



LARGE LOSS REPORT

2015

The Large Loss Report
2015 summarizes
major damage awards
and settlements
exceeding \$250,000
that affected schools,
colleges, and
universities in 2014.

Cases include a \$1.28 million settlement in a sex discrimination lawsuit against a university, a \$75 million settlement with the NCAA to settle class action lawsuits for head injuries, and a \$139 million settlement in a K-12 sex abuse case—the largest settlement of its kind.

These descriptions are drawn from publicly available information, and most do not involve settlements affecting United Educators (UE) members. However, they do reflect trends UE has seen among its claims and demonstrate the need for effective risk management to protect institutions. Complaints involved child abuse, discrimination, harassment, medical care and research, sexual abuse and assaults, and wrongful deaths. Many of these claims affected public institutions, but similar incidents could lead to financial losses and reputational damage for independent schools, and private colleges and universities.

Since the release of this report, some of the outcomes may have changed as a result of subsequent legal proceedings. However, no matter the outcome, the defense expense can be significant.



In addition to these losses, institutions are also facing reputational damage and significant expenses from resolution agreements and fines brought by the Office for Civil Rights (OCR) within the U.S. Department of Education (ED) for Title IX violations. Title IX prohibits discrimination on the basis of sex—including sexual harassment and sexual violence—in all education programs and activities that receive federal funding. OCR is currently investigating at least 90 higher education institutions and has entered into a number of recent resolution agreements mandating policy changes and future monitoring by OCR. The Clery Act requires higher education institutions that participate in federal student aid programs to disclose statistics about certain crimes occurring on or near campus as well as other security information. The ED can fine an institution that violates any part of the Clery Act (including the new provisions added by the Campus SaVE Act) up to \$35,000 per violation.

Education Awards and Settlements

Child Abuse

- The **Los Angeles Unified School District** will pay **\$5 million** to the families of two girls to settle a child abuse case. This is the first settlement in the case of a former third-grade teacher who was sentenced to 25 years in prison after pleading no contest to lewd acts on 13 former students at Telfair Elementary School in Pacoima. The suit also claims that the school district knew about allegations against the teacher before he was transferred to the school. In another case, the school district will pay \$139 million to settle all remaining litigation involving another elementary school teacher convicted of committing numerous counts of lewd conduct against his students. This settlement, the largest ever in a child abuse case, will be paid to the families of 81 children.
- The **Brentwood Unified School District** in California will pay **\$8 million** to the families of eight special needs students who were reportedly physically and verbally abused by their teacher. In 2012, the same teacher was involved in a \$950,000 settlement for physically abusing a 5-year-old boy. The 2012 settlement called for the teacher's resignation; however, rather than terminating her, the district transferred her to another elementary school, where the new allegations occurred. The suit claims the teacher used "unjustified and unreasonable force" against the children and that administrators never told parents of the teacher's criminal charges.
- **Bishop McCort High School** in Johnstown, Pa., has agreed to an **\$8 million** settlement with 88 former students who were reportedly

sexually molested by a Franciscan friar who worked as an athletic trainer from 1992-2001. He committed suicide in January 2013, shortly after the Youngstown, Ohio, diocese disclosed abuse settlements with 11 former students who said he abused them at John F. Kennedy High School in Warren, Ohio, from 1986 to 1990.

- **St. John's Military School** in Salina, Kan., settled a lawsuit filed by 11 former cadets who claimed higher-ranking students at the school abused them—even when faculty members were present. Charges included physical and emotional abuse and hazing. The four cadets in the case who were minors received settlements of **\$55,000, \$75,000, \$100,000, and \$1.8 million**. Terms were not disclosed for the adult cadets.
- **Walled Lake Consolidated Schools** in Oakland County, Mich., will pay the parents of an autistic girl **\$1.1 million** to settle a lawsuit related to a dismissed rape case against the parents. In 2007, the girl's parents were arrested for rape after a school aide administered "facilitated communication," a technique in which a facilitator guides the child's fingers over a keyboard to type. The aide assisted the girl, who cannot speak, in typing a statement accusing her father of rape and the mother of ignoring it. Facilitated communication is not approved as evidence in a courtroom. The parents spent time in jail and their daughter was taken into protective custody. They claim their lives were damaged because of the charges, which were dropped for lack of evidence.
- The family of a student who claimed he was sexually assaulted by a tutor in the **Fairbanks North Star Borough public school district** in Alaska has settled a lawsuit against the school district for **\$920,000**. The lawsuit focused on behavior by a

Hutchison High School tutor and correspondence teacher charged with multiple counts of sexual abuse of a minor. He is awaiting trial and remains jailed. The family claimed the district ignored warning signs of inappropriate behavior.

