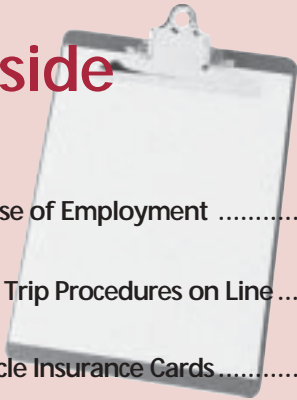


RISK MANAGEMENT MATTERS

news of southwest washington risk management insurance cooperative, workers' compensation trust, and unemployment insurance pool programs

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The Cyclical Insurance Market

School districts are likely to see their insurance costs increasing over the next several years. The reasons for these increases are primarily market driven and are outside of the districts' control. As members of a cooperative (or public entity pool), districts are well positioned to address the changes.

Costs which account for the operation of a pool or cooperative can be sorted into at least three categories. The first cost is the cost of claims, which is affected by how much of each loss is retained by the pool. The second cost is the purchase of excess insurance to transfer responsibility to pay claims costs which exceed the amount retained by the pool. The third cost is for administration, which can include operations staff, keeping financial records, adjusting claims, providing safety services and a broker to purchase excess insurance. Changes in the amount of retained claims costs paid directly by the pool and changes in the cost of excess insurance premiums can have a dramatic effect on the overall solvency of a program, and drive changes in the rates offered to member districts.

HISTORY

Public entity pooling was born in the "hard" market cycle of the mid-1980s. Historically, the insurance marketplace has cycled between soft and hard markets every five years or so.

In the last hard market, insurance prices rose dramatically. Premiums increased 200-300% with little notice. Some clients were told at the end of their policy period that they were going to be non-renewed for the next year. Other clients had their policies cancelled mid-term. When clients went to the market seeking another carrier, capacity (ability to write new business) had shrunk to the point there were no other insurance companies offering coverage.

In response to that hostile environment and financial crisis, public entities (schools, cities, counties, sewer and water districts, and fire districts) self-insured their commercial insurance exposures. Or, as an alternative for smaller entities, they grouped together to self insure - they "pooled" their resources.

Prior to the hard market cycle in the mid-1980s, less than 5% of the public entities utilized pooling. Today, almost 40% of the public entities rely upon pooling to meet their insurance needs.

MARKET FORCES

The economy and financial markets exert great influence over the insurance marketplace, especially as respects the cyclical nature of insurance pricing. With most insurance lines of coverage, it is common for the combined loss ratio, the total of claims and administrative costs, to exceed the amount collected in premium. Part of the magic of the insurance industry is its use of revenue on investments to offset underwriting losses.

When the economy is robust, returning a high level of income on investments, insurance pricing is "soft." In a soft market, there are numerous companies offering coverage, and prices are low, to the point of being "below cost."

When the economy lags and invested premiums return very little in the way of income to institutional investors like insurance companies, the market "hardens." As investment dollars diminish, insurance company reserves must be utilized to offset underwriting losses. As reserves drop, the capacity to offer coverage declines. By necessity, as the market hardens, prices increase, sometimes dramatically. As underwriters evaluate the risk. The events of September 11, 2001 have had a tremendous ripple effect on all lines of coverage - general liability, property, and workers' compensation.

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Worker's Compensation "Course of Employment"

When an industrial injury claim (workers' compensation) has been found to be filed in a timely manner, a determination must be made as to whether or not the worker was acting in the "course of employment" at the time of injury.

Key distinctions between Washington law and other states are that, while it is necessary that the injury occur in the course of one's employment, it is not necessary that



the injury "arise out of" the particular duties a worker is paid to perform. No consideration is given to degrees of fault by the worker or employer in determining entitlement to benefits.

Some of the questions concerning "course of employment" issues will generally sort into the following categories:

- Parking Areas – These claims are generally denied unless a worker's job duties include work in the parking area.
- Coming and Going – A worker on his/her way to or from work is generally not in the course of employment. The exception would be if a worker is on company business, using a company vehicle.
- Intentional Injury/Felony –

Deliberate intent to cause injury to oneself is denied.

