

View from the Top: David Poms, Poms & Associates

Gavin Souter | Business Insurance
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David Poms, president of Poms & Associates Insurance Brokers LLC, founded the Woodland Hills, California-based company 30 years ago. The privately owned brokerage now has about 150 staff, largely in the western United States. Specializing in public entity risks, Mr. Poms has been deeply involved in insurance and risk management in the education sector for much of his career, including advocating and helping to formulate laws and procedures designed to curb the

incidence of child sex abuse. Business Insurance Editor Gavin Souter recently spoke with Mr. Poms about challenges facing public entities, efforts to prevent sex abuse and how related settlements have affected the insurance market. Edited excerpts follow.

Q: What are some of the major risk management issues facing public entities?

A: If you just look at COVID and how that has impacted states, cities, counties, educational institutions, park districts, utilities, everyone had to develop emergency procedures to manage that crisis. Some have been more successful than others, but the impact has been profound. We've come a long way since a year ago, but there really has not been a public entity that has not been affected. And insurance has not been a friend. There have been some exceptions, but most if not all the insurance claims have been denied or coverage just doesn't exist, whether it's workers comp or property — specifically business interruption — or liability coverages. They've all historically had exclusions.

Q: One of the issues that has affected public entities has been sex abuse claims. How are institutions resolving and managing these risks?

A: It's a tremendous challenge. As I learned working with Catholic dioceses early in my career, the first instinct was to hide it. Most dioceses, however, developed better plans to manage these

cases. They tried to eliminate the decision-making from the priests and have lay people and attorneys involved in committees to manage the claims.

Now, with the educational institutions, one thing that we've learned is that teachers protect teachers. They don't tell on other teachers out of fear of incriminating someone falsely or they're friends or they just can't believe that they are involved in these horrific acts. And the people that are involved are all masters of grooming, so our job is to educate employees to be able to put their antennas up and look at what other teachers might be doing. We train and educate administrators and other teachers to look for these bad actors and identify what a predator does. Hopefully, we educate them so much that perpetrators stay away from these schools.

We've also developed anonymous reporting processes so employees and kids can report the behavior. At our firm we have almost 40 loss prevention people that provide that training.

Q: You were recently involved with passing H.B. 128 in New Mexico, which is a law aimed at preventing abuse. What will that measure do?

A: It provides requirements for teachers to report ethical misconduct to the public education department and the superintendent, and there are various requirements for the superintendent to transmit the information, whereas before there wasn't any specific requirement on reporting. Then, the department has to immediately notify law enforcement, so it's a very strict way of reporting. There are also licensure requirements for the public education department to deny or suspend or revoke a teacher's license so they are not able to go from one school district to another school district. It's all trying to eliminate the "pass the trash" types of situation where one school district passes on a bad actor to another district.

Q: You are also involved in the U.S. Olympic committee. What sort of risk management measures have been brought in there?

A: Several years ago, we formed a separate nonprofit organization called the United States Center for SafeSport. It originally tried to make sure that coaches had ethical obligations and responsibilities, but it got more involved with abuse prevention training because a lot of claims started coming in gymnastics and other sports. It became almost an abuse claim organization handling the large number of claims that had arisen. The U.S. Olympic Committee, because of the gymnastics claims, had to go before Congress and there were a number of congressional meetings that were very critical of the committee for not reporting claims in a timely manner. So SafeSport has developed policies

and procedures for coaches, and it has allowed an avenue for athletes to report misbehavior of a coach.

Q: There seems to be a common theme in that you have to set up a third-party organization to deal with these problems.

A: Everybody knows that training and education are so critical to try to make an impact. Whether it's our organization or similar ones to ours that have the training capabilities or the U.S. Center for SafeSport, we know that education is key. You'd hope that education and training had been there all along but unfortunately you had to have these horrific claims and then react. That's the shame of it. But we are trying to deal with it now.

Q: There have been some substantial sex abuse-related insurance claims. How has that affected the insurance market for educational institutions?

A: This year is going to be the most difficult year in trying to get coverage and limits that you need. Every carrier, no matter what layer they are on, has been affected by these sex abuse claims. The primary layers have been affected the most, so you are seeing a reduction in the number of those carriers. You are seeing drastic increases in deductibles and retentions and there's been talk that some carriers are going to move to a claims-made form and away from occurrence. Most public entities renew on July 1 and it will be the most difficult insurance renewal that I've experienced since the mid-1980s, which was when public entity pools started forming.

Q: Do you see more self-insurance on the horizon now?

A: Yes. There's always somebody that comes up with a better mouse trap to be able to provide insurance coverage, so we are going to find things in the next year or so that maybe we don't even know about today.

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