



INTELLIGENCE

ASSOCIATION OF GOVERNMENTAL RISK POOLS

Pools Responding to COVID-19: Three Case Studies in Crisis Management

By Ann Gergen

It's sometimes difficult to see the forest for the trees, especially in the midst of change and crisis. The COVID-19 pandemic has so thoroughly transformed pool member needs, governance and even everyday operations that it may be difficult to appreciate the whole of our new reality. It's hard enough to see a few feet ahead—let alone step back and assess the entire forest.

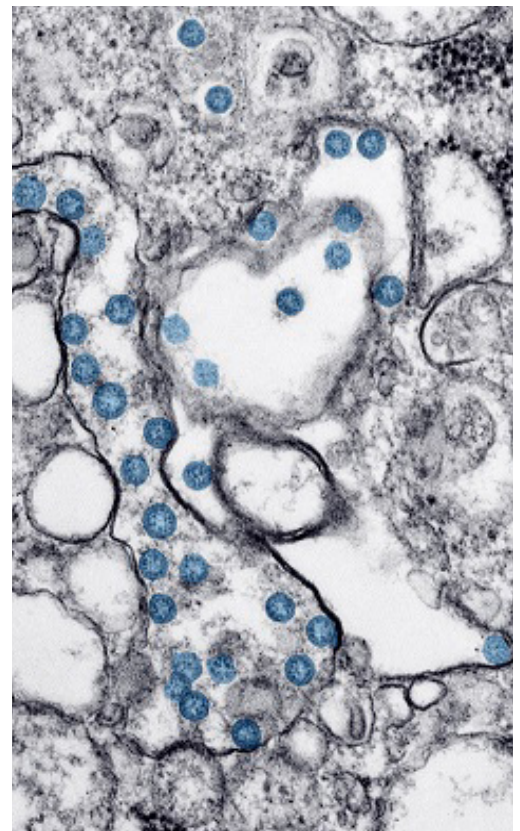
Although it will likely be years before we can fully appreciate the implications of COVID-19, taking time now to examine pool responses to this pandemic will help us appreciate both the trees and the forest. We interviewed leaders from the [South Dakota Public Assurance Alliance \(SDPAA\)](#), the [County Commissioners Association of Pennsylvania \(CCAP\)](#) and [SchoolCare](#) about their pools' coronavirus experiences, challenges and lessons learned. Among other topics, we discussed member relations and services, the transitions their pool staff teams have made, reinsurance and stop-loss coverage, and even executive leadership succession in a time of upheaval.

Here are a few of the most important “forest-level” takeaways from these and other conversations:

- **Pool member entities will expect responsive delivery of services based upon their specific needs at any given time.**

As soon as the pandemic began, pools quickly repurposed resources to deliver the kind of assistance their members needed most. That degree of responsiveness and flexibility has proved incredibly valuable to the public entities they serve.

In doing this, many pools have likely created new expectations for member services that will outlast COVID-19. For each new challenge public entities face, they'll continue to look to pools for rapid response and risk mitigation planning.





The **South Dakota Public Assurance Alliance** was founded in 1987 and protects 431 municipalities, counties, townships, conservation districts, and special districts from liability and property loss exposures.



Since 2017, Dave Pfeifle has been the SDPAA's executive director. Prior to joining the SDPAA team, Dave spent 23 years practicing law representing local governments across South Dakota as an in-house attorney and/or an outside litigation counsel. He is the immediate past president of the Public Sector Lawyers Section of the State Bar of South Dakota.

- **New pool governance models require a shift in mindset and—in some cases—bylaws or other governing documents.**

Most pools, including the three featured in this article, have focused and shortened their governing body meetings. Many others are using new methods to facilitate effective board conversations.

In addition, the pandemic has forced pools to review how they make decisions that require membership-wide action. Some are considering altering baseline governance requirements for quorum. Others are considering options to implement electronic voting.

- **A changed mindset about remote work will impact pool operations beyond the pandemic.**

The move to remote operations happened more quickly and involuntarily than many pools anticipated. Yet, despite widespread “Zoom fatigue,” most acknowledge the pandemic has moved them significantly toward accepting remote operations on a more permanent basis.

There are details to iron out regarding which pool employees will work remotely and how they'll do so most effectively. But many pools have already started actively adopting remote work policies and practices that will outlast pandemic operations.

Consider these perspectives as you read the following case studies from three AGRiP member pools and reflect upon your own pool's pandemic experience.

