Student Affairs
Risk Management 101

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On Law and Higher Education
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Overview

- Introduction
- In the News
- Claims Trends
- Student Risk Management
- Principles & Practices
- Developing a Comprehensive Approach

In The News

- Reports From Across the Country
- Criminal, Civil Charges vs. Student Group Leaders
- Criminal Charges vs. College Admins
- Conflict with Communities
- All in Newspaper Headlines

The Source of the Information

❖ **United Educators – founded by Colleges and Universities in 1987**

❖ **Over 1200 Member-Owners**

❖ **Has Handled over 30,000 claims**

❖ **Paid out over 270 Million Dollars**

Current Claims Outlook

- **Percentage of GL Claims Filed By Students Is Growing:**

- **1998: 16% of all claims**
- **2006: 37% of all claims**

What has Changed?

- Less Hesitation to Bring Claims vs. College/University
- Generational Focus on Protecting "Children"
- Far More Activities on Campus Than Ever Before?
- Rapid Dissemination of Information and "News"

The Costs…

- 1998-2006:
- Student claims account for 25% of total
- But, account for 33% of costs

Claims Outlook

- The Categories

- ❖ ALCOHOL
- ❖ Athletics
- ❖ Assault
- ❖ Sexual Assault
- ❖ Auto
- ❖ Suicide/Mental Health
- ❖ Sexual Molestation

Alcohol

❖ Present in significant percentage of all student claims, especially:
   ❖ Sexual Assault
   ❖ Hazing
   ❖ Mental Health-related
   ❖ Assault
   ❖ Sexual Assault
   ❖ Transportation

Examples - Athletics

❖ **Single largest claim in UE history: athlete's pre-season death**
❖ **Serious injuries during club sporting event: regular glass substituted for safety glass at facility**
❖ **Hazing related to membership on club team leads to injuries, suit. Claimant states coaches knew, condoned actions**
❖ **Fans sustain serious injuries, including paralysis, when spectators rush the field after an upset win**

Examples - Assault

❖ **Injuries resulting from altercations/fights in residence halls or other campus locations**

❖ **Hazing claims often include assault allegations**

❖ **Two types of claims:**
  - ❖ **The University should have provided security, or**
  - ❖ **The University should have known/warned of dangerous tendencies (prior behavior) of alleged assailant**

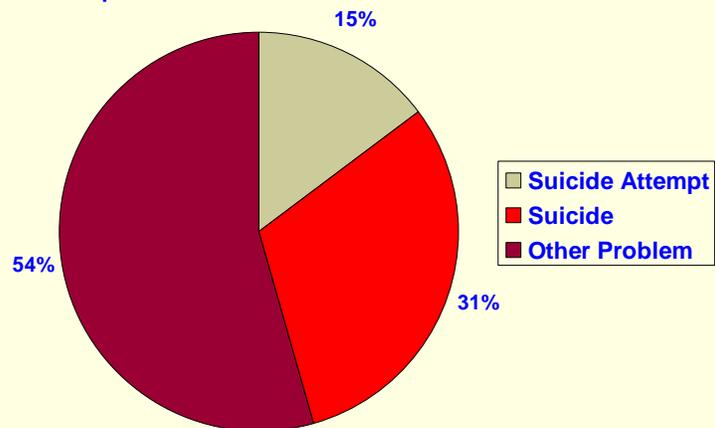## Examples – Sexual Assault

- Includes claims made by the victim/survivor:
  - So-called "Acquaintance Rape" scenarios dominate this category
    - Alcohol usually present
    - In some sort of campus-related living facility
  - Student (17 years old) makes claims against University after rape that occurred in Residence Hall during "Little Sibs" weekend.
  - Visiting female student sues university after claimed rape by student assigned by school as her campus tour guide.