These are just a few of the elements that have to be evaluated to determine if a claim is compensable under the statute.

In cases where there is no definite traumatic event, or if there is a traumatic event that may be questionable, investigation into the alleged injury and/or event occurs. Some tools used to investigate such claims are recorded statements from the worker alleging injury/event as well as witnesses, supervisors and co-workers; obtaining records pertaining to employment and medical history; and independent evaluations.

Therefore, when notice of a potential claim is received, a three point contact (injured worker, supervisor and physician) is initiated to assist in determining if any other investigation is warranted.



Vehicle Insurance Cards & Accident Reporting Packets Now Available

New Proof of Insurance Cards for district vehicles are now available to our member school districts.

In addition to new Insurance Cards, the Risk Cooperative has prepared a new "Accident Reporting Packet" to be placed in each vehicle. This packet includes a list of the contents of the packet, an accident reporting card, witness statement cards, exchange of insurance information cards, a motor vehicle accident report form, passenger seat location chart, and two pencils. These documents are contained in an envelope that is clearly marked "IF YOU HAVE AN ACCIDENT." The packet is designed to facilitate the complete recording of the facts of the accident and the exchange of insurance information at an accident scene as quickly and efficiently as possible.

Members should receive one Insurance Card and one Accident Reporting Packet for each of their vehicles. Please see that one of each is placed in each of the district vehicles. If additional Insurance Cards or Accident Reporting Packets are needed, please or call Jim Rochel at (360) 750-7504 or email him at: jim.rochel@esd112.org

School Field Trip Procedures Now Available On Line

The recently issued *School Field Trip Procedures*, and related forms provides detailed guidance for many aspects of planning and executing field trips is now easily available for your use online at http://www.esd112.org/insurance_programs/resources.html.

In conjunction with these guidelines, if you would like training for your staff on field trip safety, please contact Peggy Sandberg at the Risk Cooperative.

Other information concerning the four school insurance cooperatives can be found on the ESD 112 website at http://www.esd112.org/insurance_programs/. Check us out!

Requirements for Notification of Pesticide Use in Schools

The new law concerning pesticide use at schools is now in effect.

Effective July 1, 2002, Washington State law requires posting and notification of pesticide applications at schools.

This law has three important requirements for schools and day care centers:

1. Specific notifications, at least forty-eight hours before a pesticide application, that includes prenotification of the application and notification signs
2. Required pesticide application records, and an annual summary, accessible to interested persons
3. Written annual notification to parents and employees of the school's pest control policies and methods

In this law, a "school facility" means any facility used for licensed day care center purposes or for the purposes of a public kindergarten or public elementary or secondary school. School facility includes the buildings or structures, playgrounds, landscaped areas, athletic fields, school vehicles, or any other areas of school property.

The Washington State Department of Agriculture (WSDA) has provided a how-to-comply manual for schools. This "WSDA Compliance Guide for the Use of Pesticides at Public Schools (K-12) and Licensed Day-Care Centers" (June 2002,) is available on line on the WSDA website at www.wa.gov/agr/PestFert/. It is currently the third item listed in "Hot Topics" (on the right of the screen).

Call WSDA's toll-free number for pesticide information and services at 1-877-301-4555.

Children with Life-Threatening Conditions - New Law for Schools

Substitute House Bill 2834, which became effective on 6/13/02, is an act requiring a medication or treatment order as a condition for children with life-threatening conditions to attend public school. It added a new section to chapter 28A.210 RCW.

It provides that the attendance of every child at every public school in the state shall be conditioned upon the presentation before or on each child's first day of attendance at a particular school of a medication or treatment order addressing any life-threatening health condition that the child has that may require medical services to be performed at the school. Once such an order has been presented, the child shall be allowed to attend school.

A "life-threatening condition" is defined as "a health condition that will put the child in danger of death during the school day if a medication or treatment order and a nursing plan are not in place."

