

EMERGING RISKS IN HIGHER EDUCATION: REGULATORY UPDATES

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Global Education Leader**

LASER FOCUS: WHAT ARE THE GLOBAL RISKS FACING EDUCATION?

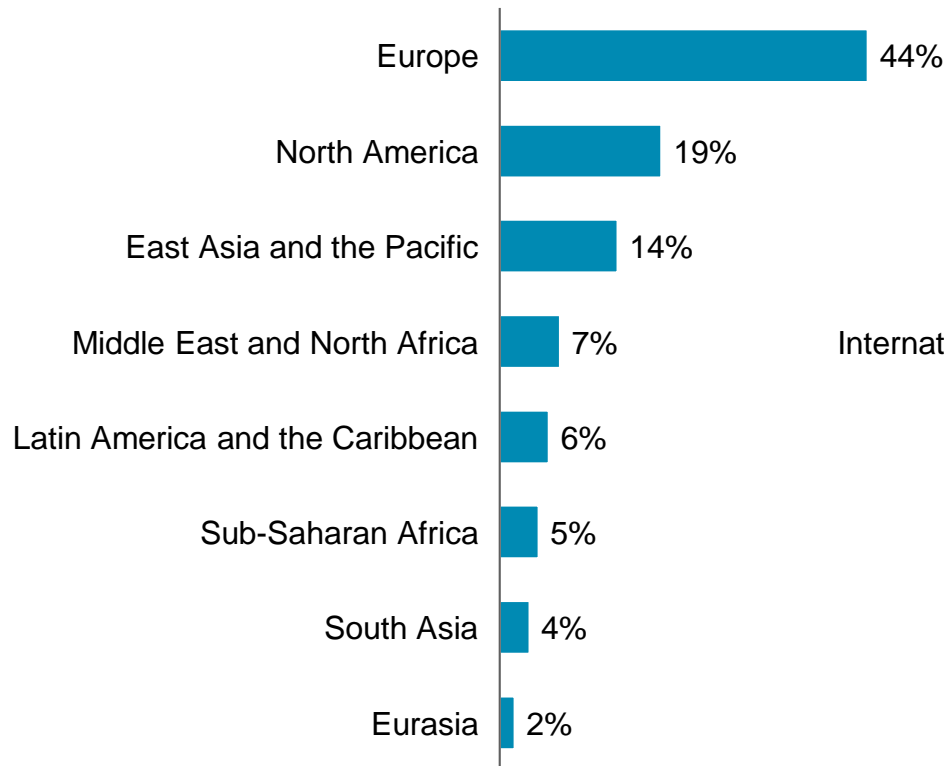


A majority of respondents of the Global Risk Perception Survey are based in Europe, and many are affiliated with the academia sector

