

# Important Information About Today's Zoom Session

- The presentation will be recorded. All Zoom participants will receive an email with the link to the recording. The recording will also be available on the Office of Sustainability and Purchase, Pay & Travel websites following the session.
- All participants are automatically muted on Zoom to avoid any background noise throughout the presentation.
- Enter any questions into the chat feature of Zoom throughout the presentation.

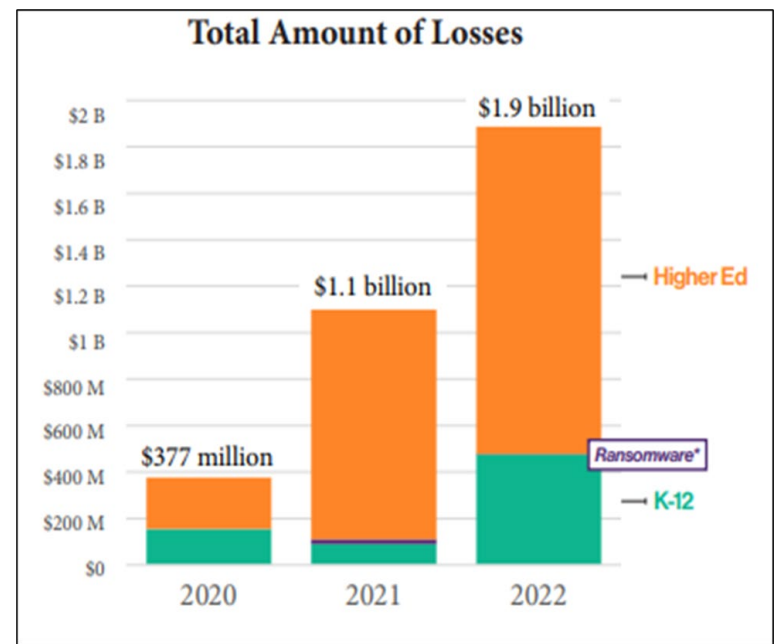
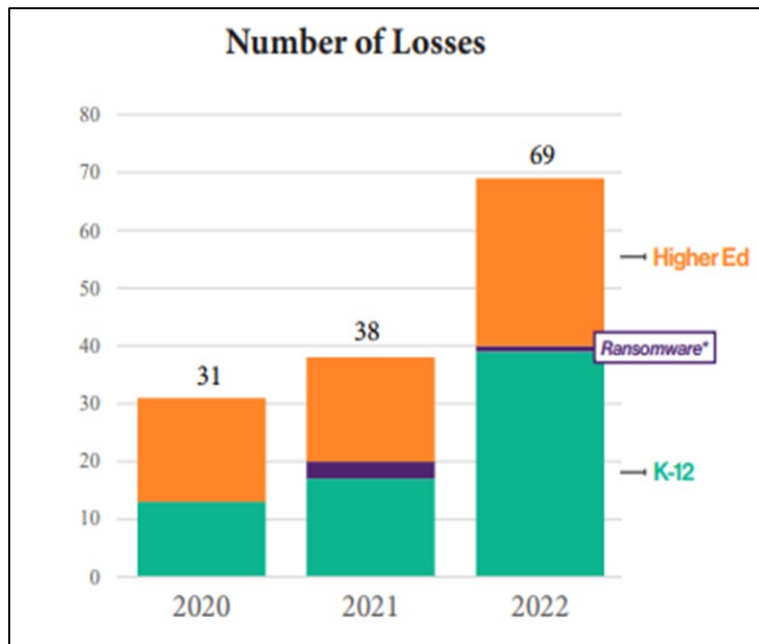


