

# LARGE LOSS REPORT

2014

The *Large Loss Report 2014* summarizes major damage awards and settlements exceeding \$250,000 that affected schools, colleges, and universities in 2013. Cases include a \$30 million settlement in a school sex abuse scandal, a \$4.5 million settlement in a racial discrimination lawsuit against a university, a \$2.3 million settlement in a medical malpractice case involving university doctors, and multimillion-dollar wrongful death settlements. We've also included information on head trauma cases involving the National Football League (NFL), the National Collegiate Athletic Association (NCAA), and other athletics organizations.

These descriptions are drawn from published accounts, and most do not involve United Educators (UE) members. However, they do reflect trends UE has seen among its claims. Complaints involved child abuse, discrimination, harassment, medical care and research, sexual abuse and assaults, and wrongful deaths. Many of these claims affected public institutions, but similar incidents could lead to financial losses and reputational damage for independent schools and private colleges and universities.



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## Education Awards and Settlements

### Child Abuse

- The **Brentwood Unified School District** in California will pay **\$950,000** to settle a January 2012 lawsuit filed by the family of a 5-year-old special needs student. The suit claims a teacher threw the boy to the floor, kicked him as he fell, and yelled at him. She pleaded no contest to misdemeanor child abuse charges, was placed on four years' probation, received a year of child abuse training, and the teacher can no longer teach in a classroom. The boy's mother said the school didn't hold the teacher liable until she reported the incident to police.

### Discrimination

- The **University of California** (UC) will pay **\$4.5 million** in a settlement with an African-American UCLA surgeon who filed a race discrimination lawsuit against the university last year. He claimed that university officials failed to prevent discrimination, harassment, retaliation, and infliction of intentional emotional distress after his colleagues ridiculed him during a presentation at an event sponsored by the UCLA Medical Center.
- **Plainfield District** 202 in Chicago will pay **\$264,500** to settle a discrimination lawsuit filed when the district laid off six female campus monitors. The women claimed the district violated their contract because they had more seniority than some male counterparts who were not laid off. The district kept 13 female and 13 male campus monitors and argued that the male counterparts were needed to monitor boys' bathrooms and locker rooms.

- **Edison State College** in Florida will pay **\$256,000** to settle a federal lawsuit filed by a former vice president who says he was fired for reporting racially discriminatory hiring practices during its search for a nursing school dean. He claimed that the college president subjected him to hostility and harassment after he made the claims to the accrediting body. The college previously agreed to an \$85,000 settlement with a woman who said she was denied the position based on race. Edison also agreed to a \$540,000 settlement with the president, who was fired in January 2012. The dean of arts and sciences also filed a lawsuit related to voicing concerns about discrimination, which is pending.

### Facilities

- The **Washington Academy** agreed to pay **\$375,000** to settle a claim brought by the Cedar Grove Board of Education in New Jersey over unpaid rent. Washington Academy, a private K-12 school for special needs students, occupied a former public school building leased by Cedar Grove. The public school board sued the academy and removed it from the building, claiming that it stopped paying its rent.



Since the release of this report, some of the outcomes may have changed as a result of subsequent legal proceedings. Whatever the outcome, the expense can be significant, as defense costs, which are not included in this report, can also be substantial. In many cases, plaintiffs' legal fees were awarded as well.



## Harassment

- The **University of Buffalo** settled a sexual harassment lawsuit with a former clerk at the School of Dental Medicine's instrument management services for **\$255,000**. The clerk accused a former associate dean of making unwelcome sexual advances at an off-campus party and creating a hostile work environment.

## Hiring and Firing

- **Grand Rapids Public Schools** in Michigan settled a lawsuit with its former superintendent, agreeing to pay him **\$280,000** which he said the district owed him under a severance package worth about \$400,000 in cash, including 18 months' salary and two years of an annuity.



## Medical Care and Research

- **Northwestern University** in Chicago agreed to pay the federal government **\$2.93 million** to settle claims that it did not adequately monitor a cancer researcher who misspent grant money. Instead of research, he used the money for travel, hotels, meals, and payments to unqualified relatives, according to the lawsuit.
- The **University of Cincinnati** (UC) has agreed to a **\$2.3 million** settlement with a woman who claimed that she became a paraplegic after a delayed diagnosis at Clinton Memorial Hospital, where UC had operated a family practice residency program. The hospital previously agreed to a \$2 million settlement with the woman and said it will discontinue the residency program with UC.
- The **University of California-Irvine** (UCI) agreed to pay **\$1.2 million** to settle claims that its hospital violated federal laws by allowing residents and certified nurse anesthetists to administer anesthesia with no supervision by physicians and then billing Medicare as if the doctors were present. The settlement followed a whistle-blower complaint filed by an anesthesiologist and former UCI professor. He alleged that the university had "pre-filled" records to make it appear that a physician was present even when the physician was in a different building at the time. University officials deny the whistle-blower's claims.

- **Ohio State University** will pay **\$268,000** and replace its medical lab director as part of a settlement with federal health authorities over the alleged mishandling of test samples at the university's medical center clinical lab. The university will also conduct additional training for lab personnel. The Centers for Medicare and Medicaid Services claimed quality control samples were improperly sent from the university's clinical lab to other hospital laboratories in violation of university and federal policies.

## Negligence

- A federal jury awarded a **\$41.75 million** verdict to a former student of The **Hotchkiss School** who contracted a tick-borne illness while on a study abroad trip to China. The former student alleged that the school failed to require that she take precautions against ticks, which she alleges could have prevented her from suffering insect bites. According to the Centers for Disease Control, the plaintiff was the first American visitor to China to contract tick-borne encephalitis, leaving her with speech problems and facial paralysis.