OSPI has issued an informational bulletin and detailed guidance on how to comply with this new law. This bulletin, No. 61-02, issued 9/18/02, is available on OSPI's website at www.k12.wa.us/LearnTeachSupp/healthservices. Be sure to print all the related attachments, including the following:

- Attachment A – Copy of the SHB 2834
- Attachment B – WAC 180-38



Emergency Rules

- Attachment C – Sample Medication Order Form and Treatment Order Form
- Attachment E – Sample Nursing Plan and Emergency Care Plan
- Attachment F – Sample Notification Letter to All Parents
- Attachment G – Sample Letter to Parents Requesting Medication or Treatment Order
- Attachment H – Sample Letter to Licensed Health Care Provider

How can a school determine if a student has a life-threatening condition? There are several ways, and some are informal:

- The parent informs school staff (often at enrollment)
- The student mentions the condition to a staff member
- A "Student Health Inventory" sheet is completed and reviewed by the school nurse
- The parent brings in medications for the student
- The student has a medical reaction or health episode at school

However the school becomes aware of the life-threatening condition, it is essential that the school gathers medical information and take steps necessary to protect the student.

PARENT HOSTED EVENTS – Does school district liability coverage extend?

The Risk Cooperative is frequently asked if a parent or business owner or volunteer who hosts an event to benefit the school is protected by the school district's liability insurance coverage. The events may look something like these:

- A parent invites a school class over for a pool party.
- A father who owns a pizza restaurant has the winning team over for dinner after the game.
- A school volunteer has the class over to her house for an end of the year barbecue.

Are these school-sponsored events?

The short answer to this question is often found by answering this question – WHO is controlling the activity or event?



If the school district sponsors the activity, then the school district is responsible for and must control the activity.

School-sponsored activities share these characteristics:

- Activities are organized by the school and planning occurs during school time
- Activities are often connected to curriculum
- The event usually occurs during the school day
- The school is paying wages to school employee(s) to supervise
- The school usually pays for a portion of the activity (at least transportation)

- The school controls the activity

The school district's general liability coverage protects the school district, its employees and volunteers in the event of a claim for damages alleging negligence arising from a school-sponsored activity (subject to specific exclusions and limitations).

The three activities listed above are most probably not school-sponsored, and the school district's general liability coverage would not extend.

However, a parent-hosted event may *appear* to be school-sponsored if the school is not diligent to make sure that it is clearly designated as school-sponsored or not. (Embrace the event or steer clear of it.) Three steps to help clarify school sponsorship includes the following:

1. Ask the sponsor to include a statement that "this is not a school-sponsored event" on information connected with non-school sponsored activities that is distributed to students.

If your school allows distribution of announcements of non-school sponsored activities, review the information and ensure there is no impression of school district endorsement or sponsorship before distributing it.

2. Do not allow use of any district equipment (copiers or telephones) or district supplies (letterhead, postage, etc.) to advertise a non-school sponsored event.
3. Ensure that staff who may attend the event know that it is not school-sponsored.
4. In some cases, the school may want to announce that the event is not school-sponsored, or publish this in the newsletter.

Help protect the district from liability connected with activities over which it does not have control by clearly designating non-school sponsored events.

EXECUTIVE COMMITTEE HIGHLIGHTS

SW WA Risk Management Insurance Cooperative

Executive Committee Meeting

August 26, 2002

The purpose of this meeting was to select excess insurance coverage. Loy Dale discussed that insurance is a cyclical business and that we are in the middle of a hard market, which entails carriers having reduced capacity, issuing more non-renewal notices, cancellations and declinations, charging increased rates and requiring higher underwriting standards.

The options for excess coverage include: (1) continue to get coverage in the excess market through our broker Willis, or (2) to purchase coverage from the Washington Schools Risk Management Pool at the Puget Sound ESD.

The Washington Schools Risk Management Pool agreement would be for one year only, then at the end of the first year the option is to renew with them for three years or to find coverage from another source.

The committee members chose to purchase excessive coverage for FY 2002-2003 through Washington Schools Risk Management Pool at a savings of nearly \$500,000.

