RISK SERVICES AND THE BUSINESS OFFICER

Kevin Confetti
Risk Manager, Workers’ Compensation

Cheryl Lloyd
Risk Manager, Liability and Property Programs

MISSION: POSSIBLE
OP Risk Services
Mission Statement

Our mission is to enable the University faculty, staff, and students to identify and manage risks associated with their activities, consistent with the University’s missions of teaching, research, and public service. By strategically managing risk we can reduce the chances of loss, create greater financial stability, and protect our resources.

Initiatives

• Major initiatives of the Department of Risk Services are:
  – Development of an Enterprise Risk Management Program
  – Identification and reduction of the Cost of Risk
  – Strengthening Program Management and claims processes
  – Further development of Prevention and Loss Control Programs
  – Optimizing Risk Financing Strategy
Enterprise Risk Management

- budget shortfalls
- staffing shortage
- lack of data
- consistency
- no succession planning
- auditor/owner
- network security
- inadequate internal controls

We don’t meet our goals
- tone at the top
- earthquake/litigation
- decentralization
- uncoordinated planning
Campus Risk Services

- Identifies and analyzes risks
- Implements programs at a local level
- Provides risk management advice and consultation

*How can we help you?*
Definition: What is Risk?

- Possibility of loss or injury
- Traditional Risks
  - Damage to property
  - Third party liability
    » injury to a person or persons
    » damage to property of a third party

Risk Management Process

- Identify the potential loss exposure(s)
- Examine alternative risk control methods
- Select and implement the appropriate method(s)
- Monitor results, make changes as needed
Methods Of Managing Risk

- **Avoidance**: Don’t do the activity – use business contract to provide for student transportation
- **Loss Control**: Mitigate damages or prevent loss – obtain prompt medical treatment; use safety glasses
- **Risk Financing**: Obtain insurance or self-insure to finance losses that occur – UC self-insurance programs
- **Risk Transfer**: Transfer financial responsibility for risk by indemnification, hold harmless – Use Permit

Loss Transfer: Transfer Loss to a Third Party

- Insurance policy – a contract where the insurance company assumes financial responsibility for the loss
  - Not for predictable and frequent losses
  - Useful for “catastrophic” losses
Indemnification / Hold Harmless

– Indemnification by contract / hold harmless agreement - party to the transaction agrees to assume the risk and “hold harmless” the other party (UC)

– Waivers release the University from legal liability for injuries to students or other individuals.

Case Study:
Professor Daniels
Self-Insurance

Self-Insurance Programs

- General/Automobile Liability
  - Retention - $5 Million per occurrence
- Employment Liability
  - Retention - $5 Million per occurrence
- Professional Medical and Hospital Liability (Medical Malpractice)
  - Retention - $5 Million per occurrence
- Workers’ Compensation
  - Retention - $5 Million per occurrence
- Property
  - Retention - $7.5 Million per occurrence
General Liability Program

• Includes automobile claims, slip and fall claims, and employment practices claims
• Approximately 925 open claims
• Managed by an outside claims administrator
• Estimated program costs of $20 million a year

Professional Liability Program

• Includes claims for medical errors made by our physicians, residents, nurses and other medical staff
• Approximately 500 claims per year
• Managed by an outside claims administrator
• Estimated program costs of $55 million a year
Property Programs

- Includes claims for damage or loss to University-owned property, e.g., stolen laptops, lab fires, water damage to buildings, etc.
- $38 billion in property values
- Approximately 458 new claims per year
- Average program costs of $8 million per year

Workers’ Compensation Program

- State mandated & “No-Fault” system
- Coverage for all injuries / diseases AOE COE
  - “Arising out of employment and occurring in the course of employment”
- “Exclusive Remedy”
- 4,200 open indemnity claims
- Estimated program costs of $135 million per year
OR,
WHO DOESN’T WANT TO LOSE A MILLION?

Who invented Workers’ Compensation?

A. Arnold Schwarzenegger  
B. Russians  
C. Office of the President  
D. North Dakota Labor Board
Who invented Workers’ Compensation?

A. Arnold Schwarzenegger
B. Russians designed the first rating system that was adopted in the U.S.
C. Office of the President
D. North Dakota Labor Board

All injuries result in a Workers’ Compensation Claim

A. True
B. False
All injuries result in a Workers’ Compensation Claim

A. True
B. False – many injuries do not require medical treatment beyond First Aid and per Labor Code 5401 are not qualified as Workers’ Compensation Claims.

An Industrial Injury that is not a Workers’ Compensation Claim includes which of the following?

A. Minor cut
B. Minor burn
C. Minor industrial injury
D. Scratches or splinters
E. All of the above
An Industrial Injury that is not a Workers' Compensation Claim includes which of the following?

A. Minor cut
B. Minor burn
C. Minor industrial injury
D. Scratches or splinters
E. All of the above – a physician can treat injuries and conduct follow up visits for observations and determine the treatment to by First Aid.

An injured worker can receive any medical treatment they feel necessary including:

A. Acupuncture
B. Massage
C. Weekly chiropractic treatments
D. Jacuzzi time...
E. None of the above
An injured worker can receive any medical treatment they feel necessary including:

A. Acupuncture  
B. Massage  
C. Weekly chiropractic treatments  
D. Jacuzzi time...  
E. None of the above – under the new regulations treatment is limited.

Most injuries at UC are caused by:

A. Using computers  
B. Chemicals  
C. Moving, pushing, and pulling  
D. Lifting people or animals
Most injuries at UC are caused by:

A. Using Computers
B. Chemicals
C. Moving, pushing, and pulling – good loss prevention calls for using lifting devices and seeking help when necessary.
D. Lifting people or animals

Is UC responsible for 100% of the employees’ injury?

