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At Issue

A RISK MANAGEMENT NEWSLETTER FOR COLLEGES AND UNIVERSITIES

In This Issue:

Enterprise Risk Management

By: Robert Bambino, CPCU, ARM, Senior Vice President, WRM America

At Issue: College administrators are familiar with risk management concepts and the risk management process – identifying risk and the total cost related to risk; selecting methods to prevent, control, and finance risk (that isn't limited to traditional insurance programs); recognizing the downsides and opportunities of risk; implementing the program and monitoring results. Risk management traditionally deals with accident risk, or risk associated with financial loss resulting from claims and lawsuits emanating from accidents or occurrences. Bodily injury, property damage, and other types of financial loss can impede a college's ability to deliver services to its students and others. However, there are other exposures beyond accident risk that colleges need to address.

Enterprise risk management (ERM) takes a holistic approach toward risk. It doesn't limit risk identification and treatment to accident risk; rather, it addresses all the exposures of an organization in order to minimize the overall or total financial exposure to the entity. Risks typically analyzed include: operational, financial/market, political, and catastrophic risks collectively, rather than separately.

"Silo" Thinking

Risk and financial managers often see risk in terms of categories or "silos." Each classification of risk (such as, fire, weather-related perils, and operations) is viewed as distinct and independent of others. One such example would be that local events (such as high profile law suits, decreasing enrollment, labor unrest, and changes in the local economy) will have little impact on a college's stated mission to educate students, provide related services, retain staff and achieve financial goals.

With ERM, college administrators analyze and plot the effect of one exposure on the enterprise as a whole. Once this is done, planning for loss can begin.

Key risks for colleges include:

Type of Risk	Elements at Risk	Examples
Operational	Risks inherent to the entity	
Financial Risk	Inability to meet fixed financial obligations	Principal and interest payments on debt
Operating Risk	Possibility of loss due to the breakdown of IT or support systems	Computer systems, machinery, labor unrest
Credit Risk	Loss due to the failure of borrowers to repay debt, or other parties to pay promised funds	Funding, loan repayment, tax collections
Accidents/Hazard Risk	Possibility of loss from property and liability exposures	Loss or damage to owned property; legal liability exposures from accidents; workers compensation exposures
Reputation Risk	Loss of reputation	Tarnished identity or reputation
Financial/Market Risk	Possibility of loss in the value of financial instruments, investments and endowments	Changes in interest rates, securities and commodities prices
Interest Rate Risk	The chance that interest rates will fall	Change in CD or money-market rates
Commodity Price Risk	The possibility that the price of a commodity will fall	Change in the price of oil, wheat or grain
Security Risk	Change in the market price of securities	Decrease in the market price of stocks and bonds
Financial Operations Risk	Loss of funding and contributions, decrease in tuition and enrollment, devaluation of real estate or other community tax base	Reduced revenues and enrollment, inability to sell bonds
Political Risk	Negative effect of political discord	Change in local politics, change in the board
Catastrophic Risk	Far-reaching effects of a severe event	Loss of revenue or an increase in expenses due to natural and man-made disasters

"What-If" Scenarios

A good way to identify cross-silo effects is to develop "what-if" scenarios. Used properly, these scenarios will help uncover interdependencies between an organization's operations and processes and the impact upon the entire entity. By using an analytical framework model, a college can identify exposures and their potential financial impact on the organization's ability to deliver services[1]. Tables One and Two are sample frameworks.

[1]Developed from: Risk Identification and Analysis: A Guide for Small Public Entities, by Claire Lee Reiss from Public Entity Risk Institute (PERI), Fairfax, VA. We thank PERI for the use of their material and strongly recommend our clients obtain the entire publication.