SDPAA

Early Days of Crisis

South Dakota reported its [first COVID-19 case](#) on March 10. Three days later, the governor [declared a state of emergency](#)—though not, crucially, the *public health* emergency local governments were requesting. While local governments did want to act to protect their communities from COVID-19, it wasn't clear what tools were available to them.

So, as is often the case in times of crisis, local governments looked to pools like the SDPAA—a property and liability pool covering 431 local government entities in South Dakota—for guidance. Dave Pfeifle, the SDPAA's executive director, recalls the inquiries coming in: “Are we within our legal authority to act to declare a public health emergency?” “Can we shut down services?” “What happens if we don't shut down services—is there liability?” “How far can we go?” “What's the role of government as a state actor at the local level?”

Unique Member Services With a Pandemic Focus

At least at first, the SDPAA didn't have much more information than its member entities did. Some case law existed from previous pandemics, but this time the state was playing an unusually limited role in the public health response.

The SDPAA quickly found and partnered with pandemic law experts, then communicated with all of its members to inquire about the status of their respons-

es to the crisis. From those initial communications, the SDPAA identified 85 member entities that had proposed or enacted protective health measures, then had its retained expert attorneys advise those members directly on any potential legal issues.

The SDPAA discovered that local public entities were trying a variety of approaches across the spectrum: shutting everything down, shutting almost nothing down, shutting certain types of businesses down where larger groups would gather, etc. “We were encouraging them to devise their measures to be as narrowly tailored as possible to combat the pandemic without going beyond what perceived authority they had as a local government,” Pfeifle says.

Many times during this process, Pfeifle found himself talking with the attorney working for a public entity. As a former county and city attorney himself, Pfeifle was able to connect “lawyer to lawyer” as he learned about members’ responses and informed them about the resources at their disposal.

Rather than superseding the role of a public entity’s attorney, the SDPAA took the approach of augmenting their legal services. Pfeifle found the attorneys in smaller communities—many working part time for the local government while juggling responsibilities for other clients as he once did—tended to most appreciate the resources and insight the pool was able to provide.

As of this publication, no claims against local public entities have materialized from the enactment of any protective health measures. This could be because such claims likely wouldn’t have jury appeal—local governments are doing the best they can under unusual circumstances.

Another way the SDPAA supported its member entities was by providing other virus-related legal advice through its existing employment practices and government practices hotlines. These hotlines were already receiving over 100 calls per year before the pandemic. Starting in March, the phones were ringing off the hook with newly emerging coronavirus-related questions on employment and government operations.

When local elections originally set for April were all pushed back to coincide with South Dakota’s June 2 primaries, the SDPAA reinstated its elections hotline and retained two of the state’s election law experts to directly aid member county auditors and city election officials.

Pfeifle notes the SDPAA’s board of directors, internal team, panel attorneys and other service providers have worked hard to help local governments in South Dakota throughout this crisis. Inquiries have been handled seven days per week at all hours.

Member and Board Communications

In addition to hotline services and conversations with attorneys and other public officials, the SDPAA sent out several email blasts to its membership via each member’s designated representative for all pool communications. Keeping it simple seemed to work: Rather than overwhelming members with dense emails, the SDPAA sent out streamlined communications every few days, each on a focused topic.

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Unfortunately, the SDPAA learned that some recipients weren't always forwarding the emails to the people within their organization who would benefit most from them. Pfeifle notes this as a lesson for future crisis communications and says the pool is working on methods to channel important information to the individuals who perform specific local government roles.

Pfeifle believes the same direct and simple communication style the SDPAA uses with its members has also been helpful when communicating with its governing body. For example, he now provides the board brief updates on a regular basis rather than giving them everything at once when they convene. When the SDPAA's governing body members hear the same information again at a board meeting, they've had time to prepare fine-detail questions and can make more informed, thoughtful decisions.

Looking Forward

In the future, Pfeifle anticipates the SDPAA will spend a fair amount of time dealing with virus coverage exclusions, which will likely be demanded by the pool's reinsurers upon its upcoming reinsurance renewals. Given that expectation, the SDPAA and other pools will have to decide whether to cover virus-related claims from members on their own.

From a strategic planning standpoint, the SDPAA was fortunate—when the pandemic hit, the term of the pool's existing strategic plan had just expired. Pfeifle says the new strategic plan is likely to cover technology updates and advanced communications methods with members. Among other goals, the SDPAA hopes to finish implementing a new risk management information system and establish a self-service member portal to make email blasts obsolete.

When asked how the SDPAA would handle a similar crisis in the future, Pfeifle says the pool will act immediately rather than wait even a few days—of course, hoping there won't be another situation like this ever again.

