EMERGING RISKS IN HIGHER EDUCATION: REGULATORY UPDATES
May 2019, ICCCFO Conference

Frank D. Cella, Managing Director
Education Practice Leader
LASER FOCUS: WHAT ARE THE GLOBAL RISKS FACING EDUCATION?
A majority of respondents of the Global Risk Perception Survey are based in Europe, and many are affiliated with the academia sector.

Global Risk Perception Survey: Demographic data of respondents

**Regional distribution** % out of 916 respondents

- Europe: 44%
- North America: 19%
- East Asia and the Pacific: 14%
- Middle East and North Africa: 7%
- Latin America and the Caribbean: 6%
- Sub-Saharan Africa: 5%
- South Asia: 4%
- Eurasia: 2%

**Sector distribution** % out of 916 respondents

- Academia: 33%
- Business: 26%
- Government: 15%
- International organization: 10%
- International: 9%
- Other: 6%

Note: Respondents were asked to select their country of residence and the type of organization with which they were affiliated. Some respondents chose not to disclose this information.

Global risks are uncertain events or conditions that could cause significant negative impact for several countries or industries within the next ten years.

Global risk categories and surveyed risks

<table>
<thead>
<tr>
<th>ECONOMIC</th>
<th>ENVIRONMENTAL</th>
<th>GEOPOLITICAL</th>
<th>SOCIETAL</th>
<th>TECHNOLOGICAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Asset bubbles in a major economy</td>
<td>• Extreme weather events (e.g. floods, storms, etc.)</td>
<td>• Failure of national governance (e.g. failure of rule of law, corruption, political deadlock, etc.)</td>
<td>• Failure of urban planning</td>
<td>• Adverse consequences of technological advances</td>
</tr>
<tr>
<td>• Deflation in a major economy</td>
<td>• Failure of climate change mitigation and adaptation</td>
<td>• Major biodiversity loss and ecosystem collapse (terrestrial or marine)</td>
<td>• Food crises</td>
<td>• Breakdown of critical information infrastructure and networks</td>
</tr>
<tr>
<td>• Failure of a major financial mechanism or institution</td>
<td>• Major natural disasters (e.g. earthquake, tsunami, volcanic eruption, geomagnetic storms)</td>
<td>• Inter-state conflict with regional consequences</td>
<td>• Large-scale involuntary migration</td>
<td>• Large-scale cyberattacks</td>
</tr>
<tr>
<td>• Failure/shortfall of critical infrastructure</td>
<td>• Man-made environmental damage and disasters (e.g. oil spills, radioactive contamination, etc.)</td>
<td>• Rapid and massive spread of infectious diseases</td>
<td>• Profound social instability</td>
<td>• Massive incident of data fraud/theft</td>
</tr>
<tr>
<td>• Fiscal crises in key economies</td>
<td></td>
<td>• Large-scale terrorist attacks</td>
<td>• Water crises</td>
<td></td>
</tr>
<tr>
<td>• High structural unemployment or underemployment</td>
<td></td>
<td>• State collapse or crises (e.g. civil conflict, military coup, failed states, etc.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Illicit trade (e.g. illicit financial flows, tax evasion, human trafficking, organized crime, etc.)</td>
<td></td>
<td>• Weapons of mass destruction</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Severe energy price shock (increase or decrease)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Unmanageable inflation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Climate change, rising cyber dependency and increasing polarization of societies are expected to shape global development in the next 10 years. 

Top trends shaping global development in the next 10 years:

- **Climate change**: 50% of respondents
- **Rising cyber dependency**: 39% of respondents
- **Increasing polarization of societies**: 38% of respondents
- **Rising income and wealth disparity**: 37% of respondents
- **Increasing national sentiment**: 24% of respondents

Number of positions moved since 2017

Number of respondents selecting trend

Note: Global Risk Perceptions Survey (749 responses worldwide): Respondents were asked to identify three trends that will shape global development in the next 10 years.

Cyber threats continue to rise among executive concerns, against a backdrop of persistent economic fragility and increasing political uncertainty.

### Top 10 global risks for doing business

<table>
<thead>
<tr>
<th>Rank</th>
<th>Risks</th>
<th>Change vs. 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>High unemployment</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>National governance failure</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Energy price shock</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Fiscal crises</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Cyber-attacks</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Social instability</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Financial institution failure</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Critical infrastructure shortfall</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Regional/Global governance failure</td>
<td>New risk</td>
</tr>
<tr>
<td>10</td>
<td>Terrorist attacks</td>
<td></td>
</tr>
</tbody>
</table>

#### Economic challenges
- High unemployment continues to be the top risk for business worldwide, while turbulent geopolitical conditions in oil exporting regions have heightened the risk of a global energy price shock.
- Overall, concerns over economic fallouts are slightly eased as governments started to move to address the threats of fiscal crises, financial institution failure and critical infrastructure shortfall.