# Insurance Contract Training

University of Pittsburgh



# Losses Rising at K-12 and Higher Ed Schools

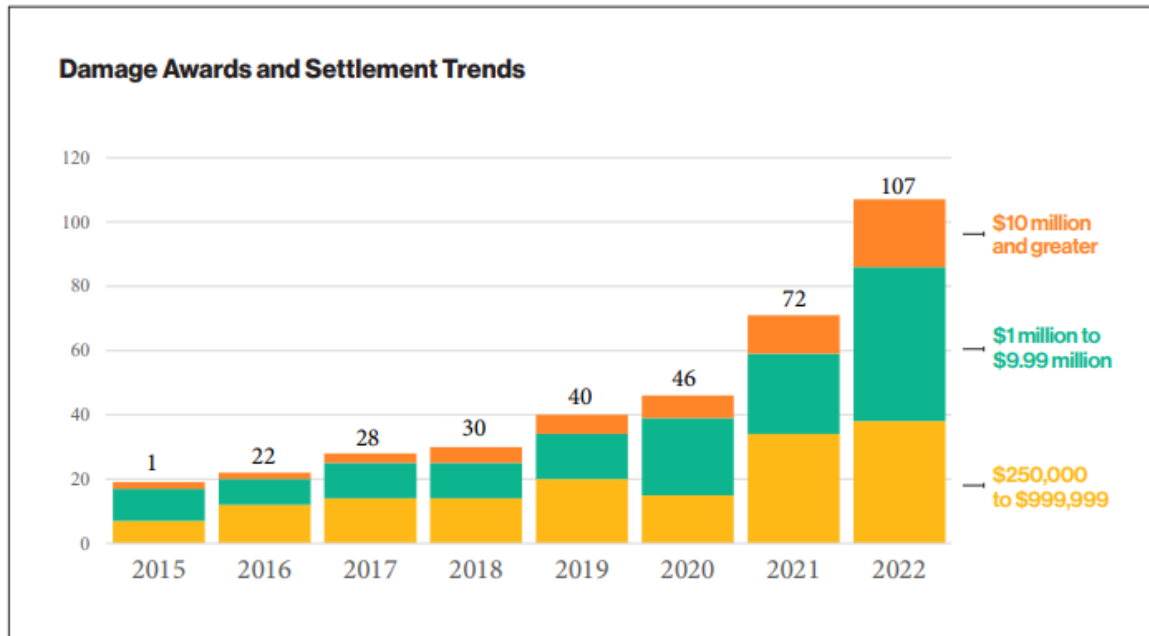


Colleges and universities are suffering an increasing number of publicly reported large losses of at least \$1 million, and those losses are becoming increasingly costly

# Loss Breakdown and Settlement Amount

- **Sexual Misconduct** – 23 losses
  - \$1 million to \$615.6 million
- **COVID-19** – 7 losses
  - \$1.5 million to \$5 million
- **Accidents and Crime Resulting in Death** – 6 losses
  - \$2.5 million to \$18 million
- **Discrimination** – 5 losses
  - \$1 million to \$3 million
- **Injuries Not Resulting in Death** – 3 losses
  - \$2 million to \$45 million

# Trends From 2015-2022



Of the awards, settlements, and payouts this report includes, 69 exceeded \$1 million. This is significantly more than the number of such awards or settlements in the past two years (31 in the 2021 report and 38 in the 2022 report, respectively). The number of publicly reported awards or settlements of at least \$500,000 also has drastically risen each year — from 50 in last year’s report to 90 in 2022. Meanwhile, the number of publicly reported awards or settlements of at least \$250,000 increased from 19 in 2015, to 46 in 2020, and then to 72 in 2021. There have been 107 such settlements or awards in 2022.

# Sexual Misconduct

The University of California system reached two settlements totaling \$615.6 million this year with hundreds of patients who said they were sexually abused by former UCLA gynecologist-oncologist Dr. James Heaps. The settlements — for \$374.4 million and \$241.2 million, respectively — don't include the separate \$73 million settlement the university system reached in 2020 with seven women who alleged Heaps abused them.

The University of Michigan agreed to a \$490 million settlement with 1,050 people who contended they were sexually assaulted by a former sports doctor at the school. The settlement was finalized in September 2022. The university resolved several lawsuits — primarily filed by men — who said they were sexually abused by Robert Anderson during routine medical examinations.

Columbia University agreed to a \$165 million settlement with 147 women who said a former gynecologist committed sexual abuse and misconduct against them when he was their doctor. The agreement followed a separate \$71.5 million settlement reached in 2021 by 79 former patients of the doctor,

# Insurance Coverages and Terminology

## General Liability

General Liability insurance protects you and your business from “general” claims involving bodily injuries and property damage resulting from your products, services or operations. General liability insurance doesn’t cover employee injuries, auto accidents, workmanship, intentional acts or professional mistakes.

## Business /Personal Automobile

Business Automobile Insurance covers a company's use of cars, trucks, vans and other vehicles in the course of carrying out its business. Coverage may include vehicles owned or leased by the company, hired by the company, or employee-owned vehicles used for business purposes.

