Welcome to Spectrum
From United Educators

These are interesting and challenging times for the education community. Our schools, colleges, and universities are more diverse than ever; society is examining the role education plays in the nation’s economic and cultural growth; government agencies are releasing tough compliance mandates; and the media is shining a spotlight on everything from sexual assault to athletic injuries—all while institutions’ budgets are getting tighter. Meanwhile, overburdened administrators and faculty are working to fulfill their primary mission—educating and supporting their communities.

The value of United Educators (UE) extends far beyond our insurance offerings; we are a strong partner for education. In addition to providing an increasing array of liability products to help protect institutions from financial loss, we offer solid risk management information through EduRisk®—including blended learning programs—to help you identify and mitigate the most common risks in education. When you face a claim, we’re there to support you through its resolution with a Cool Head, Warm Heart.” (continued, pg. 2)
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Engaging Men to Prevent Sexual Violence
The importance of getting men involved in sexual assault prevention efforts.

An institution’s sexual violence prevention program should focus not only on reducing women’s risk of becoming victims, but also on encouraging men to stand up against sexual violence. Challenging men to take an active role in preventing sexual violence involves changing attitudes, dispelling rape myths, and altering deeply rooted social norms. Training programs should teach men about healthy sexual relationships, how to identify sexism and sexist behavior, and to intervene when they see abusive behavior.

NCAA Updates Concussion Management Guidelines
Highlights from the NCAA’s new recommendations for concussion management.

Colleges and universities should review the new guidelines and consider updating their concussion management plans as necessary. The NCAA’s recommendations include:
- Reduce live contact football practices
- Provide independent medical care
- Publicize your concussion management plan
- Educate athletes, coaches, trainers, medical staff, and athletic directors
- Conduct a baseline assessment of all varsity athletes

Consider Risk Before You Set Sail for Study Abroad
Recommendations for keeping K-12 school students safe during study abroad programs, based on an analysis of UE claims.

More than 60 percent of claims involved alleged sexual misconduct against students, ranging from inappropriate language to sexual assault. Forty percent of sexual misconduct matters involved complaints about members of students’ foreign host families or the families’ friends and relatives. To protect students and reduce liability, schools should vet foreign host families, develop a crisis management plan, and require waivers and assumption of risk forms.

From Compliance to Cultural Change: Addressing Sexual Violence on Campus
A report following a meeting of the White House Task Force to Protect Students from Sexual Assault.

UE and representatives from the American Council on Education and the National Association of College and University Attorneys said they were struggling to get beyond making long lists of their risk management concerns—risk registers—and respond to board members, who are the drivers of ERM (enterprise risk management) on campus. In addition to sharing risk registers with their peers, they agreed on the importance of including sacred cows—institutional traditions and stars—in their risk reviews.

Follow UE’s blogs to keep up with the issues that matter most to educational institutions. Insights presents timely risk management and compliance updates, recommendations, and resources. Education Matters examines factors that influence institutions’ risk management and liability reduction efforts. Risk Oversight focuses on enterprise risk management and governance in higher education. Here are some highlights from recent posts.

INSIGHTS
Available on EduRiskSolutions.org

Ebola: Protecting Your Campus, Students, and Employees
An overview of what schools, colleges, and universities should know about the 2014 Ebola outbreak in West Africa.

Institutions with students, faculty, or staff traveling in and out of the region need to know the disease’s symptoms, how it is transmitted, locations of confirmed cases, and how to protect your campus community.

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- Conduct a baseline assessment of all varsity athletes

Did you know? Soccer generated more concussion-related claims than football in K-12 schools. Read “Hot Topics in Independent School Risks” to learn more.

RISK OVERSIGHT
Available on EduRiskSolutions.org

Identifying Risks With a Spotlight and a Flashlight
Interactions at a meeting of the Eastern Association of College and University Business Officers (EACUBO).

Most of the CFOs and business officers in attendance said they were struggling to get beyond making long lists of their risk management concerns—risk registers—and respond to board members, who are the drivers of ERM (enterprise risk management) on campus. In addition to sharing risk registers with their peers, they agreed on the importance of including sacred cows—institutional traditions and stars—in their risk reviews.

[Image: Blog Digest – Highlights from recent UE blogs]
For three years, educational institutions scrambled to fulfill new federal requirements to prevent and respond to sexual harassment and sexual assault. Title IX coordinators—who remain on the front lines in this effort—had conquered part of this compliance challenge. However, additional guidance and federal legislation became effective this spring and more regulations are coming this fall, generating additional concerns.

When the Office for Civil Rights (OCR) at the U.S. Department of Education (ED) issued its 19-page “Dear Colleague” letter (DCL) in 2011, campus officials described it as repetitive, overwhelming, and difficult to implement. OCR followed that in April 2014 with new guidance, “Questions and Answers on Title IX and Sexual Violence” (Q&A).