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SW WA Unemployment Compensation Pool

Executive Committee Meeting

May 23, 2002

As a matter of information, Loy Dale discussed the funding model noting that the state of Washington's rate is 0.02 of taxable wages compared to the Pool's rate of 0.002 (our rate is 1/10th of the State's rate). He went on to say that from 1995 through 2001, member districts have paid contributions of \$2.5 million, but received refunds in the form of cash and transfers to the Risk fund of \$2,708,285 (\$2.2 million went back to the member districts in cash). Even though it is self-insured, the employee benefits portion is determined by the State. Individuals applying for unemployment notice no difference with the benefit delivery system.

The committee approved the Administrative Budget and to keep rates flat for FY 2002-2003.

SW WA Workers' Compensation Trust

Executive Committee Meeting

April 30, 2002

Kevin Wick reviewed the PricewaterhouseCoopers's actuary report for FY 2000-2001.

The committee approved the Administrative Budget and the rates for FY 2002-2003.

The committee approved a \$1,050,000 refund to member districts in the fiscal year 2001-2002, which included a transfer of \$259,824 to the Risk Management Cooperative on behalf of common members in the fiscal year of 2001-2002.

The District, The Student, Diabetes and the Legislature

The 2002 Washington State Legislature passed Engrossed Substitute Senate Bill (ESSB) 6641, that requires school districts in Washington State adopt policies and procedures for dealing with students with diabetes. The new law became effective on July 1, 2002.

The Legislature in creating this new law stated: "The legislature finds that diabetes imposes significant health risks to students enrolled in the state's public schools and that providing for the medical needs of students with diabetes is crucial to ensure both the safety of students with diabetes and their ability to obtain the education guaranteed to all citizens of the state." ESSB 6641 also states that "children with diabetes can and should be provided with a safe learning environment and access to all other nonacademic school sponsored activities."

ESSB 6641 requires that the school district provide individual health plans for students with diabetes, and that the board of directors for the school district adopt policies to be followed for students with diabetes.

The Bill calls for the Superintendent of Public Instruction and the Secretary of the Department of Health to develop a uniform policy for all school districts to provide for the inservice training of school staff on symptoms, treatment, and monitoring of students with diabetes. This policy will include the standards and skills that must be in place for inservice training of school staff.

OSPI has issued an informational bulletin and detailed guidance on how to comply with this new law. This bulletin, No. 61-02, issued 9/18/

02, is available on OSPI's website at www.k12.wa.us/LearnTeachSupp/healthservices.

Some of the other provisions of the new law require that the district, in conjunction with the parents and the student's doctor and other health care professionals, develop an individual emergency plan. This plan is to be updated at least on an annual basis, and sooner as need may dictate. The plan is to be distributed to all appropriate staff.

In conjunction with the individual health plan, the parent can designate an adult volunteer to assist in the administration of proper care of the diabetic student. The "parent-designated adult" volunteer receives additional training from a health care professional or expert in diabetic care selected by the parent(s). It is the obligation of the parent to see that the "parent-designated adult" receives the proper training to administer care as prescribed by the Individual Health Plan. The "parent-designated adult" can be an employee of the school district.

The school district cannot require an employee to become a "parent-designated adult." The employee volunteer must file, without coercion by the employer, a letter of intent stating their willingness to participate as a "parent-designated adult" volunteer. If an employee chooses not to act as a "parent-designated adult" volunteer, the employee cannot be subjected to any reprisal or disciplinary action from the employer for refusing to file a letter.

The school district, its employees, agents and parent-designated adult volunteers, who while acting in good faith and in substantial compliance with the provision of ESSB 6641, will not be liable in any criminal action or for civil damages as a result of services provided as prescribed by ESSB 6641.

Districts that have diabetic students need to become familiar with ESSB 6641, and set into place all of the policies and procedures prescribed by the new law.