#### Technological challenges
- The threat of cyber-attacks continues to grow significantly in the eyes of business executives all over the world. Revelations of large-scale state-on-state operations such as those in the North America and Asia-Pacific regions have contributed to this rise in the level of concern over similar threats.
- Concerns over data fraud and theft have also been heightened, most significantly in North America and East Asia and the Pacific.

#### Geopolitical/Societal challenges
- National governance failure continued rise to become the second more important risk to doing business overall, reflecting the ongoing uncertainties coming from a turbulent global political scene (Brexit, US political climate and international relations, North Korea aggressions, unrest in Latin America, and renewed tension in the Middle East).
- Persistence of social instability reflects some of the political and economic uncertainty.

---

Note: WEF Executive Opinion Survey (12,548 responses worldwide). Respondents could choose up to five risks which they viewed as being most important for doing business in their country. Aggregation methodology changes may result in minor differences for EOS 2016 comparisons, compared with materials used last year.

Source: World Economic Forum; MMC analysis.
Increased emotional and psychological distress is primarily driven by the overlapping effect of societal, technological and work-related transformations.

Key drivers of emotional and psychological distress

**Societal stressors**
- Political uncertainty/divisiveness
- Demographic change
- Poverty and financial challenges
- Conflict and violence
- Loneliness

**Technological stressors**
- Addiction to digital technologies
- Replacement of interpersonal relationships
- Decline in empathy
- Fake news, echo chambers and promotion of unrest

**Workplace stressors**
- Poor engagement with work
- Blurring of dividing line between work and life
- Disruption due to automation
- Monitoring and tracking
- Job insecurity and instability
Several potential political and economic risks arise from increased emotional and psychological distress

Potential risks stemming from emotional and psychological distress

- Increased political disruption and social instability
- Increased economic costs associated with mental health issues
- Increased human capital risks (inc. insider threats) in the workplace
A Perfect Storm?
US Colleges and Universities are:

- Experiencing an unprecedented level of uncertainty as a result of actions taken by the current U.S. Administration.
- Facing financial challenges.
- Delivering education through innovation.
- More focused on M&A more than ever before.
- Under increasing scrutiny to make sure they take precautions to protect their students from discrimination.
Higher Education Market Trends

- On-campus enrollment is declining
- Millions of graduates are returning to college online
- Tuition pricing under severe pressure after years of price increases
- Non-flagship state universities looking for solutions to address financial pressure
- Too many universities are creating an oversupply
- Today’s college students demand flexible learning options
- Employers increasingly utilizing higher education for workforce development
Disrupted Industries:
• Publishing
• Automotive
• Textile
• Music
• Steel
• Trucking and Logistics
• Telecommunications
• Health Care
• Retail

Higher Education

• Rising Cost
• Digital Era

Students/ Learners

• Convenience
• Cost
• Outcomes

Students Today:
• 1 in 5 is at least 30
• About half are financially independent
• 1 in 4 is caring for a child
• 47 percent go to school part time at some point
• A quarter take a year off before starting school
• 2 out of 5 attend a two-year community college
• 44 percent have parents who never completed a bachelor’s degree
The market segment for adult degree completion is larger than the traditional high school segment

- 37 - 42 million adults with college credit and no degree
- Up to 5 million with high school diploma realize need (26 -34)
18% increase in number of public institutions offering online degrees from 2012

29% increase in number of private institutions offering online degrees

- 23% of all learners will be online by 2020
- That’s 4 million
- 80% enroll within 150 miles of where they live

NCES, 2017
EMERGING LITIGATION TRENDS
## Higher Education Claim Awards Greater Than $250K From United Educators Large Loss Report