Last year, Section 304 of the Violence Against Women Reauthorization Act of 2013 (VAWA)—also known as the Campus Sexual Violence Elimination (SaVE) Act—added domestic violence, dating violence, and stalking to the crimes for which the Clery Act requires disclosure of statistics and other security information. The SaVE Act, which became effective in March 2014, also requires institutions to develop prevention and response training for students and employees. Final regulations to implement the SaVE Act are expected by November and would likely become effective in July. Meanwhile, ED expects institutions to make a “good faith effort” to comply.

The DCL reinforced OCR’s requirement that recipients of federal funds designate and publicize a Title IX coordinator to oversee an institution’s compliance efforts. The coordinator’s duties—which the Q&A expanded—include meeting with students who report sexual harassment or assault, ensuring that complaints are handled consistently, and investigating the incident or overseeing the investigation. This role, which is crucial in fighting sexual assault problems on campus, is becoming even more complex.

“When someone comes to me with an esoteric question, I would like to be able to say, ‘Here’s the answer,’ and I can’t,” said Amanda Paye, Title IX/ADA coordinator at the University of Washington (UW) in Seattle, “I just have to try to piece it all together. It feels like our agencies are siloed in their focus. We’re not getting as much help as I would like.”

Her most difficult compliance challenge is untangling the web of related legal obligations, she said. For example, she wants more guidance about the intersection of Title IX with the Campus SaVE Act. Also, as a public institution, UW has to ensure due process and First Amendment rights to accusers and the accused, she said. “We want to look at the big picture. We can’t have tunnel vision about Title IX.”

Paye, a lawyer whose position falls within the office of risk management, serves in a compliance consultant role. “There’s no way one person can take every complaint in a...
university of this size,” she said. UW promotes an “any door” philosophy. Anyone who receives a sexual assault report is obligated to connect the student with the appropriate authorities and resources.

Paye’s program is emphasizing outreach and education to the university community to ensure that anyone who receives a report from a student knows what to do and how to seek assistance. She ensures that the university’s systems of reporting and response are in compliance with Title IX and other relevant laws and policies.

Increased Visibility

Despite its lack of specificity about expectations and requirements, the DCL did vastly increase awareness of Title IX beyond its sports equality mandates, said Jody Shipper, executive director of equity and diversity and Title IX coordinator at the University of Southern California in Los Angeles (USC).

“If I had said to people on this campus in 2009, ‘Hey, I'm your Title IX coordinator,’ they would have replied, ‘Wow, I didn't know you worked in athletics.’ If I had walked around campus and polled 100 people, either they would have looked at me like ‘What are you talking about?’ or they would have assumed ‘It's the sports law,’” she said.

“In many ways, the visibility, both nationwide and universitywide, has made our job easier. Now one can say, 'This really has to happen,' and it carries more weight. It's easier to have important conversations,” Shipper said.

Advice From the Field

To help clear up any confusion, Title IX coordinators from UE member campuses offer these suggestions to their counterparts at other institutions:

- Spread the word about your process. After establishing a good reporting process, make sure faculty, staff, and students know where to go and what to do. Getting the word out is an ongoing responsibility, said Barbara Martin, Title IX coordinator at Bucknell University in Lewisburg, Penn. “I'm always looking for ways to introduce myself to and connect with students and student groups. I want them to think of me as a resource—of course when there's a reported assault—but also when they are talking about prevention and education. And the training sessions I offer for all employees are a great opportunity to explain my role to that segment of the community.”

- Consider a script. Paye finds it helpful during training to provide a script of what to say when students report a sexual assault. This helps avoid unfortunate questions such as, “Are you sure about this?” or “Did you have too much to drink?” During training sessions, “we're really trying to get to the people students most likely will go to and blurt out their story about this terrible thing that happened to them,” she said.

(continued, pg. 11)
One size does not fit all when it comes to Title IX policies. If you borrow ideas from another institution, make sure they're appropriate for your campus.

When developing a Title IX policy, be careful what you borrow. A policy that seems perfect at first glance may not be appropriate for your institution. For example, consider the media attention around the University of Akron in Ohio, which borrowed a Title IX policy and failed to edit it to remove a reference to a committee that didn't exist at the university.

Policies and procedures differ so very much based on the size of your institution,” said Jody Shipper, executive director of equity and diversity and Title IX coordinator at the University of Southern California (USC). In her work with other organizations, Shipper finds that one of the greatest mistakes is failing to take into account the institution’s size, culture, and community.

“We all borrow from each other,” she said. “So you rewrite your policy, borrowing from the University of Michigan or Ohio State, someplace very big with an excellent policy. But you’re a tiny institution. What if you have a complicated hearing? You come up with a list of people who could serve on the hearing panel. If your policy gives each party the chance to strike a name, how many trained people do you have left who can serve?”