Employee Health and Safety Takes Center Stage

During the week of July 29, 2002, 70 school employees from fifteen school districts came to the ESD 112 Conference Center to attend "Safety Training for Maintenance, Custodial and Grounds School Staff". This program, now in its third year, is provided to Southwest Washington Workers' Compensation Trust member districts free of charge. The program goals are:

- To provide specific safety information and promote a general safety awareness among school district employees;
- To provide safety training that helps meet WISHA requirements;
- To provide a forum where employees may ask specific safety questions of safety professionals and;
- To share ideas, suggestions and concerns with employees from other districts

This year, nine instructors provided information on these topics:

- Back safety, stretching, and proper lifting techniques
- Hazard communication and material safety data sheets
- Personal protective equipment
- Ladder safety
- Asbestos awareness
- Respiratory protection
- Forklift operations
- Electrical safety
- Chemical handling principles
- Fall protection
- Fire prevention
- Indoor air quality/mold
- WISHA compliance and inspection
- First aid/CPR

Some highlights:

Vern Allers from Injury Prevention Management, Inc. had the class performing stretching exercises early on Monday morning. Walter Want, a well-known safety consultant, had a table full of personal protective equipment for the class to look at. Later, Walter took the class outside for a demonstration of fall protection equipment. Dan Sabatino of Associated General Contractors used an aquarium full of water, an electric drill and a hot dog among other props to demonstrate various electrical safety principles. An OSHA inspector shared slides showing common safety hazards and violations. Participants also received a binder with reference materials dealing with each subject.

Those who attended agreed that it was a positive learning experience and the instructors were very knowledgeable. Those free lunches weren't too bad either! If there are any follow-up questions, specific needs in the area of safety training and compliance or any program suggestions for the future, please contact Scott La Bar at (360) 750-7504.

Now in Your Trust Video Store

The Southwest Washington Workers' Compensation Trust has a small safety video library now available for member districts. These videos deal with a variety of safety subjects, and can be used for general information and staff training. They are great for both safety committee meetings and staff meetings. Current titles are:

- Accident Investigation
- Control of Hazardous Energy (Lockout/Tagout)
- Bloodborne Pathogens in Schools - A Refresher
- Chemical Storage Hazards in the Laboratory

- Disaster Preparedness
- Elements of Back Care
- Fall Protection
- Forklift Safety
- General Safety Orientation
- Groundskeeping Safety
- Hazard Communication for Schools
- Office Ergonomics
- Personal Protective Equipment
- Power Tool Safety
- Slips, Trips & Falls
- Understanding Musculoskeletal Disorders (MSDs)

Because of the limited number of videos, please note the following:

- One (1) video to be loaned to a district at a time.
- Request videos at least 1 week in advance. Be sure to specify the

date the video is needed so it can be sent to the district in time.

- Videos may not be kept longer than 2 weeks upon their receipt.
- Please rewind before returning.
- If the requested video is already checked out for the time that you need it, you will be notified.
- Videos are expensive. Most cost around \$400 to replace. If the district loses a video, a bill will be issued for its replacement cost.

If the district would like to borrow a video please call or email Scott LaBar (360-750-7504 or scott.labar@esd112.org). Provide your name, district, video title desired and date needed and how you may be reached. Your request will be confirmed.

CI aims Lesson - Property/Casual ty A Doggone Shame



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CURRENT CYCLE

Today, we are in the second to third year of this hardening portion of the insurance market cycle. As evidence, the minimum retention layer (the amount the client must pay for each loss before excess insurance coverage steps in) carried by the Workers' Compensation Trust has increased from \$150,000 per loss two years ago to \$300,000 this year. As the retention increases, the share of the loss the client must pay also increases, which increases the necessary contingency margin or equity (monies held in reserve to pay for losses).

In the Risk Cooperative for the current year, rates went up an average of 5% overall. At the same time, the renewal of the excess premiums through conventional insurance companies would have increased 200% in a single year (up \$650,000). By purchasing excess coverage through the Washington Schools Risk Management Pool, another school district insurance cooperative, the increased cost of excess coverage was "limited" to 23% (up \$150,000). We can expect increased costs for excess coverage next year as well, because the market is still hardening and the economy has not yet recovered.

It is clear we are in the midst of a volatile insurance market. One of the hallmarks of group self insurance is stable, long-term pricing. By utilizing the current contingency margin or equity, insurance pools can offset some of the impact of dramatic changes in insurance costs.