## Sexual Molestation and Assault

- The **Los Angeles Unified School District** reached a **\$30-million** settlement in 58 claims brought by students and parents over allegations of abuse by a former elementary school teacher. At least 61 claims remained unresolved. The 62-year-old teacher pleaded no contest to charges of lewd conduct and was sentenced to 25 years in prison.
- The **Christian Brothers Institute** of New Rochelle, N.Y., an order of the Catholic Church, will pay **\$16.5 million** to settle more than 400 claims of sex abuse at its schools and orphanages. The settlements were part of the institute's bankruptcy proceeding.

- A federal judge approved a **\$5.75 million** class-action settlement of a lawsuit accusing the state of Hawaii of allowing and covering up years of sexual abuse of students at **Hawaii School for the Deaf and Blind**. The suit also named the K-12 public school's principal and a school counselor. The state will pay \$5 million for itself and the principal. The counselor will pay \$750,000. Parents and guardians of 35 current and former students alleged that a group of students bullied, terrorized, assaulted, robbed, sodomized, and raped younger students on campus and on school buses for a decade.
- **Lodi Unified School District** in California reached a **\$4.75 million** settlement on behalf of a 10-year-old special needs child who was sexually assaulted on a school bus by the driver when she was 8. She had the mental capacity of a 5-year-old. The driver is serving a 25-year prison sentence.
- The **Moraga School District** in California reached settlements with two women who filed lawsuits in a sex abuse scandal involving a former eighth-grade science teacher during the mid-1990s. One woman received **\$2.85 million** and the other received **\$1.8 million** after claiming the district failed to report suspicions about the teacher at Joaquin Moraga Intermediate School. Two related suits are pending.
- The **Horace Mann School** paid more than **\$1 million** to settle claims by a number of former students who alleged that they were sexually abused by teachers during their tenure there. The students said the abuse took place from the 1970s to the 1990s. Another alleged victim has filed a separate lawsuit against the school.

## Teaching

- The **Minneapolis Public Schools** reached a **\$400,000** settlement with 657 students who were taught by unlicensed teachers at Broadway High School, which serves dropouts who return to school as young mothers. A district investigation found that 13 people had taught at Broadway without proper licenses or temporary license waivers, which delayed progress toward graduation for many students.

## Wrongful Death

- The parents of a **University of Connecticut** student killed by a campus shuttle bus driven by another student reached a **\$5.5 million** settlement of their negligence lawsuit against the university and the state. The bus driver pleaded no contest to negligent homicide and was sentenced to two years of probation.
- The families of victims of a schoolyard shooting reached a **\$5 million** settlement with the **Newark School District** and the state of New Jersey. The district will pay \$2 million and the Department of Education will pay \$3 million. The four college-age victims, who had gone to the school to listen to music about 11 p.m., were robbed at gunpoint by six men. Three were shot to death. A fourth shooting victim survived.

## Traumatic Brain Injuries

Educational institutions are working to improve concussion management for student athletes. The Centers for Disease Control and Prevention is studying the issue, and many states have passed related legislation. Concerns over the long-term effects of repeated head trauma in professional, collegiate, and high school sports have gained attention with high-profile illnesses, suicides, and lawsuits.

- The **National Football League (NFL)** agreed to pay **\$765 million** to settle a lawsuit brought by more than 4,500 players and their families who accused the league of concealing information about the dangers of repeated hits to the head. The funds will cover medical exams, concussion-related compensation, and medical research for retired NFL players and their families. The NFL had faced the possibility of billions of dollars in liability payments and further reputational damage. The League has funded research and worked to improve safety and medical protocols as scientific evidence suggests a link between head trauma and long-term cognitive damage.
- The **National Collegiate Athletics Association (NCAA)** has been named as a defendant in half a dozen or more class action lawsuits seeking similar relief to that sought in the NFL lawsuits, although several of them reach beyond football to other collegiate sports. Most of these lawsuits have recently been consolidated before a federal court in Illinois and recent media reports suggest that the NCAA has agreed to mediate on these issues.
- Most recently, the **National Hockey League (NHL)** and the **National Federation of High School Associations (NFHSA)** have also been sued separately in concussion-related lawsuits.

- **Montclair High School** and the Montclair Board of Education in New Jersey reached a **\$2.8 million** settlement with the family of a high school football player who died after suffering a concussion. The family's lawsuit claimed the 16-year-old had a brain hemorrhage after being returned to the game following an earlier concussion. The family's attorney says the school's athletic trainer ignored results of a cognitive functioning test.
- The family of an Ohio teen who died after a university police officer shocked him with a stun gun reached a **\$2 million** settlement in a lawsuit against the **University of Cincinnati**. The teen's family sued the school and the officer, alleging that the shock led to the teen's death. The university must notify the public and the teen's family before resuming stun-gun use and pay tuition for the teens' two siblings. The officer said he used the stun gun because the teen was approaching him and refused to stop. The official cause of death was undetermined. A prosecutor found the officer did nothing wrong.
- The **University of North Carolina** at Wilmington (UNCW) settled a claim with the parents of an 18-year-old male who was shot to death by a county sheriff's deputy during a raid that involved the UNCW campus police department. The officers were at a home, which the teen shared with several others, to serve warrants in a theft investigation. The lawsuit alleged that the police investigation was sloppy and that the search warrant led deputies to believe there might be guns in the home. UNCW acknowledged that the victim was unarmed, did nothing to provoke the gunfire, and had no criminal record. The state paid the family **\$150,000** and will use \$100,000 to train UNCW police officers.



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