

## Part 2 Risk Management Fund

### **63A-4-201 Risk Management Fund created -- Administration -- Use.**

- (1)
  - (a) There is created the Risk Management Fund, which shall be administered by the risk manager.
  - (b) The fund shall cover property, liability, fidelity, and other risks as determined by the risk manager in consultation with the executive director.
- (2) The risk manager may only use the fund to pay:
  - (a) insurance or reinsurance premiums;
  - (b) costs of administering the fund;
  - (c) loss adjustment expenses;
  - (d) risk control and related educational and training expenses; and
  - (e) loss costs which at the time of loss were eligible for payment under rules previously issued by the executive director under the authority of Section 63A-4-101.
- (3) In addition to any money appropriated to the fund by the Legislature, the risk manager shall deposit with the state treasurer for credit to the fund:
  - (a) any insured loss or loss expenses paid by insurance or reinsurance companies;
  - (b) the gross amount of all premiums and surcharges received under Section 63A-4-202;
  - (c) the net refunds from cancelled insurance policies necessary to self-insure previously insured risks, with the balance of the proceeds to be refunded to the previously insured agencies;
  - (d) all refunds, returns, or dividends from insurance carriers not specifically covered in Subsections (3)(a), (b), and (c);
  - (e) savings from amounts otherwise appropriated for participation in the fund; and
  - (f) all net proceeds from sale of salvage and subrogation recoveries from adverse parties related to losses paid out of the fund.
- (4)
  - (a) Pending disbursement, the risk manager shall provide surplus money in the fund to the state treasurer for investment as provided in Title 51, Chapter 7, State Money Management Act.
  - (b) The state treasurer shall deposit all interest earned on invested fund money into the fund.

Amended by Chapter 303, 2011 General Session

### **63A-4-202 Determination of insurance premiums -- Information furnished by agencies -- Notice to agencies.**

- (1) Each agency shall provide the risk manager with all reasonable information necessary to compute insurance premiums whenever he requests that information from them.
- (2)
  - (a) The risk manager shall charge to each agency that receives insurance coverage from the Risk Management Fund its proportionate share of the cost incurred based upon actuarially sound rating techniques.
  - (b) That premium shall include all costs of operating the fund as stated in Section 63A-4-201.
- (3) To enable each participating agency to meet its budgeting requirements, the risk manager shall provide each participating agency with projected insurance costs for the next two fiscal years within the time limits required.

Renumbered and Amended by Chapter 212, 1993 General Session

**63A-4-203 Refusal of agency to pay charges -- Notice to the Division of Finance for collection.**

- (1) If any agency of the state refuses to remit any payment as charged by the risk manager within 30 days after the date due, the risk manager may certify to the director of the Division of Finance the fact of the refusal and the amount of the delinquent payment, together with a request that the amount be transferred from funds of the delinquent agency to the Risk Management Fund.
- (2) The risk manager shall mail a copy of the certification and request to the delinquent agency.
- (3) The risk manager shall resolve claims against the fund in an expeditious manner.

Renumbered and Amended by Chapter 212, 1993 General Session

**63A-4-204 School district participation in Risk Management Fund.**

- (1)
  - (a) For the purpose of this section, action by a public school district shall be taken upon resolution by a majority of the members of the school district's board of education.
  - (b)
    - (i) Upon approval by the state risk manager and the board of education of the school district, a public school district may participate in the Risk Management Fund and may permit a foundation established under Section 53A-4-205 to participate in the Risk Management Fund.
    - (ii) Upon approval by the state risk manager and the State Board of Education, a state public education foundation may participate in the Risk Management Fund.
  - (c) Subject to any cancellation or other applicable coverage provisions, either the state risk manager or the public school district may terminate participation in the fund.
- (2) The state risk manager shall contract for all insurance, legal, loss adjustment, consulting, loss control, safety, and other related services necessary to support the insurance program provided to a participating public school district, except that all supporting legal services are subject to the prior approval of the state attorney general.
- (3)
  - (a) The state risk manager shall treat each participating public school district as a state agency when participating in the Risk Management Fund.
  - (b) Each public school district participating in the fund shall comply with the provisions of this part that affect state agencies.
- (4)
  - (a) Each year, the risk manager shall prepare, in writing, the information required by Subsection (4)(b) regarding the coverage against legal liability provided a school district employee of this state:
    - (i) by the Risk Management Fund;
    - (ii) under Title 63G, Chapter 7, Governmental Immunity Act of Utah; and
    - (iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and Employees Act.
  - (b)
    - (i) The information described in Subsection (4)(a) shall include:
      - (A) the eligibility requirements, if any, to receive the coverage;

