

## **RISK MANAGEMENT IN THE COLLEGE SETTING**

*By Brett A. Sokolow, JD. This article has been adapted from a previously published chapter.*

### **Introduction**

Risk management is not the latest management trend or fad. Unlike “Total Quality Management” or “Servant Leadership,” risk management is here to stay. It’s not a theory served up by the latest guru. Risk management is a discipline. It is a field. Students can major in risk management, and degrees in risk management are conferred. Professionals hold the title Risk Manager, and certifications can be earned. Societies of risk managers exist, and have established professional ethics and standards of conduct. Importing the latest management or quality trend into your campus is optional; importing risk management is not. Risk management is a simple fact and reality for the multi-million dollar operation that today is the modern college.

It is necessary to say this because too many colleges treat risk management as if it were one of those optional fads. Relatively few colleges have risk management departments, or even a professional risk manager, and this is especially true of colleges. Risk management departments are most often found at major public four-year research institutions with medical schools. Nearly all corporations the size of colleges have professional risk managers, if not full-time risk management departments. The need to embrace risk management and to incorporate it into the administration of the college is created by the society in which all for-profit and non-profit institutions operate. As you know, we are mightily litigious. Students are coming to us with more and more complex psychological and behavioral problems. Insurance is getting more expensive, and insurance instruments are becoming more sophisticated. While it is not necessary for every college to employ full-time risk management staff, there are ways to embrace the risk management ethic more broadly that will serve colleges well. This article aims to give practical advice for deploying effective risk management strategies successfully throughout the operations of your college.

### **The Risk Management Process Defined**

The function of a risk manager can be encapsulated in a four-step process:

1. Assess risk for the operations of the institution;
2. Prioritize the risks;
3. Address the risks.
4. Evaluate the efficacy of the methods chosen to address the risks

The process is really continual because after evaluation, the process begins all over again as time and variables change, thereby creating the necessity to re-assess the risks and repeat steps 1-4 to keep current. This four-step process is the true essence of risk management. Now, let us take a look at each of the steps individually.

### **Assessing Risk for the Operations of the Institution**

Each college is different. Some will engender higher risks through engagement in activities such as research on bio-hazards. Others will engender lower risks through moderate-risk or lower-risk activities, such as the normal day-to-day functions of a college. Most colleges face some blend of risk-creating activities. This is by no means bad. Inherent in the operation of a college is the facilitation of activities that engender risk at varying levels (Bickel and Lake, 1999). We acknowledge it, accept it, and act accordingly. While risk is present and tolerated, it still must be addressed effectively. To address risk effectively, it must be accurately assessed. This is something that many colleges have historically done with less proficiency than is desirable. When it is done correctly, risk assessment is a formalized, intentional process. For many institutions, the first time they recognize a risk is when they are sued for it. This serves to highlight that to be effective, risk assessment must also be proactive.

Unless you have a full-time staff of eight in your risk management department, a centralized comprehensive risk assessment is not going to be possible. One of the most useful techniques employed by truly effective risk managers is to train department heads how to become the risk managers for their own departments. This method is efficient, and works well because department heads are more familiar with the operations of their departments than would be a centralized, administrative risk manager. The assessment role of the administrative risk manager is to:

- determine the training competencies for the department heads;
- create the training schedule;
- provide the actual training;
- provide the department heads with support materials;
- establish timetables for completing the departmental assessments;
- provide instructions for department heads on how to seek assistance, if needed;
- establish in what form the assessments should be submitted, and how they should be submitted.

### **Uniform Assessment Methods and Criteria**

Department heads and/or their subordinates have at their disposal different systems for risk assessment, each at varying levels of sophistication. The most important thing is to use a unified risk assessment system institution-wide, rather than having multiple systems in different departments. The simplest system to use is a three-category assessment: low risk, moderate risk, and high risk. Criteria should be established for each category. While this may be suitable for some institutions, it may be far too blunt an instrument for others. Some risk assessments use a color-keyed, multi-category scheme not unlike our Homeland Security Advisory System: Low (Green), Guarded (Blue), Elevated (Yellow), High (Orange), Severe (Red). This system is nothing more than a national security risk assessment. The most sophisticated risk assessments are algorithmic or multivariate systems that assess risk based upon input from the department head, from national insurance data, from similar institutions, from geographic litigation trends, etc. These can be plotted and graphed on risk maps. Risk mapping is becoming more and more useful and relevant as technology progresses. One of the more well-known and effective mapping systems is the threat assessment MOSAIC developed by Gavin de Becker & Associates

(see <http://www.gdbinc.com/MOSAIC/>). The best approach is to start with a simple system and become more sophisticated as you need to.

The first step in assessment is to have each department head complete a thorough list of all the operations within that department. This list should be extensive, and often its length will be surprising. Once each department has submitted a list, the administrative risk manager may need to make some decisions about how thorough the assessment can be or should be. Rotational assessments can be useful. Perhaps half the list of one department will be addressed in the fall semester and the second half in the spring. Or, certain items may be assessed in the coming year, while others are put off for a future year. It is unlikely that a thorough assessment of the operations of a college can be completed in one year. Many risk managers find it useful to create a multi-year assessment plan, keeping department heads on a rotating schedule that the administrative risk manager prioritizes.