Table One – Potential Impact of Risk

Risk Sources	Financial Resources	Material Resources	Human Resources	Service Delivery	Public Percep-tion of College	Environment	Community
Natural Hazards							
Contracts and Legal Relationships							
Financial Operations							
Errors and Omissions or Misconduct by College Officials and Employees							
Acts or Omissions by Third-Parties							
State, Local or Federal Laws or Regulations							
Economic Conditions							
Government Activities							
Dependence on Outside Resources							
Property Loss							
Dependence on Technology							
Workforce and Labor Issues							

Table Two – Frequency and Severity Worksheet **Risk Source: ____________**

Impact	Description of Possible Losses	Frequency Estimate	Severity Estimate	Comments and Potential Strategies
Financial Resources				
Material Resources				
Human Resources				
Service Delivery				
Public Perception of College				
Liability to Third-Parties				
Environment				
Community				

Using Analytical Framework Models

Each risk source identified in the model can produce large-scale loss and have adverse effects on the ability of the college to carry out its mission and provide services. By indicating the potential impact of loss on each of these categories, an organization can determine which events have the likelihood of producing the greatest financial loss. Table Two is a frequency and severity worksheet that enables an organization to plot potential frequency and severity estimates for each of the risk sources identified. Complete the worksheet with frequency and severity estimates, using a scale of one to ten, with ten representing the highest value.

Risk Mapping

Using the frequency and severity rankings enables the college to plot a risk map. A risk map is a graph that segregates loss exposures into categories based on their potential frequency and severity. It includes four categories: high severity/low frequency risks; high severity/high frequency risks; low severity/low frequency risks; low severity/high frequency risks. The plotting helps the organization determine which loss exposures need to be addressed. Figures One and Two are model risk maps that can be used by our clients. Examples of plotted and ranked exposures include:

Figure One – Model Risk Map

High Severity/Low Frequency Risks Severe or Total-Loss Building Fires Campus Shooting or Terrorist Event Economic Depression Severe Inflation	**High Severity/High Frequency Risks** Employment Practices
Low Severity/Low Frequency Risks Auto Physical Damage Student Demands for Additional Services College Politics	**Low Severity/High Frequency Risks** Third-Party Defaults of Contracts Student or Community Dissatisfaction with Services

Figure Two – Model Risk Map: Plotting Risk

Higher ↑	**Upper Left Quadrant** (High Severity/Low Frequency Risks)	**Upper Right Quadrant** (High Severity/High Frequency Risks)
↓ Lower	**Lower Left Quadrant** (Low Severity/Low Frequency Risks)	**Lower Right Quadrant** (Low Severity/High Frequency Risks)
	Lower ⟷	Higher

Risk Appetite

Organizations like colleges need to determine their acceptable risk appetites, or, the amount of risk they are willing to accept in pursuit of their goals and completion of their missions. Getting to the point where an organization's risk appetite is identified and understood is not an easy task. The Committee of Sponsoring Organizations of the Treadway Commission (COSO) describes a three-step process to consider risk appetite in its paper, *Enterprise Risk Management: Understanding and Communicating Risk Appetite.* They are:

- Development – determining how much risk the organization currently bears, how much can it handle, what its risk tolerance levels are, and the risk culture. Risk appetite can vary depending on the activity, operation or goal. For example, colleges would have a low risk appetite for safety, student health and regulatory compliance.
- Communication – the organization's risk appetite is communicated broadly; by objective and functionally by category, such as for environmental risk and exposures, or for addressing reputation or political risk.
- Monitor – looking for compliance and identifying deviations.

Strategies

There are many different ways to treat the risk sources identified in Table One. Strategies and treatment depend on several different factors, some beyond the college's control.
They include:

- Likely impact of loss exposures on the college
- Probable ultimate loss
- Regulatory restraints
- Amount of funds to finance and treat exposures
- Training/experience of staff
- Support from the board and college administrators
- Community support

The risk sources identified in Table One represent exposures systemic to educational entities as a whole, and they have impact throughout the entire entity. Examples of different strategies to treat and control risk are outlined in Table Three.