Another common problem for smaller colleges may arise after a hearing. If both parties remain at your institution, these students may have a professor who was on the review panel and heard their whole sexual assault case. That’s unfair to the students and faculty members, she said. Larger institutions with multiple schools and several undergraduate colleges have the luxury of drawing upon a broad range of candidates to participate in hearings, thus preventing conflicts that could arise with students and faculty.

Some institutions commit to unnecessary hearings, even when they are not required by state law or by the DCL, Shipper said. Some policies found online seem to imply that the institution expects students to develop a case, but that’s the institution’s responsibility.

Also, some policies indicate that the hearing is a fact-finding tool. Such hearings could last a few days, which adds stress to the students, administrators, and faculty. Instead of using the hearing to decipher facts, institutions could use a well-trained investigator who comes to a conclusion, she said.

“We developed an online form that faculty and staff can use to report incidents that are brought to their attention,” Martin said. “We talk about the form in our training sessions. I’m hopeful that doing so in that setting gives employees a level of comfort and confidence when it comes time to react to these emotional and difficult situations in real time.”

Find partners on and off campus. To help spread the word about the DCL’s requirements at the 40,000-student university, Paye is identifying a go-to person in every UW school or college, whether it’s the HR person or associate dean of students. “I’m really trying to build a Title IX and ADA network so I know who to go to,” she said.

"You can’t do this alone.” She also advises others to “Reach out to other Title IX coordinators who may be facing similar issues, particularly where they have noticed intersections with state law.” Shipper agrees, saying, “You can be a great source of support for each other. You’re listening to very difficult information.”

Learn about young people. Get out and talk to students, Shipper said. “People who are older sometimes forget that [sexual] practices that might seem odd to them could be a norm for others, and that shouldn’t bias you.”

Get really comfortable talking about sex. If you can’t, you shouldn’t be conducting interviews.

Use specific language. If your policy indicates that a complainant has a certain number of days for an appeal, state whether those include business days, calendar days, class days, or days during breaks when the institution is closed.

Understand how people in crisis react. Otherwise, you may misinterpret the information being presented. Someone may wait weeks or months to report a sexual assault, and the complainant may behave in an apparently disingenuous manner. For example, the accuser may display no emotions or show heightened emotions.

People process incidents in different ways.

By Margo Vanover Porter, a freelance business and education writer
Safe for Learning
Schools Balance Security With Kid-Friendly Atmosphere

In the aftermath of mass school shootings like those at Columbine High School and Sandy Hook Elementary School—in addition to frequent smaller attacks, such as the recent fatal shooting at a high school near Portland, Ore.—enhanced security has become the new reality for schools. The challenge facing K-12 administrators is how to keep students safe while maintaining an open and inviting educational environment in which students can learn and, at times, just enjoy being kids.

“‘The longer it takes for a potential threat or suspect to get into the building, the faster you can notify police,’ he said. ‘You allow law enforcement that lag time to get there and deal with the threat.’

Making students feel safe has always meant focusing on physical factors such as the size and layout of buildings, access points, and the number of students, Barrett said. “But now, things that we assumed would never be issues are. Newtown changed that.”

State-of-the-art physical security systems can be prohibitively expensive for some schools and districts. Those that lack the funds for such ambitious capital improvements can focus on education and training, which are just as essential and relatively inexpensive. For example, to promote safety, some schools are focusing on consistent safety drills and relationship building in the school community.

“You want to do a good job of making sure you have controlled access,” said Rex Barrett, acting director of Security Services for Prince George’s County (Md.) Public Schools (PGCPS). Cameras, fences, entry systems, and other devices not only provide a visual and physical deterrent to would-be attackers, they also create a “time barrier” if someone does attempt to enter the school.

“The challenge facing K-12 administrators is how to keep students safe while maintaining an open and inviting educational environment in which students can learn and, at times, just enjoy being kids.”

“In the aftermath of mass school shootings like those at Columbine High School and Sandy Hook Elementary School—in addition to frequent smaller attacks, such as the recent fatal shooting at a high school near Portland, Ore.—enhanced security has become the new reality for schools.”

“You can’t study or learn if you don’t feel safe at school.”

Bill Jelkin, director of Student Services, Millard Public Schools (Omaha, Neb.)
Building Relationships

Locking Doors and Building Relationships

In 2011, a student suspended from Millard South High School for trespassing on school property returned to the school with a concealed gun. He shot and killed the assistant principal and wounded the principal, then fled the school and killed himself. That tragedy forced MPS to reassess its security and student discipline procedures.

The 23,500-student district made holistic changes designed to prevent future attacks, Jelkin said. The student followed all the proper procedures to enter the school; a security officer who didn’t know that the student had been suspended admitted him. Now the school distributes photos of suspended students to security personnel and advises them on the length and terms of the suspension.

Administrators also meet with suspended students and their parents. “For students, this is a big event in their lives, worthy of a sit-down conversation about where we go from here,” Jelkin said. The district is working on ways to help students coming off suspension re-integrate successfully into school, which benefits all members of the school community.

