



# 2022 Mid-year State of the Education Market

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Two years ago, amid the depths of the COVID-19 shutdown, we reported what happened in the education insurance market as a perfect storm.

That storm progressed in 2021 and devastated much of the education casualty insurance marketplace, resulting in a major market correction for this industry segment. We saw more carriers exit the marketplace, capacity slashed and rate increases between 30% and 375%. We saw institutions with loss challenges unable to secure catastrophic excess limits.

The industry's market leader and largest player, United Educators, completely re-wrote its liability coverage form, consolidating all of the individual coverage limits it had previously offered into a single basket aggregate limit, and placing a 10-year sunset limitation on sexual misconduct coverage, all while delivering premium increases averaging 30%.

In 2022, we are happy to report that the storm has subsided, the clean-up continues, but the waters remain rough and very choppy—which means the environment remains uncertain and volatile. Given the market correction in 2021, the handful of primary insurers writing package policies and offering bundled umbrella policies appear stable. However, the excess catastrophic liability insurers are keeping a close and watchful eye for fear they may still be underfunded and overcommitted.

Even with last year's correction, excess insurers are still not certain it was enough. Here's why.

## RISK FACTORS AND CONTINUED UNCERTAINTY

More unpredictable loss outcomes, new economic and recession fears, a changing legal environment and new legislation are what appear to be driving the market uncertainty and hesitation behind the current insurance buyer capacity shortage and insurer premium deficiency concerns.

### The dominant drivers are:

- Social inflation/nuclear verdicts (no apparent slow down)
- Growth in frequency and severity of sexual abuse/molestation losses and verdicts (with more potential losses bubbling up from the newly-passed states' legislation extending or removing the statute of limitations for sexual abuse offenses)
- Significant increase in campus school shootings
- 100+ class action lawsuits for athletic traumatic brain injury filed against the NCAA
- Litigation fall out from COVID-19

These risks and their respective loss frequencies and severities continue to present themselves and remain front and center under the spotlight of the liability markets.

In the last six months our own education institutional portfolio saw two nuclear verdicts. One event involved sexual misconduct of two alleged victims and the jury rendered a \$102,000,000 combined verdict. It was the highest sexual misconduct verdict ever recorded for two alleged victims. The other was a single deceased minor who jumped in front of a bus as a dare and a jury rendered a \$60,000,000 verdict.

Both verdicts are under appeal, however, the very fact that the verdicts were rendered in the first place has insurers pessimistic and cautious.

## SOCIAL INFLATION AND WHAT DRIVES IT

**What is social inflation and how does it affect our education clients and their respective institutions?**

United Educators, this country's only insurer dedicated exclusively to education risk, shared a great deal of valuable information in their "Steps to Combat Social Inflation" report earlier this year.

In the report—which defines social inflation as “the increase in insurer costs above general economic inflation”—United Educators focuses on three driving factors: institutional mistrust, changing litigation environment, and increased legislative risk.

“Public confidence in education and other big institutions has declined,” they report. “Juries, who are more likely to be biased against institutions and their insurers, award large verdicts, either to punish the institution or due to the belief that the institution can afford it.”

In addition, many laws have recently changed, especially regarding sexual misconduct suits. These laws are commonly referred to as “state reviver statutes” and provide an extended timeframe or repeal the timeframe altogether for claims to be filed many years after incidents occur.

Because these losses are brought years, even decades later, the opportunities for investigation and discovery are dissipated, witness memories have faded, records have been lost and alleged perpetrators have since passed away unable to defend themselves.

## SEXUAL MISCONDUCT

According to United Educators, sexual misconduct losses are a significant concern. They “saw sexual misconduct losses grow three times faster than all other claim types over the last 15 years and comprised nearly 20% of all claims costs in 2020.”

The fear of catastrophic class action litigation is perpetuated as the education insurance industry continues to see its fair share of high profile sexual misconduct incidents related to serial abusers.



## WHAT TO TELL YOUR CLIENTS

**How should agents advise clients? Focus on a three-pronged strategy: plan, prepare and respond.**

Clients and prospects who are making informed decisions about how best to protect students, staff, faculty and visitors should know that underwriters will need to hear their risk management story, their plan, their preparedness and how they can respond.

Underwriters will ask how their decisions address every day occurrences and how they are prepared in the event of a headline incident. Insurers will give their highest consideration to those educational institutions that are positioned to exceed industry guidelines for prevention, mitigation and compliance, so clients will want to articulate and showcase to the insurance underwriters their plans for addressing, treating and managing these risks.

Those clients that are prepared and can share their differentiating stories are much better positioned to garner the consideration, coverage and capacity that is available but carefully deployed in this year's market.

### Sources:

United Educators, “Steps to Combat Social Inflation,” [Steps to Combat Social Inflation | United Educators \(ue.org\)](#)

United Educators, “Prepare for Claims Brought Under State Reviver Statutes,” [Prepare for Claims Brought Under State Reviver Statutes | United Educators \(ue.org\)](#)