“As lawyers, we're taught to be skeptical and very proactive,” Pfeifle says, “but here I joined many others in trusting at least momentarily that the state government would follow their own state statutes and their own pandemic emergency operations plan, which called for an immediate declaration of a public health emergency to unleash all the available resources for local communities battling the virus.”

Ultimately, Pfeifle thinks the pandemic demonstrates the value of public pooling compared to private insurers—the services the SDPAA provides go well beyond recompensing member entities. “We have a clarity of purpose emanating from our board that is shared by our entire team to be very proactive in assisting our members with their public service mission. No private insurer would provide that level of assistance, if any, to their insureds,” Pfeifle says.

CCAP Insurance

Quick Move to Remote Operations

Like many of its counterparts, CCAP—an association encompassing several risk-sharing pools serving counties in Pennsylvania—quickly maximized remote operations when the coronavirus hit. Before the pandemic, it already had a telework policy in place (albeit with some limits). Once physical distancing restrictions went into effect, it was fairly easy to scale up to full-time remote work.

John Sallade, managing director of CCAP's insurance programs, describes the association as highly cognizant of the need to support its staff and keep them informed. For example, CCAP's executive director now sends out a daily email summarizing important developments (COVID and otherwise).

Sallade says CCAP is starting to plan for a return to offices—but is taking a fairly conservative approach as it does so. With safety as the top priority, it's monitoring recommendations from the CDC and Pennsylvania Department of Health. Upon an eventual return to office life, the association will have new workplace hygiene expectations and a system to remind staff members of their responsibilities (e.g., to wipe down desks). Like other organizations, CCAP is considering a mechanism for employees to report noncompliance.



CCAP will be reopening its offices gradually.

CCAP's reopening process will be gradual and involve staff coming back before the public is allowed to enter the building, which normally hosts hundreds of member meetings per year. Sallade expects certain employees with roles and duties conducive to remote work will stay outside the office indefinitely.

One thing that strikes CCAP is how all-encompassing the pandemic has been—pools and member entities aren't usually affected so much by the same event. "You're usually outside looking in on what they're doing and trying to help and figure it out," Sallade says. The widespread impact of COVID-19 has been an important learning experience that CCAP and its pools won't soon forget.

Governance Upsides and Downsides

CCAP has spent significant time and energy these last few months facilitating effective remote governance for all of its pools. Even before the coronavirus crisis, CCAP produced an electronic packet for its pool meetings sent via secure download link. This not only provides consistency with prior practice when distributing materials, but it helps facilitate remote governance—governing body members can easily follow along with memos and on-screen presentations.



The County Commissioners Association of Pennsylvania administers ten risk-sharing pools that provide counties and county-related entities with insurance coverage as well as risk management services and training. Its first pool, the CCAP Unemployment Compensation Trust, was founded in 1980. CCAP's programs were among those that helped create AGRiP.



John Sallade, CRM, oversees ten pools, captives and risk management programs for the County Commissioners Association of Pennsylvania. He served on the AGRiP Board of Directors from 2002 through 2009, including as president (2008–9). He has 40 years of association experience, including 36 with municipal governments, and has created, administered and marketed more than 20 different pools, captives and insurance programs for association members. Sallade is a highly rated speaker, serves on the board of directors of County Reinsurance, Ltd. and holds a master's degree in public administration.



***Barb Zemlock** is in-house counsel to several CCAP pools, including the Pennsylvania Counties Risk Pool, the PA Counties Workers' Compensation Trust, the CCAP Unemployment Compensation Trust, and the CCAP Health Alliance. Among other CCAP responsibilities, Zemlock handles corporate governance and policy issues, coverage issues, member issues, and legal issues involving the implementation of pool programs. She also advises CCAP pool boards of relevant decisional and statutory changes in the law. Zemlock frequently speaks on legal issues impacting public entity pooling and serves as a resource for pool members, their solicitors and other counsel. She has been practicing law since 1990.*

CCAP pools have also found that tightening and focusing meeting agendas is important to keep governing body members—who have their own priorities to manage—engaged and feeling productive. The pools are holding more frequent meetings of shorter duration than they normally do.

Barb Zemlock, legal counsel for CCAP's insurance boards, identifies a related governance limitation: It can be harder for a governing body to engage deeply on important issues that aren't particularly time-sensitive (e.g., bylaws changes) when in a remote meeting. To address this problem, CCAP has been establishing or expanding governance committees for each of its pools.