Detroit Country Day School (DCDS) values its close-knit culture and sense of community. Ensuring safety and security at the 1,600-student school is a cooperative effort, said Susan Murphy, director of external affairs. Because of its culture, DCDS has chosen to emphasize that it is a safe, inviting place to learn rather than a high security zone.

“Students not only understand ‘see something, say something,’ but they also know who to tell and feel comfortable approaching them.” - Rex Barrett, acting director of security services, Prince George’s County (Md.) Public Schools

I can’t imagine that we would want or welcome that kind of compound mentality because it would not be conducive to the learning environment,” she said.

The school has a team of security professionals on all four of its campuses, and administrators review and fine-tune safety measures regularly, Murphy said. The school keeps students informed, and, as a result, they are comfortable with the efforts.

Students take part in safety drills addressing all types of emergencies—from tornadoes to lockdowns. “With practice, they become comfortable with them,” Murphy said. “They don’t panic when a drill comes around. They know what they’re supposed to do and they know that they’re prepared if the real event occurs.”

Building rapport between security personnel and students gets kids involved in their school’s safety. “They will tell you, ‘Hey, you might want to check Johnny’s backpack,’” PGCPS’ Barrett said. “Students not only understand ‘see something, say something,’ but they also know who to tell and feel comfortable approaching them.” Creating relationships also includes specialized training in mediation and conflict resolution for security officers, he said.

DCDS’ separate campuses for its lower, junior, middle, and high school students present physical security challenges, but it enables administrators to tailor the message more specifically to the age group, Murphy said. In many schools, for example, lockdown drills are announced ahead of time to avoid frightening students. Younger students might hear more about conflict resolution for security officers, he said.

Students take part in safety drills addressing all types of emergencies—from tornadoes to lockdowns.
Educational institutions can face a crisis at any time, from a student death to a financial scandal, sexual assault, or a compliance problem. Administrators focus on preventing and mitigating such damaging incidents, but another key element of protecting a school, college, or university is developing, practicing, and implementing a crisis communications plan.

Your response in the first 60 minutes of a crisis will become indelible, said Rhonda Barnat, managing director of the Abernathy MacGregor Group, a public relations (PR) company in New York. While you can—and should—wait to confirm facts, you can’t wait to convey a message of concern. “The theme of concern, of compassion, and of taking steps to do the right thing—that must be immediate,” she said.

That approach has worked for AFS Intercultural Programs Inc., which offers international exchange programs to more than 12,000 high school juniors and seniors annually. “The first thing we try to express is that the safety of our participants is our number one priority,” said Larry Barnett, director of program services and risk management. “We do this because it is honestly the way we feel and the principles on which the organization was founded.”

He recalled one incident in which a U.S. participant lost a significant amount of weight while staying with a family abroad, possibly because of an eating disorder that wasn’t discovered in the application process.

In this case, the media implied that he went on one of our programs and was underfed,” Barnett said. “We had a big media blowout, not so much focused on our organization but on exchange students in general,” raising questions about whether it was appropriate for students to travel to certain countries and the frequency of such problems. “It became an industry spotlight. We were very proactive in trying to express sympathy and demonstrate that we were not irresponsible in the care of the participant.”

AFS voluntarily improved its already rigorous screening process. “Generally, participants apply for a program a year before they...
To survive a crisis, education administrators must develop thick skin and show fortitude, said Michael Fineman, president of Fineman PR in San Francisco. “You may have to accept some early brickbats from know-it-all commentators,” he said. “Just understand that in the end you will have the chance to get your point of view across and your side of the story told.”

He recommends that institutions avoid these mistakes when telling their story to the media:

- **Do not** discuss the legal ramifications of the crisis, which include responsibility and liability.
- **Do not** provide unnecessary information.
- **Do not** speculate. Stick to written, counsel-approved messages with known facts.
- **Do not** release the names of any injured person until notifying next of kin.
- **Do not** say, “No comment,” “I am not allowed to talk,” “I can’t tell you anything,” “I don’t have time to talk to you,” or “The darn thing blew sky high.”
- **Do not** allow misinformation to go unchallenged.
- **Do not** put anything in writing, including emails, that you don’t want to see in the next day’s newspaper.

In addition, offer an escort to any members of the media visiting your campus.
ProResponse

ProResponse, UE’s supplemental crisis response program, is aligned with UE’s Cool Head, Warm Heart philosophy, in recognition that crisis response requires a rational approach to legal matters and a thoughtful appreciation for the emotional trauma of the circumstance. ProResponse provides immediate assistance when eligible members need expert services, including:
• Trauma or grief counseling
• Emergency call center services
• Crisis communications services
• Threat assessment case consultation
• Sexual misconduct investigation
• E-discovery consultation

Control the Message

During the defining moments of a communications crisis, educational institutions should identify and answer the most important question, such as “Are we safe?” or “Is school open?” said Barnat.