Table Three – Strategies for Treating Risk

Risk Source	Examples	Strategies
Natural Hazards	• Weather extremes • Wildfires • Erosion • Mudslides	• Emergency action plans • Mutual aid agreements • Financing for disaster response activities • Coordinating state and federal relief • Adopting building codes requiring disaster resistant construction
Contracts and Legal Obligation	• Purchase agreements • Construction projects • Leases • Notes, mortgages and loans • Indemnification agreements	• Risk management/legal review of contracts • Centralizing contract processing • Requiring surety bonds • Utilizing risk transfers

Table Three – Strategies for Treating Risk		
Risk Source	**Examples**	**Strategies**
Financial Operations	• Poor financial transactions and investments • Sloppy cash handling procedures • Unfavorable bond and credit ratings • Decrease in real estate values	• Implement internal audit controls • Implement cash handling controls and security • Hire competent investment counselor • Implement computer security • Back-up of financial records • Promote economic health of the community
Errors and Omissions by College Officials and Employees	• Employment practices claims • Criminal acts • Conflicts of interest	• Establish policies and procedures • Train officials and staff • Appoint and utilize experienced counsel
Acts or Omissions by Third-Parties	• Third-party acts of negligence or criminal acts • Environmental contamination • Required educational response	• Address criminal acts in emergency management plans • Increase security at college events • Coordinate with law enforcement • Train/equip employees
State or Federal Laws or Regulations	• Changes in laws or regulations	• Appoint and utilize experienced counsel • Monitor legislative and regulatory initiatives and changes • Employ lobbyists; join affinity groups • Prepare and fund for compliance
Economic Conditions	• Negative changes in the economy • Credit rate risk	• Address emerging economic problems in the community
College Activities and Services	• Adoption and changes to policies, procedures and regulations • Course changes • Construction planning • Student health issues • Facility maintenance • Utilities • Labor unrest • Hazardous material storage and treatment • Civil rights issues	• Establish policies and procedures • Train staff • Conduct safety inspections of facilities and equipment • Provide adequate security at public events • Appoint compliance officers • Provide competent legal advice to the board
Dependence on Outside Resources	• Interrupted supply chain • Over dependence on outside supplies • Loss of utility services	• Identify critical operations and "bottlenecks" • Establish contingency plans, check suppliers' plans • Consider long-term contracts with key suppliers

Table Three – Strategies for Treating Risk		
Risk Source	**Examples**	**Strategies**
Property Loss	• Damage to buildings and equipment • Loss of income • Extra expenses	• Secure adequate insurance coverage • Conduct safety inspections • Install and maintain alarms and sprinkler systems • Establish contingency plans
Dependence on Technology	• Loss of computer hardware/software • Network failure • Hacking • Misuse of e-mail by employees • Social network exposures • Copyright violations	• Back-up data • Implement security plans and measures • Establish business continuity plans • Safeguard computers • Establish computer security • Establish policies and procedures • Centralize control of software installation
Workforce and Labor Issues	• Strikes • Work slowdowns • Litigation by unions or employees • Reputation risk	• Establish policies and procedures • Utilize competent labor counsel • Compliance with civil service laws and collective bargaining agreements • Train/supervise managers • Follow and enforce labor laws • Establish and follow the employee handbook

It's in the Paperwork!

By: Robert Bambino, CPCU, ARM, Senior Vice President, WRM America

Waivers, Releases, Indemnification and Insurance Procurement Agreements in Summer Recreation Programs

College-sponsored summer camp programs provide a wide variety of activities and courses. From academics and arts to sports and technology, camps offer programs that cover a broad spectrum of activities and instruction. Camps can be structured in different ways. They can be limited programs with a few activities, or they can be large, complex programs with dozens of activities and specialty camps that focus on one subject or activity, such as athletic camps that focus on cheerleading, golf or tennis; drama camps; fitness and nutrition, or overnight programs where campers sleep on campus in dormitories. In other cases, colleges lease their facilities during the summer to outside groups that sponsor summer programs. These programs can be as large and extensive as college-sponsored programs, or they can be camps that focus on one skill or activity for a limited period of time, such as soccer or baseball specialty programs that are run by local coaches or former or current professional athletes.

Risk Prevention vs. Reduction

Unfortunately, accidents to campers and other participants occur during recreation programs – creating a legal liability exposure for the sponsoring institution. Efforts such as maintaining safe facilities, training staff and implementing safety programs reduce the likelihood that accidents will occur. However, risk prevention efforts rarely prevent all accidents from taking place. When accidents occur and then lead to litigation, risk reduction efforts are needed to reduce the severity of claims and lawsuits.

There are several risk reduction techniques that apply to the exposures related to summer recreation programs. They include:

1. Waivers and Releases.

A waiver is a voluntary surrender of the participant's right to sue for injury or damage. A release is a voluntary release of the institution from liability for injuries that may occur. The effectiveness of waivers and releases varies by state. Make sure to speak to your legal counsel before drafting or using these documents.

