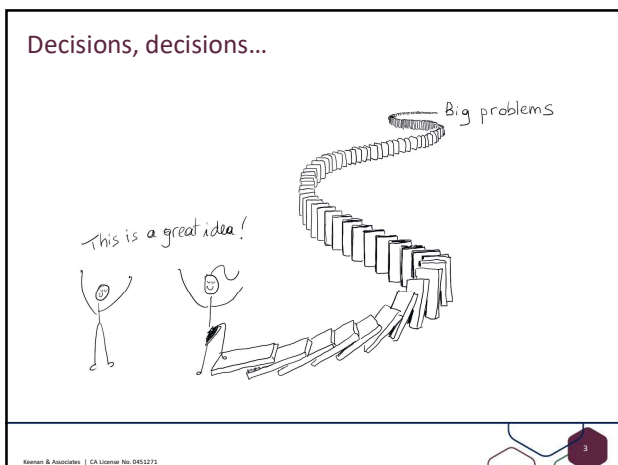




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Special needs parents win \$45 million lawsuit over abuse at SMMUSD school
By Emily Benzel | October 10, 2022

COVID-19 and Nuclear Verdicts: Disastrous Combination or Phantom Fear?
Nuclear verdicts were down at the height of COVID-19. Will they return with a vengeance now due to increasing corporate mistrust?
By Mike Taylor | May 21, 2021
Topics: COVID-19 | Legal/Regulatory | HRMS

Schools Are Getting Hit Hard By Cyberattacks. What Can They Do About It?
Frederick Hess Senior Contributor @
I write about policy and practice in K-12 and higher education.
Oct 21, 2022, 06:00am EDT
Listen to article - 5 minutes

Cyberattacks are an increasing threat to businesses, governments, and organizations of all kinds. Schools are no exception. Last month, the Los Angeles Unified School District, the nation's second largest school system, was victimized by a massive ransomware attack. In late
Los Angeles Times

Jury awards \$102.5 million to two students molested by San Jose music teacher

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Concepts to Ponder for Today's Session



Who owns risk management/insurance in your District & do they have the authority they need to be effective?

Exercising risk management is positive, but have you evaluated your district's risk management policies/practices?

Do you know your District's risk appetite?

Who is responsible for risk management decisions?

Who is responsible for claim decisions?

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Agenda & Goals for Today's Session

- Brief Overview of Risk Management Principles
- Understand the state of the insurance market
- Know the pros & cons of various school risk finance options
- Understand how risk management decisions can impact your short- and long-term budget
- Equip you to make informed decisions

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Risk Management 101



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Managing College Risk In Today's Environment The New Normal

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What is Insurance?

Coverage through a contract binding a party
(Insurance Carrier) to indemnify another
(Policyholder) against specified loss in return for
consideration (Premium).

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Most Common Insurance for CCDs

Property & Casualty

- Property
- Liability
- 3rd Party
- Board of Trustees Legal (EPL/E&O)
- Professional Liability
- Automobile
- Workers' Compensation
- Crime
- Equipment Breakdown
- Electronic Data Processing
- Cyber/Data Breach

Employee Benefits

- Health & Welfare
- Standalone, JPA, Trust, PERS
- Supplemental Early Retirement (SERP)

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The State Of The Insurance Market (And Why It Matters)



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The State of the Market

CAUSE AND EFFECT OF SOCIAL INFLATION

JUROR DISTRUST
Jurors often seek to punish offending companies with large verdicts

LITIGATION FUNDING
Third parties with interest in a case's outcome front the plaintiff's legal fees

ESCALATING VERDICTS
The normalization of big numbers tends to increase jury awards and settlements

GROWING GENERAL LIABILITY LOSSES

AB 218 - California Child Victim Protection Act

Is it time to get your life back?

Call us at (877) 276-5084

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**FORMER NYC STUDENT AWARDED
NEARLY \$60 MILLION AFTER
CHEMISTRY EXPERIMENT LEFT HIM
SEVERELY DISFIGURED**

A former New York City high school student was awarded nearly \$60 million by a jury after he was left severely disfigured in a horrific chemistry experiment gone wrong.