Use of Personal vehicles for university business is discouraged. Insurance follows the vehicle and U policies can only be excess coverage.

## Workers Compensation & Employers Liability

Workers Compensation insurance provides wage replacement and medical benefits to employees injured in the course of employment.

Employers' Liability insurance will pay compensation costs and legal fees if an employee or ex-employee sues for illness or injury caused by their work.



# Umbrella & Excess Liability

Umbrella Liability insurance that is in excess of specified other policies and also potentially primary insurance for losses not covered by the other policies. Excess insurance is similar in that it pays after an underlying primary policy is exhausted, but the critical difference is that excess policies are normally "follow form" policies that conform exactly to the coverage of the underlying policy, except that they add on their own excess limit which is then stacked on top of the primary policy's limit.

# Occurrence vs Claims Made

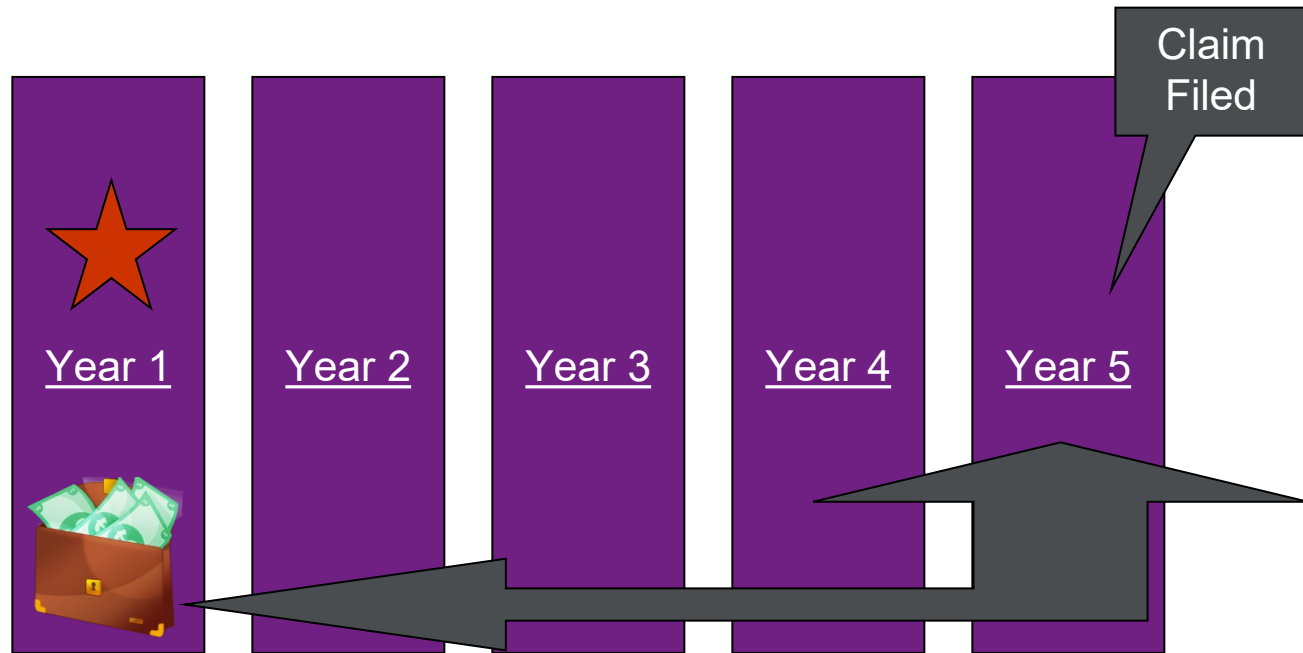
## Timing

- An Occurrence policy protects you from any covered incident that “occurs” during the policy period, regardless of when a claim is filed. An occurrence policy will respond to claims that come in – even after the policy has been canceled – so long as the incident occurred during the period in which coverage was in force.
- Claims-made policies provide coverage for claims only when BOTH the alleged incident AND the resulting claim happen during the period the policy is in force. Claims made policies provide coverage so long as the insured continues to pay premiums for the initial policy and any subsequent renewals. Each succeeding year the policy is continuously renewed, the “coverage period” is extended. Once premiums stop the coverage stops. Claims made to the insurance company after the coverage period ends will not be covered, even if the alleged incident occurred while the policy was in force.