Often, a waiver and release form will include assumption of risk language – language outlining the risks particular to the activity or program. This is a good way of letting participants know the risks of physical injury that exist when participating (e.g., if a race, the length of the course). These forms often contain a statement regarding medical conditions, in effect an affirmation wherein the participants acknowledge that they are medically and physically able to participate in the event or activity.

Although the effectiveness of waivers and release forms are often debated, they should still be obtained from participants. Waiver and release forms have the greatest likelihood of passing legal muster if they are specific and related to the events and activities at hand.

2. Risk Transfers.

Counsel will require a contract before allowing non-sponsored summer recreation programs to begin operations on your campus. Besides covering the usual business-related terms and conditions, the contract should contain an indemnification and hold harmless agreement in favor of the college and board for claims, lawsuits and damages arising from the summer recreation program. In addition to ensuring that risk is transferred to camp management, the college can request adherence to certain standards such as:

- Emergency bus and fire drills
- Overall emergency management, addressing natural (e.g., weather) and man-made disasters
- Employment of only qualified drivers
- Provision of appropriate levels of supervision
- Parental/guardian permission forms inclusive of emergency medical treatment permission statements

- Dispensing of medication only by a qualified person and only with parental/guardian permission

Additionally, camp management should also be required to provide proof of insurance — with the college and board listed as additional insureds on the liability policies. As a minimum, camp management should provide proof of:

- Commercial General Liability (CGL), with coverage for products liability, athletic participants and sexual misconduct.
- Commercial Automobile Policy (CAP), covering the motor vehicles (including buses and vans) used in the program. Coverage should extend to hired and borrowed vehicles as well.
- Excess Liability insurance, with coverage over the CGL and CAP policies and additional limits of liability coverage.
- Commercial Property insurance to cover the property of the camp manager while it is on the campus. The policy should contain a waiver of subrogation against the college.
- Accident Medical insurance, which provides medical insurance for players and coaches injured in sponsored activities as well as related group travel.

Other coverages include crime insurance for theft of property, robbery and burglary, as well as theft of funds by employees. Directors and Officers insurance typically includes coverage for civil rights claims and employment-related harassment and discrimination claims. If watercraft is not included within the CGL policy, a watercraft or marine policy will cover watercraft used in camp activities.

3. Claims Management

Liability policies require the prompt reporting of losses and incidents to the insurer which may give rise to claims. Legal papers must be referred immediately. This not only helps the policyholder comply with post-loss reporting conditions, but it also gives the insurer the ability to start the claims investigation and adjustment process.

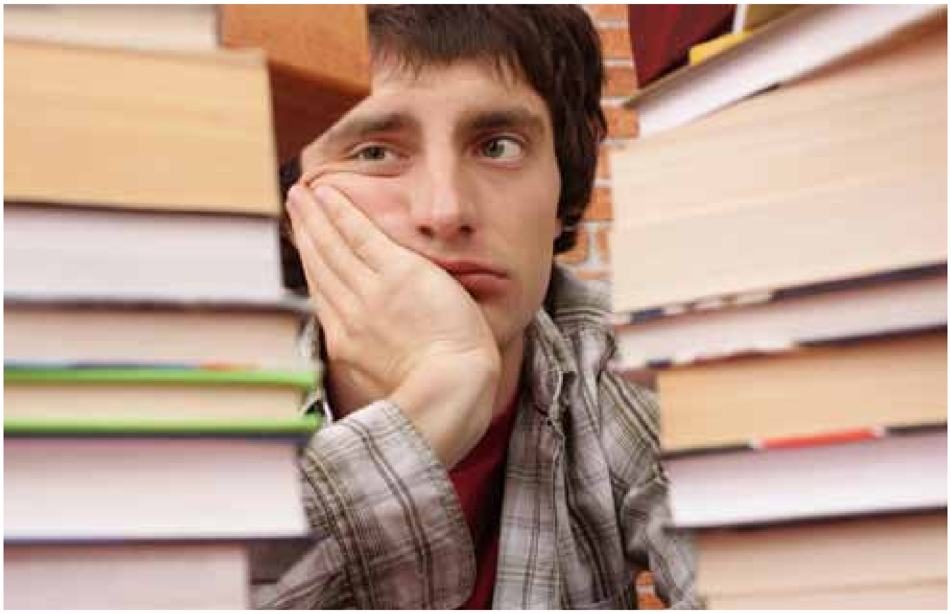
Camp management can help with claims management by rendering first aid and calling emergency medical services when needed. Keeping in touch with the injured party provides an opportunity to answer questions about accident insurance and other issues. An accident reporting procedure that includes an objective incident reporting system also helps identify the details about an accident after camp is over. In many cases, accident reports and other records are discoverable and admissible in litigation.

