



2023 Midyear Update

State of the Education Market

Steve Cius
Area President

Dante Pezzi
Area President

DIFFICULTY FINDING EDUCATION INSURANCE REMAINS DESPITE MARKET STABILIZATION. GET ADVICE TO HELP YOUR CLIENTS GET THE COVERAGE THEY NEED.

As any glance at news headlines will tell you, educational institutions face an onslaught of risk at all levels. We'll run through the resulting insurance challenges — and how to navigate them to ensure your education clients are protected.

In 2022, we reported that the market correction of 2021 shook the education segment to its core, with sweeping reductions of capacity, available limits and coverage while insurers quoted jarring premium increases.

The marketplace stabilized in 2022, yet the allocation of market capacity to the education segment remained tentative.

In 2023, the industry's leading education insurer, United Educators, reports that the market correction of 2021 appears to be holding. As substantial and hard-hitting as the 2021 correction was, United Educators actuaries confirm that it appears to be working at this time.

With that understanding, you'd think that the marketplace would have responded by opening up and becoming less constricted, and that we might see new capacity and players enter the education segment. But that has not necessarily been the case.

We were hopeful that 2022 would produce some interest and new excess liability capacity offerings for education, given the generous rates. We saw the influx of new insurance capital and excess market capacity into the US commercial insurance market, specifically intentioned to opportunistically capitalize on the excess liability rates from the 2021 market correction, but none of it was deployed to the education sector.

In 2022, there were a dozen new commercial liability insurers that entered the US insurance market. Many of these insurers honed in on the excess liability market with billions of capital behind them. They set new business targets to capture market share in the construction, real estate, hospitality and manufacturing segments.

But what about education?

In our discussions with excess catastrophic liability insurers—new and old alike—they admitted that they were and are still tentative to deploy their capacity to the education segment of the market, citing too-frequent headline news events involving education, from mass shootings to sexual assault.

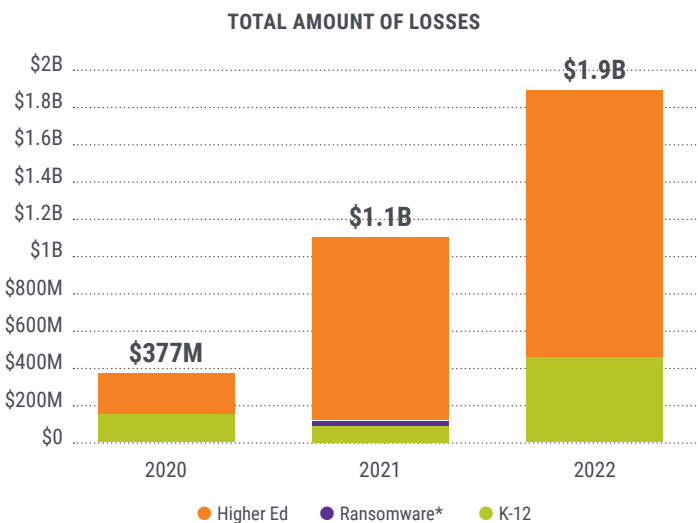
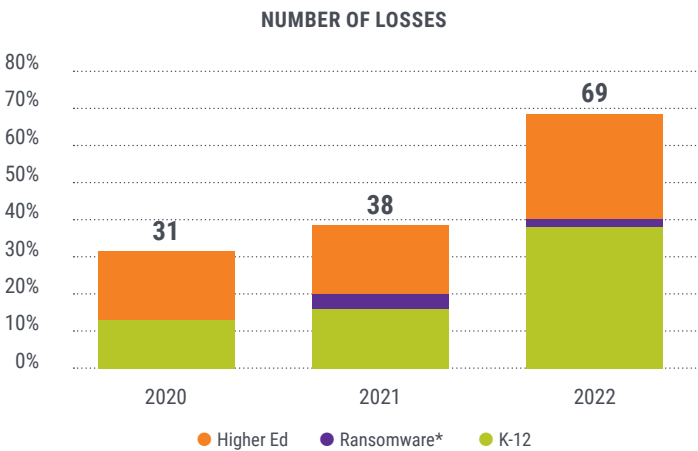
UNDERSTANDING THE EDUCATION LIABILITY INSURANCE MARKET

Profitable growth is the key to success for US property and casualty (P&C) insurers. A stable insurance market relies upon predictability, certainty and the ability to understand future losses in order to forecast sustainable rates. Uncertainty makes it harder for insurers to run their businesses profitably.

In a post-COVID world dealing with everything from inflation and interest rates to climate change and cyberthreats, today's education liability risk environment—with its serial sexual crimes to campus violence and fatal shootings—leads insurers to think of the education liability landscape as another headline news story waiting to happen.



In their [Large Loss Report 2023](#), United Educators includes published reports of settlements, awards or ransomware payouts, and graphical analysis shows troubling trends for K-12 schools and higher education institutions, with awards skyrocketing both in number and dollar amount.



* UE first began tracking ransomware losses in 2021.
Source: 2021–2023 Large Loss Reports

SEXUAL MISCONDUCT, TITLE IX AND INSURANCE CAPACITY

In the same [Large Loss Report 2023](#), United Educators reveals that both higher education institutions and K-12 schools continue to experience losses related to sexual misconduct, accounting for roughly 20% of all claim costs over the past few years. Sexual misconduct cases within educational institutions have gained widespread attention and are regularly in the local and national headlines. Our schools and institutions of higher learning require appropriate insurance coverage, however the availability of insurance capacity for this specific risk remains a challenge.

