

# **Richland County CUSD #1**



Risk Management Program

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## TORT IMMUNITY ACT SUMMARY

The Local Governmental and Governmental Employees Tort Immunity Act allows school districts to levy tort funds to pay expenses related to risk management for the district. ***“Risk Management” is defined as a process that consists of identifying and analyzing loss exposures, selecting a technique or combination thereof to be used to handle each exposure, implementing the chosen techniques, and monitoring the decision made and implementing appropriate changes. It does not include safety practices of employees as part of their normal duties and arising out of their own common sense.***

The Illinois Local Government and Governmental Employees Tort Immunity Act (745 ILCS 10/1-101ET) provide for a school district to levy a tax which when collected will pay the cost of risk care management (745 ILCS 10/9-107). In addition, this section (9-107) provides for funds raised pursuant to this section to be used to:

1. pay the cost of insurance, including all operating and administrative costs and expenses directly associated with claims services and risk management directly related to loss prevention and loss reduction, legal services
2. pay the costs of and principal and interest on bonds issued
3. pay judgments and settlements
4. pay the cost of risk management programs
5. fund wages and salaries of personnel only when part of a formal risk management process

The use of tort levy to partially fund wages and salaries of personnel is authorized only when part of a formal risk management process, which is designed to specifically address, and then reduce or eliminate the risk of exposure to tort liability. The process includes development of a risk management committee and following these four steps as a risk management committee:

1. Identify and analyze loss exposures;
2. Select techniques for treating loss exposure;
3. Implement selected techniques; and
4. Monitor and modify the risk management program.

Actions undertaken by employees “in the ordinary care for the safety of others” do not constitute risk management under the Act. The court decision affirms that with a proper risk management plan and process in place, a school district may allocate a portion of its employee compensation directly related to risk management responsibilities under the Act to its tort levy.

Legislation has stated that the purpose of the tort levy is to provide an “extraordinary tax” for a limited purpose, not to fund expenses more properly paid from general operating funds. Therefore; it is important for school districts utilizing tort money to review the risk management plan annually and the expenses being paid by the fund.

**APPENDIX A**  
**Risk Management Plan and Process**

# **Richland County CUSD #1 Risk Management Plan**

## **POLICY**

The Board of Education of Richland County CUSD #1 recognizes its role of stewardship over the assets of the District, both human and financial. It interprets its responsibility in this area as requiring the highest possible concern for the safety of its students, employees, and the public. The District shall therefore have in operation a comprehensive Risk Management Program designed to protect the District against liability or loss which may be imposed upon it or one of its employees for a tortuous act, and to identify risk management, educational, inspectional and supervisory expenses directly attributable or relating to loss prevention and loss reduction.

The District recognizes its ability to budget for and thereby retain limited and predictable exposures to loss. It shall not be the District's practice to attempt to insure such foreseeable and bearable exposures, if alternatives can be achieved with due regard to sound risk management practices. Only when it is deemed that the District cannot eliminate or economically retain an exposure to loss shall it be transferred by purchase of insurance. Moreover, even if insurance is purchased, the District shall continue to perform sound risk management practices pursuant to this policy in order to minimize liability or loss and to reduce insurance premiums.

## **PURPOSE**

Richland County CUSD #1, whose central office for operations and management is located in Olney, Illinois, shall have in operation a comprehensive Risk Management Program, which shall reduce or prevent the District's exposure to liability. It is of the utmost importance for the District:

1. To ensure that statutory and common law, health and safety rights are extended to all visitors, employees and students;
2. To make certain that the District's buildings and grounds are maintained in a safe condition;
3. To provide careful supervision and protection of all the District's real and personal property, including vehicles; and
4. Education and training for teachers and non-certified staff, administrators, and board members directly related to loss prevention and reduction.
5. To provide protection to the District against liability.

## **LEGAL AUTHORITY**

The Illinois Local Government and Governmental Employees Tort Immunity Act (745 ILCS 10/1-101 et.seq.) authorizes a school district to levy a tax which, when collected, will pay the cost of risk management for the district. In addition, 745 ILCS 10 Section 9-107 provides for funds raised pursuant to this Section to be used to pay the cost of insurance, including all operating and administrative costs and expenses directly associated therewith, claim services and risk management directly attributable to loss prevention, loss reduction, educational, inspectional and supervisory services directly relating to loss prevention and loss reduction, to purchase claim services, to pay for judgments or settlements, or to otherwise pay the cost of risk management programs.