COLLEGE

Getting Ready for the Freshman Class

By: Karin Riiska, Paralegal at Congdon, Flaherty & O'Callaghan

Depression and the Incoming College Freshman



How many times have you witnessed this scenario: A high school graduate enthusiastically goes off to college expecting a challenging, but rewarding freshman year. However, once the semester starts, the texts, calls and emails indicate otherwise. By the end of the fall semester, the happy and positive student is now exhibiting signs of sadness, uncertainty, and depression. There is a conclusion that the college experience brought this out.

Despite what some people might think, depression usually does not begin in college but rather **carries over** to college. Depression can be defined as having feelings of sadness, hopelessness, lack of self-worth and discouragement for short periods of time while clinical depression is a mood disorder that lasts for longer periods of time and interferes with everyday life.

Depression manifests itself in college for different reasons including separation from home, relationship problems, drug or alcohol abuse, exacerbation of learning disabilities, or other stressful events such as bullying, academic pressure, incompatibility with roommates, or death of a family member or friend. The average college student experiences stressors like some or all of the above in an economy with a poor job outlook, rising costs of education and the likelihood of graduating with high levels of debt.

In the past 25 years there has been a decline in emotional health of college freshmen. Interestingly, current studies have shown that women are more susceptible than men (39% vs. 18%). As a student transitions into college life, they are given more freedom usually with increasing levels of responsibility that were not always in place while in high school or living at home. Increased (or first-time) use of alcohol and drugs is not uncommon and may cause or aggravate depression.

The American College Health Association reported in 2000 that 10 percent of students were diagnosed with depression. The National Mental Health Association quoted a study that found at least 30 percent of college freshmen felt overwhelmed at school. In 2009, the College Stress and Mental Health Poll of 2,200 students from forty four-year colleges reported that 85 percent of students felt stressed and 60 percent of those students felt so much stress that they could not complete their work on one or more occasions. In 2010, the U.S. Surgeon General reported that 10 to 15 percent of teenagers will display symptoms of a major depressive episode. Author and psychologist Robert Gallagher believes ages 18 to 25 are prime ages for a serious condition to emerge. The National Alliance on Mental Illness claims suicide is the third leading cause of death for young people between the ages of 15 to 24.

According to research conducted by Northwestern University School of Medicine, one out of every four to five college students that seek treatment for a physical ailment from their student health care center is actually suffering from depression. However, many of the centers miss the opportunity to diagnose and treat the condition because they do not properly screen for the condition. Author Dr. Michael Fleming has suggested that a confidential screening process with as few as seven questions could identify depression.

Signs of depression include:

- Trouble sleeping
- Sleeping too much
- Change in appetite
- Loss of energy
- Feelings of sadness or irritability
- Difficulty concentrating
- Guilty thoughts for no reason
- Loss of interests or pleasures that were once enjoyed
- Thoughts preoccupied with death/ suicide

Medication and psychotherapy are the recommended treatments. Anti-depressants are designed to alleviate symptoms of depression by changing the chemical levels within the human body, but they are not the ideal option when treating children and teenagers, as they can heighten symptoms and even lead to suicide. In 2011, the American Psychological Association released findings indicating that within the past 10 years, the number of students taking psychiatric medication has increased more than 10%.

Depression has become an overwhelming issue among teenagers and young adults particularly in a college/ university setting. Without timely and proper diagnosis followed by effective treatment, students can suffer academically from falling grades to dropping out and physically from self-induced injury to suicide.

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