In addition, Zemlock points out the importance of the pools' bylaws themselves, now being interpreted for the remote world. In some ways, the bylaws are flexible: They allow for telephone or video meetings. In other ways, they're unclear—CCAP and the pools had to decide whether remote voting is a legitimate option under existing bylaws language.

Looking back, Sallade and Zemlock say it might have been useful to prepare governing body members and chairs with online meeting facilitation skills. But, with the pandemic surging and reinsurance renewals pending for the liability and property pools, CCAP pool governing bodies had to quickly adapt to the new reality.

Somewhat accidentally, this crisis has given CCAP the opportunity to put more time into orientation practices for new members of the pools' governing bodies. CCAP has increased its focus on orientation sessions through telephone meetings that have allowed new board members time to discuss issues and ask as many questions as necessary.

Succession During Crisis

To compound the challenges of the pandemic, CCAP recently saw the [elevation of a new executive director](#). When Doug Hill retired in late 2019 after 35 years of leadership, he worked closely with his successor, Lisa Schaefer, to manage the transition—leaving her 13 pages of bullet-point notes to help guide her into the role.

A global pandemic and its follow-on effects were, needless to say, not in the plan. Nevertheless, Schaefer had a few advantages: Having been director of CCAP's government relations for over nine years, Schaefer and the rest of the association knew one other very well. Schaefer also retained CCAP's highly experienced senior staff, including Sallade, Zemlock and the rest of the pools' management team, which helped to support the entire organization during this time of crisis and change.

Perhaps surprisingly, CCAP has even identified ways in which the timing of Schaefer's succession actually benefited the organization. For example, CCAP and its pools have had the chance to reassess documents, policies and other aspects of operations previously taken for granted. Sometimes, that's meant starting from square one and considering what makes the most sense for future operations, rather than being anchored by past practices.

Reinsurance Renewal

Despite its great loss history, CCAP knew the property reinsurance market was about to get a lot more expensive—even before COVID-19 hit. In anticipation of rate increases for its June 1 renewal, CCAP’s property pool was already poised to look at options. Armed with its specific risk and exposure data as well as its historical loss information, CCAP moved its property reinsurance coverage to [County Reinsurance, Ltd.](#) and increased its self-insured retention.

Before COVID-19, CCAP’s liability and property pool had a very broad pathogen exclusion within its property and general liability reinsurance coverage agreements—and, correspondingly, excluded pathogen claims from its members. The pool adopted updated language upon its renewal that now provides an even more specific and clear communicable disease exclusion.

Investment Risk Appetite

Several years ago, each of CCAP’s risk pools reassessed their investment risk appetites. Having suffered from rising claims and reduced investment income during the 2007–8 recession, CCAP’s unemployment trust decided to adopt a very low-risk investment strategy.

That’s turned out to be a good decision. Even though unemployment claims are now up, CCAP’s unemployment trust has been able to maintain its net position. In our conversation, Zemlock and Sallade underscored how a changing risk and investment environment can impact pools. As governing body members and general circumstances change, CCAP thinks it’s important for those tasked with pool governance to frequently reassess investment and financial strategies.

In fact, CCAP pools will be looking at net position and risk tolerance policies again soon given the likelihood of a local pandemic resurgence or the chance that a vaccine isn’t developed quickly.

Engaging With Members

In general, CCAP has been highly proactive and engaged with its communications, and its members have appreciated the connection—even when the news may not be what they want to hear.

For example, CCAP members have reached out to learn whether business interruption coverage would cover the costs of pandemic responses like sanitization and disinfection of buildings. CCAP did its due diligence to determine whether this coverage applied and ultimately determined it didn’t.

“We try to find coverage for our members,” Zemlock says, “but you also have to be intellectually honest to the pool.” She stresses pools can’t provide coverage just because of sentiment. That said, CCAP did not want to leave its members without any assistance, so it redirected them to existing grant programs to help them recoup cleanup and mitigation costs.

CCAP is also reemphasizing its credits program for various lines of coverage in exchange for participating in risk management education. In the past, these

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SchoolCare was founded in 1995 as the New Hampshire School Health Care Coalition by bringing together associations representing public entity management and labor groups in the state. Today, SchoolCare provides health benefits for nearly 100 public entities, including school districts and towns.



