

The Municipal RISK MANAGER

JULY 2013

A Publication of the Maine Municipal Association

Enjoy Special Events by Planning for the Exposures

Parades, fireworks displays, art shows and other events bring people together to enjoy themselves. But before the first attendee sets foot on public ground, officials of a city, town, plantation, district, or school should consider possible liabilities, and their liability coverage.



MMA Property & Casualty Pool members who sponsor events are covered for third-party liability claims and losses subject to all terms, conditions and exceptions contained in the Property & Casualty Member Agreement. But a private group that organizes and runs an event needs to know what protections, if any, it has under the Property & Casualty Pool's coverage. The Property & Casualty Pool recommends that members transfer the risk back to the sponsoring organization by requiring

the organization to obtain its own liability insurance.

This coverage may be obtained through a local agent-broker or by contacting the Property & Casualty Pool Member Services Department

for assistance utilizing the *Tenant User Liability Program*. The local government should require that the private group has its liability policy endorsed to name the local government as an additional insured and to provide the local government with a certificate of insurance evidencing such coverage. If the organization is unable to obtain liability insurance, the local government must decide if it is willing to assume the risk. A local government should be careful when providing coverage to a third party under any agreement because if that party is not a governmental entity it may not be covered. The key to a successful event is to focus on planning to prevent or reduce potential loss exposures.

Adopt a Special Events Policy that Does the Following:

- Manages and regulates events on local government property sponsored by other organizations.
- Protects the health, safety and property of participants and attendees.
- Determines whether the event would create an insupportable burden on the community, making it impractical or impossible to hold.
- Communicates the policy to appropriate departments, organizations, businesses and individuals who may be affected.

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Welcome New Members

Property & Casualty Pool

Town of Harrison
Harrison Water District
Sanford Water District
Van Buren Housing Authority
Town of Vinalhaven
Town of Windham

Workers Compensation Fund

Harrison Water District
Town of Prospect

Unemployment Fund

Town of Eustis

Welcome New Loss Control Staff



Dan Whittier has joined the Loss Control Department as a Loss Control Consultant. Dan has building construction experience and an AAS degree in Building Construction from Eastern Maine Community College. He has experience as an Energy Auditor for Penquis CAP and most recently gained municipal experience as Code Enforcement Officer in Lincoln Maine. He will provide consulting services to participating members of the Property/Casualty Pool and Worker's Compensation Fund primarily in central and "downeast" coastal Maine. 🏠

Special Events *(cont'd)*

Create a Planning Committee and an Event Coordinator

The committee or coordinator's job is to take charge of planning that includes administrative controls (including insurance coverage), site evaluation, traffic and parking controls, crowd management, security and medical services. The coordinator is responsible for the event; uses checklists for consistency in selecting and evaluating events; and establishes a communication network with public officials, event organizers and promoters, corporate sponsors, police, fire, vendors, insurers and others.

Use a Special Events Application to Regulate, Manage Events by Outside Groups

Require an outside organization to complete an application. The applicant should include all information pertinent to decision making and planning, specifying any service, material, or property that it expects the local government to provide. Have the application reviewed by the event coordinator or committee in a timely manner. Notify applicants in writing of approval or denial of all special event requests. (Special events must be carefully managed to make the safety and health of the participants and the protection of public property the focus while minimizing the impact on citizens who are not involved.) Local government representatives should work together to ensure a safe event and to eliminate liabilities. It is also important to note that guidance and risk control procedures can reduce the potential and severity of incidents.

This article is intended to be informational and is not meant to be used as the basis for any compliance with federal, state or local laws, regulations or rules, nor is it intended to substitute for the advice of legal counsel. ■■

EXCITING NEWS: Dividends Approved

We are pleased to announce that, due to the continued good risk management practices and favorable loss experience of its members, the Board of Trustees of the MMA Workers Compensation Fund and the Board of Directors of the MMA Property and Casualty Pool approved the payment of annual dividends to eligible members of the two programs.

On May 24th, 2013 the respective Boards approved the scheduled distribution of **\$1,200,000** in dividends to their members. We look forward to delivering your dividend check later this summer. ■■

Timely Reporting Saves and Protects

The successful defense of a claim is achieved by a quick determination of the true chain of events. The effectiveness and accuracy of the information collected during the investigation changes over time. Therefore, timely reporting of all claims is not only helpful, it is essential.