Alanzo Yanes, who was 16 at the time of the accident, said he felt like he was "hopelessly burning alive" the moment his entire upper body became engulfed in flames when a fireball erupted in his Beacon High School chemistry class in January 2014.

THE FOX NEWS CHANNEL, JULY 2, 2019

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Risk Financing 101

Self Insurance	Traditional Insurance	JPA	Large Pool/JPA
Pros:	Pros:	Pros:	Pros:
Cons:	Cons:	Cons:	Cons:

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How Can Colleges Insure their Risks?

Guaranteed Cost Insurance

- The policyholder transfers the risk to an insurance carrier. All risk has been transferred to another party.

➡ Low Risk, Low Control

Self Insurance

- Insuring yourself by setting aside money to cover possible losses rather than by purchasing an insurance policy.

➡ High Risk, High Control

Insurance Pools (Joint Powers Authorities)

- Method by which each member of an insurance pool shares in each and every risk of other members of the pool. ("All for one, one for all")

➡ Medium Risk, High Control

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Why JPA's (Pools) Were Formed

In California, many local governmental entities found that coverage was either priced out of their reach or completely unavailable. Insurance companies refused to write coverage for most municipalities and canceled those they had.



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What is a JPA (Pool)?

JPA is a Joint Power Authority, which means:

- Two or more public agencies (incl. "local" JPAs)
- Joined for Group Purchase/Risk Sharing Partnership for large losses
- Authorized by and subject to California Government Code
- Governed by its membership (School Districts)
- The primary purpose is to collectively share risk, group purchase, and develop specialized safety & loss control services and best practices in managing risk.



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What Makes JPAs So Special?

- Stable rate structure
- Reduced rates with non-profit operations and large spread of risk (law of large numbers)
- More control over claims
- Investment of funds
- Share Best Practices & Allocate Resources
- Anything left over belongs to the members
- The value is in the common challenges, the pursuit of unique solutions, having control of the process, and the relationships you develop and depend on.

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Other Variables in Risk Financing



- MRL levels & how they impact your budget
- Ex-Mods & their long term impact
- Claims made vs occurrence coverage
- Navigating actuarial reports

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Building your Risk Management Program



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Improving the District's Overall Risk Management Program



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Sending the Wrong Message

Claim Background:

- 20-year-old district police officer (plaintiff) claims to have received a plethora of inappropriate text messages from his 50-year-old supervisor that were sexual, homophobic, racist and anti-Semitic.
- Texts were described as “so outrageous as to cause the officer severe emotional distress.”
- Officer was admitted into a psychiatric facility as a direct result of the texts.
- Plaintiff filed a lawsuit against district & supervisor demanding **\$3 million**.
- Plaintiff alleges claims for negligent hiring, retention, supervision, assault, intentional infliction of emotional distress, negligent infliction of emotional distress, discrimination and harassment.

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Sending the Wrong Message

- Lessons Learned:
 - Supervisors also need supervision
 - Policies, and more importantly enforcement of policies, are crucial
 - No amount of Risk Management will ever prevent all claims

Settlement amount: **\$900,000**

Total Expenses Paid: **\$89,917**



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Wrongful Termination

Claim Background:

- Part-time adjunct professor (plaintiff) of architecture states that he is an “excellent and well-respected professor with an exemplary performance history and a popular faculty member” who is the only practicing architect and LEED accredited professional at the institution.
- Plaintiff “came out” as a gay man to express his personal concern with the lack of diversity among the architectural faculty.
- Plaintiff alleges 2 of his supervisors in the department began “finding fault with his performance” and claims his teaching load was dramatically reduced, his job threatened, responsibilities taken from him and given to less qualified heterosexuals.
- Plaintiff was later terminated and filed a lawsuit against district & 2 supervisors demanding **\$1.95 million**.
- Plaintiff alleges claims for (1) discrimination based on sexual orientation; (2) harassment; (3) retaliation for opposing discrimination, harassment and retaliation; (4) failure to prevent discrimination, harassment and retaliation; (5) defamation (dismissed); and (6) declaratory relief.

