated; and (3) performance is truly impossible. The court will first look to see if the event giving rise to nonperformance is specifically listed as a qualifying force majeure event. Even if it is listed, force majeure will not be available if the party seeking to use force majeure to excuse its performance could have foreseen and mitigated the potential nonperformance, and performance is merely impracticable or economically difficult rather than truly impossible.

If a force majeure provision in a contract is triggered, the PTA Unit must comply with the notice requirements if it intends to rely on force majeure to excuse performance. For example, most contracts contain notice requirements for claiming force majeure, including time limits for giving proper notice, the contents of such notice, who must be copied on the notice, and the required method of delivery.

D. Termination or Suspension. Can the contract be terminated due to an inability to fulfill the contract terms? For example, does the force majeure provision permit cancellation or does it simply delay performance of the obligation until the force majeure event has concluded?

### Step 2. Look beyond the Contract Provisions

Even if a contract or fiduciary contract does not have a force majeure provision, a PTA Unit looking to excuse its performance may have other options under the law. The common law doctrines of “impossibility/impracticability” and “frustration of purpose” may provide relief. We are not, however, aware of any cases where the courts have analyzed the application of these common law doctrine to nonperformance caused by a pandemic.

A. Impossibility/Impracticability. Sometimes a party may be excused from performance if it can show that (1) an unexpected intervening event occurred; (2) the parties’ agreement assumed such an event would not occur; and (3) the unexpected event made contractual performance impossible or impracticable. A party’s nonperformance will not be excused where the event preventing performance was expected or was a foreseeable risk at the time the contract was executed. This principle has typically been used in 3 types of cases: death or incapacity of a person necessary for performance; destruction of a specific thing necessary for performance; and government action that prohibits performance or imposes requirements that make performance impossible. Depending upon the specific facts, a PTA Unit might be able to successfully argue that SIP Orders are making it impossible to fulfill its contractual obligation.

Impossibility as an excuse for nonperformance is not limited to strict impossibility but also includes “impracticability.” Performance will be considered to be impracticable if it will involve extreme and unreasonable expense, difficulty, injury, or loss to one of the parties. A mere change in the degree of difficulty or expense, unless far outside the ordinary, will not give rise to impracticability since parties assume such a risk when contracting.

It should be noted that if the impossibility or impracticability is temporary, the duty to perform may be suspended for the duration of the impossibility or impracticability rather than excused unless delayed performance imposes a substantially greater burden on the performing party.

B. Frustration of Purpose. Sometimes a party may be excused from performance if it can show that, due to the occurrence of an unexpected event, the principal purpose of the contract is substantially frustrated, rendering the agreement effectively meaningless. For example, frustration of purpose may arise as a result of the cancellation of trade shows due to COVID-19 and SIP Orders, where the principal purpose of the transaction (thousands of attendees) is frustrated, delayed or cancelled altogether.

## CONFIDENTIAL MEMORANDUM

July 21, 2020

Page 3

Frustration of purpose requires many of the same elements as the principles of impossibility/impracticability: (1) an event substantially frustrates a party's principal purpose; (2) the nonoccurrence of the event was a basic assumption of the contract; and (3) the event was not the fault of the party asserting the defense. The overarching question is whether the unforeseeable event has significantly altered the circumstances of an agreement such that performance would no longer fulfill any aspect of its original purpose.

Unlike impracticability discussed above, frustration of purpose involves no true failure of performance. In many instances the parties are still capable of performing the services but, due to the occurrence of the frustrating event, one party's performance has become virtually worthless to the other.

Frustration of purpose is a narrow defense that only arises if the non-occurrence of the unexpected event was a basic assumption of the contract. Therefore, a party cannot invoke frustration of purpose on the grounds that a transaction was anticipated to be profitable but is now unprofitable, because unprofitability is a risk assumed when entering the contract. Further, frustration of purpose only occurs if the purpose of the contract has been totally, or nearly totally, frustrated. The frustration must be so severe that it is not likely to be regarded as within the risks that the invoking party assumed under the contract.