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Consider your communication strategy a part of crisis response planning and include the communications response team in emergency response drills.”
Monitor social media. The tenets of crisis communication hold true for social media, Zafiro said. “It just takes place at a faster speed. Your messages should be consistent across the board, although social media may require a more casual tone.” For example, if someone poses a question on social media, institutions should provide a simple answer and direct the individual to the website for additional details. “You don’t have to respond to every single tweet, but you should be aware that conversations are taking place on social media,” she said.

Demonstrate concern. During a crisis, your top message should always be public concern, said Fineman. “Communicating that your priority is the safety of your students will go far in comforting and reassuring your audience that your priorities are in the right place.” Saying “We’re so sorry this happened” is not an admission of liability, Carmichael said. “An organization should not be afraid to express its genuine sorrow or regret over events that may have transpired.”

Establish Guidelines and Provide Training

When a crisis strikes, AFS coordinates responses to press inquiries from 50 offices in 60 countries. “We don’t prevent the offices from speaking to the media,” said Barnett. “We ask that they notify us so we can coordinate the effort and our responses can be uniform if we get similar questions in other countries. What we don’t want is one office saying one thing and another office saying the opposite.”

AFS conducts hands-on training and annually distributes crisis communication guidelines that include tips for media interviews, such as:

- Find out exactly what the journalist wants before you respond. Negotiate enough time to prepare.
- Prepare for the interview by selecting three key messages that meet the needs of your audience. Collect evidence and examples to support those messages.
- Avoid technical language and jargon.
- Script a succinct, colloquial sound bite.
- Brainstorm difficult questions and formulate strong answers beforehand.
- Establish ground rules for the interview, including length, place, pre-recorded or live, and participants.
- When asked to test sound settings for a recording, use your prepared sound bite.
- Speak with passion and put people first.

By Margo Vanover Porter, a freelance business and education writer
Grinnell College Makes Enterprise Risk Management a Priority

Looking at risk across the entire institution allows senior staff to identify hazards before damage is done.

Most higher education institutions haven't embraced the concept of enterprise risk management (ERM), according to recent research by the Association of Governing Boards of Universities and Colleges (AGB) and UE. Instead of assessing and addressing threats across the institution—which is highly valued in the business sector—college and university administrators tend to tackle one hazard at a time. This limited approach is less likely to identify and resolve risks that could damage the institution's reputation or interfere with its mission, AGB and UE concluded.

Grinnell College is trying to change that—one small liberal arts college at a time—beginning at home. A professor-turned-administrator spent the 2013-2014 academic year leading a study of the ERM approach, identifying and addressing risks across the Grinnell, Iowa, campus, sharing information with colleagues on a blog, and developing resources to share with other institutions. This enabled Grinnell to incorporate broad risk management into day-to-day life and identify enterprise-wide risks it should tackle.

Challenge Accepted

Paula Smith was about to end her term as vice president for academic affairs and return to her duties as an English professor at Grinnell when she decided to remain in administration for another year to help adapt business-oriented ERM concepts to the educational environment. “It was something we had just started, and I didn’t want to see us lose the momentum,” she said.

Raynard Kington, president of Grinnell since 2010, introduced ERM to senior administrators. The physician and former deputy director of the National Institutes of Health assumed that a college would have comprehensive risk management in place. “One of the first questions he asked was, ‘What are our institutional plans and policies to manage risk?’ We realized we were individually managing risk in our own areas, but not really coordinating our efforts,” Smith said. “It takes broad awareness across the institution and purposeful collaboration to make sure risks are minimized. Traditional ERM is predicated on clearer lines of authority, so it’s no small task to map risk management onto the governance of even a small college.”

The administrative side of an educational institution resembles a corporate structure, with supervisors at each level, but the similarities begin to diverge there. “You complicate that picture when you try to account for the powers held by tenured faculty, the strong voice of students or alumni, and leaders who are elected from among the faculty, students, and sometimes the staff,” Smith said.

With the president’s encouragement, she outlined her ideas for carrying out a yearlong project on risk that could benefit Grinnell and perhaps other campuses as well. Smith met with leaders and teams across campus to discuss risk and how their work contributes to the college’s mission. “This would lead us to consider the threats and obstacles they face in sustaining the mission,” she said. “I often came in with a list of sample risks to help us get started. I would hear things like, ‘I work on that issue all the time, but never thought of it as a risk.’ So people were learning a new language and perspective that could help them in their work.”

She developed the Purposeful Risk Engagement Project, or PRER, which brought together people across campus to look at risk as a whole institution, brainstorm risks and develop a risk glossary. “It was interesting to see how some apparently mundane issues like road travel safety and student counseling services edged out the more dramatic crisis scenarios,” Smith said.

Paula Smith, director, Purposeful Risk Engagement Project, Grinnell College

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Paula Smith, director, Purposeful Risk Engagement Project, Grinnell College
computer viruses—the things that come to mind first when people hear the word ‘risk,’” Smith said.