Global Risk Perception Survey: Demographic data of respondents

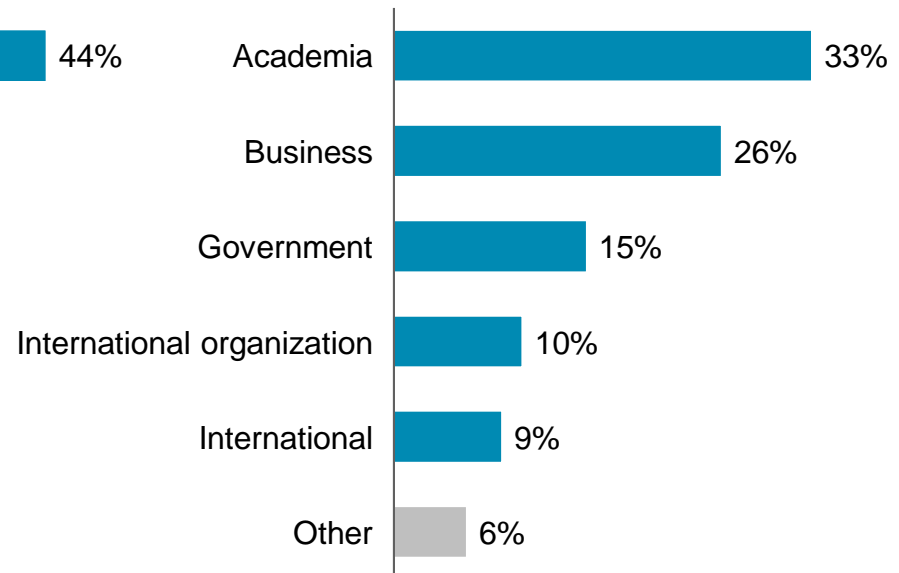
Regional distribution

% out of 916 respondents



Sector distribution

% out of 916 respondents



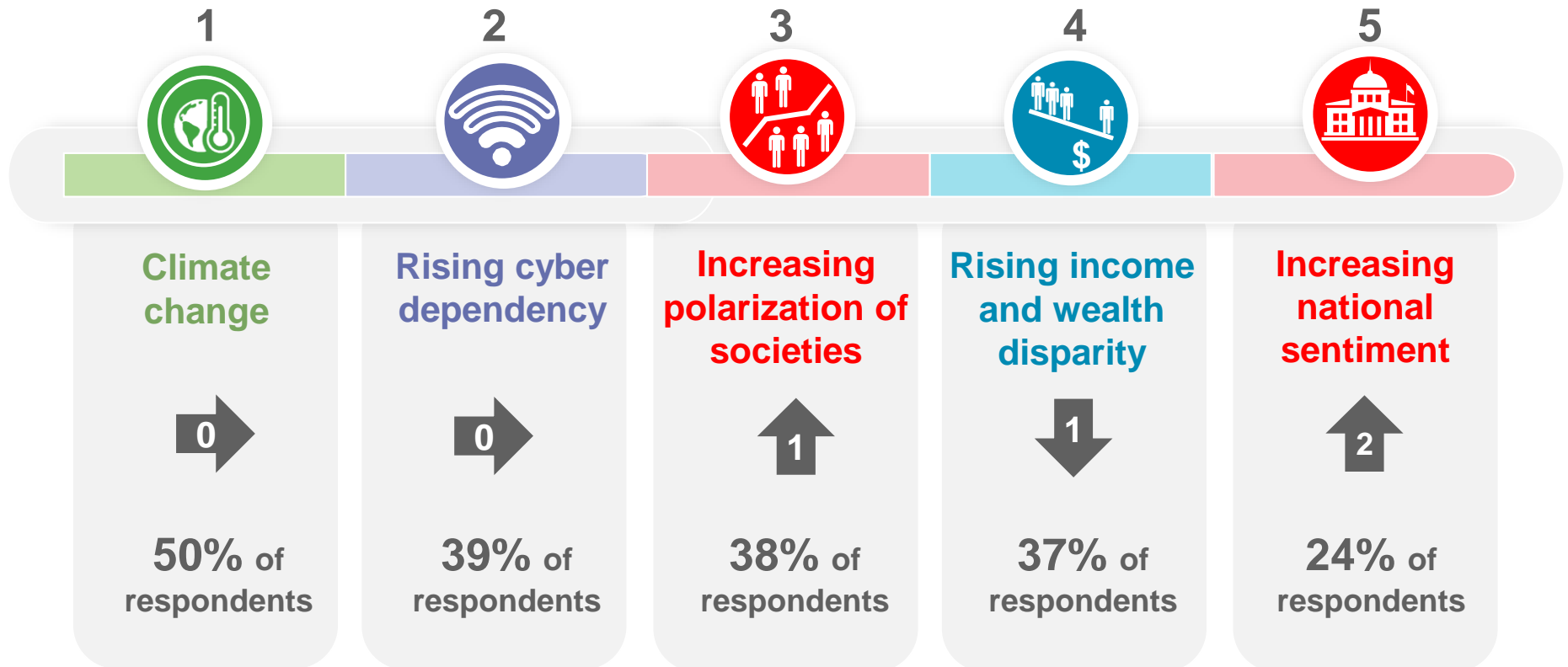
Note: Respondents were asked to select their country of residence and the type of organization with which they were affiliated. Some respondents chose not to disclose this information.

Source: World Economic Forum, *Global Risks Report 2019*; MMC analysis

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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



↑ # Number of positions moved since 2017 # % Number of respondents selecting trend

■ Economic ■ Environmental ■ Geopolitical ■ Societal ■ Technological

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.