It is not yet clear how far courts will be willing to go in deciding whether COVID-19 and/or SIP Orders frustrate a contract's purpose.

### Step 3. Practical Considerations

The following practical considerations may assist a PTA Unit that is trying to decide whether to terminate or postpone its contractual obligations:

A Vendors. (1) Does the PTA Unit desire to maintain a working relationship with its vendor? For example, does the vendor provide a unique or special service such that the PTA Unit does not want to jeopardize its ongoing relationship with the vendor?

(2) Is the service necessary to facilitate or continue the PTA Unit's operations?

(3) Does the vendor have unique or specialized knowledge or expertise, or services that will be necessary in the future?

(4) Is the service in short supply such that the PTA Unit or its programs could be jeopardized if it doesn't continue to pay the vendor?

B School Districts. In order to fulfill its charitable purpose, a PTA Unit must maintain a good working relationship with its local school district. Consequently, terminating its fiduciary agreement or contract with the local school district may not be a viable option. If a PTA Unit continues to pay a school district for services that cannot be performed due to a SIP Order, the PTA Unit must take care to ensure that, if those services are subsequently performed/completed, the PTA Unit will not be required to pay for the services again at a later date. If a local school district insists on payment, the PTA Unit may want to explore more flexible payment options, such as deferrals and staggered payment plans.

### Step 4. Negotiation

Rather than simply terminating the contract or fiduciary agreement, a PTA Unit may decide to renegotiate their terms. Those negotiations should be guided by the practical considerations identified above. The negotiations may include modification of the scope of services to be rendered under the agreement; adjusting the timing of the services; reducing the amount to be paid for the services or for those services that cannot be performed in whole or in part now; or obtaining a potential credit for payments made now for services to be provided in the future. Bear in mind that any amendment or modification to the contract will need to be approved in accordance with State PTA requirements.

If the PTA unit renegotiates its existing contract by agreeing to provide advance payment for future services, the PTA unit should be mindful of the risk that the vendor could cease operation or file for bankruptcy before those services are rendered.

## CONFIDENTIAL MEMORANDUM

July 21, 2020  
Page 4

### Step 5. Options for PTA Units Unable to Make Payments

If force majeure or a common law doctrine is not available to terminate the PTA Unit's contractual obligations, there is little statutory relief available to the PTA Unit. There are no Education Code provisions that directly address such payment concerns. In addition, the California Consumers Legal Remedies Act, which also broadly prohibits "unfair methods of competition and unfair or deceptive acts or practices" in connection with the sale or lease of goods or services to consumers, is likely inapplicable given the specific facts at hand.

In more dire circumstances, PTA units may choose to pursue bankruptcy, although nonprofit bankruptcies are relatively rare. In most cases, a nonprofit will pursue dissolution and wind up its operations. It should be noted that dissolution does not result in an automatic stay to stop creditors and therefore may not provide the desired relief.

#### Force Majeure Language

The following is a force majeure provision that has been expanded to address COVID-19 or a similar future event.

"Force Majeure. Neither party will be liable for any failure or delay in performing an obligation under this Agreement that is due to any of the following causes, to the extent beyond its reasonable control: acts of God or other natural disasters, including but not limited to violent storms, tornadoes, earthquakes, fires, floods, drought; war, armed conflict or the serious threat of the same, hostilities or invasion; civil war, rebellion, riots, civil commotion or disorder, mob violence, or act of civil disobedience; terrorist act or sabotage; plague, epidemic, pandemic, quarantine, outbreaks of infectious disease or any other public health crisis, including but not limited to quarantine or other employee restrictions; compliance with any law or governmental order, rule, regulation or direction, including but not limited to shelter-in-place orders and government shutdowns; breakdown of communication facilities, breakdown of web host, or breakdown of internet service provider; general labor disturbances, including but not limited to boycotts and strikes; or shortage or inability to obtain critical material, supplies or energy. The party evoking this force majeure provision shall give the other party written notice within \_\_\_\_ calendar days after the event causing the failure. If the force majeure event continues for \_\_\_\_ calendar days/weeks/months, either party may terminate this Agreement."