Prompt reporting gives your Risk Management Services claims professionals the opportunity to investigate and interview witnesses while the facts are fresh and before evidence is moved or lost. Timely reporting also provides you with the assurance that the claim shall be recorded and that an assessment of the potential liabilities will be conducted. As a member you will also receive advice to minimize future exposures and potential corrective actions to prevent other

losses from occurring.

Sometimes members are afraid to report potential claims or attempt to administer the claims themselves in an attempt to avoid increased costs. In many cases the opposite is true and coverage can be jeopardized by not reporting. The timely reporting of claims saves money by allowing our claims team to proactively manage the claim and protect you the member.

Please help us protect you by reporting all claims in a timely manner. Members of the Property & Casualty Pool and Workers Compensation Fund can locate claims forms on our website, www.memun.org. If you have any questions about claims or have suggestions for us to improve our services, please call 1-800-590-5583. ■■



The Municipal Risk Manager

The Municipal Risk Manager is published seasonally to inform you of developments in municipal risk management which may be of interest to you in your daily business activities. The information in these articles is general in nature and should not be considered advice for any specific risk management or legal question; you should consult with legal counsel or other qualified professional of your own choice.

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Adopt Policy to Avoid Social Media Risk

Social media is a new world of opportunity for local governments to communicate with citizens and receive feedback. Its risks are similar in nature to those of other types of communication, but with a different twist because material circulates so widely and there are many potential contributors. One recommended tool for addressing these risks is to adopt a social media policy. But what should be in that policy? It is not an easy question to answer.

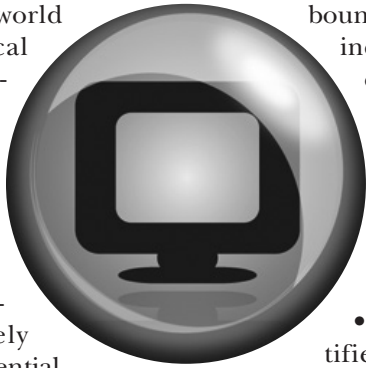
You can find many local government social media policies posted online, but this is an area where one size definitely does not fit all. Social media policies do not stand in isolation. They usually incorporate related policies by reference, and policies that address other issues are often amended to include social media specific provisions. Thus, social media policies are often a web of interrelated policies. Each government must take an individual approach to ensure that all these diverse parts come together to meet its unique needs.

In case you don't think a social media policy is necessary for your local government, or if you just aren't sure why it could be so important, consider the following scenarios and what the impact would be if one of them happened to you.

A local government employee uses his or her personal social media to post something that reflects poorly on your entity.

An emergency responder posts on his or her social media site photos in uniform with comments on medical calls to which he or she has responded.

Both work and social media are integral parts of employees' lives, but they often do not realize how much the



boundaries blur. In the past, indiscretions had limited circulation. Now they can go viral. With that power comes potential harm to the employer if the employment relationship is identifiable.

- Have a policy that identifies information considered to be private or confidential and not for release on social media sites, such as a fellow employee's health or personnel status, medical care provided to an injured citizen or personal injury lawsuits against the city.

- Remind employees that posts on social media outlets can be traced by anyone, anytime. There is no privacy in social media.

- Discuss and determine how policies on personal use of social media will be enforced. Decide how the local government will respond if it receives a complaint.

- Train employees that the employee code of conduct applies to their off-duty social media activities just as it would to other off-duty activities.

- Have a written policy regarding inappropriate behavior by employees that could reflect on the local government, whether it occurs on- or off-duty.

- Get legal advice before taking employment action against an employee for personal or professional postings; your coverage for a wrongful termination suit depends on this.

Employees often network with their peers through personal social media or professional social media. Professional networking is actually useful to the local government, because its employees can learn from others in similar positions. With that benefit, however, comes the possibility that the employee will occasionally say some-

thing unfavorable about the employer.

Another area of potential risk is generated by public postings. Many local government social media sites are open for comments by the public. Employees who are members of that community can post as citizens, but they are subject to the same comment rules as anyone else.

