

COVID-19 Liability 022421

Chair Power and members of the committee, for the record my name is Jamie Moffitt and I'm the Vice President for Finance and Administration at the University of Oregon. I'm here testifying today on behalf of all seven of Oregon's public universities.

In December, when the legislature took up the issue of liability protection for K-12 and community colleges in HB 4402, passage was predicated on three primary factors:

- First, that K-12 and community colleges no longer had access to insurance that would provide coverage in the event of a COVID-19 claim,
- Second, that any costs associated with managing and defending claims would put public dollars at risk, and
- Third, having some liability protection in place was key to getting students back into the classroom.

Oregon's public universities are now in the exact same position that K-12 and community colleges were last year. In addition to my testimony, I've submitted for the record the notices the universities recently received from our respective insurers informing us that as of July 1, our institutions will no longer have coverage for COVID-19 related claims. Further, given the exclusions in our current policies, it is likely that our insurers would assert we don't even have coverage today. Even if the universities have coverage for COVID-related claims, at the University of Oregon, we have a \$500,000 per claim deductible.

A lack of liability protection creates significant risk to public dollars and student tuition dollars if we open our campuses in the fall, something which is necessary to aid Oregon's economic recovery. Even a handful of frivolous claims can drain our public resources. In addition, just as the COVID-19 virus has disproportionately impacted BIPOC communities, our data shows that the impact of closing our campuses has also disproportionately affected the education and well-being of our BIPOC, Pell Grant eligible, and first-generation students. Safely and responsibly returning our students to campus is our top priority. We need your help in ensuring we can do that without risking resources that are better spent on ensuring the health, safety and education of our students.

We are committed to operating in a safe and transparent manner that protects our employees and students. On many of our campuses, in addition to long standing safety committees, we have established COVID-19 safety and reopening committees to ensure faculty and staff participate in our reopening discussions. Faculty and staff receive regular communications reminding them of campus safety regulations and updating them on operational details, and other relevant and timely COVID-19 related information. We have worked closely with the Oregon Health Authority and Oregon OSHA since the onset of the pandemic to ensure we are following federal, state, and local health guidance. We have gone above and beyond state guidelines by establishing our own asymptomatic testing program that has provided benefits beyond our campus to the Eugene and greater Lane County area.

Oregon's public universities are in the same position that necessitated the temporary and targeted liability protections granted to K-12 and community colleges to protect public funds and make it possible to bring students back into classrooms. We respectfully request that this committee grant universities the same protections, so that we, too, may do the same.

Thank you for the opportunity to testify today, and I am happy to answer any questions.

Coverage updates from United Educators.



COVID-19 Testing/Vaccine Advisory

To help members make informed decisions, we are providing this advisory regarding United Educators' (UE) general liability (GL) policies and the administration of testing or vaccines for COVID-19.

Expiring GL Coverage

UE is not a medical malpractice carrier and our GL policies have always contained broad professional (CGL) or medical (GLX) services exclusions. These exclusions provide only a limited, claims-made exception for medical services performed at certain facilities that are maintained by the member principally for the use of its students and employees. To be eligible for coverage under UE's expiring GL policy forms, the administration of testing or vaccines would need to fall within this limited exception.

Pandemic Exclusion

On January 1, 2021, UE began excluding COVID-19-related liability on our GL renewals. This exclusion applies to all GL coverage, including the limited claims-made exception to the professional or medical services exclusions referenced above.

Extended Reporting

We have also received questions regarding the optional Extended Discovery Period provided in the GL policies. As set forth in UE's GL policies, this option is available for purchase only if the entire GL policy is not renewed.

Other Considerations

While GL policies will not provide any COVID-19 vaccination coverage after the

addition of the pandemic exclusion, a medical malpractice carrier may be able to. If vaccinations are under consideration at your institution, we suggest you discuss coverage options with your insurance broker and consult with legal counsel.

There are state and federal laws, passed in 2020, that provide some limited protection to medical professionals for COVID testing and vaccinations. We are working with legal experts to better understand these limited federal protections and will share this information as we receive it. We encourage members and brokers to reach out to legal counsel to better understand specific state protections that may be available as well.

Please contact your underwriter with any questions.



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