- Also Includes claims made by accused:
  - Student claims judicial panel and process were biased. (Settlement)
  - Disciplined student claims school has long history of expelling Black students. (Settlement)

Examples - Auto

❖ **Student dies in auto wreck – may have been going to hazing ritual of sorority**

❖ **Student worker involved in fatal collision while transporting 3 campus visitors**

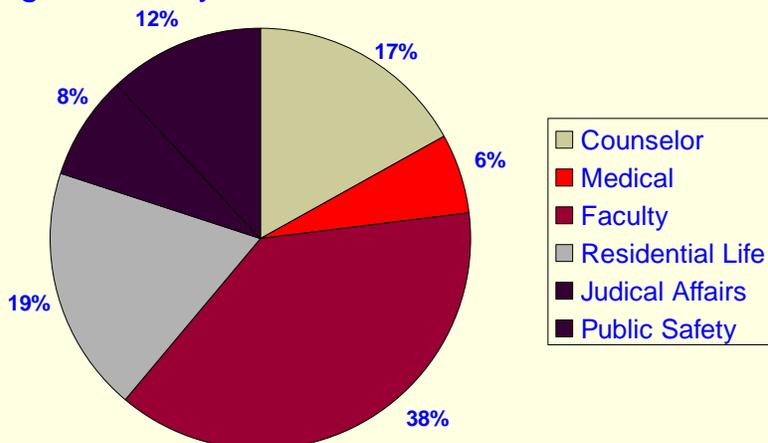❖ **Club sports team accident in 15 passenger van produces multiple fatalities**

UE Claims, 2001-2005
Suicide/Mental Health

Nature of problem --

15%

54%

31%

- Suicide Attempt
- Suicide
- Other Problem

UE Claims, 2001-2005
Suicide/Mental Health

Alleged error by --

☐	Counselor
■	Medical
■	Faculty
■	Residential Life
■	Judical Affairs
■	Public Safety

12%
17%
8%
6%
19%
38%

Examples –
Sexual Molestation

❖ **Second largest settlement in UE's history – (8 figures). Involved higher education institution and employee known to be sexual predator**

❖ **Summer camp employee/coach accused of molesting camper**

Other Developments

- **Legislatures Becoming Involved: Mandatory training sessions for student groups and advisors – see Texas**

- **States modifying, strengthening hazing laws**

- **Campuses in Conflict with Greek Chapters**

- **Student Leader Demographics Changing**

Our Goal as Student Affairs Professionals & Educators

- To create a campus environment that promotes the functional aspects of student development and learning while mitigating the dysfunctional aspects.

How Do We Create This Environment?

- Based on each institution's culture (mission, values, educational goals and beliefs & resource allocation)
- Grounded in the principles of student development and student learning
- Based on intentional practice (including proactive risk management)
- Integrated into the life of the campus

Why Should We Create This Environment?

- Morally and ethically the right thing to do
- Educationally relevant
- Administratively sound
- Legally responsive

Understanding the Principles of Student Risk Management
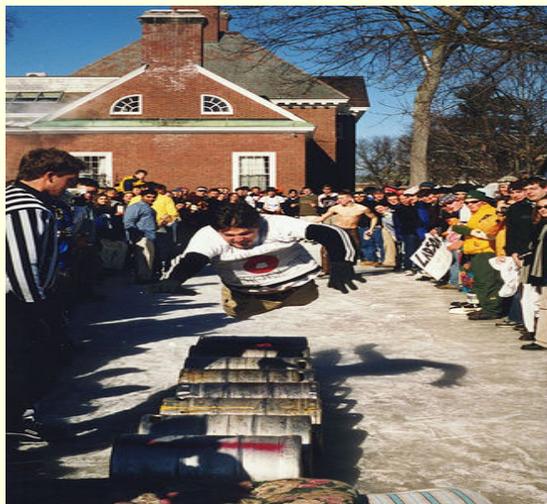
Risk Management

- A systematic approach that aids the organization in:
  - Identifying potential risks before they occur
  - Assessing the probability and consequences of the risks (safety, public image, finances, mental health)
  - Making a decision to accept, modify, transfer, and or eliminate the risks
  - Seeking to ensure the successful accomplishment of its mission and goals

Risk Management Illustration

Barriers to mitigate a
"significant event"