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Wrongful Death</td>
<td>8/12</td>
<td>423K-14M</td>
<td>1.26M</td>
<td>0</td>
<td>1M-20.5M</td>
<td>375-700K</td>
<td>150K-5.5M</td>
<td>375K-8M</td>
<td>0</td>
</tr>
<tr>
<td>Negligence</td>
<td>3/5</td>
<td>INCL WD</td>
<td>0</td>
<td>900K</td>
<td>0</td>
<td>700K-4.5M</td>
<td>41.75M</td>
<td>0</td>
<td>100K-1M</td>
</tr>
<tr>
<td>Sexual Harassment</td>
<td>5/7</td>
<td>0</td>
<td>1M-500k</td>
<td>2.45M</td>
<td>0</td>
<td>250-650K</td>
<td>255K</td>
<td>750K-1M</td>
<td>725K-2.5M</td>
</tr>
<tr>
<td>Sexual Assault/Molestation</td>
<td>8/26</td>
<td>250K-500M</td>
<td>20M-275K</td>
<td>250K-88M</td>
<td>4.5M</td>
<td>700K-1.28M</td>
<td>400K-30M</td>
<td>600K-6.5M</td>
<td>0</td>
</tr>
<tr>
<td>Concussion</td>
<td>1/5</td>
<td>5.87M</td>
<td>1.1M</td>
<td>10.5M</td>
<td>1-1.03M</td>
<td>75M</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Abuse of Special Education</td>
<td>0/15</td>
<td>0</td>
<td>3.85M-900K</td>
<td>0</td>
<td>2.2-5.3M</td>
<td>920K-8M</td>
<td>950K</td>
<td>650K-1M</td>
<td>0</td>
</tr>
<tr>
<td>Civil Rights</td>
<td>1/0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>900K</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Employment</td>
<td>3/1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>335K-4M</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Free Speech</td>
<td>1/2</td>
<td>550K</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>325-600K</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Medical Care/Research</td>
<td>7/0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>840K</td>
<td>9-10M</td>
<td>260K-29.3M</td>
<td>0</td>
</tr>
<tr>
<td>Unequal Pay</td>
<td>2/0</td>
<td>250K-2.7M</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>
## Higher Education Claim Awards Greater Than $250K
### UE Large Loss Report

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Disabilities</td>
<td>1/1</td>
<td>1M-1.3M</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Breach of Contract</td>
<td>1/1</td>
<td>425K</td>
<td>0</td>
<td>750K//2.8M</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Facilities</td>
<td>0/2</td>
<td>0</td>
<td>0</td>
<td>7.1M</td>
<td>0</td>
<td>0</td>
<td>375K</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Hazing</td>
<td>2/1</td>
<td>0</td>
<td>250K</td>
<td>795K-1M</td>
<td>1.1M</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Hiring &amp; Firing</td>
<td>3/2</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>280K</td>
<td>710K</td>
<td>1.65-5.9M</td>
</tr>
<tr>
<td>Gender Issues</td>
<td>1/1</td>
<td>780K-800K</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Defamation</td>
<td>1/0</td>
<td>0</td>
<td>375K</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>550K</td>
</tr>
<tr>
<td>Bullying</td>
<td>0/5</td>
<td>700K</td>
<td>700-262K</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>270K-4.2M</td>
<td>0</td>
</tr>
<tr>
<td>Slips &amp; Falls</td>
<td>2/0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>915K-1.3M</td>
</tr>
<tr>
<td>Retaliation</td>
<td>2/1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>418K-1.1M</td>
</tr>
<tr>
<td>Whistleblower</td>
<td>1/1</td>
<td>0</td>
<td>275K</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>300K-1.4M</td>
</tr>
<tr>
<td>Wrongful Termination</td>
<td>1/2</td>
<td>0</td>
<td>750-250K</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Workplace Issues</td>
<td>2/1</td>
<td>500K-1.25M</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
#MeToo Index

Temin's #MeToo Index
Public Accusations of Sexual Misconduct

© Temin and Company
The Weinstein Effect

- Tone and tenor of coverage has changed.
  - 24/7 news media cycle.
  - Facebook and Twitter.
- In 2017, 70% of Americans described sexual harassment as a “very serious problem”.
  - In 1998 – at the height of the Clinton impeachment scandal – only 36% did.
- Women are believed.
  - High profile women come forward.
  - Media coverage.
  - Across industries.
Prevalence of sexual harassment in the workplace:
• Almost half of U.S. women say they have been sexually, verbally, or physically harassed at work.
• But a 2016 EEOC study found that 70% of victims never come forward (some studies as high as 90%).

Frequency
• EEOC saw a fourfold increase in visitors to the “sexual harassment” portion of its website after the Weinstein allegations broke
• EEOC filed 66 harassment lawsuits, including 41 that included sexual harassment allegations
• more than a 50% increase from 2017.