## Limits of Liability

- Occurrence limits “reset” each year so that claims paid for incidents arising from one policy year do not deplete limits available to cover claims from other years.
- Claims-made limits DO NOT “reset” each year the way Occurrence Coverage limits do. The policy limits in place when the policy is purchased remain the single set of limits available to protect the insured from all claims that could arise from care provided during the years the policy is continuously in force. The insured does not have a separate set of limits for each year the policy is in force.

# Occurrence Policy

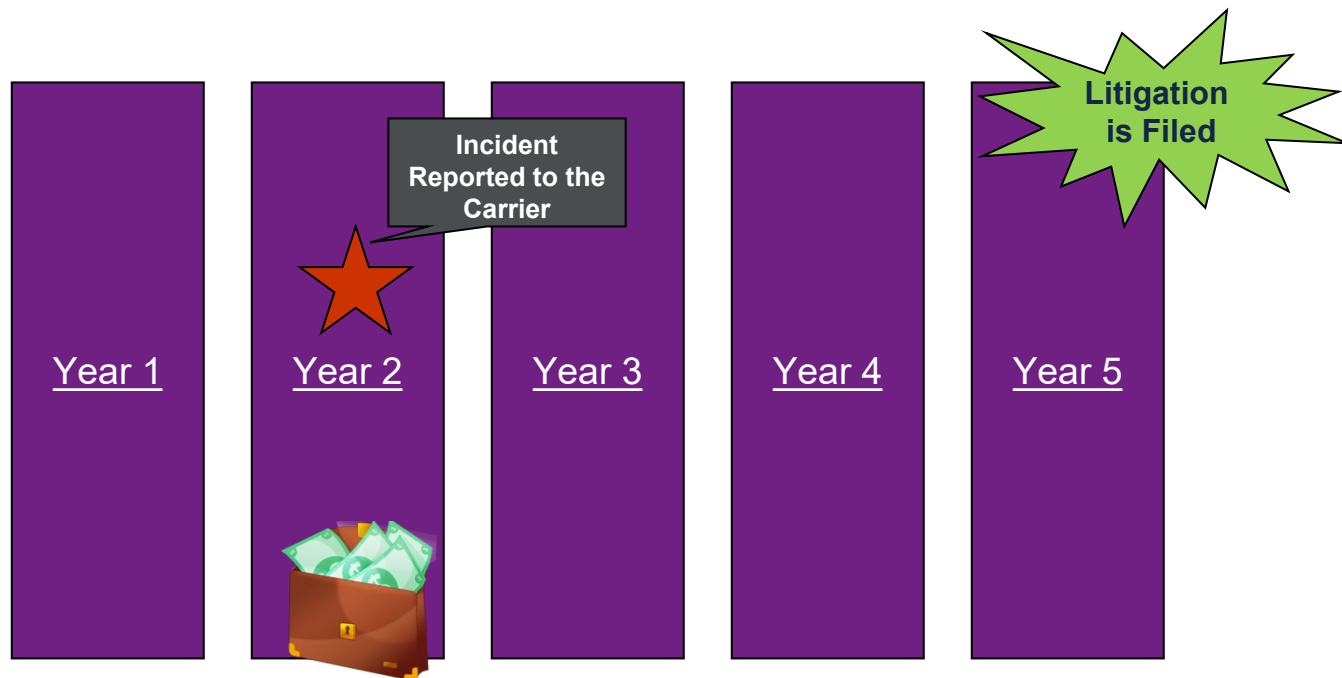


 **Occurrence**



**This Policy Pays the Claim**

# Claims Made Policy – Incident is Reported as “Potential Claim”

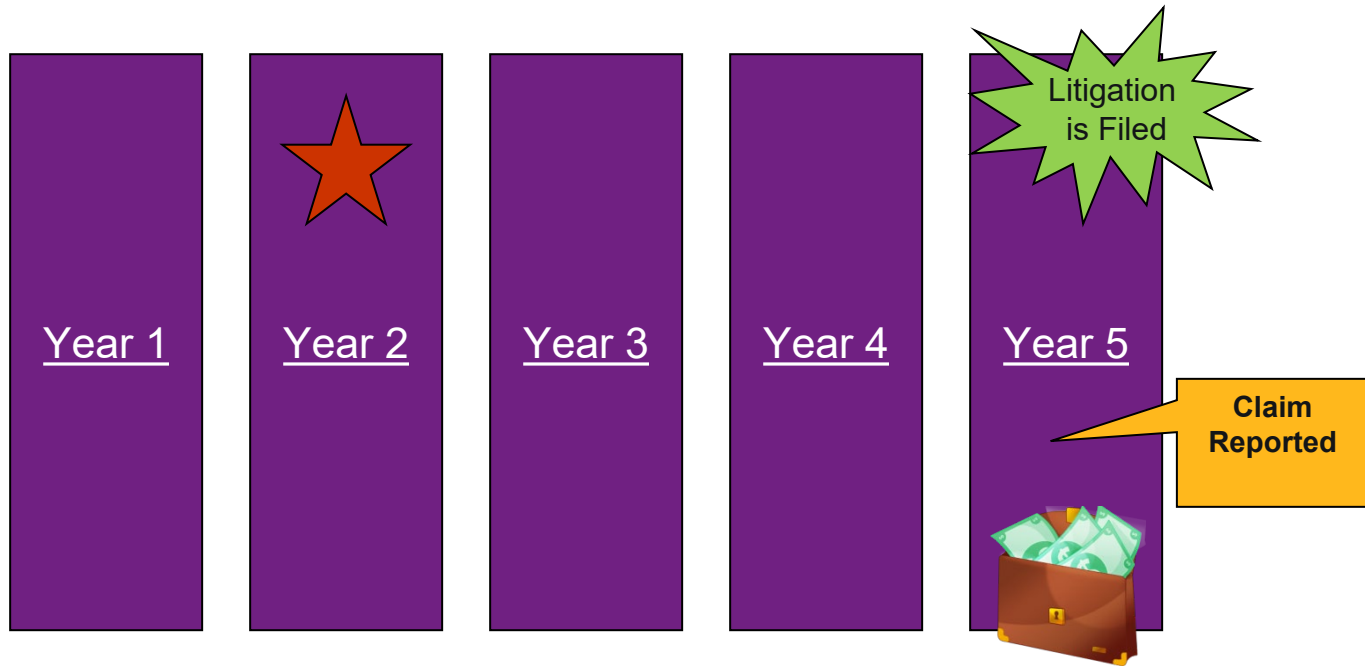


Occurrence



This Policy Pays the Claim

# Claims Made Policy – Incident Not Reported



**Occurrence**



**This Policy Pays the Claim**

# Indemnification Provisions

Requires one party (Indemnitor) to a contract to indemnify the other (Indemnitee) for all loss or damage resulting from or caused by acts or omissions, work, service etc. provided under the contract.

Fairest clause: Each party holds the other harmless for its respective negligence i.e. mutual indemnification

Beware of:

- Language which goes beyond bodily injury and property damage to all losses, costs or damages. Insurance will only cover what is provided under the policy terms and conditions. It does not extend broader coverage to an indemnitee than it does to the Named Insured. Pitt will be out of pocket for anything else including defense costs.
- Language under which other party is only responsible for its “sole” negligence. Unless it is 100% liable, it can escape responsibility and Pitt could be responsible for the claim and the other party’s defense costs.