### **Prioritize the risks**

This is the second step in the risk management process. This step could be as simple as collecting all of the high-risk items from the assessments completed by the department heads, and deciding to work on those for the current school year. Or, you might decide to take all of those high-risk items, and then prioritize within that list, identifying items of greater or lesser criticality. A still more sophisticated format would allow you to blend high and moderate risks into groupings, such as the case where a high-risk from one department and a high or moderate risk from another department are strategically similar, and can be dealt with more easily together. A great example might be protocols for using animals for testing in lab environments. It might be a moderate risk for the biology department and a high risk for the chemistry department, but it can be addressed as one risk type, for purposes of prioritization. The most sophisticated assessments take the rating of each risk, and then organize them according to not just the severity of the risk, but also the type of risk.

Some risks are strategic risks. They relate to the objectives and goals of the institutional mission. These types of risk tend to be more intangible than other types. These are risks that relate to the operational infrastructure of the institution, and whether that infrastructure supports the objectives and goals. Strategic risks are risk factors that have the potential to affect the strategic goals of the institution.

Another more intangible area of risk is reputational risk. Institutions build reputations over many years, and are rightly protective of their name and image. Risk management can control some exposure to events that could tarnish your institutional reputation. Risk managers can sharpen the standards and the policies that public relations personnel use to guide their communications, and advise on potential legal ramifications to public statements.

A more tangible type of risk is financial risk. Financial risks to the institution take the form of tortious actions such as misrepresentation and defamation, violations of law such as copyright or trademark infringement, contractual claims, freedom of speech, and the financial risks inherent in ownership of real property, vehicles, and other property.

Another area to recognize is operational risk. These risks arise from facilitation of human resources administration, accounting operations, health and medical services provision, campus safety, outside groups using institutional facilities, sports teams, classroom activities, study abroad and much more.

The final type is compliance risk. Federal and state governments have given colleges myriad, complicated, conflicting, confounding and overlapping regulations and laws by which we must abide. Who is assuring that regulations are met, and laws are complied with accurately? If an interpretation of law is needed, where is it to be found? Each of these five types of risk can add yet another layer to the prioritization process.

### **Addressing the risk**

If prioritizing the risk sounds complicated, the next step of addressing the risk should seem easier because there are only three things that you can do with risk:

- Risk can be avoided;
- Risk can be transferred;
- Risk can be accepted.

Some risk managers add risk retention as a separate category, but this chapter presents three categories, with risk retention as one form of risk acceptance. This will be explained below. The first thing you can do with risk is avoid it. Avoiding risk is not always desirable or the best option, but is a useful tool when appropriate. The skilled risk manager knows when to say no. Risk avoidance should be practiced under three circumstances:

- The risk cannot be transferred adequately,
- The risk cannot be sufficiently or cost-effectively insured, or
- The risk of loss is so high that the activity or operation is simply not acceptable.

Risk transfer means that some portion or all of the risk is shifted to another party. A classic example is a group or organization that wants to host a cocktail reception on campus. If members of the group obtain and serve the cocktails, the group and the institution share all risk. If a third-party licensed vendor is hired to serve alcohol at the party, some risk will be transferred to the vendor, though some risk will also likely remain with the group and the institution. If the party is hosted off-campus at a site controlled by the third-party vendor, and that vendor controls all aspects of alcohol service, it is likely that all risk will be transferred to the vendor. Various risk transfer strategies are available to you, and policies, brochures, and open communications from departments to risk management about operational activities can help to ensure that risk is transferred wherever possible and whenever appropriate.

Risk acceptance is practiced whenever a risk is so low that it is nominal or acceptable. Risk acceptance is also applicable to moderate-risk and high-risk activities and operations. When a decision is made to accept risk, a decision is also usually made to insure for it, so that the institution does not bear the sole risk of loss. Insuring a loss can also be described as having the same impact as partial risk-transfer, though it is not the risk, but the loss, that is transferred, with

insurance. This is where the insurance procurement that we talked about at the beginning of this chapter can enter into the picture as a risk management function. Where a risk is assessed, and then prioritized, and a decision is made to accept it, insurance is then procured to cover any potential losses related to that risk.

As noted above, some consider risk retention one of the possible options for contending with risk. Yet, risk retention is just a form of insurance. Consider that insurance is not a complete shifting of loss. For any insured loss, there is a deductible paid by the insured. When we insure something, we agree to pay some portion of our own loss in order to keep our premiums manageable. This is also called a retained limit. Risk retention is just a way of having a very high deductible, and thereby retaining a greater portion of the potential loss by the insured so as to reduce claims and reduce premiums. For many colleges, a risk retention program has been a tremendous boon, with the institution assuming self-insurance up to \$100,000, \$200,000, \$500,000 and even into the millions of dollars in some cases.

### **Evaluate the Efficacy of the Methods Chosen to Address the Risks**

This is the last step of the four-step risk management process. Once you've accurately assessed the risk, prioritized it, and addressed it, it is important to make sure on a continuing basis that you have appropriately applied the first three steps. For example, you may establish a complex accountability scheme for compliance with occupational health and safety regulations, only to find that the law you designed the scheme to address has been changed, overturned by a court, or otherwise altered. You may then take that risk from your moderate category down to a low-risk, and respond accordingly. Or, you may have an art display on campus, containing some of the artworks completed by your alumni back when they were students. Overnight, one of your former students becomes the darling of the SOHO art scene, and those four canvases on the wall in your auditorium are worth several million dollars each. Who owns them? Are they adequately protected? What changes do you want to make in your insurance policy to cover the changed value of this property? Can you anticipate any litigation regarding this artwork? If so, what steps can you take proactively? This is all part of the ongoing evaluation process. The insightful risk manager is always trying to keep abreast of campus events, plans and changes.

*All information offered in this publication is the opinion of the author, and is not given as legal advice. Reliance on this information is at the sole risk of the reader.*

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