## **PROGRAM SUMMARY**

This Risk Management Program identifies and establishes an effective risk management process that uses the District's physical and human resources to effectuate the policy and achieve the purposes set forth herein. The basis of this Risk Management Program include: (1) Identify and analyze loss exposures; (2) Select techniques for treating loss exposures; (3) Implement selected techniques; and (4) Monitor and

modify the selected techniques. The district finds that the most effective manner in which to implement this Risk Management Program is to thoroughly integrate risk management into every level of the District's operations. All employees shall have the duty to perform all four steps of the risk management process for those areas over which they have responsibility and to report on their findings and recommendations.

### **RISK MANGEMENT PROCESS**

The Risk Management Process is a cyclical process, with each step in the process building on the results of the previous step. A loss exposure is a set of circumstances that presents a possibility of loss, whether or not a loss actually takes place. More specific in terms of this Risk Management Program, the loss exposures to be addressed are circumstances that would give rise to liability or loss which may be imposed upon the District or one of its employees for a tortuous act. A tort is a wrong against another for which the law provides money damages as a remedy. A tort may include physical and/or emotional harm to a person, a violation of a person's legal rights, and/or physical harm to a person's property.

#### *Identify and Analyze Loss Exposures*

The first step in the Risk Management Process is to identify and analyze loss exposures. The steps to accomplish this include: (1) identifying persons and property exposed to loss and the circumstances that can cause loss and (2) measuring the possible frequency and severity of the loss exposures. Identification should be both an organized and continuing process that reviews all property, activities, and personnel to determine the loss exposures faced by the District. Measurement should review the number of accidents that are likely to occur, the severity of the dollar losses, and the various potential losses to be able to prioritize the exposures in order of importance.

#### *Select Techniques for Treating Loss Exposures*

Once the loss exposures have been identified and analyzed, the second step in the Risk Management Process is to develop techniques to manage those exposures that are significant and select the best fit for each exposure. There are essentially four risk-managing techniques:

**Loss Exposure Avoidance**, which eliminates the sources of loss exposures and replaces them with lower risk solutions;

**Loss Transfer**, which reallocates the exposures to others, such as the purchase of insurance;

**Loss Exposure Control**, which manages the loss in order to reduce the likelihood of its occurrence and/or minimizes the ramifications on the District and;

**Loss Exposure Assumption**, (also known as self-insurance) which acknowledges the existence of a specific loss exposure and a decision to accept the associated level of loss exposure with or without engaging any special efforts to control it.

It is possible that a combination of all four methods could be used. The District will determine the best method for treating loss exposures using the criteria of (1) feasibility of the method, (2) expected effectiveness of the method, (3) cost of the method, and (4) effect on the District's performance.

#### *Implement Selected Techniques*

The third step in the Risk Management Process is to implement the selected techniques using the District's physical and human resources. This includes determining how to implement the selected techniques, identify what person(s) will perform and monitor the techniques, and communicating that to the appropriate personnel, and may also include any educational, inspectional and supervisory tasks related thereto. The components of implementation may include but are not limited to educating the person(s) identified, and

then supervising and inspecting the implementation of the technique to ensure that the technique is properly implemented and that the technique is achieving the desired results.

#### Monitor and Modify the Selected Techniques

The fourth step in the Risk Management Process is to monitor the implemented techniques to determine if they should be modified. The most effective way to monitor the selected techniques includes supervision and inspection by the District administration. In addition, it also requires self-reporting by the person(s) that has been selected to implement the techniques. If the technique is not working and a correction is needed, the first three steps in the risk management process should be repeated.

### **RISK MANAGEMENT ORGANIZATION**

The District finds that the most effective manner in which to implement this Risk Management Program is to thoroughly integrate risk management into every level of the District's operations. Every District employee, from the top to bottom, should understand the District's risks and his or her role in preventing and controlling potential losses.

The general, overall, responsibility for the development and maintenance of the District's Risk Management Program is the responsibility with the Superintendent. The Superintendent shall be responsible for development of the Program, identifying the various components of the Program, and delegating responsibilities for these components to the appropriate personnel, as necessity indicates. It is expected that the Superintendent would continually evaluate the effectiveness of the Program and be apprised of needed revisions, additions or deletions to the components and assigned responsibilities.

#### **Administrative Committee**

The Administrative Committee will include the Superintendent, Assistant Superintendent and their respective staff. The Administrative Committee may include other District employees at the discretion of the Superintendent. The general responsibility for the implementation and maintenance of this Risk Management Program rests with the Administrative Committee. The Committee should continually evaluate the effectiveness of the Program and be apprised of needed revisions, additions or deletions to the components and assigned responsibilities.

The Administrative Committee should assign District employees to serve on the Building Committees, and the members of the Administrative Committee should also serve on the Building Committees.