Pooling cannot guarantee there will be no increases in the cost of insurance coverage. What pooling offers is a more stable environment that mitigates the impact of sudden changes in the market. ESD 112's insurance pools will work with an independent actuary from Pricewaterhouse Coopers in Seattle to evaluate the impact of the upcoming renewal of excess insurance coverage for next year (2003-04). What is known now is that there will be increases in the cost of coverage. While increased contributions from member districts will not be 200-300%, increases could be in double digits.

LOOKING AHEAD

Pooling is still the best choice when looking for stable, long-term, high-quality coverage. Last year the Workers' Compensation Trust refunded \$1 million to its member districts. In the current year it is expected that program will make a similar refund. The Risk Cooperative, by necessity, will utilize its contingency margin/ equity to minimize the impact of increased costs on its member districts. Together the member districts in the insurance cooperatives/ pools can withstand the current "hard" insurance market conditions until the cycle shifts to its softer side. If you have any questions concerning the renewal of your insurance coverage, please call Loy Dale at the ESD.

The incident

The father of a second grader came to school with his golden retriever on a leash to pick up his son and his son's friend (with the permission of the other boy's parents). The father and dog walked onto the elementary school campus, and waited for the boys away from the main entry door. There was a sign posted at the front door entry of the school (but no other location) that stated that "Pets, dogs or livestock are not allowed on school grounds."

The boy's friend was the first to emerge from the school, ran over to where the father was waiting, and gave the dog a hug. (The boy was familiar with his friend's dog.) Apparently the dog was not expecting this treatment, and bit the boy in the face.

There was a paraprofessional outside of the school building monitoring students leaving school and getting into parents' vehicles. She heard the boy yell, and brought him into the health room. The school called 911. An ambulance arrived within 15 minutes.

Animal control was contacted and put the dog in quarantine.

The injuries and damage

Injuries to the seven-year old boy included a broken nose and a tear from his forehead to his lip that required 21 stitches. Plastic surgery may be needed. The injured boy sometimes wakes up at night with nightmares. The boy who owned the dog was traumatized because of the bite and losing his dog.

The parents of the injured boy have made the claim for damages against the dog owner's homeowner insurance. The mother

of injured boy said that the school was not liable due to the posted sign, but could not understand why the rule was not enforced.

How to prevent this type of injury

Here are several strategies that schools can use to help keep animals off school grounds:

1. Establish a school policy that prohibits animals on school grounds. (Even tame animals are sometimes unpredictable and can injure students.)

Note: Be sure that the policy allows for specific animals as part of the science curriculum. See the *Health & Safety Guide for K-12 Schools In Washington*, Appendix F, "Animals in the Classroom," at www.k12.wa.us/facilities/healthsafetyguide.asp for guidelines. Address animals for show and tell times as well.

2. Publish this restriction in school newsletters.
3. Post signs prohibiting animals in several places on schools grounds.
4. Go over this prohibition and the reasons for it with students.
5. Instruct staff on how to respond to this behavior if they see it either during or outside of school hours. (Tell staff to ask violators to remove animals from school grounds and inform administration.)
6. Enforce the rule consistently.
7. Involve local law enforcement or animal control when needed.

In this case, although the claim for damages was not made against the school, a student was seriously injured. School rules are in place to protect students and staff, and these rules need to be enforced. Remember that animals are unpredictable and should be kept away from children except under very controlled situations.

SW WA Risk Management Cooperative Executive Committee

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Emergency Paging

Member districts need to report emergencies at the time of the event.

Off Hours Access to ESD Insurance Programs is available by paging (360) 408-0373.

Contact Insurance Programs

During normal business hours, Monday through Friday, 8:00 a.m. to 5:00 p.m., call (360) 750-7504, 568-SCAN, or 1 (800) 749-5861.

Contact us on line at:
www.esd112.org/insurance_programs

Objective

The objective of *Risk Management Matters* is to provide useful information to our member districts. Your contributions and comments are welcome! Please call Loy Dale, Executive Director, with comments.

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