



Coverage Issues – School District Mergers

Purpose:

The purpose of this guide is to make school leaders aware of coverage issues that could come into play in a merger of school districts. Specific and detailed advice can only be developed once the details of a merger are known. What should merging school districts do?

- Contact a coverage professional to obtain appropriate coverage as soon as the new board forms.
- Share the new school entities' Articles of Agreement with their coverage professional as soon as possible.
- VSBIT Multi-Line members should contact a member of the program's staff to review how to handle the merger.
- Coverage issues can be complicated. The following coverage related items should be reviewed with a coverage professional:

Introduction:

There are important issues related to property, liability and workers' compensation coverage that a newly formed school district board, and its transition team members, need to address well in advance of the date that the consolidating supervisory unions/school districts cease to exist. The newly formed school district should consult with a coverage professional and make sure each of the following issues noted below are addressed:

When do I need to start thinking about coverage for a newly combined district?

Completing applications for coverage and obtaining data required by underwriters can be a time consuming endeavor. Given this, we recommend that the newly formed school district contact a coverage professional to begin discussions about what coverage may be needed for the new school district as soon as its board begins to form.

What Coverage do we need for the newly formed school district?

1. *It should obtain coverage for school leaders' legal liability.*

It is critical to note that this is a "claims-made" type of coverage which includes a retroactive date. A policy providing "claims-made" coverage will only respond to claims made against you during the policy period, and then only if the occurrence that gives rise to that claim took place on or after the retroactive date that is specified in the policy. **Proper selection of a retroactive date should be done with the assistance of your coverage professional.**



2. *Coverage should also be purchased at this time for general liability and auto liability (non-owned and hired auto liability only if the newly formed school district does not yet own or lease any autos).*
3. *Between the time when the new district begins to form and before the consolidating supervisory unions/school districts cease to exist, the new district should consider purchasing coverage such as the following – property/inland marine, boiler & machinery, crime, workers’ compensation, employment practices liability, employee benefits liability, and cyber liability. Your coverage professional should help you determine what exposures emanate from your present operations. For instance, does the new district own property? Have employees?*



Multi-Line Members:

Multi-Line members need only contact the Program as soon as possible with prospective consolidation plans. Program staff will assist the member with obtaining all necessary coverage for the newly formed entity.

What do I do with coverage already in force for the consolidating supervisory unions/school districts?

1. Make certain the property, liability, and workers’ compensation coverage that each of the consolidating supervisory unions/school districts have in force is continued and not cancelled until such time as the consolidating supervisory unions/school districts discontinue operations and cease to exist.
2. Obtain from each consolidating supervisory union/school district an Insurance Summary that provides basic information about every policy that is in force (including, at a minimum, the insurance company name, policy number, policy period, a coverage description, and limits).
3. Determine, for each consolidating supervisory union/school district, which coverage is provided on an “occurrence” basis and which coverage is provided on a “claims-made” basis.
 - **There are no issues to address with respect to coverage that are provided on an “occurrence” basis** because the policy that is in force at the time of the occurrence that gives rise to a claim is the policy that will respond to the claim regardless of when that claim is made against the consolidating supervisory union/school district. Examples of coverages that may be provided on an “occurrence” basis include – property/inland marine, boiler & machinery, crime, student accident, general liability, automobile liability, and workers’ compensation.
 - **There are likely issues to address with respect to coverage that are provided on a “claims-made” basis.** Examples of coverage that may be provided on a “claims-made” basis include –



school board legal liability, employment practices liability, employee benefits liability, and cyber liability.

- Obtain from each consolidating supervisory union/school district details about all coverages that are written on a “claims-made” basis. Of particular interest are – the retroactive date, the extended reporting period provisions available (often referred to as tail coverage), the definition of a claim, and other provisions related to the reporting of circumstances to the insurance company that the consolidating supervisory union/school district believes may give rise to a claim at a later date. The easiest way to comply with this requirement is to obtain a copy of the applicable policies.
 - Your coverage professional will assist you with this task.
4. Obtain from each consolidating supervisory union/school district six years of currently valued loss runs for all coverage/policies they have purchased during the past six years.



Multi-Line members:

Multi-Line members need only to be concerned with obtaining information from school districts that are not presently covered in our Program. A list of our member supervisory unions/supervisory districts can be found by visiting <http://www.vsbbit.org/assets/Multiline-PDFs/VSBIT-Member-List-FY15-Website.pdf>.

What coverage changes are needed when the consolidating supervisory unions/school districts cease to exist and the new school district takes over?

1. The new district will expand all of its in force coverage provided on an “occurrence” basis to include the consolidating supervisory unions/school districts and their related exposures. These same coverages previously placed by the consolidating supervisory unions/schools districts should be cancelled or non-renewed on the same date that the coverages for all entities combined takes effect.
2. The new school district will need to work closely with their coverage professional to make decisions about the handling of the “claims-made” coverages to ensure there will be no gaps in coverage.



NOTE:

Before any consolidating supervisory union/school district cancels or non-renews any of its “claims-made” coverages, because coverage has been transitioned into the new unified union school district program, the consolidating supervisory union/school district should ask superintendents, principals and human resources if they are aware of any circumstances that they reasonably believe may result in a claim against the consolidating supervisory union/school district at some point in the future. **If there are any such circumstances – they should be reported to the applicable insurance company according to the terms of the applicable “claims-made” policy.**