The Administrative Committee should review and consider the results of the Risk Management Process performed by all District employees, and perform the Risk Management Process for the areas over which they have sole responsibility.

In performing their responsibilities, the Administrative Committee should:

- Finalize the District's Risk Management Plan and changes, if any, to District policies, practices and procedures and job descriptions to implement and/or monitor the selected risk management techniques and communicate them to all District employees.
- Modify job descriptions for each employee who will be implementing and/or monitoring the selected risk management techniques;
- Ensure that each employee is aware of his/her revised job description that relates to his/her part in implementing and/or monitoring the selected risk management techniques;

- Provide training to an employee if necessary to support his/her responsibilities for implementing and/or monitoring the selected risk management techniques;
- Monitor and track sources and uses of funds;
- Monitor the overall success/failure of the selected risk management techniques on a regular basis, and revise the techniques, Risk Management Plan and District policies, practices and procedures and job descriptions as necessary; and
- Report to the Board on the Risk Management Program.

### **Building Committees**

The members of the Building Committees should be appointed by the Administrative Committee, and should include their respective staffs. The Building Committees should implement the performance of the Risk Management Process by all District employees.

The Building Committee should review and consider the results of the Risk Management Process performed by all District employees, and perform the Risk Management Process for the areas over which they have sole responsibility.

In performing their responsibilities, the Building Committee should:

- Create & Communicate the risk management plan to all District employees;
- Communicate the results of their individual and employees' performances of the Risk Management Process to the other members of the Building Committee;
- Recommend job descriptions to the Administrative Committee for each employee who will be implementing and/or monitoring the selected risk management techniques;
- Ensure that each employee is aware of his/her revised job description that relates to his/her part in implementing and/or monitoring the selected risk management techniques;
- Provide training to an employee if necessary to support his/her responsibilities for implementing and/or monitoring the selected risk management techniques;
- Monitor the overall success/failure of the selected risk management techniques on a regular basis, and revise the techniques and Risk Management Plan as necessary; and
- Report to the Administrative Committee

### **Employee Participation**

The District has determined that the most effective manner in which to implement this Risk Management Program is to thoroughly integrate risk management into every level of the District's operations. Every District employee, from top to bottom, should understand the District's risks and his or her role in preventing and controlling potential losses. All levels of employees have a duty to perform the four steps of the Risk Management Process for those areas over which they have responsibility and to report on their findings and recommendations.

It is critical that all District employees participate in this Risk Management Program to effectively implement the policy and achieve the purposes set forth herein. All District employees must perform the Risk Management process in the areas for which they have responsibility.

Accordingly, all District employees shall be expected to perform their additional duties in accordance with this Risk Management Program, and the job description of every employee position is hereby revised to



include the extra duties and responsibilities required to fully implement and evaluate the risk management components of this Risk Management Program.

**APPENDIX B**  
**Risk Management and Job Descriptions**

## Current Richland County CUSD #1 Job Descriptions

It should be noted that all existing Richland County CUSD #1 Job Descriptions were reviewed in the creation of this Risk Management Program. Furthermore, it should be noted that all current Richland County CUSD #1 Educational Support Personnel job descriptions contain at least the following responsibilities relative to risk management:

- i "Perform Risk Care Management Duties:
  - Routinely supervise and monitor the behaviors of students and visitors while on district property or in district buildings or vehicles to assure safe and appropriate behaviors.
  - Maintain work areas and rooms in such a manner to assure compliance with health and safety standards.
  - Assume responsibility for inspecting district property and equipment within the employees charge to assure safe and effective operation.
  - Report all safety issues to the building principal or immediate supervisor in a timely manner."
- ii "Maintain confidentiality of information about students as is expected of any staff member."
- iii "All other duties required to address emergency situations."

While all certificated staff member job descriptions contain the same duties, the wording is slightly different.

### Additional Risk Management Duties

After concluding the review of current Richland County CUSD #1 job descriptions, the following list of additional risk management duties has been developed to clarify current practices and to delineate specific duties which can easily be declared risk management.

**APPENDIX C**  
**Tort Fund Expenditures**

The general, overall, responsibility for the development and maintenance of the District's Risk Management Program rests, of course, with the Superintendent of Schools. The Superintendent shall be responsible for development of the Program, identifying the various components of the Program, and delegating responsibilities for these components to the appropriate personnel, as necessity indicates. It is expected that the Superintendent would continually evaluate the effectiveness of the Program, and be apprised of needed revisions, additions or deletions to the components and assigned responsibilities. It is also expected that, because of the delegation of responsibilities, the Superintendent of Schools would spend no less than five percent (5%) of his/her time toward the fulfillment of this task.