Performance

Processes

People

Plans
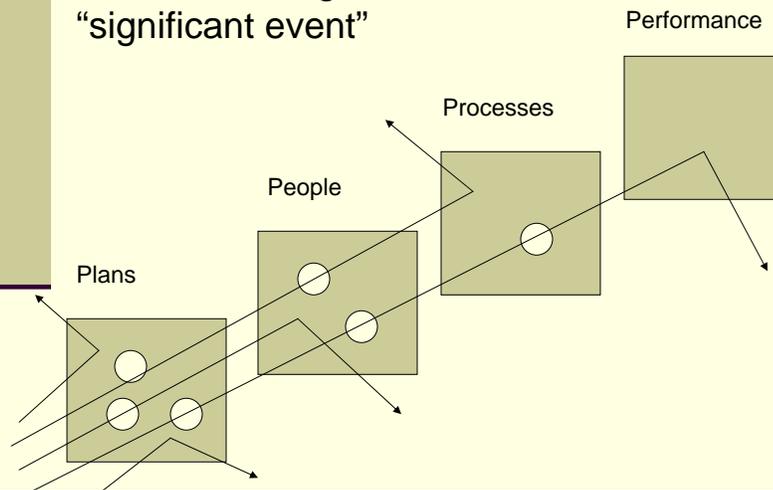
Assess That Campus Event!

The Risk Management Challenge

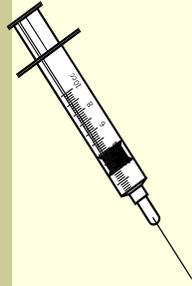"It is a challenge to determine the point at which developmentally beneficial behaviors become dangerous."

(Irwin, 1993)

Approaches to Managing Risks

Reactive

vs.

Proactive

Reactive

- Typically triggered by Significant Event
- Current examples: recent deaths due to alcohol, rollover van accidents, campus violence and responses from institutions;
- This is not the framework that we desire to operate within

Proactive

- Seeks to be out in front of the risk
- Works to identify and reduce likelihood of a significant event
- Promotes a reasoned approach to decision making and action taking

Proactive

- This strategy is more difficult because you do not hear about the significant events that never happened because you proactively resolved the risk
- Based on premise that prevention is $1/10^{th}$ the cost of detection and correction

Prevention is $1/10^{th}$ the Cost of Detection and Correction

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Developing a Comprehensive Approach to Working with Student Risk Management

# 8 Strategies Implemented at Texas A&M University

1. Establish the need and gain support of upper level administration
2. Identify and adopt a foundational philosophy and model of operation
3. Establish and nurture key relationships
4. Create a plan of action to implement philosophy and operational model
5. Identify and acquire essential resources
6. Develop milestones for success
7. Implement plan of action
8. Assess and adapt as needed

Strategy 1: Establish Need & Gain Support from Administration

- At Texas A&M, a significant event portrayed the need and led to the support from upper-level administration
- At your institution, you want to prevent a significant event
  - Prevention is 1/10 the cost of detection and correction
  - College students tend to be at more risk due to lack of experience and over confidence
 - Trend issues related to similar types of events

Strategy 2: A Foundational Philosophy The Facilitator University

- The facilitator university encourages members of it community to help individuals make intelligent, fair and reasonable choices within the boundaries established by state, federal or local laws; university rules; and the educational mission of the institution.
- Facilitators do not choose for students. Rather, students choose for themselves and shoulder significant responsibility for outcomes of their choices. The key is that the facilitator manages parameters under which choices are made—even reserving the right to remove options and/or alternatives.

I--I

University   Student
← Authority   Freedom→
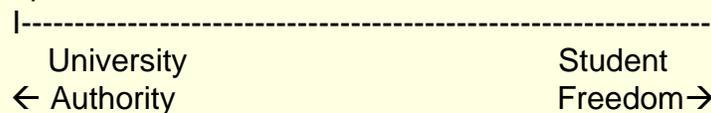
Bickel & Lake (1999) *The Rights and Responsibilities of the Modern University.*