#### Disclaimer Language

The following is standard disclaimer language the State PTA may wish to use when issuing guidance to PTA Units:

"Disclaimer. The materials provided have been prepared for informational purposes only. Neither these publications nor the State PTA staff or any outside attorneys who authored them are rendering legal advice or opinions on specific facts or matters. Readers should not act upon this information without seeking advice from their own counsel. The State PTA assumes no liability in connection with the use of these publications."

### CONCLUSION

As the COVID-19 pandemic continues to develop, PTA Units should take proactive steps to meet existing contractual obligations. If PTA Units expect that COVID-19 and SIP Orders may result in their inability to satisfy contractual obligations, they should assess the viability of either force majeure or common law principles such as frustration of purpose or impracticability. PTA Units should also consider if there is still a way to perform or adapt to current conditions. The specific analysis will likely change as SIP Orders are modified and lifted and schools begin to open.

## **Purchasing and Liability Guidelines during COVID-19 FAQ**

**PLEASE NOTE:** Prior to making any purchases of personal protective equipment or hand sanitizers for your school, you must check with your principal and/or your school district. It is the responsibility of the school district to have these items in place at your local school sites.

**1) Is there any concern regarding liability about PTA's selling spirit wear face masks?**

No, selling spirit wear face masks holds no greater liability than selling any other product for a PTA; however, you should proceed with caution. Before any PTA decides to sell facemasks, they must confer with the principal of the school site. There may be individual guidelines that County School Superintendents, as well as health departments, have put in place and you want to make sure that whatever you are ordering meets those requirements.

**2) If we sell masks, should we have a disclaimer? Something along the lines of "This mask is not to be used as a substitute for a surgical mask, an N-95 respirator, or a replacement for medical grade Personal Protection Equipment. The use of a face mask is intended to supplement but not replace recommended measures to stop the community spread of communicable diseases, such as COVID-19."?**

Yes, this would be a good warning and disclaimer to use when selling a product such as face masks. It is good to remind people that you are not selling medical-grade face masks.

**3) Does the insurance company have a concern regarding PTAs purchasing quantities of masks for use at a school?**

Purchasing items like masks, whether for sale or as a donation to the school, is not prohibited by PTA insurance. Just be sure to coordinate with school leadership before making any purchase of masks or other personal protective equipment.

**4) Does the same apply to hand sanitizer? We want to purchase large quantities of hand sanitizer for the school and want to make sure it is ok with the insurance company.**

As with face masks, you need to check with your principal and school district to make sure that whatever item you are purchasing meets all the safety requirements at the school, and that the school actually needs the items you want to purchase.

**5) If we meet in person, will our insurance cover us if someone gets sick from COVID-19?**

It is recommended that PTAs only hold events where social distancing can be observed and face masks are required. **We must comply with all local, county and state health department guidelines.** There is a chance the PTA could be held liable if someone contracts COVID-19 at an event that is sponsored by the PTA. Similar to other insurance claims, coverage depends on whether proper PTA guidelines were followed as set out in our Insurance Guide, and if all public health laws and mandates were followed.

**6) If we have a restaurant night fundraiser and someone gets sick, are we covered by our insurance?**

As with all PTA events, insurance coverage depends on whether all proper PTA guidelines as set out in our Insurance Guide and all public health laws and mandates are followed, and proof can be provided to the insurance company. Proper proof would include minutes of the meeting where the event was approved, any flyers, social media posts, etc. that advertised the event, and evidence that all local, county, and state public health guidelines were followed.

**7) What role can a PTA play in Learning Pods that are being introduced in many of our school districts?**

If your school is utilizing Learning Pods and the PTA wants to participate, the PTA must follow all the guidelines for approving an event that we sponsor.