Source: World Economic Forum, *Global Risks Report 2019*

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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

Rank	Risks	Change vs. 2017
1	High unemployment	0
2	National governance failure	1
3	Energy price shock	1
4	Fiscal crises	2
5	Cyber-attacks	3
6	Social instability	1
7	Financial institution failure	1
8	Critical infrastructure shortfall	1
9	Regional/Global governance failure	New risk
10	Terrorist attacks	0

■ Economic
 ■ Environmental
 ■ Geopolitical
 ■ Societal
 ■ Technological

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

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

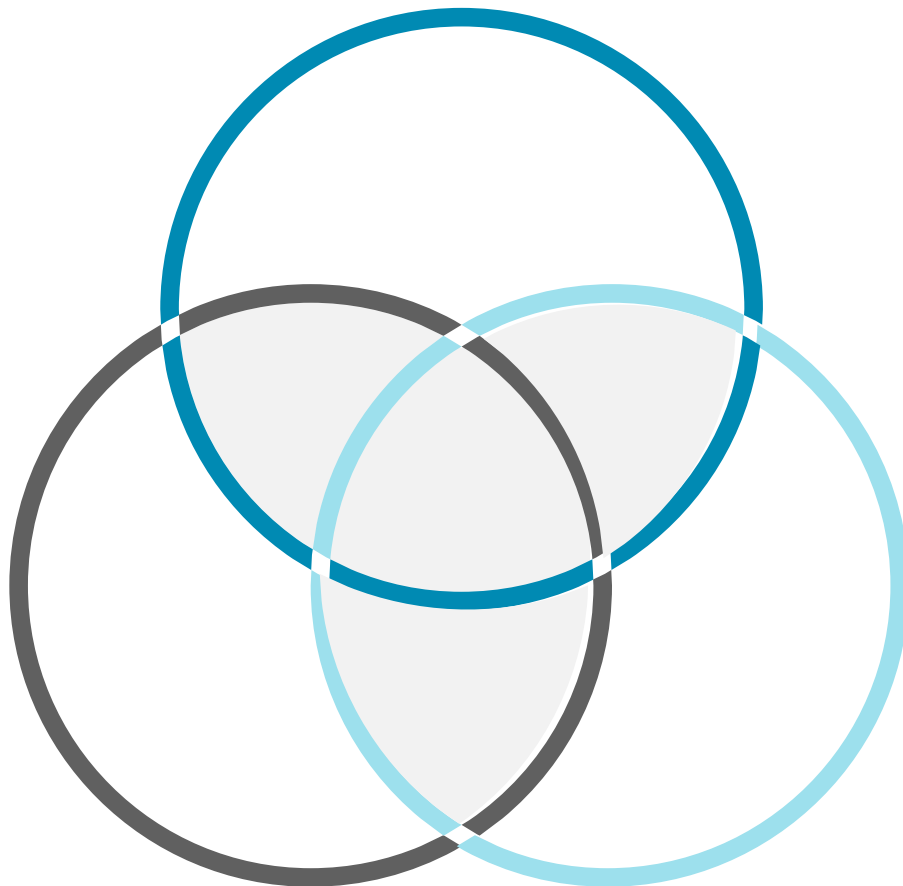
- The threat of cyber-attacks continues to grow significantly in the eyes of business executives all over the world. Revelations of large-scale state-on-state operations such as those in the North America and Asia-Pacific regions have contributed to this rise in the level of concern over similar threats
- 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

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?



Industry Seismic Shifts and Disruptive Trends

US Colleges and Universities are:



Experiencing an unprecedented level of uncertainty as a result of actions taken by the **current U.S. Administration**.



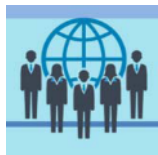
Facing **financial challenges**.



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

Ability to respond to trends

Disrupted Industries:

- Publishing
- Automotive
- Textile
- Music
- Steel
- Trucking and Logistics
- Telecommunications
- Health Care
- Retail

Higher Education

Students/
Learners

Rising Cost

Digital Era

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

Comparing Market Segments

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)

Digital Learning

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

Regulatory Environment

Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017

- Any organization involved in youth sports will likely be held to an increased “standard of care” regarding reporting, training, policies and procedures, and periodic safety system reviews.
- Expands the list of individuals required to report child sexual abuse.
- Additional requirement to report suspicions to the US Center for Safe Sport if the organization is governed by a “National Governing Body” or “Paralympic Sports Organization”.
 - USA Basketball, USA Gymnastics, USA Swimming, Amateur Athletic Union organizations, etc.

Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017

- All youth sport organizations are likely required to offer and provide consistent training in “abuse prevention.”
- Requires sports organizations to establish reasonable procedures to limit one-on-one interactions between an adult and an amateur athlete who is a minor...without being in an observable and interruptible distance from another adult.
- Medical care and treatment must be in the presence of a second adult.

Reference Points for Discussion

- **Title IV** of the **Higher Education** Act of 1965 (HEA) covers the administration of the United States federal student financial aid programs. American colleges and universities are generally classified with regard to their inclusion under **Title IV**, such as under the U.S. Department of **Education** statistics
- The **Teacher** Education Assistance for College and Higher Education (**TEACH**) **Grant** Program provides **grants** of up to \$4,000 per year to students who agree to **teach** for four years at an elementary school, secondary school, or educational service agency that serves students from low-income families

Negotiated Rulemaking Committee for Federal Student Aid Programs under Title IV of HEA 1965

- July 2018 published intent in Federal Register to establish negotiated rulemaking committee to develop proposed regulations related to higher education practices and issues, including:
 - Accreditation
 - Distance learning and Educational innovation
 - TEACH grants, and
 - Participation by faith-based educational entities
- Public hearings and comments closed November 2018

Negotiated Rulemaking Committee: Accreditation and Innovation

- Requirements for accrediting agencies in their oversight of member institutions and programs
- Criteria used by the secretary to recognize accrediting agencies, emphasizing criteria that focus on educational quality and deemphasizing those that are anti-competitive
- Simplification of DOE's recognition and review of accrediting agencies
- Clarification of the core oversight responsibilities amongst each entity in the regulatory triad:
 - Accrediting agencies
 - States
 - DOE to hold institution *accountable*

Negotiated Rulemaking Committee: Accreditation and Innovation Committee

- Clarification of the permissible arrangements between an institution of HE and another organization to provide a portion of an education program (34 CFR 668.5)
- The roles and responsibilities of institutions and accrediting agencies in the teach-out process (34 CFR 600.32(d))
- Elimination of regulations related to programs that have not been funded in *many* years
- Needed technical changes and corrections to program regulations that have been identified by DOE

Negotiated Rulemaking Committee – Accreditation and Innovation Committee

- Accreditation and Innovation Committee will receive guidance from three Subcommittees:
 - The Distance Learning and Educational Innovation
 - The Faith-based Entities
 - The TEACH Grants

Negotiated Rulemaking Committee – Accreditation and Innovation Committee

- The Distance Learning and Educational Innovation
 - Simplification of State authorization requirements
 - Definition of “correspondence course” and “distance education”
 - Definition of “credit hour”
 - Requirement of relation between length of program and entry-level requirements for recognized occupation for which program prepares student
 - Barriers to innovation and to student completion, etc.
 - Direct assessment programs and competency-based education, etc.

Negotiated Rulemaking Committee – Accreditation and Innovation Committee

- The TEACH Grants Subcommittee:
 - The simplification and clarification of TEACH Grant program requirements to minimize the inadvertent grant-to-loan conversions and provide opportunities to correct erroneous conversions (34 CFR part 686)

Negotiated Rulemaking Committee – Accreditation and Innovation Committee

- The Faith-based Subcommittee:
 - Requirements for accrediting agencies to honor institutional mission and various provisions of the regulations regarding the eligibility of faith-based entities to participate in the Title IV, HEA programs, including:
 - Gaining early awareness and readiness for undergraduate programs
 - Eligibility of students to obtain certain benefits under those programs

Negotiated Rulemaking Committee – Accreditation and Innovation Committee

- The Accreditation and Innovation Committee will make determinations based on those three subcommittee recommendations on:
 - Regulatory changes required to ensure equitable treatment of brick and mortar and distance education programs; enable expansion of direct assessment programs; distance education and competency-based education; and to clarify disclosure and other requirements of state requirements

Negotiated Rulemaking Committee – Accreditation and Innovation Committee

- The Accreditation and Innovation Committee will make determinations based on subcommittee recommendations on:
 - Protections to ensure that accreditors recognize and respect institutional mission; and evaluate an institution's policies and educational programs based on that mission; and remove barriers to the eligibility of faith-based entities to participate in the Title IV, HEA programs.
 - TEACH Grant requirements and ways to reduce and correct the inadvertent conversion of grants to loans

Title IX Overview

Title IX. In the broadest sense, **Title IX** is a civil rights law that sought to end discrimination on the basis of gender in educational institutions. This includes sexual violence on college and university campuses. ... While the **Clery Act** is only **relevant** in higher education, **Title IX** also applies in K-12 settings.