Strategy 2: An Operational Model
The Performance Management Model

Texas A&M University
Division of Student Affairs

Performance Management Model
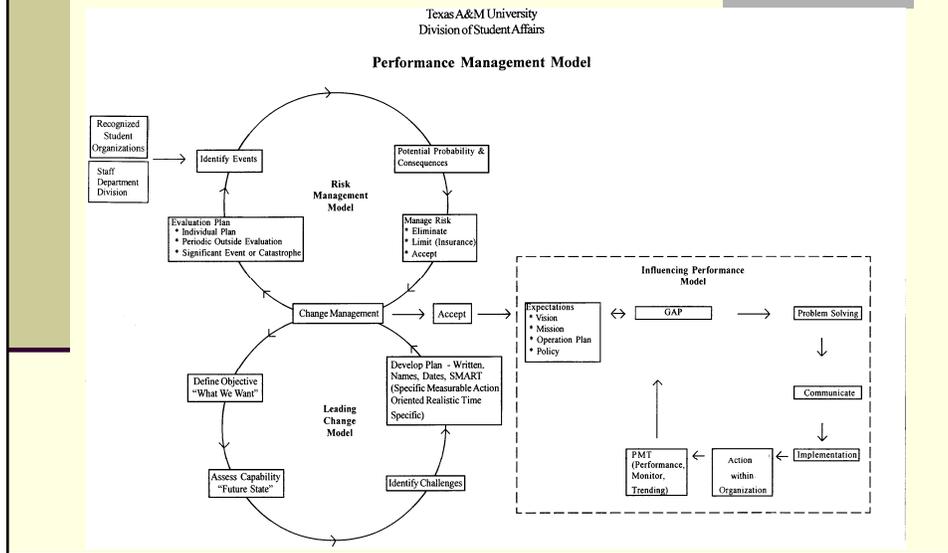
Do You Think He Has a Risk Management Plan?

Strategy 4: Create a Plan of Action to Implement the Philosophy and Operational Model

1. Reengineered how we work with student organizations, student leaders, & advisors
2. Created and trained division risk management team
3. Prioritized and categorized annual activities
4. Developed more effective communication protocols with facility managers
5. Established a joint position between academic affairs and student affairs

Strategy 4: Student Organization Categorization

- Criteria used to categorize student organizations:
  - Alignment of mission and purpose to university
  - Resources generated, expended and required
  - Nature and frequency of travel
  - Number of members/participants involved
  - Complexity of activities
  - Perceived impact of routine activities on university

Strategy 4: Student Organization Recognition and Categories

Shared Responsibilities — Association with University

- Sponsored
- Affiliated
- Registered
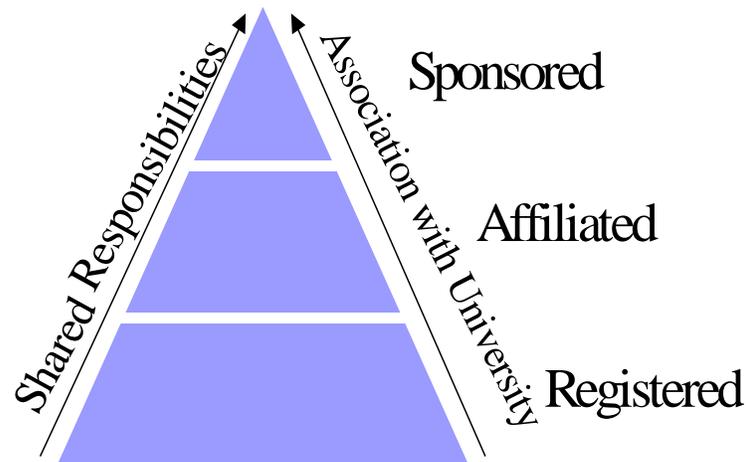
Strategy 4: Student Affairs Risk Management Coordination Committee

- Identification of RMCC members
  - Job position of sufficient level of authority to affect risk management decisions and to influence the enforcement of policy
  - High level of knowledge regarding department operations, needs, issues
  - Ability to reallocate 5-10% of time to this effort (with full support of department head)
  - Ability to represent department regarding the development of risk management procedures/protocol/policy.

Strategy 4: Prioritization and Categorization of Annual Activities

1. High Risk Activities
2. Medium Risk Activities
3. Low Risk Activities

Strategy 7: Implemented Plan of Action

- Advisement of student organization has changed
- Revised training for student leaders and advisors has been implemented
- Office and work space allocated based on categorization
- University funding processes have been adjusted to take into account categorizations
- Prioritization of university facility reservations reflect categorization

Strategy 7: Implemented Plan of Action

- Risk Management Team is in place and trained
  - Safety & Security (Environmental Health & Safety / University Police)
  - FERPA/HIPAA - Overview & Suggestions for training strategies/tools regarding confidentiality
  - Critical Incident Response
- Team routinely identifies and problem solves issues related to student travel, division emergency response, and event planning and coordination

Strategy 7: Implemented Plan of Action

- Pre-event planning process utilized to work more closely with moderate to high complexity events and activities
- Process has been customized by departments
- Similar process is now being used in university scheduling

Application #1

Identify one aspect of your campus environment that could be improved through a proactive approach to managing risks.

Application #2

Based on the discussion today, list three actions that you can implement to improve this situation.

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