The campus leaders realized some team members needed additional resources, training, or approval to spend more time on a particular risk. Smith relayed those concerns to senior leadership and, in some cases, was able to allocate modest funds to advance the ERM work. “The goal … was not only to gather information, but also to generate action, to promote understanding that all risks at the college are connected, and to show that considerations of risk have a place in every decision-making process,” she said.

Doing Business With ERM

Grinnell administrators have developed separate risk registers for specific areas (e.g., student affairs, development, or information technology services) and for the college as a whole. “It’s better to spend less time creating the register—you can always add or edit later—and more time making a difference on the risks everyone agrees are important,” Smith said.

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They prioritized risks by probability and potential impact. “It was interesting to see how some apparently mundane issues like road travel safety and student counseling services edged out the more dramatic crisis scenarios, like active shooters and catastrophic

Building on Success

Once Grinnell had laid the foundation for ERM at the college with this project, the president’s senior staff adopted a list of institutional risks to focus on in the coming year. The most challenging are those that could affect multiple areas of the college. “Interdisciplinary risks can elude accountability; we all tend to assume someone else is taking care of them,” Smith said.

One example is protecting minors on campus. Colleges with many programs that involve children, such as youth sports camps, arts outreach, and early-childhood

research, may need to identify a single administrator who will oversee related policies for the institution, Smith said.

Next, Grinnell will determine how to address the risks identified and make sure college leaders keep ERM in the forefront during the next academic year.

By Julie Britt, Spectrum editor

Ensure that your college is managing enterprisewide risk

Here are some risks a liberal arts college might face that could necessitate the implementation of an enterprisewide risk management (ERM) strategy.

• Gaps in effectively addressing student mental health and substance abuse
• Campus emergency planning
• Fiscal balance; monitoring and modeling revenues and enrollment strategies
• Protection for minors on campus
• Cybersecurity
• Road travel safety
• Handling, storage, and disposal of hazardous substances on campus
• Global travel by students and employees
• Coordination of ADA accessibility and accommodations
• Centralized compliance database of policies with focus on nondiscrimination and safety codes
• Student retention and graduation rates; tracking effectiveness of interventions
• Data integrity—analytics and reporting
NJIT Students Develop Job Skills While Managing Risk

The New Jersey Institute of Technology (NJIT) in Newark has grown from a small technical school to a public university with 10,000 students across 45 acres. Despite this rapid expansion, the Office of Health and Environmental Safety still has only one staff member, Dr. Norman Van Houten, its director. When it became difficult to keep up with required safety and regulatory checks, he enlisted graduate students to help, providing part-time jobs and professional training for them while increasing overall attention to safety on campus.

The student inspections started in 2008 as part of a summer project Van Houten ran. The N.J. Worker and Community Right to Know Act requires businesses that store hazardous substances to inventory those materials each year to benefit emergency responders and the public. Van Houten hired seven students to help him complete the chemical inventory and conduct laboratory safety inspections that the Occupational Safety and Health Administration (OSHA) and the state fire code require.

He realized the students could also monitor slip and fall hazards and fire-code compliance as they moved around campus, so he incorporated broader monitoring responsibilities into these positions.

Using graduate students to conduct safety inspections helps reduce risk in laboratories.

Mutually Beneficial
NJIT’s approach enhances risk management across campus and gives graduate students an advantage in the job market.

Increasing Safety Inside and Outdoors

The students work for NJIT’s Office of Health and Environmental Safety as graduate assistants, receiving stipends; some get scholarships from the National Institute for Occupational Safety and Health. During the summer, seven students conduct annual chemical inventories and inspect the school’s labs. In the fall and spring semesters, five students inspect common areas—such as sidewalks, hallways, vestibules, lounges, the school pub, and the cafeteria—for safety and fire hazards. Each building’s area is checked once in spring and once in the fall.

Along the way, students get valuable training and experience in identifying fire code and OSHA regulations for industry and construction. Van Houten and more senior graduate students provide one-on-one training.

Over the years, the training has expanded. “I go through the whole aspect of the OSHA training, plus the environmental side—Environmental Protection Agency and Department of Health and Human Services, plus fire code—so they get a broad understanding,” Van Houten said.

Mutually Beneficial
NJIT’s approach enhances risk management across campus and gives graduate students an advantage in the job market.
Environmental Protection regulations—and make sure they understand all the different facets of the safety profession," Van Houten said. At first, he or a more senior student will accompany new students on the inspections, and Van Houten performs spot checks. Once students have enough experience, they can handle the inspections on their own.

Students also accompany the state fire marshal on inspections, providing access to locked areas. As they do so, they learn about the fire code and what constitutes a violation. Blocked exits, unlit exit signs, and missing ceiling tiles can pose hazards. When it comes to hiring, Van Houten gives priority to students in the Occupational Safety and Health Engineering program. Most of the students are getting a master's in that field and have undergraduate degrees in chemical, civil, or mechanical engineering. If there aren't enough graduate-school students are getting a master's in that field and have undergraduate degrees in chemical, civil, or mechanical engineering. If there aren't enough graduate-school candidates, he may recruit from undergraduates.