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity receiving Federal financial assistance.”

—Title IX of the Education Amendments of 1972 to the Higher Education Act of 1965

Title IX Proposed Regulations

- Rulemaking Process
- Greater Clarity
- Increased Control for Complainants
- Fair Process
- Nature of a School's response to sexual harassment & assault
- Due Process protections and reliable outcomes

Emerging Litigation Trends

Higher Education Claim Awards Greater Than \$250K From United Educators Large Loss Report

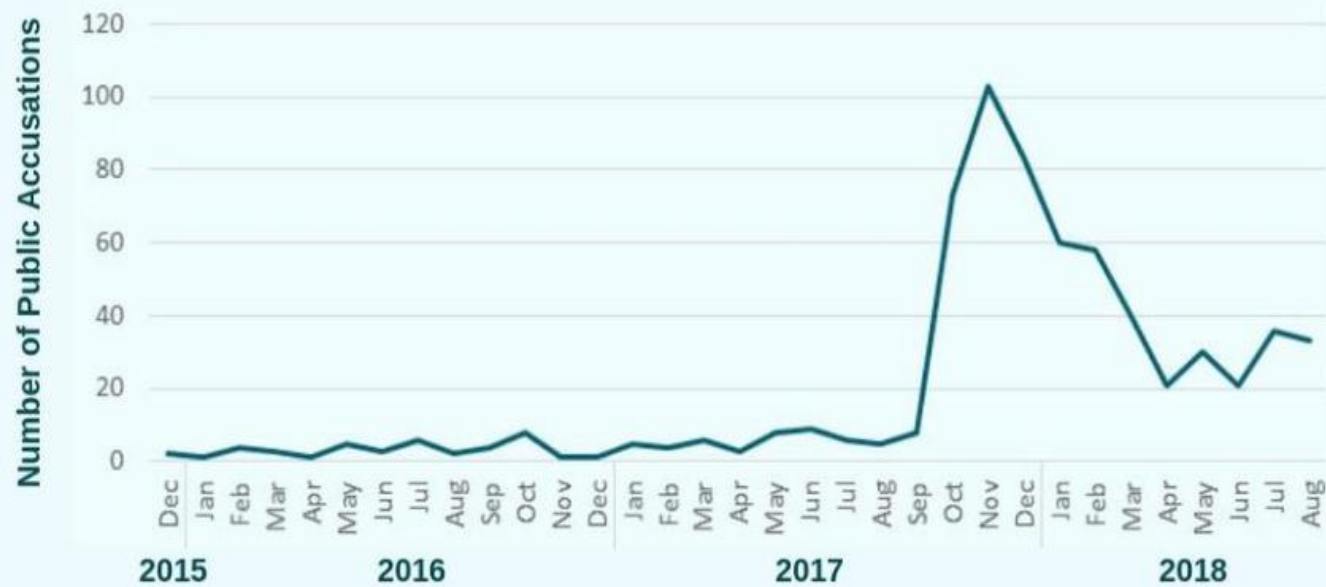
Category of Claim	HE/ K-12	2019	2018	2017	2016	2015	2014	2013	2012
Discrimination	12/9	400K-850K	6.5M	750-850K	4.85M	50K-2M	256K-4.5M	200-305k	270-650K
Wrongful Death	8/12	423K-14M	1.26M	0	1M-20.5M	375-700K	150K-5.5M	375K-8M	0
Negligence	3/5	INCL WD	0	900K	0	700K-4.5M	41.75M	0	100K-1M
Sexual Harassment	5/7	0	1M-500k	2.45M	0	250-650K	255K	750K-1M	725K-2.5M
Sexual Assault/ Molestation	8/26	250K-500M	20M-275K	250K-88M	4.5M	700K-1.28M	400K-30M	600K-6.5M	0
Concussion	1/5	5.87M	1.1M	10.5M	1-1.03M	75M	0	0	0
Abuse of Special Education	0/15	0	3.85M-900K	0	2.2-5.3M	920K-8M	950K	650K-1M	0
Civil Rights	1/0	0	0	0	900K	0	0	0	0
Employment	3/1	0	0	0	335K-4M	0	0	0	0
Free Speech	1/2	550K	0	0	325-600K	0	0	0	0
Medical Care/ Research	7/0	0	0	0	840K	9-10M	260K-29.3M	0	0
Unequal Pay	2/0	250K-2.7M	0	0	0	0	0	0	0