A. Of course
B. Not if the employee was injured at home
C. Not if the employee was injured at another job
D. B & C
Is UC responsible for 100% of the employees’ injury?

A. Of course
B. Not if the employee was injured at home
C. Not if the employee was injured at another job
D. B & C – the employer is only responsible for the % of injury that occurs from the specific event or accident on their job.

If an employee is injured, should you give them a claim form (DWC1)?

A. Always, must be provided within 24 hours
B. Only if the injury has to be recorded on the OSHA log
C. Give them an Incident Form
If an employee is injured, should you give them a claim form (DWC1)?

A. Always, must be provided within 24 hours
B. Only if the injury has to be recorded on the OSHA log
C. Give them an Incident Form – the WC Manager or Medical Provider will provide the DWC1 if needed.

Claims Management Strategy

• Senate Bill 899
  – More control over claims resulting in reduced costs
  – Favorable regulations allow us to close more claims – changes in Medical Treatment
• Moving to an Incident Reporting Program
“Be Smart About Safety”

• UC’s Injury & Illness Prevention Program – complies with Cal/OSHA requirements (8 CCR Section 3203)
• Safety coordinator designated in each department
  – Identifies & evaluates workplace hazards, conducts monthly employee safety training, investigates accidents, communicates guidelines and regulations to employees, maintains safety records, acts as liaison between departments & systemwide EH&S
• Systemwide funding for safety & loss prevention

Insured Programs

• Aviation
• Boiler & Machinery
• Builder’s Risk
• Marine
• Excess Liability (Auto, GL, WC, Property)
• Crime
• Fine Arts
Premium Components

• Who pays?
• Your departments… we collect premium from you
  • Claims Adjusting
  • Expenses
  • Settlements
  • Administration

Employment Liability

• Employment Practices Claims
Employment Practices Claims

What is an employment practices claim?

Acts of discrimination or harassment by employers against employees.

Is This an Employment Claim?

You develop a personal relationship with an employee and use your University computer to send e-mail messages to the co-worker.

You organize an impromptu gathering of department staff at a local park.
Is This an Employment Claim?

You have a discussion at the water cooler with your staff and share your views on racism, politics, religion, etc.

Verdicts

$801,710  Amount awarded to plaintiff alleging discrimination and harassment based on race

$1,100,000  Amount awarded to plaintiff based on harassment

$2,100,000  Amount awarded to plaintiff alleging failure to accommodate his disability
Reported Lawsuits By Type As Of FY 2006

- Disability: 11
- Gender: 3
- Harassment: 5
- Retaliation: 5
- Race & National Origin: 12
- Wrongful Termination: 5
- Other: 15

TOTAL: 56 LAWSUITS

Case Studies: What Would You Do?
Case Studies: What Would You Do?

Mark Manager

The Director of the department contacts you and tells you that Mark Manager, a long-time employee, is using University property and the telephones to run his personal carpet cleaning business during and after his work hours. Mark is also alleged to have stolen valuable University property. There is a policy in place prohibiting the misappropriation of public funds and University property. What course of action would you recommend?

• Investigate whether the policy against personal use of the phones has been disseminated and whether it is uniformly enforced throughout the University. Then call in internal audit.

• Inform Mark of the allegations against him and the fact that an audit will be conducted. Place Mark on paid administrative leave pending the investigation. If the investigation implicates Mark for wrongdoing, discipline Mark and place him under heightened supervision.
Mark Manager

• Hire outside counsel to conduct an investigation of the entire department so that Mark is not singled out and to ensure that there is an unbiased third party involved. If the audit implicates Mark, terminate him for violation of University policy.

• Call University police and, with their assistance, approach Mark immediately and ask to search his office and car for University property. Request that he agree to a search of his home for additional property. If he refuses, obtain a search warrant from the local police.

Ursula Of Ultrasound

It has come to your attention that Ursula of Ultrasound has made a complaint against her supervisor, Ted. She alleged that in a private meeting between just the two of them, in his office, Ted inappropriately touched and grabbed her. Your investigation reveals the following: co-workers of Ursula allege Ursula often flirts and uses sexual innuendoes. She constantly makes advances toward residents and fellows while ignoring orderlies and maintenance personnel. She flips up her shirts and makes suggestive remarks. No one really indicates that they have ever witnessed inappropriate conduct by Ted. However, you are aware that he has a criminal record for exposing himself in a parking lot and there were some undocumented complaints against Ted. What course of action would you recommend to the Chair of the department?

Case Studies: What Would You Do?

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Ursula Of Ultrasound

- It is obvious that Ursula’s complaint is frivolous and that based upon her own behavior she could not prove sexual harassment.
- Refer the department to department-wide training on sexual harassment.
- Describe to Ursula the University’s sexual harassment policy; offer her an opportunity to file a written complaint and offer to investigate, but make sure Ursula knows that her conduct will also be investigated.
- Continue to question Ursula about the specific conduct she found to be objectionable and investigate her complaint.

EPL Litigation Results
During FY June 30, 2006

<table>
<thead>
<tr>
<th>Type of Case</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trial – Defense Verdicts</td>
<td>4</td>
</tr>
<tr>
<td>Trial – Plaintiff Verdicts</td>
<td>1</td>
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<tr>
<td>Resolved by Pre-trial Motions</td>
<td>18</td>
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<tr>
<td>Dismissals</td>
<td>16</td>
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<tr>
<td>Settlements</td>
<td>19</td>
</tr>
<tr>
<td>Total Cases Resolved</td>
<td>58</td>
</tr>
</tbody>
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Focused Mission
Results-Driven

1. Know the goal
2. Use the resources we have available now
3. Urgency – start today, measure how we progress, adjust as we go
4. OP Risk Services is here to serve you

MISSION:
POSSIBLE

KNOW THE GOAL!