A primary component of the Risk Management Program is the provision of an insurance/compensation program that will provide protection to the District against liability. Portions of this risk management component shall include, but not be limited to:

1. Premiums for the various necessary insurances, including all Liability Insurance, Building and Fleet Insurance, Workers' Compensation, Unemployment Compensation, Personnel Bonds, etc.
2. Pay judgments or settlements arising against the District
3. Pay for all legal fees connected with protecting or defending the District against liability, including unfair labor practice charges, and employee collective bargaining.
4. Allowance for the time expended by assigned District personnel concerning the above delineated assignments.

The District's Superintendent, who serves in a business official capacity, is assigned the responsibility for the administration of this component of the Risk Management Program. He/she shall serve as the District's liaison to the various consulting services, claim and adjustment services, and insurance companies. In addition he/she shall be responsible for all communications concerning claims against, or on behalf of, the District.

The District's Risk Management Program in relation to the safe conditions of the buildings and grounds, and protection of the District's real and personal property, shall primarily be the responsibility of the District's Maintenance and Custodial Services. Their responsibilities and duties shall include, but not be limited to:

1. The development and identification of the various components of responsibilities concerning inspection of buildings, grounds and equipment to provide protection to the local district, its students, employees and the public. Within this parameter, he/she shall be responsible for the supervision of the building custodians, daily inspection of buildings and grounds, the development and operation of the District's building security program, including the acquisition and supervision of necessary security personnel and purchasing of security devices.
2. The maintenance of the legal and safe conditions of buildings and grounds. He/she is responsible for the District's compliance with State and Federal Laws regarding student health and safety, asbestos, radon, lead, etc. He/she shall be responsible for the training of the District custodial personnel to perform work on safety and health matters.

3. The coordination of all personnel performing maintenance duties within the Risk Management Program – Contractual Custodial Company personnel, etc. It is expected that all contractual custodians would devote twenty percent (20%) of their time in daily inspection of their respective buildings or grounds responsibilities, to ensure a risk-free environment.
4. The bidding of supplies and contractual services in such a manner that the District meets all the requirements for Toxic Materials, Equal Opportunity Employment, Prevailing Wage Rates, comparable name equipment, responsible bidders, etc.

It is expected that the District's Maintenance and Custodial staff will expend 100% of his/her time directly related to fulfilling the responsibilities of his/her position in the District's Risk Management / Tort Avoidance Program.

The District's Risk Management Program in relation to safe conditions and supervision and protection of the District's real and personal property includes other components than those described in the responsibilities of the District's Maintenance and Custodial staff and the responsibilities of those directly supervised by the District's Maintenance staff. Included here are responsibilities performed by many different personnel:

1. The Fleet Supervisor is assigned the responsibility for the Risk Management Program regarding all aspects of the District's transportation program such as supervising transportation maintenance personnel, and drivers in their risk management responsibilities – the driver daily inspection of their busses for safety problems – and the maintenance personnel for the inspection of all busses and resultant efforts to correct any possible tort-producing deficiencies. The Fleet Supervisor is expected to devote fifty percent (50%) of his/her time to risk management functions.
2. Student Transportation – All bus drivers shall be responsible for the inspections (prior to each run) of their bus to ensure that the vehicle is free from any situation that would produce risk or tort possibilities. It is assumed that this task would require approximately one tenth of the time actually spent for transporting students and thus one tenth of the cost of bus service shall be included under the Risk Management Program.
3. Student Transportation – Contracted transportation maintenance personnel as needed are responsible also for the inspection of vehicles, both for legally required state inspections, and for provisions for maintaining risk-free student and employee operating conditions. Vehicles must be kept safe, not only for the students and employee safety, but also for the safety of the District property. Approximately one half (50%) of maintenance/mechanic personnel time will be devoted to these tasks.

The District's Risk Management Program in relation to the health and safety of District students and personnel is the responsibility of the Building Principals and their administrative staffs. The degree of this responsibility (time invested) varies in accordance to the number of students involved and, of course, the age of those students; and to the number of personnel involved. Building Principals and/or their assistants shall provide for the protection of students and personnel, and freedom from exposure to tort producing situations, which arise from, but are not limited to, the following:

1. Incidents in lunchrooms – protection
2. Incidents on playgrounds – protection
3. Incidents occurring during school athletics
4. Incidents occurring during physical education classes

5. Incidents occurring during manual or vocational training or shopwork
6. Incidents in connection with transportation of students
  - a. Before boarding
  - b. During transportation
  - c. After leaving school bus
7. Incidents in connections with safety of students from traffic hazards and exposure to risk
8. Incidents due to acts of fellow students
  - a. Committed in classroom
  - b. Committed outside classroom
9. Incidents due to lack or insufficiency of supervisors
  - a. Before school bus
  - b. During or between class periods
  - c. During noon hour or recess periods
  - d. After school bus
  - e. Miscellaneous; undetermined time

It is expected that each Building Principal would spend approximately twenty percent (20%) of his/her time meeting his/her responsibilities associated with Risk Care Management.