- ✓ Get approval to host this event from the General Association at a meeting
- ✓ Get an insurance waiver from all families that are participating in the Learning Pod

The school should be primarily responsible for the Learning Pod and, if asked to participate, the PTA's role should be limited. Due to privacy concerns, the PTA should not provide student information if requested by the school (the school should already have such information). If the PTA is asked by the school to assist with Learning Pods, the PTA should ask to be indemnified and to be named (along with its officers, directors, volunteers, etc.) as additional insureds under the school's insurance policy, and the school's insurance policy should provide primary coverage regardless of the insurance maintained by the PTA. PTAs assisting schools with Learning Pods must familiarize themselves with all local, county, and state public health guidelines for Learning Pods, and should make sure that those guidelines are being followed by the school.

### **Helpful Links and Resources**

- ✓ Link to California Department of Public Health:  
<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/nCoV2019.aspx>
- ✓ Link to Blueprint for a Safer Economy:  
<https://covid19.ca.gov/safer-economy/>
- ✓ CAPTA/AIM Insurance Information:  
<https://capta.org/pta-leaders/services/insurance/>
- ✓ CAPTA COVID-19 Resources:  
<https://capta.org/news-publications/covid-19/>

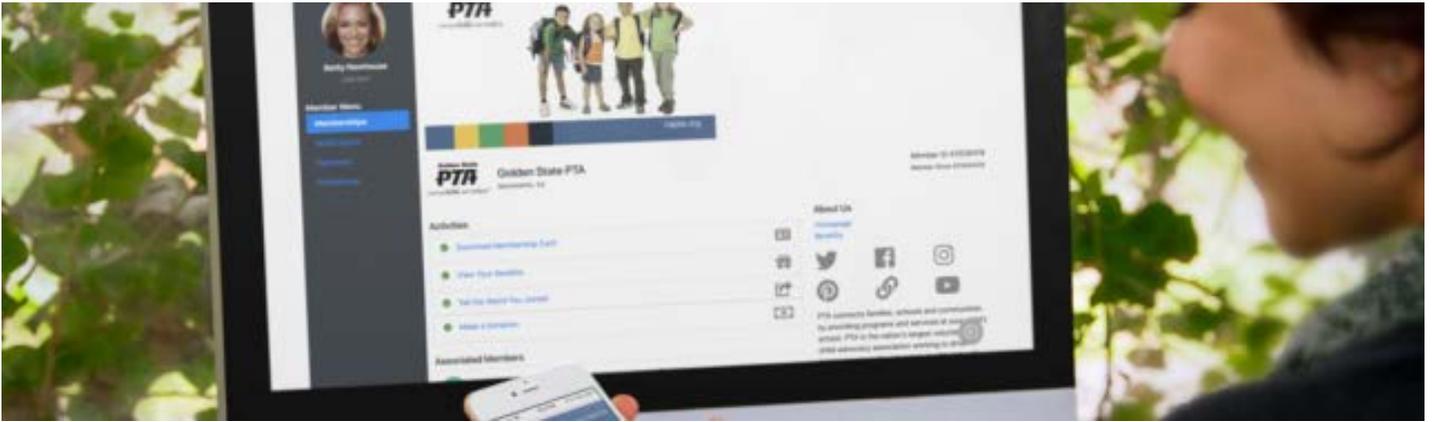


# California State PTA's **Electronic Membership System**

TOTEM



- ✓ We are excited about the progress our online membership system **TOTEM** has made, making joining and renewing PTA membership at the local level *easier*.
- ✓ More than 1,000 local PTAs have processed more than 70,000 memberships using our online membership system. So consider this your invitation to get started.
- ✓ Visit [bit.ly/starttotem](http://bit.ly/starttotem) to see TOTEM for yourself!



# Electronic Membership System: Important Financial Information

## Stripe Payment Processing

The new electronic membership system, TOTEM, utilizes a secure third-party payment processing center known as Stripe. If your PTA unit is signed up for TOTEM and you receive an email from Stripe seeking additional information, please realize this is an additional security protection for our PTAs at every level. Please verify the browser address is correct and then follow up with the request. These verifications are there for your security.