Discrimination

- **Liberty Union High School District** in California reached a **\$260,000** settlement in a lawsuit in which a teacher claimed administrators were harassing and discriminating against her. The teacher said she received her first negative performance review after suffering a heart attack. She claimed she was transferred to another school against her wishes and demoted because she requested help carrying objects after knee surgery.
- **Peters Township School District** in Pennsylvania paid **\$2 million** to settle a gender and age discrimination lawsuit filed by 17 female teachers and guidance counselors. The women claimed the school did not provide pay commensurate with their experience and that male and younger co-workers were credited for their experience and received higher salaries.



- After seven years in court, the **University of North Carolina-Wilmington** agreed to settle with an associate professor who claimed he was unfairly denied a promotion. The professor, who is a Christian, started writing a conservative website column and claimed he was denied a promotion due to the religious beliefs he wrote about. A jury ruled in the professor's favor. Under the settlement, the university has agreed to drop an appeal of the case, will promote the associate professor to full professor, increase his salary, and pay **\$50,000** in court-ordered back pay and \$615,000 in attorneys' fees.

Harassment

- **Pleasanton Unified School District** in California paid **\$490,000** to settle two claims (\$245,000 each) by employees alleging that a principal sexually harassed them and created a hostile working environment. The principal reportedly used derogatory, vulgar, and sexual terms to refer to female employees, discussed inappropriate subjects with employees, and made statements perceived as threats to the safety or job security of employees.
- **Bound Brook School District** in New Jersey settled a harassment lawsuit with a former employee for **\$250,000**. In 2008, the district hired the employee as a learning disabilities teaching consultant. In her lawsuit, the employee claimed, beginning in 2010, she was harassed and abused by her supervisor, who among other claims falsely accused her of having sexual relations with the school's principal. The employee reported the harassment by her supervisor and was fired. She sued the school board and several school officials.
- The Iowa Supreme Court ordered **Iowa State University** to pay a former employee **\$650,000** for being mistreated by his superiors. The employee

reported alleged mismanagement by his boss who then waged "psychological warfare" against him, the court said. In 2012, a jury awarded the employee \$500,000 in damages, which the Supreme Court upheld. The court added \$150,000 in reputational harm.



Medical Care and Research

- **Columbia University** has agreed to pay the federal government more than **\$9 million** in penalties because it submitted false claims for federal grants to fund HIV and AIDS research. The federal grant money Columbia received required the university to track the work done by employees and bill their salaries according to how much time they spent working on grant projects. Columbia admitted to submitting inaccurate cost reports.
- The **University of California** will pay **\$10 million** to a former chairman of orthopedic surgery at the University of California at Los Angeles to settle a claim of retaliation against a whistle-blower. The surgeon had alleged that UCLA's medical school allowed doctors to take industry payments that may have compromised patient care. The lawsuit

claimed that UCLA had failed to act on the surgeon's complaints and had retaliated against him for speaking up. As part of the settlement, the surgeon left the UCLA faculty.