Insurers analyze the nature and extent of sexual misconduct risks in educational settings, taking into account past claims and industry trends. While some insurance companies offer coverage for sexual misconduct claims, others may limit the amount of coverage or impose stricter underwriting criteria. This limitation in capacity makes it harder for educational institutions to secure comprehensive insurance that adequately addresses their unique exposures.

Title IX violations, encompassing sexual harassment, discrimination and assault, also present substantial challenges for educational institutions. These violations can result in significant financial liabilities, making insurance coverage crucial for risk management. However, securing adequate coverage for Title IX-related claims can be a complex endeavor.

Insurance providers assess the potential exposure and litigation risks associated with Title IX violations when underwriting policies. Some insurers may offer limited coverage or exclude specific aspects related to Title IX, considering them high-risk areas. This lack of capacity from insurance markets makes it difficult for educational institutions to find comprehensive coverage tailored to their specific needs.

ACTIVE SHOOTER INCIDENTS AND INSURANCE CAPACITY

Active shooter incidents pose significant risks to the safety and wellbeing of students and staff in educational institutions. The insurance industry recognizes the need for specific coverage to address these incidents comprehensively. However, finding sufficient capacity from insurance markets for this type of coverage can be challenging.

According to the publicly available national [K-12 School Shooting Database](#), there was an on-campus shooting pretty much every single school day in fall 2022. In fact, the data shows the 2022 calendar year broke the record for the most school shootings in over four decades and marked one of the most violent years for youth ages 12–17.

The data further specifies that there were 300 shooting incidents on school grounds so in 2022, compared to 250 in 2021 and 114 in 2020, according to the database. In comparison, a decade earlier, 2010 saw 15 school shootings.



The data counts include any acts of gun violence on K-12 public, private and charter school campuses, including mass shootings, gang shootings, domestic violence, shootings at sports games and after-hours school events, suicides and other incidents.

As insurance providers carefully evaluate the potential exposure and risks associated with active shooter incidents given the severity and unpredictability of such events, they continue to manage the amount of coverage to offer and many even exclude coverage from their policies. As a result, educational institutions often face difficulties in obtaining the desired level of coverage, and those that do may face higher premiums or stricter policy conditions. New dedicated insurance products for active shooter events are emerging and may be worth exploring.

TRAUMATIC BRAIN INJURY IN ATHLETES

We have seen very little activity on the topic of athletic traumatic brain injury (TBI) since 2012. The pivotal year, 2010, presented the early findings and the diagnosis of athletic concussive and sub-concussive head trauma. Athletic TBI and the diagnosis of cumulative traumatic encephalopathy (CTE) came to light that year, and the medical world and Centers of Disease Control (CDC) confirmed the findings of the scientific studies. Much of the research came about through the course of the National Football League (NFL's) Athletic TBI class-action litigation, which resulted in the \$880 million settlement to former NFL players. By 2012, 133 class-action lawsuits were filed against the National College Athletic Association (NCAA).

It's important to note that those lawsuits reached back to 2010. Why? By 2012, the response and corrective practices, measures and risk management were solid, mandated and implemented. It was a colossal undertaking, but all the collaborative powers successfully came together on a national, state and local governmental level, and within the public and private education sectors. Our belief is that two major factors brought this remedy to fruition faster than usual: First, TBI impacts the health and wellbeing of our youth, and second, were the problem not remedied, the most popular sport associated with our educational institutions at every level—football—could cease to exist for educational institutions.

But let's clarify: Within the education sector will always be unexpected sports-related accidents, including those involving brain trauma. We've seen a handful of significant individual athletic TBI claims ranging from a gymnast's fall from the parallel bars, a basketball player's fall to the floor after a missed layup, two soccer players colliding on the field in full stride and an errant—and now illegal—head tackle in a football game.

What all these accidental injuries have in common is that they have nothing in common. Without a common cause, they're not systemic, and because they're not systemic, these injuries aren't a viable candidate for mass tort, class-action litigation.

We believe we got it right, that we continue to get it right, take it seriously and continue to challenge any bad actors that may rebuke the system put into place to protect the health and wellbeing of students involved in athletics. Enough said on this subject.

HOW AGENTS CAN HELP EDUCATION CLIENTS NAVIGATE COVERAGE CHALLENGES

We believe a meaningful approach to optimally addressing these situations is to offer a series of thought-provoking questions.

- Given the challenges in education for active shooter incidents, sexual crimes, Title IX violations and serial sexual misconduct, where do we go from here? How can we mitigate or alleviate these dangers for our youth and better manage risk at our educational institutions?
- Do we have the opportunity to learn from the multidimensional collaborative approach we have taken to manage the systemic risk we face with athletic TBI, and can we bring all of our youth-facing entities, organizations and institutions together to solve the challenges we face with child sexual assault and school violence that continue to threaten them?
- As a collaborating collective, might we realize a higher level of successful risk mitigation that could better protect our youth and the institutions and organizations that have the responsibility to educate them?

We believe the answer is yes and that these goals are worth pursuing.