Higher Education Claim Awards Greater Than \$250K UE Large Loss Report

Category of Claim	HE/ K-12	2019	2018	2017	2016	2015	2014	2013	2012
Disabilities	1/1	1M-1.3M	0	0	0	0	0	0	0
Breach of Contract	1/1	425K	0	750K//2.8M Legal fees	0	0	0	0	0
Facilities	0/2	0	0	7.1M	0	0	375K	0	0
Hazing	2/1	0	250K	795K-1M	1.1M	0	0	0	0
Hiring & Firing	3/2	0	0	0	0	0	280K	710K	1.65-5.9M
Gender Issues	1/1	780K-800K	0	0	0	0	0	0	0
Defamation	1/0	0	375K	0	0	0	0	0	550K
Bullying	0/5	700K	700-262K	0	0	0	0	270K-4.2M	0
Slips & Falls	2/0	0	0	0	0	0	0	915K-1.3M	225K
Retaliation	2/1	0	0	0	0	0	0	0	418K-1.1M
Whistleblower	1/1	0	275K	0	0	0	0	0	300K-1.4M
Wrongful Termination	1/2	0	750-250K	0	0	0	0	0	0
Workplace Issues	2/1	500k-1.25M							

#MeToo Index

Temin's #MeToo Index Public Accusations of Sexual Misconduct



© Temin and Company

#MeToo Accusations by Month 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.



Statistics are Mixed

- 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	

Highest Priority of ERM Objectives

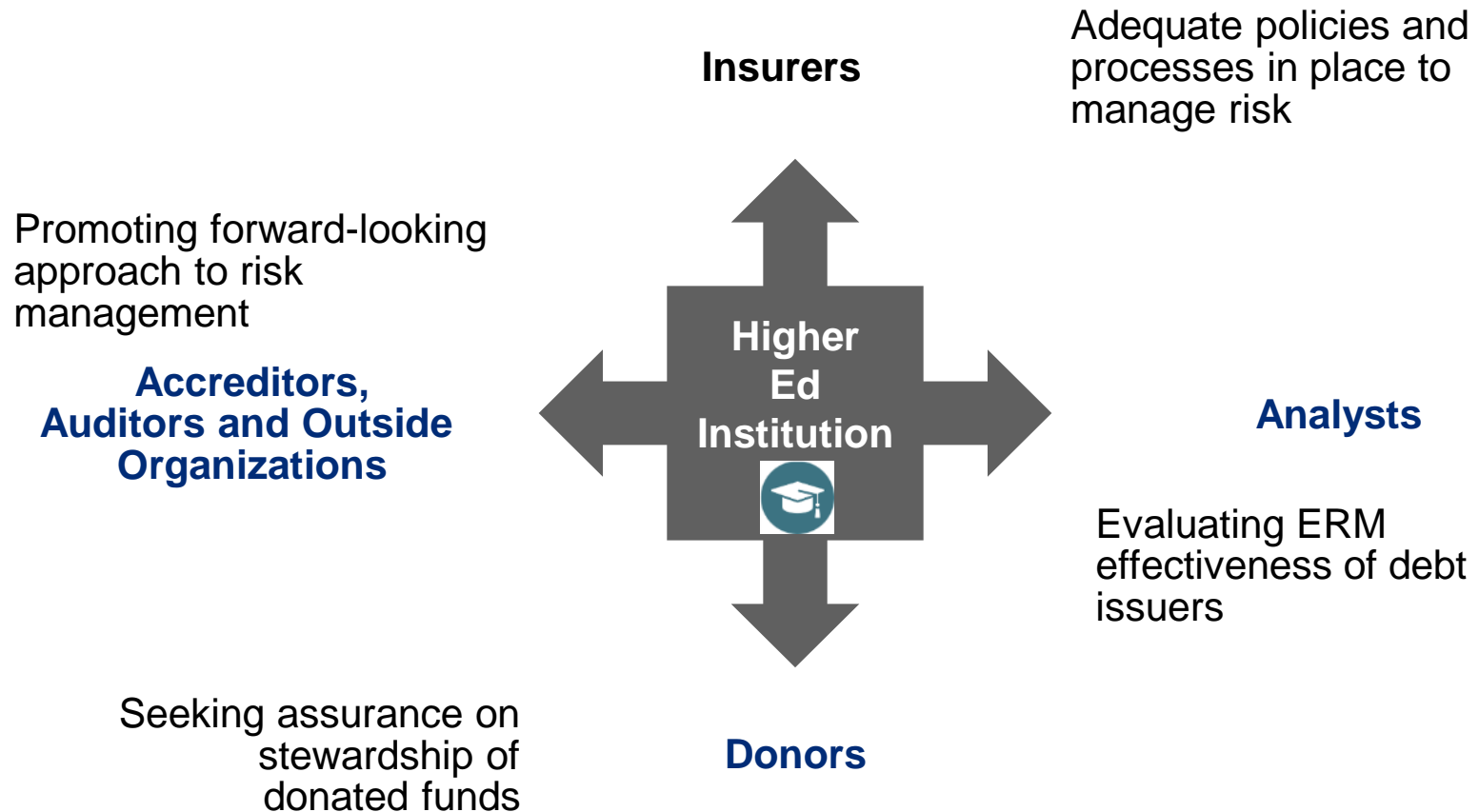
- 44% --- Ensure risk issues are explicitly considered in decision making
- 40% --- Avoid surprises and “predictable” failures
- 24% --- Align risk exposures and mitigation programs
- 19% --- Institute more rigorous risk measurement
- 17% --- Integrate ERM into other management practices like strategic planning