Severity
• EEOC recovered almost $70M for victims of sexual harassment in FY 2018, up from only $47.5M in FY 2017.
• Consider indirect costs as well – decreased productivity, increased turnover and reputational damage
Key Market Coverage Issues

- Athletic Participants & Sporting Events: TBI (Traumatic Brain Injury) & CTE (Chronic Traumatic Encephalopathy)
- Coverage triggers for Professional Liability, EBL, Sexual Molestation, for example:
  - Defense Inside/Outside Limits
  - Automatic Extended Reporting Period – claims made coverages –
  - Drones / UAV’s – note any limitations and definitions
  - Professional Services – who is covered?
  - CGL - Exception to Professional Services exclusion - Clarification
  - Student Discrimination – excluded? Silent?
  - Law Enforcement – Armed and Unarmed covered?
  - Cyber
  - Automobile
  - Watercraft
  - Crisis Response Coverage
  - Workers Compensation
Loss Drivers

- General Liability
  - Slips and falls
  - Sexual assaults

- Educators Legal Liability

- Employment Practices Liability
  - Reverse Title IX
  - Accreditation/fiscal health

- Excess Liability
  - Volatility
  - Catastrophic bodily injury

- PK-12
  - Bus accidents
  - Sexual assaults/misconduct
  - Assaults
Complex Claims on the Rise

• Drivers:
  – Traumatic Brain Injury (BI)
  – Chronic Traumatic Encephalopathy (CTE),
  – Sexual Assault,
  – Sexual Molestation,
  – Gender discrimination

• Value of Historic Insurance Policy
  – Lack of key exclusions
  – Lower deductibles
  – Absence of aggregate limits for certain exposures, and
  – Defense costs paid in addition to the limits of liability
  – Occurrence vs. claims made coverage form
    – Sexual misconduct – type of “long-tail” exposure
  – Allocation of cost amongst policies or institutions
Risk Management in Higher Education
What is the way forward for your institution?

How can you manage your changing risk profile?
The elevation of the risk function within the organization is something we’re going to see more of. Having a seat at the executive table and also a direct connection to the board is definitely something I see increasing.”

— CHIEF RISK OFFICER AT A PUBLIC RESEARCH UNIVERSITY
Potential Institutional Risks – A Sampling!

- Natural disasters
- Safety and security
- Environmental
- Study abroad and foreign students
- Faculty, staff and/or student misconduct
- Minors on campus
- Legal compliance
- Hazing/sexual abuse incidents
- Substance Abuse
- Data loss and recovery
- Active Shooters
- Athletics
- Faculty on campus (background checks, research integrity)
- Medical Malpractice
- Medical Misconduct
- Immigration
- Defamation
- Accommodation
Management of Risk Profile

- Risks are intensifying and evolving
- It is reported that social media has tripled the threat level of reputational and operational risks
- Stakeholder expectations are increasing
- Boards are increasingly accountable

Time is better spent preparing vs. repairing
External Stakeholder Expectations are Increasing

Promoting forward-looking approach to risk management

Accreditors, Auditors and Outside Organizations

Seeking assurance on stewardship of donated funds

Donors

Higher Ed Institution

Analysts

Evaluating ERM effectiveness of debt issuers

Insurers

Adequate policies and processes in place to manage risk
Internal Stakeholder Expectations are Increasing

- **Faculty**: Demand flexibility in research with limited administrative barriers
- **Board of Trustees**: Seeking enhanced visibility into the risks of the institution, with management competence
- **Students**: Continue to expand the experiential learning environment
- **Administrators**: “No” isn’t an acceptable answer

Higher Ed Institution
In changing times – these issues still matter

- Appropriate insurance limits
- Predictable losses and claims
- Remove budget uncertainty
- Alternative financing vehicles

- Allocation of risk amongst parties
- Increased focus on safety of students
- The basics still matter – we still have buildings, cars, and people

- New world of social media
- How you manage emergencies will be publicly adjudicated
“Meeting challenges gives rise to opportunities.”
Intellectual capital list – Selected publications

**MMC**

- Global Risk Center, *Getting Ahead in Cyber Risk: A Differentiated Approach for Communications, Media and Technology Providers*, 2018
- Global Risk Center, *The Twin Threats of Aging and Automation*, 2018
- Global Risk Centre, *Reporting Climate Resilience: The Challenges Ahead*, 2018
- Global Risk Centre, *Climate Resilience Handbook*, 2018
- Global Risk Centre, *Getting Practical with Emerging Risks*, 2018
- Global Risk Centre, *Financing for Climate Resilience*, 2018
- Asia Pacific Risk Center, *From Threats To Impact: Evolving Risk Concerns in Asia Pacific Vol. 3*
- Asia Pacific Risk Center, *Infrastructure Asset Recycling: Insights for governments and investors*, 2018
- Marsh., 2018

**MMC Partners**

- World Economic Forum (WEF), *Global Risks Report 2018*, 2018
- World Economic Forum (WEF), *Regional Risks For Doing Business 2018*, 2018
- Women Corporate Directors (WCD), *WCD MMC Cyber Risk Management*, 2018
- Association for Financial Professionals (AFP), *2018 AFP Risk Survey*, 2018
- FireEye, *Cyber Evolution: En Route to Strengthening Resilience in Asia-Pacific*, 2018