

As colleges' coronavirus costs rise, insurance coverage still unclear

Schools beset by expenses from the pandemic may look to insurers for help — but it will likely take months to work out.

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In mid-April, University of California System President Janet Napolitano pleaded with her state's elected leaders for help with its enormous coronavirus costs, which reached \$558 million in March 2020 alone.

The 10-campus system "is confronting many of the worst impacts of the virus all at once," Napolitano wrote in an April 15 letter detailing the effects of the pandemic on education, employment, research and its medical centers. "As the Governor and the Legislature distribute emergency funding ... I am asking you to remember the important function of the University of California in addressing this crisis."

Relief from the state may not come as California could cut its budget in May, the Los Angeles Times reported.

Campuses around the U.S. are confronting similar questions about how they will cover pandemic-related expenses, or make up for resulting losses. In the last several weeks, institutions nationwide have publicly shared their own hefty bills, along with concerns over whether they can afford to pay them. And with the economic

downturn, schools may not be able to rely on donors or their endowments to cover these costs.

Those turning to their insurance policies for help are likely to discover that it's unclear whether they're covered for coronavirus-related losses. And although calls to insurers, brokers and consultants have spiked, resolutions are likely to be months away.

"It isn't like a tornado or a fire or somebody running into your building, where there's a direct physical loss," Blake Wells, higher education practice lead at insurance brokerage IMA, said in an interview with Education Dive. "There's nothing that triggers coverage."

Common questions from schools

Not every loss resulting from the coronavirus is necessarily an insurance question. Risk management counsel Melanie Bennett of insurer United Educators — which serves educational institutions — said the bulk of the calls from schools have concerned risks created by the shift online.

That starts with the online experience itself. Though many schools already offered some online instruction, telecommuting or telemedicine, the widespread closures caused by the pandemic have moved almost all of those functions to the internet — often without detailed policies in place.

Institutions are concerned about liability for harassment over video chat, as well as accessibility for people with disabilities — either of which could turn into lawsuits that trigger an insurance claim.

"One of the things schools should think about is communicating with their students and employees to say '[harassment policies] still exist while we're remote,'" Bennett told Education Dive in an

interview. Adding training or sharing tips for how those policies apply while away from campus could also help, she added.

Schools also want to know what their risks, obligations and rights are with regard to unemployment benefits, paid sick leave, procedures for essential workers returning to campus and more. United Educators posted some answers online, but changes in federal and state legislation have conditions in flux.

"We can provide some guidance on the federal legislation, but schools will also need to check on what's happening in their state," Bennett said.

Colleges are additionally calling about the risks related to telemedicine — particularly around student health services, such as protecting patients' privacy. "If I want to have a counseling appointment with you, [but] you live in a one-bedroom apartment [with] your roommate, where are you going to go to have that private conversation?" asked W. Scott Lewis, a partner with legal risk management consulting group TNG, which covers the education sector.

Up for interpretation

Whether colleges are covered for these and other difficulties depends on a range of circumstances.

Generally, Wells said, colleges' existing policies may provide financial relief through coverage for business interruptions. This type of coverage is often, but not always, within a commercial property policy.

However, these policies generally only pay out when the school suffers physical damage or loss, which doesn't include a pandemic. Complicating matters, IMA says most business interruption policies won't cover, or pay little for, losses due to communicable

disease. The same is true of policies covering shutdown orders from civil or military authorities.

As a result, it's far from a sure thing that colleges will be covered for refunds of room and board or tuition — which are major financial challenges for many. To pursue a claim, a school would need to make the case that the coronavirus pandemic is covered by the specific policy language that applies to its situation. This language can vary widely, as it's not standard for business interruption insurance to have it at all.

Even if an institution determines that its policy could reasonably cover its losses, it should look for — and interpret — any language in the policy that could exclude coverage. For example, there could be a policy exclusion for communicable diseases, Wells said.

And even if a school clears that hurdle, he added, "it's ultimately up to the insurance company on how they interpret the policy."

It's too early to say how insurers are handling claims, Wells said in early April, adding that the insurer's decision, and the school's decision about whether to fight a denial, could take months.

And colleges won't likely be able to change their coverage or buy new coronavirus coverage at affordable rates now that the pandemic is well underway. According to IMA, travel insurers started excluding coronavirus coverage in early February, and some life insurers have done similarly, Barron's reported in March.

There's also the potential for litigation from third parties like students and employees, Wells noted. Some students have already sued schools for the return of tuition or other fees, and more lawsuits are likely.

"Anytime you have an event of this magnitude, there's going to be litigation," he said.

Potential relief

The federal government may consider legislation that would ease the insurance situation. Rep. Maxine Waters, a California Democrat who chairs the House Financial Services Committee, is championing the idea of a Pandemic Risk Insurance Act. It would give insurers the money to cover their clients' coronavirus losses by permitting them to voluntarily buy reinsurance that covers those costs.

The legislation has not yet been formally introduced. State legislatures may move more quickly. Bills related to the coronavirus and business interruption or property insurance were pending in five states as of mid-April, according to the National Conference of State Legislatures.

In the meantime, colleges looking to stabilize their finances may have no recourse when it comes to insurance.

"Nobody's had (a disease outbreak) of this scale," TNG's Lewis said. "These are new and uncharted territories."