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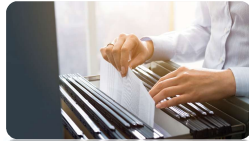
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Wrongful Termination

- Lessons Learned:
 - Training for supervisors (hiring practices, performance reviews, policies, etc)
 - Make sure everyone is following policies and procedures

Settlement amount: **\$700,000**

Total Expenses Paid: **\$348,833**



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A Heated Situation

Claim Background:

- While on winter break, a water supply line for a water heater broke on the 4th floor of the building resulting in water damage to the floors below.
- It is believed that the water line had failed between 12 to 18 days before it was discovered, resulting in an extensive amount of water damage in the building.
- Water heater system was installed in 1995 with no recent work performed in the room.
- Damage sustained to interior components
 - paint, drywall, electrical, flooring, HVAC equipment
 - Desks, shelves, chairs, office supplies, tables, bakery machinery, and food items (in bakery).

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A Heated Situation

- Result & Lessons Learned:
 - Self-inspection program may have discovered the faulty supply line
 - Regular maintenance of buildings and equipment should be conducted regularly
 - The property was repaired and brought back to original condition.
- Indemnity: **\$1,066,245.92**
- Expenses: **\$15,000**
- Total Paid: **\$1,081,245.92**



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Timely Incident Reporting to Claims Administration



After you have reported inappropriate physical conduct to the appropriate authorities, notify your Liability Claims Administrator immediately. Never wait for a claim or lawsuit before giving notification so:

- Insurance programs are on notice
- You avoid ramifications of late reporting
- Legal counsel can be consulted

REMEMBER: The earlier it's reported, the better the outcome

report immediately!



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Crisis Communication Plan



It is highly recommended that Districts develop a Crisis Communication Plan. Districts should be prepared for high profile incidents before the fact and not after.

Key components include:

- Identification of communication team
- Defined roles and responsibilities
- Legal counsel engagement prior to public responses

Crisis Communication Plan allows for consistent themes and messaging

- From the beginning, during and after litigation
- For the public, parents and staff



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What Measures Can Colleges Take To Reduce Risk?

- Training of employees
 - On-line Trainings
 - In Person Trainings
 - Weekly Best Practices Emails
- Safety site inspections to identify hazards
- Create risk management policies addressing liability concerns (i.e. playground inspections)
- Deploy safety technology (connecting first responders with onsite personnel)
- Make sure students know how to report an incident or seek help



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Making Sure District Policies Are Deployed to Individual Sites

- All district sites should be aware of risk management policies.
- Train site staff on policies and accident investigations.
- Site staff should conduct regular site inspections.



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Summary (Best Practices)

It's not what you knew, it's what you should have known!

- Pro-active training of employees.
- Have predefined action plans for emergencies.
- Make sure assumption of risk forms are kept on file for each student - forever
- Ensure compliance with latest best practices are in place.
- Conduct site inspections on a regular basis.
- Report all known or suspected cases of abuse and sexual harassment
- Only qualified individuals can supervise activities.
- When in doubt call 911 **Immediately!**



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Becoming Your Own Superhero

Ask meaningful questions to make informed decisions:

1. Have we recently evaluated our MRL (deductible) compared to our District's Risk Appetite?
2. Have we given appropriate authority & support to those handling Risk for us to allow them to be effective?
3. Does my District and my Board understand where our decision making authority for claims handling starts/stops?
4. Does our District support the long term payoffs of short term investments into its Risk Management program?
5. Do we understand how our JPA/program is financed? Do we agree with their methodology?
6. Who "owns" risk management at our district? (hint, it's not just the risk manager if you're lucky enough to have one)
7. What role do I play with the district's risk management program?
8. Do I know who to call if something goes bump in the night?

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