Van Houten said. OSHA contacts him for job vacancies, and another student works as safety director at the Ramapo College, another public N.J. institution, who was in his first class is now his counterpart at NJIT's associate treasurer, uses the records to aid responders with floor plans and information about chemicals. He keeps a copy and provides copies to police and fire departments and other emergency-response agencies. Dr. Nicholas Tworischuk, NJIT's associate treasurer, uses the records to aid in loss control of valuable items such as precious metals. The book is updated every two years.

NJIT saves money by using graduate students for this work instead of hiring full-time employees. But the students benefit as well. “All of my students, over the years, have gone on to very good positions,” Van Houten said. OSHA contacts him for job candidates, and 14 students became federal inspectors. Van Houten uses the information from the chemical inventory to create a book for emergency responders with floor plans and information about chemicals. He keeps a copy and provides copies to police and fire departments and other emergency-response agencies. Dr. Nicholas Tworischuk, NJIT's associate treasurer, uses the records to aid in loss control of valuable items such as precious metals. The book is updated every two years.

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Using the Data

Students carry a tablet that contains checklists to guide them in their inspections. Van Houten develops the checklists with staff programmers and computer majors. He generates a report based on the inspection and sends photos and descriptions of areas that need work to the physical plant department, which schedules maintenance. Students follow up a week or two after inspection to make sure problems have been corrected. The school sometimes enlists the aid of insurance brokers to help improve and update its checklists.

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By Martha Spizziri, a freelance business and education writer

Preventable Claims

FMLA Offers Lenience to Employees Who Need a Flexible Schedule, But the Complicated Law Can Raise Costly Liability Concerns.

The Family and Medical Leave Act (FMLA) provides eligible employees up to 12 work weeks of unpaid leave per year to address medical issues or care for loved ones. Qualified activities include a serious health condition, childbirth, adoption, foster care, and caregiving for an immediate family member (spouse, child, or parent) with a serious health condition. FMLA can also be used to meet qualifying needs arising from an employee's spouse, child, or parent serving on active military duty. When employees on FMLA return to work, they are to be reinstated in the same position or in a job of equal pay and responsibilities.

Although FMLA provides valuable lenience to employees who need a flexible schedule, the complicated law can raise costly liability concerns for educational institutions. The following tips can help your institution avoid some of the most common types of FMLA claims (e.g., retaliation, insufficient documentation) that United Educators (UE) has seen:

- Ensure clear, consistent communication between human resources (HR) and supervisors. In addition to including an FMLA policy in your employee handbook or manual, institutions should train supervisors to recognize situations that may trigger FMLA leave and notify a centralized source in the HR department. Watch for red flags such as a chronic health problem that requires two or more medical visits per year, three consecutive days of absence, pregnancy/birth of a child, and family members who may need care. Preliminarily designate an employee’s leave as FMLA leave if you are unsure whether it qualifies.

- Keep accurate records. Precise notation of absences and performance issues for all employees is imperative to avoid liability. Your institution’s FMLA

By Martha Spizziri, a freelance business and education writer
Qualified FMLA activities include a serious health condition, childbirth, adoption, foster care, and caregiving for an immediate family member with a serious health condition.

standards must be applied consistently to all employees. Pay particular attention to employees whose attendance may be difficult to track, such as faculty with unique schedules.

- Watch for potential issues that could be construed as retaliation. Even if an employee was experiencing performance issues and was going to be terminated or reprimanded before an FMLA absence, he or she may still allege retaliation. Remember that jurors often sympathize with employees returning from medical leave, and if the leave appears to affect an employment decision, it can be tough to defend. Require an employment lawyer to review all proposed discipline against an employee who is on or has recently returned from FMLA leave.

- Be sensitive to employee privacy while determining eligibility for FMLA leave. You must tread the line between respecting an employee’s medical privacy protections while gathering the necessary information to make your decisions. Most of those who take FMLA leave are genuinely dealing with sensitive issues. Failure to respect that can not only cause potential liability, but further emotional distress for employees as well.

- Understand the differences between FMLA, ADA, and workers’ compensation. FMLA claims are difficult to resolve and are often combined with workers’ compensation law claims and those under the Americans with Disabilities Act (ADA).

The FMLA is complex and there are many caveats to consider when determining eligibility. Consult the FMLA section of the U.S. Department of Labor website for comprehensive resources.

By Mike Toohey, UE member relations specialist

Educational institutions must understand that security forces—while necessary—come with their own risks.

Preventable Claims

Excessive Use of Force by Campus Police

Many schools and universities have revised policies, increased the use of armed guards, and implemented other security measures to better protect students, faculty, and staff. However, it is critical that institutions understand the inherent risks in working with campus and third-party security forces; the use of excessive force when dealing with a suspected threat can pose an additional safety risk in a volatile situation.