Management of Risk Profile

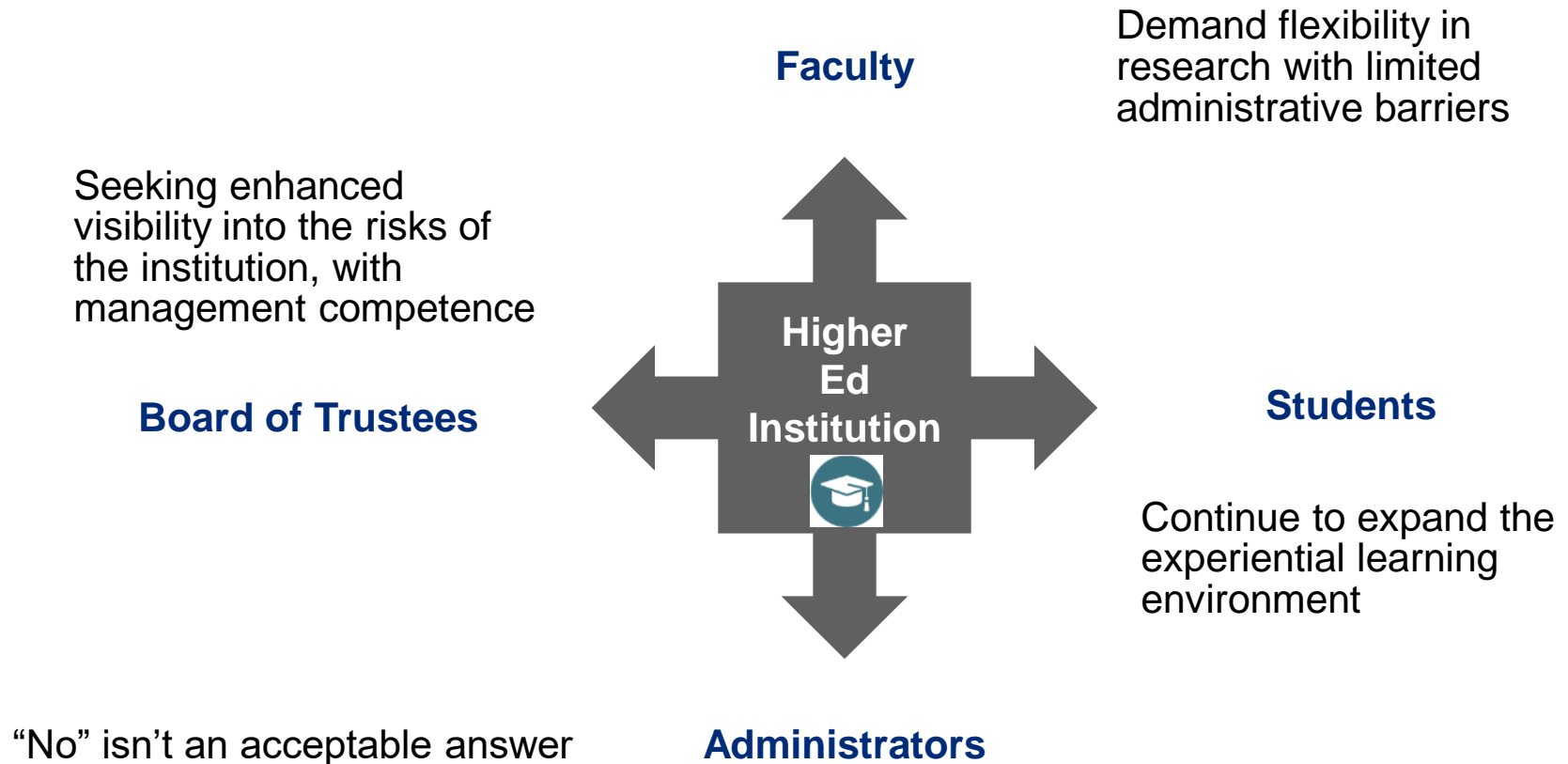
- Risks are intensifying and evolving
- It is reported that social media has tripled the threat level of reputational and operational risks
- Stakeholder expectations are increasing
- Boards are increasingly accountable