- Indemnification is only as good as the financial strength of the party offering the indemnification.

# Evidence of Coverage

# What Is A Certificate of Insurance?

A document issued by an insurance company or authorized representative (agent or broker) providing information about insurance policies for coverages purchased by the Insured. These documents can also be called an Evidence of Insurance, or Proof of Coverage.

## Items Included on a Certificate:

- Lines of Coverage - General Liability, Automobile Liability, Umbrella/Excess, Workers Compensation/Employers Liability, etc.
- Policy term – Effective date and Expiration date of the coverage
- Limits of Coverage – Per occurrence, Annual Aggregate
- Coverage written on an occurrence basis or claims made
- Additional Terms and Conditions, i.e. Additional Insured, Waiver of Subrogation, Primary & Non-contributory wording.

## A Certificate of Insurance is not:

- An insurance policy
- Legally binding
- A conference of rights upon the certificate holder
- A document that amends or alters coverage afforded by the listed policies



# Why is it Important?

- Provides evidence that the vendor has insurance in place in accordance with the contract
- Provides the Carrier name and policy numbers if a claim needs to be reported directly to the carrier without going through the vendor.
- Insurance is important to our insured because if a customer is injured/dies/suffers property damage from a product purchased or while on our premises, our insured can be held responsible for the loss suffered by the customer. If our insured is included in the vendor's insurance, then the vendor's insurance will cover the financial loss.
- Very important to obtain and review completed Certificates of Insurance ("COI").
  