Consider the following scenarios:

A high school security guard saw a student loitering in the hallway during classroom hours. Upon approaching the student to instruct him to return to class, a chase and confrontation ensued, during which the student suffered a ruptured heart. He said the guard, who was much larger, kicked him in the chest, but the guard said he fell on the boy. The student survived and sued the institution for negligence and improper training. His medical care cost hundreds of thousands of dollars.

A campus police officer pulled over a student he suspected of driving while intoxicated. When the officer attempted to handcuff him, the student allegedly took the officer’s baton and struck him. The officer fatally shot the student, saying that the student had charged him again after the officer had regained control of the baton. In addition to the tragic loss of life, the institution suffered reputational damage and the student’s family filed a multimillion dollar suit.
Security cameras can be a valuable tool to help clarify allegations of excessive force.

Consider the use of security cameras on campus. Security footage of incidents in which excessive force is alleged can help clarify what actually happened.

Work with defense counsel who specialize in this unique aspect of law. Juries and the public will generally side with a student unless fault is clearly proved.

By Mike Toohey, UE member relations specialist

Preventable Claims

Tenure Disputes

Achieving tenure is often the pinnacle of a college or university professor’s career, realized after years of hard work, research, and publications. The extensive effort behind a tenure application and the potential for lifetime appointment means that denial of these coveted positions can lead to costly claims. Often, these claims allege that the institution failed to adhere to tenure review policies and treat the candidate fairly.

Consider the following case studies, based on UE claims:

A tenure-track professor alleged breach of contract following his denial of tenure, which he believed was based on slanderous statements circulating as his case was under review. He stated that he had received positive recommendations from his department, the advisory committee, and review board, and expected to meet the standards for tenure. The institution alleged that there were collegiality issues, and the claim was brought to trial, eventually settling for $95,000 and incurring more than $500,000 in defense costs.

A professor alleged breach of contract, gender discrimination, negligent misrepresentation, due process violations, and breach of duty of good faith and fair dealing after her tenure denial. She claimed that the tenure committee failed to abide by the rules set forth in the faculty handbook as a guideline for achieving tenure. She also said the dean and provost had indicated that her work was well above average, making her a “clear-cut case” for tenure. They later cited insufficient scholastic achievement as the reason for her denial. The claim went to litigation and was settled for $90,000 after incurring $120,000 in defense costs.

Institutions can take these steps to minimize the potential for similar events and reduce liability:

- Run thorough background checks on all security personnel. Look for red flags, such as previous violent incidents, complaints, or frequent job changes.
- Consistently review and disseminate campus security policies. Ensure that campus police officers receive proper training in accordance with these policies.

against the university, alleging negligence in training, supervision, and policies, and wrongful death.

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- Consistently review and disseminate campus security policies. Ensure that campus police officers receive proper training in accordance with these policies.
To help your institution avoid these expensive disputes, those responsible for conducting tenure reviews should ensure:

- **Clarity in tenure evaluation standards.** Your stated criteria for tenure should match the standards you actually apply. Clearly communicate all criteria to a tenure-track faculty member early in his or her career at the institution.

- **Consistency in tenure decisions.** Results must be consistent over time among candidates with different personal characteristics—such as race, gender, disability, and national origin. The formal evaluations of an individual over time should reflect a clear set of expectations and a consistent analysis of his or her performance.

- **Candor in the evaluation of tenure-track faculty.** Clearly explain to every affected faculty member the standards for tenure and the cycle for evaluating progress. Candid, periodic evaluations should include specific examples of performance, constructive criticism, and practical guidance.

- **Caring for unsuccessful candidates.** Faculty and administrators must treat an unsuccessful tenure candidate with professionalism and decency. The person who conveys the news should use compassion, and colleagues should not isolate the person socially. Efforts to help the candidate find another position benefit the individual and the institution.

By Mike Toohey, UE member relations specialist

Tenure decisions should be based on consistent analysis of candidates’ performance and be executed consistently.
Prevention and Protection for Education™

United Educators (UE), a reciprocal risk retention group, is a licensed insurance company owned and governed by nearly 1,300 members representing thousands of schools, colleges, and universities throughout the United States. Our members range from small independent schools to multicampus public universities. UE was created in 1987 on the recommendation of a national task force organized by the National Association of College and University Business Officers. Our mandate is to provide schools, colleges, and universities with a long-term, stable alternative to commercial liability insurance.

EduRisk™ from United Educators provides members with risk management resources to help prevent incidents that put people and institutions at risk. And, when claims do occur, UE protects our schools, colleges, and universities with education-specific coverage and an experienced claims management team. This prevention and protection philosophy enables UE to reduce the overall cost of risk for our policyholders.

United Educators is Rated A (Excellent) by A.M. Best and was named a Ward’s 50 company in 2013 and 2014.

For more information, visit www.UE.org or call (301) 907-4908.