**Time is better spent
preparing vs. repairing**

External Stakeholder Expectations are Increasing



Internal Stakeholder Expectations are Increasing



View of the Traditional Risk Manager

- In changing times – these issues still matter

Financial Challenges

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

Operational Risk Management

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

Crisis Management

- New world of social media
- How you manage emergencies will be publicly adjudicated

*“Meeting challenges gives rise
to opportunities.”*

QUESTIONS?

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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
- Global Risk Center, *MMC Cyber Handbook 2018: Perspectives on the Next Wave of Cyber*, 2018
- Global Risk Center, *The Emerging Risks Quandary: Anticipating Threats Hidden in Plain Sight*, 2016
- 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, *Marsh Political Risk Map 2018*, 2018

MMC Partners

- World Economic Forum (WEF), *Global Risks Report 2018*, 2018
- World Economic Forum (WEF), *Regional Risks For Doing Business 2018*, 2018
- World Energy Council, *World Energy Trilemma 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

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

ECONOMIC	ENVIRONMENTAL	GEOPOLITICAL	SOCIETAL	TECHNOLOGICAL
<ul style="list-style-type: none"> • Asset bubbles in a major economy • Deflation in a major economy • Failure of a major financial mechanism or institution • Failure/shortfall of critical infrastructure • Fiscal crises in key economies • High structural unemployment or underemployment • Illicit trade (e.g. illicit financial flows, tax evasion, human trafficking, organized crime, etc.) • Severe energy price shock (increase or decrease) • Unmanageable inflation 	<ul style="list-style-type: none"> • Extreme weather events (e.g. floods, storms, etc.) • Failure of climate change mitigation and adaptation • Major biodiversity loss and ecosystem collapse (terrestrial or marine) • Major natural disasters (e.g. earthquake, tsunami, volcanic eruption, geomagnetic storms) • Man-made environmental damage and disasters (e.g. oil spills, radioactive contamination, etc.) 	<ul style="list-style-type: none"> • Failure of national governance (e.g. failure of rule of law, corruption, political deadlock, etc.) • Failure of regional or global governance • Inter-state conflict with regional consequences • Large-scale terrorist attacks • State collapse or crises (e.g. civil conflict, military coup, failed states, etc.) • Weapons of mass destruction 	<ul style="list-style-type: none"> • Failure of urban planning • Food crises • Large-scale involuntary migration • Profound social instability • Rapid and massive spread of infectious diseases • Water crises 	<ul style="list-style-type: none"> • Adverse consequences of technological advances • Breakdown of critical information infrastructure and networks • Large-scale cyberattacks • Massive incident of data fraud/theft



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