- (B) the basic nature of the coverage for a school district employee, including what is not covered; and
- (C) whether the coverage is primary or in excess of any other coverage the risk manager knows is commonly available to a school district employee in this state.
- (ii) The information described in Subsection (4)(a) may include:
  - (A) comparisons the risk manager considers beneficial to a school district employee between:
    - (I) the coverage described in Subsection (4)(a); and
    - (II) other coverage the risk manager knows is commonly available to a school district employee in this state; and
  - (B) any other information the risk manager considers appropriate.
- (c) By no later than July 1 of each year, the risk manager shall provide the information prepared under this Subsection (4) to each school district that participates in the Risk Management Fund.
- (d) A school district that participates in the Risk Management Fund shall provide a copy of the information described in Subsection (4)(c) to each school district employee within the school district no later than the first day of each school year.
- (e) If a school district hires an employee after the first day of the school year, no later than 10 days after the day on which the employee is hired, the school district shall provide the information described in Subsection (4)(c) to the employee.

Amended by Chapter 189, 2016 General Session

**63A-4-204.5 Charter school participation in Risk Management Fund.**

- (1) A charter school established under the authority of Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act, may participate in the Risk Management Fund upon the approval of the state risk manager and the governing body of the charter school.
- (2)
  - (a) For purposes of administration, the state risk manager shall treat each charter school participating in the fund as a state agency.
  - (b) Each charter school participating in the fund shall comply with the provisions of this part that affect state agencies.
- (3)
  - (a) Each year, the risk manager shall prepare, in writing, the information required by Subsection (3)(b) regarding the coverage against legal liability provided a charter school employee of this state:
    - (i) by the Risk Management Fund;
    - (ii) under Title 63G, Chapter 7, Utah Governmental Immunity Act of Utah; and
    - (iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and Employees Act.
  - (b)
    - (i) The information described in Subsection (3)(a) shall include:
      - (A) the eligibility requirements, if any, to receive the coverage;
      - (B) the basic nature of the coverage for a charter school employee, including what is not covered; and
      - (C) whether the coverage is primary or in excess of any other coverage the risk manager knows is commonly available to a charter school employee in this state.
    - (ii) The information described in Subsection (3)(a) may include:
      - (A) comparisons the risk manager considers beneficial to a charter school employee between:

- (I) the coverage described in Subsection (3)(a); and
- (II) other coverage the risk manager knows is commonly available to a charter school employee in this state; and
- (B) any other information the risk manager considers appropriate.
- (c) By no later than July 1 of each year, the risk manager shall provide the information prepared under this Subsection (3) to each charter school that participates in the Risk Management Fund.
- (d) A charter school that participates in the Risk Management Fund shall provide a copy of the information described in Subsection (3)(c) to each charter school employee within the charter school no later than the first day of each school year.
- (e) If a charter school hires an employee after the first day of the school year, no later than 10 days after the day on which the employee is hired, the charter school shall provide the information described in Subsection (3)(c) to the employee.

Amended by Chapter 189, 2016 General Session

**63A-4-205.5 Risk management -- Coverage of the Utah Communications Authority.**

The Utah Communications Authority established under authority of Title 63H, Chapter 7a, Utah Communications Authority Act, may participate in the Risk Management Fund.

Amended by Chapter 411, 2015 General Session

**63A-4-206 Limits on use of risk management data as evidence.**

Notwithstanding any other provisions of law, any reports, recommendations, surveys, schedules, lists, or data compiled, or action taken or not taken by or at the request of the risk manager to identify, evaluate, or plan the safety enhancement or risk reduction of any potential accident sites or other hazards related to any entity covered by the Risk Management Fund may not be admitted into evidence in any court, or used for any other purposes in any action for damages arising from any occurrence at a location mentioned or addressed in those reports, recommendations, surveys, schedules, lists, or data.

Renumbered and Amended by Chapter 212, 1993 General Session

**63A-4-207 Records of risk management.**

- (1) A record provided to the Division of Risk Management by any governmental entity or political subdivision covered by the Risk Management Fund for the purpose of risk control or claims activities of the division shall be considered a record of the originating governmental entity or political subdivision for purposes of Title 63G, Chapter 2, Government Records Access and Management Act, if the originating governmental entity or political subdivision retains a copy of the record.
- (2) Notwithstanding Subsection 63G-2-201(5), records may be exchanged between the Division of Risk Management and any governmental entity or political subdivision covered by the Risk Management Fund without meeting the requirements of Section 63G-2-206, provided that they are used only for purposes of risk control or claims activities.

Amended by Chapter 382, 2008 General Session