

Covering All Your Bases

Conducting school district vendor background checks

One of the primary objectives of a school district is to foster learning in a safe environment. While most school districts do a good job making sure their staff and volunteers meet background check standards, vendors are also an important part of the safety puzzle.

Recently, there was news about a tragic incident in a Midwestern state involving a vendor's employee and a student. A vendor regularly used by the district was called to make emergency repairs to the heating system at a school. This vendor's employee sexually assaulted a student in a utility closet at the school, and a subsequent investigation of the event found that the employee was a registered sex offender.

■ Preventing something like this from happening in the first place

Studies from the U.S. Centers for Disease Control and Prevention and Stanford University have shown a strong correlation between student achievement, how safe teachers and students feel at school, and how connected a community feels to its local school district. An incident like this calls out the importance of a properly executed risk transfer strategy. The savings from reducing your risk can be diverted to educational purposes.



■ What can your school district do to manage this type of risk?

Standard Agreement. The risk of this category of loss can be transferred to your district's vendors through a written agreement. This agreement requires the vendor to do a background check on all vendor employees who may be at your district facilities and working with your district or its students, and/or staff in any other capacity. Any vendor employees who have criminal convictions that are substantially related to children and/or schools

would not be allowed at your district's buildings, grounds or facilities, nor would they be allowed to have contact with your district's students and staff.

Elevated Agreement. Utilizing a hold harmless and indemnification provision to a standard agreement can make sure vendors are held responsible for any loss to the school district arising out of the vendor's failure to comply. (Many insurance advisors have sample agreements for your use. However, any contractual language in this type of agreement should be reviewed by district legal counsel.)

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■ How can your district make vendors sign an agreement?

Use Your Leverage. There are several methods for your school district to obtain a background check agreement from a vendor. The most common practice is to include such language in all contracts and purchase orders. You can also proactively reach out to preferred vendors you may leverage in the event of an emergency.

■ How to identify vendors to make aware of, and compliant with this type of agreement?

Purchasing History. Districts generally keep great records as to how they spend their resources. Consider leveraging a common process, such as your 1099 forms from the preceding fiscal year, as a starting point.

The vendor gets the agreement with a notification that the vendor can only perform future work at your district once they have returned the background check agreement to the district. All new vendors are also required to sign the agreement. This method helps ensure no vendor is missed.

Districts implementing such policies generally experience positive feedback and can enhance their community goodwill. Keep in mind that many of your vendor partners are invested in school districts via their families and tax dollars. Vendors are often glad to see that the district is taking the extra step to enhance the learning environment. Districts could even share this information with parents and the community to make them aware of the extra steps being taken to keep your schools safe.

This type of agreement is just a small part of a comprehensive risk transfer strategy that could be implemented at your school district. The overriding goal should be twofold: to keep students, staff, and the community safe; and to reduce the overall cost of risk for your school district.

Your school district's insurance advisors and attorney can help you in the development of this risk transfer strategy. They can work with you to properly transfer risk through the use of contractual risk transfer language in agreements and contracts; help your district understand how to properly use its statutory immunities and liability limitations; and review your incoming and outgoing certificates of insurance. ■

Marty Malloy is an account executive at M3 Insurance is an endorsed agency through the WASB Insurance Plan. For more information, visit wasb.org.



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We really appreciate the service EMC provides to our school.”



Keith Brandstetter

Waterford Union High School
Superintendent

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MILWAUKEE BRANCH OFFICE

Phone: 855-495-1800 | milwaukee@emcins.com



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