- How to request a COI.

Please use the link below to request your COI. Copy and paste the link into a new browser in either Chrome or Firefox for it to work

<https://apps.fis.pitt.edu/cfoforms/CertificateOfInsurance>

# Common Contract Insurance Terminology

# Contract Insurance Terminology

Term	Definition / Comments
Self-Insured Retention (SIR)	Self insured retention. The amount paid by the policyholder before the insurance company becomes liable for reimbursing the loss. The insurer is not responsible for amounts owed within the SIR.
Deductible	The loss amount that the insured retains. With a deductible, the insurer pays the loss in full, then seeks reimbursement from the insured for the amount of the deductible.
Waiver of Subrogation	Under a waiver of subrogation clause, the insurance company agrees not pursue subrogation against a third party (typically vender/customer of insured). This waiver of the right of subrogation is a common request on Workers' Compensation, Auto and General Liability policies.
Alternate Employer	An alternate employer endorsement extends Worker's Compensation to companies with whom the vendor may do business. It is typically requested when using temporary workers or staffing services.

# Contract Insurance Terminology

Term	Definition / Comments
Contractual Liability Coverage	<p>Contractual liability provisions are intended to support the insured's indemnity agreements within various vendor/customer/business contracts.</p> <p>Most General Liability policies provide contractual liability coverage for "insured contracts".</p> <p>Insured Contracts do not include warranty of fitness, quality or performance.</p> <p>Contractual liability coverage does not include breach of contract.</p>
Retroactive Date	<p>The retroactive date designates the earliest date that events may be covered under a claims made policy. Claims arising from events prior to this date would not be covered.</p>
Extended Reporting Period (or "Tail Coverage")	<p>If a claims made policy is cancelled or non-renewed and not replaced, an extended reporting period (ERP) must be purchased to ensure coverage for future claims made against the insured. The ERP allows the insured to continue to report claims after their policy expires provided the event giving rise to the claim occurred prior to policy expiration.</p>

# Third Party Requests & Considerations

Term	Definition / Comments
Additional Insured	<p>“Additional Insured” Status grants the individual/entity coverage for liability imposed on them for bodily injury or property damage to others caused by the named insured’s acts or omissions. It typically does not protect the additional insured for their own acts of negligence.</p> <p>The benefit to the Additional Insured is that it allows the contractual indemnification to be supported by insurance and provides the Additional Insured a defense up front (as opposed to seeking reimbursement after the loss).</p> <p>The negative to the policy holder is that the payments for Additional Insureds will dilute your policy limits.</p> <p>As you review contract requirements, please keep in mind:</p> <ul style="list-style-type: none"> <li>• Adding customers or other business partners to your policy as Additional Insureds is commonplace relative to General and Auto Liability. It is more unusual to name an Additional Insured to a Professional Liability policy. You should attempt to strike any requirement to add a third party to a Professional Liability policy.</li> <li>• Additional Insureds cannot be added to Workers’ Compensation, Crime or Property polices as they are “first party” coverages.</li> </ul>

# Third Party Requests & Considerations

Term	Definition / Comments
A.M. Best Insurance Company Rating	Generally speaking, for all lines other than Professional Liability and General Liability, an AM Best Rating of A-, VII or higher for the insurance company is reasonable and acceptable.
Insurance Company Must be Authorized	The requirement that insurance companies must be authorized to do business in the state is acceptable. Any requirement that the insurance company must be “licensed” should be amended to “authorized.”
30 Day Notice of Material Change or Cancellation	Notice of material change is difficult to obtain as “material change” is not a defined term in an insurance policy.
Specific Policy Form Requirements	Sometimes the contract insurance provisions will require specific insuring forms (i.e.. Additional Insured Form CG 20 37). Because insurance companies often use their own manuscript forms, delete specific form reference or amend requirement to say, “or similar.”
Requirement to Provide Copies of Policies	Strike – the certificate of insurance should be sufficient. Occasionally they may require copies of certain endorsements (Additional Insured or Waiver of Subrogation) and those can be provided.

Questions?