- Train all employees that they are subject to the requirements of the comment policy when posting on their own behalf.

- Include compliance with the comment policy as part of the government's employee code of conduct and include specifics about possible employment ramifications for employee comment policy violations.

- Have a policy that requires employees posting on sites where their employment by the government is apparent to disclose that their comment reflects their own personal opinion, and not that of their government employer.

- Have proper take down procedures to remove postings that violate your entities social medial policy.

Social media is a powerful tool for local governments looking for new and cost-effective ways to engage their citizens but there are risks to undertaking any new activity. Just be sure to adopt social media with due consideration and planning. This means having clear objectives, knowing the target audience, selecting the right social media for the task, and taking the time to develop the right policy. Social media evolves quickly, so it is a good practice for the social media policy to remain platform neutral, and to review and revise it frequently to meet the changing environment. For more information or a sample Social Media Policy contact MMA Risk Management Services Underwriting Department at (800) 590-5583. 🏠

Reduce The Risk Of Driving Personal Vehicles For Work

Many municipalities think nothing of allowing or encouraging the use of personal vehicles for work related purposes. However, employees that take trips to the bank, Post Office, or travel to and from meetings can place the municipality at risk and the consequences can at times be devastating.

“Everywhere employees drive is a non-owned auto exposure” and a loss that exceeds their personal auto insurance coverage has the potential to go back to the employer’s auto liability coverage. Many organizations do not realize that the exposure exists. This false sense of security could prevent some entities from implementing risk management practices that can reduce the likelihood of the liabilities associated with an automobile accident.

The following tactics may help to protect your municipality and your employees:

Develop an Approved Driver List

An employee who will be on the road for any length of time should first be cleared to drive by a member of the management team who is responsible for safety. Municipalities should have strict requirements when it comes to these approvals and should not allow employees with poor motor vehicle records and insufficient auto liability insurance to drive for business purposes. By reviewing your employees’ driving records, requiring that they have auto insurance with appropriate policy limits and ensuring that they meet age requirements to drive for work can help reduce your exposure.

Communicate Your Policy

Every entity needs to have a workplace driving policy that is clearly communicated to any employee who may be getting behind the wheel. While some employers may already have rules that forbid workers from drinking and driving, not all have considered other

road risks. The policy should include rules on cell phone or other mobile device use while driving a car, limit the number of passengers an employee can drive at one time as well as prohibiting the use of motorcycles for work related purposes.

Get Appropriate Liability Insurance

Even though a municipality should require its employees to carry their own auto insurance, it’s still necessary to have a policy that will protect your municipality in case any incidents



should occur. If you compensate your employees for driving their vehicles for work, you should ask for a copy of their insurance certificate on an annual basis and request that their auto policy not have a business exclusion clause.

Review Rental Car Policies

If your employees are on the road for business trips, meetings and industry conferences, they often use rental cars, which is another form of non-owned auto exposure. You may wish to instruct your employees on what insurance coverage to accept as part of the rental agreement as well as which coverage can be waived. ■

Rewarding Safety

Maine Municipal Association Risk Management Services continues to reward safety. Since 1999 Risk Management Services has been assisting the safety efforts of participating members of the Workers Compensation Fund through the Safety Enhancement Grant Program. The Grant program has awarded more than **\$2.8 Million** through the funding of Safety Enhancement Grants and Scholarship Grants.

The Safety Enhancement Grant and Scholarship Grant Programs offer financial incentives to members of the Maine Municipal Association Workers Compensation Fund. Safety Enhancement Grants are used to purchase safety equipment or services that assist in reducing the frequency and severity of workplace injuries. Grants are awarded in May and October each year.

Ed MacDonald, Loss Control Manager for MMA Risk Management Services, reported that the program received **152** grant applications for the May 2013 period and that the committee approved **121 grants** totaling **\$153,068**.

For those of you who missed the May application deadline, please note you can again apply for Safety Enhancement Grants by the end of September for the October Grant period. All that you need to do is follow the instructions and FAQ information that is available on the MMA Risk Management Services Website at <http://www.memun.org/rms/lc/grant.htm>. Further information can be obtained by contacting your assigned Loss Control Consultant or Ed MacDonald, Loss Control Manager at 1-800-590-5583. ■