## Important FYI

Stripe may ask leaders who connect a bank account for personal information, such as your **date of birth or government IDs such as your social security number**. This is part of secondary user-identification verification that is required by Federal banking regulations known as KYC ([Know Your Customer](#)). Stripe uses this information to stay in compliance with anti-fraud and anti-money laundering regulations. When providing such information, you should double-check that your browser address begins with **HTTPS** (note the S at the end) and shows the proper name of the website you are visiting (i.e., <https://stripe.com>).

[www.capta.org/membershipTOTEM](https://www.capta.org/membershipTOTEM)



## PTA FINANCES AND EMAIL: PHISHING SCAMS

If you receive an email from a fellow PTA officer asking for funds to be wired, gift cards to be purchased, or sensitive information to be provided, **BEWARE!**



Email phishing scams as well ransomware and other malware attacks are increasingly common and can have devastating impacts on non-profit associations of all sizes, including PTAs. In fact, PTAs in California and across the country have been targeted for these scams and attacks, which are growing in both numbers and sophistication.

**Spear Phishing is currently one of the most pervasive scams that target PTAs.** This scam is the fraudulent practice of sending emails that appear to be from a known or trusted sender, often another PTA officer or a vendor such as the organization's bank, in order to induce targeted individuals to transfer funds, purchase gift cards, reveal sensitive information, or open attachments or links that contain malware.

Following are **strategies you can implement to help protect your PTA** from these scams and attacks:

- Contact the purported requestor directly by phone or text to verify it is in fact them making the request.
- Contact your president and treasurer directly by phone or text to ask about the validity of the request.
- Never wire money, purchase gift cards to pay for things, or relay gift card activation information.
- Never open attachments or click on links in emails that you suspect are phishing scams.
- Keep personal and PTA technology systems and firewalls up-to-date to minimize risk of malware infection.
- TRUST YOUR GUT! If it seems strange, it is likely for good reason. Since email can be hacked, any strange or unusual request should be investigated directly with the appropriate persons via phone or text prior to taking action, regardless of whether or not it is coming from a known and trusted source.

### Additional Resources:

- California State PTA Online Toolkit – <http://toolkit.capta.org/finance/policies-and-procedures/>
- Osterman Research White Paper – <http://ow.ly/EXWq30m3kPs>
- Tipwire Video – <https://www.youtube.com/watch?v=VF8gvvbELA&feature=youtu.be>

# Save the Date!

**Sacramento**

**May 14-16, 2021**

*(or virtual, if necessary)*



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**Be sure to include Convention in your annual budget and get approval from your association. If convention is in person, Early Bird Registration is approximately \$240 (1 day \$99). Hotels begin at \$207 + tax per night. Travel and food expenses vary and can all be covered by your PTA. If we decide to hold a virtual convention, we will announce prices at that time.**



*Whether you attend just one day or all three, this is an experience you do not want to miss!*

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# Home Internet

You may qualify for affordable, Home Internet if you are participating in one of the following programs:

Child Enrolled in the NSLP (National School Lunch Program)

CalFresh (food stamps) or Supplemental Nutrition Assistance Program (SNAP)

Supplemental Security Income (SSI)

Medi-Cal

Or Have a Household Income Under \$40,000/year

Only  
**\$10-\$23**  
a month

For a limited time  
some providers  
are offering  
2 months free.

To determine which of the Internet providers serves your area enter your zip code at this site: [www.everyoneon.org/capta](http://www.everyoneon.org/capta). It will list your choices and you can call the companies in your area.

**Spectrum**  
844-525-1574  
\$23/mo

**human-I-T**  
888-519-4724  
\$15/mo

**access**  
from AT&T  
855-220-5211  
\$10/mo

**Frontier**  
COMMUNICATIONS  
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\$20/mo

**COMCAST**  
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Category Name	Type
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Bank Charges	Expense
Bank Charges - NSF	Expense
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Facility/Rent Expenses	Expense
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