One of the primary responsibilities of the School Nursing service is the protection of the health and safety of students and personnel. These positions are directly involved with the District's compliance to State health law, and ensuring that the student has been physically examined in a legal manner that ensures that the student is in a risk-free physical condition, both in relation to him/herself, and in relation to other students and District personnel. The Nurse has the additional risk management responsibility of reducing student/personnel exposure to communicable disease and other health and safety problems. Not only are they responsible for limiting exposure, but they are also responsible for the protection of students with specified health problems, health needs, and safety needs. The portion of his/her time devoted to limiting/avoiding Tort and situations arising from the health, safety, and physical conditions of all students should be no less than fifty percent (50%.)

The Director of Food Service and cooks have the responsibility to supervise the protection of students from health problems due to contaminated supplies, improperly stored, cooked or handled food or milk. He/she is also responsible for the protection of students and employees from harm due to improper or unsafe mechanical devices such as dishwasher thermostats, cutting utensils, steam tables, stoves, etc. The portion of time devoted to these activities should be no less than fifty percent (50%) for the Director and five percent (5%) for cooks.

The responsibilities of providing Special Education Services are directly interwoven into the District's Risk Management/Tort Avoidance program. The responsibilities are in four major areas:

1. The guarantee of protections of the constitutional and statutory rights of students.
2. The reducing of exposure to a tort situation involving the legal and proper student testing, evaluation, identification, and placement of Special Education students.
3. Providing for the confidentiality of student psychological profiles and records.
4. The discipline of Special Education students.

Because of the wide range of responsibilities, and the tort producing possibilities of these responsibilities, it is expected that fifty percent (50%) of the Administrative costs paid to South Eastern Special Education would be devoted to fulfilling these obligations.

The responsibilities of Playground/Lunch Supervisors are solely and completely within the realm of risk management functions. The responsibilities of their position as listed previously in relation to the health and safety of students as well as the supervision and protections of students make these functions fall totally within tort guidelines.

Since it is recognized that many other positions include assignments, which are ripe to create exposure to tort and risk situations, an effort has been made by the District to allocate a portion of their time to the Management Program. It is expected that all Athletic Directors, Physical Education Teachers, Coaches, Music Teachers, Career Technical Education Teachers, Science Lab Teachers, etc. will closely supervise their students and ensure that all students are protected from undue exposure to risk situations according to the allocations listed below:

1. Teachers of Art, Science, Agriculture, Vocational Education and Industrial Education (15%)
2. Teachers of Home Economics, Physical Education (and its Teacher's Assistants) and all other teachers (10%)
3. Coaches (10%)
4. Athletic Trainer (100%)



**APPENDIX D**  
**Salary Allocation Summaries**

**2018–2019 TORT/RISK MANAGEMENT EXPENDITURES**

Superintendent	\$ 7,368
Principals	\$138,025
Cooks	\$ 19,074
Food Service Director	\$ 22,000
School Board Legal Liability / Workers' Compensation / Blanket Bond Liability / School Treasurer Bond / Unemployment	\$160,000
Legal Fees / Records Management for Tort Situations / Public Costs	\$ 12,000
District Maintenance	\$ 70,000
Nurses & Health Paraprofessional	\$ 75,000
Playground / Lunch Supervisors	\$ 50,000
Custodians	\$108,000
Special Education Services	\$ -
Multi-Peril / Liability Insurance / Boiler (Commercial Package)	\$117,500
Summer Maintenance Staff	\$ 45,000
Commercial Auto Insurance	\$ 30,000
Transportation Staff	\$ -
Fingerprinting and Bushue HR Yearly Costs	\$ 20,000
Athletic Trainer	\$ 20,000
Coaches & Teachers of Art, Science, Voc. Ed., Ind. Ed. & P.E.	\$245,353
Onsite Security Plan Service	\$ 3,000
Secure Backup of Computer System (Skyward/ISCorp)	\$ 7,680
<b>Grand Total</b>	<b>\$ 1,150,000</b>

**Anticipated Revenue**                      **\$1,150,000**