Negligence

- The family of a girl who was critically wounded when a gun went off inside a classmate's backpack will receive a **\$1.2 million** settlement. The **Bremerton School District** in Washington will pay \$900,000 of the settlement, and the gun owner's homeowner's insurance will pay the rest. The girl was 9 years old in February 2012 when the gunshot shattered her elbow, damaged her organs, and lodged in her spine. The school district's attorney said there was no liability in the case, but the family's attorney said the district didn't do enough to protect the girl.
- A judge ruled that the **Anchorage School District** in Alaska was negligent and liable for **\$4.5 million** in damages in the case of a kindergarten student who was injured when he tripped and fell into a clump of pine shrubs at the school. The frontal lobe of the boy's brain was damaged, leading to multiple complications. The judge determined the school was negligent for allowing stumps to remain on a path frequently used by children.
- **Torrance Unified School District** in California will pay **\$700,000** to settle a claim by five students who were injured in an accident involving a portable stove explosion in a high school classroom. The students, who suffered serious burns, alleged negligence on the part of the school. The portable stove, which was designed for outdoor use, was being used to cook food for a school fundraiser in a classroom.

Sexual Assault

- **Seattle Public Schools** will pay **\$700,000** to settle with the family of a high school student who was allegedly raped by a classmate on an overnight school field trip. The girl's parents filed a Title IX complaint with the U.S. Department of Education and claimed that the district failed to protect their daughter from retaliation from other students after she reported the incident. The school district released a statement detailing ways it plans to more effectively supervise field trips and respond to allegations of sexual assault. Those include improved chaperoning, training chaperones to report policy violations by students or other chaperones, and establishing a sexual assault response and prevention program.
- The **University of Colorado-Boulder** will pay an **\$825,000** settlement to a female student who claimed she was sexually assaulted by a male philosophy doctoral student at an off-campus party. The doctoral student was later hired by the university as an instructor, and the university was not aware of the alleged incident when he was hired. The woman claimed another philosophy professor retaliated against her after she reported the assault. The university already was under federal investigation for possible violations of Title IX, and another report detailed sexual harassment, bullying, and other unprofessional conduct within the philosophy department.
- The **University of Connecticut** agreed to pay **\$1.28 million** to settle a sex discrimination lawsuit filed by five female students. The women said the university did not intervene on their reports of sexual assault and harassment. One woman who claimed she was kicked off the women's hockey team after reporting her rape to the coach will be awarded \$900,000 of the settlement.

Traumatic Brain Injuries

- The **National Collegiate Athletic Association** (NCAA) has agreed to pay a **\$75 million** settlement in a head injury lawsuit. The settlement agreement, which will resolve pending class action suits, includes an initiative strengthening the NCAA's recommended concussion management plans. As part of the settlement, \$5 million will go to concussion research, and \$70 million will be used for concussion testing and diagnosis of current and former NCAA-student athletes. As of this writing, the judge overseeing the class action has declined to give preliminary approval to the settlement and asked the parties to provide more information on a number of issues.

Wrongful Death

- **Tehachapi Unified School District** in California settled a wrongful death lawsuit for **\$750,000**. The lawsuit was filed by the mother of a gay teenager who committed suicide after being bullied by fellow students because of his sexual orientation. According to the lawsuit, the teen notified administrators of the bullying, but they did not intervene.
- **Alamance-Burlington Schools** in North Carolina agreed to a **\$375,000** settlement in a wrongful death lawsuit involving a student who collapsed and died in gym class. The student was hit in the groin by a basketball. An autopsy showed he died of cardiac arrest. The lawsuit, which was filed against the school district and two teachers, claims that the student was left on the gym floor for at least 20 minutes before medical attention was sought.



Prevention and Protection for Education™

United Educators (UE), a reciprocal risk retention group, is a licensed insurance company owned and governed by nearly 1,300 members representing thousands of schools, colleges, and universities throughout the United States. Our members range from small independent schools to multi-campus public universities. UE was created in 1987 on the recommendation of a national task force organized by the National Association of College and University Business Officers. Our mandate is to provide schools, colleges, and universities with a long-term, stable alternative to commercial liability insurance.

EduRisk™ from United Educators provides members with risk management resources to help prevent incidents that put people and institutions at risk. And, when claims do occur, UE protects our schools, colleges, and universities with education-specific coverage and an experienced claims management team. This prevention and protection philosophy enables UE to reduce the overall cost of risk for our policyholders.

United Educators is Rated A (Excellent) by A.M. Best and was named a Ward's 50 company in 2013 and 2014.

For more information, visit www.UE.org or call (301) 907-4908.

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