***Lisa Duquette** has worked in public entity pooling for over 20 years. Since 2008, she has served as executive director of the New Hampshire School Health Care Coalition's SchoolCare health benefit plans. Under her guidance and leadership, the pool has grown to cover over 25,000 lives. Duquette holds a bachelor's degree in business and a master's degree in accounting. Her certifications include Achievement in Public Plan Policy (CAPPP™), Essentials of Risk Pool Management (ERPM) and Certified Healthcare Reform Specialist (CHRS). She currently serves on the AGRiP Health Pool Resource Group and previously served on the Membership Practices Committee.*

might have been live trainings. Now, they're online sessions. "It's not new, but we've reemphasized it," Sallade says.

Many members are also asking about Pennsylvania's workers' compensation benefits in the context of COVID-19. The state hasn't yet amended its workers' compensation statute to address the virus, nor have there been many COVID-related work comp claims (the ones that have come in are mostly from prisons). Nevertheless, CCAP has already brought in workers' compensation counsel to address COVID claims only. It hopes to have consistency and a unified defense if the law is one day amended.

The association's pools aren't just dealing with coverage questions. Some members have inquired about simply not bringing employees back to work—to which CCAP gently reminds them to contact their HR attorneys for union contract and civil service guidance.

As far as reopening is concerned, Pennsylvania's general stay-at-home order ended on June 4, with almost all counties having entered the "green" phase of reopening before July. Nevertheless, some CCAP members wished to open before the governor recommended it was safe to do so. In response, CCAP produced materials to describe plainly the risks and exposures of early reopening.

Both Sallade and Zemlock describe reopening as, at times, a challenging partisan process requiring CCAP pools to remain focused on real, tangible risk issues. Pools are used to dealing with members of both parties and remaining apolitical—but, in the polarized coronavirus environment, the focus on underlying risk issues has become even more important for CCAP and its members.

Looking back, CCAP feels the crisis has helped it build useful member-to-member connections and conversations. Before COVID-19, CCAP had a listserv for risk managers that wasn't terribly active. Now, it's "invigorated." Sallade thinks the participants will probably meet in person once the pandemic is over.

SchoolCare

Creative Member Communication

In the absence of the face-to-face interaction pools are so accustomed to, SchoolCare—a New Hampshire-based pool providing health benefit plans for school districts, towns and other public entities—has had to think creatively to get its members the information they need.

One method SchoolCare has embraced is livestreamed videos, usually through Facebook Live or Microsoft Teams. These videos are then distributed to plan subscribers via email. Lisa Duquette, executive director of SchoolCare, cites virtual benefits education as an example of unexpected success. "I would have never imagined that we would do a new benefit education presentation virtually. But we are getting the same attendance that we would have in person. We have a means for them to ask questions and get feedback."

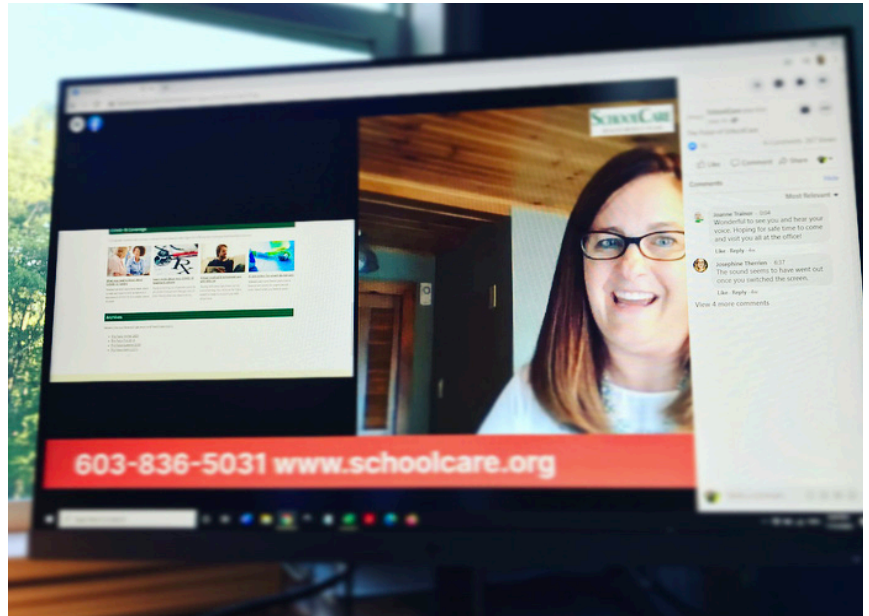
Other videos touch on regulatory and legal changes. “We’re all getting very comfortable behind the camera,” Duquette says, though she acknowledges this took time and training for SchoolCare staff.

Regardless of the topic, a lot of work goes into producing these videos—it means reading up on complex changes to regulations and participating in online training, then filtering the relevant information out to members. Duquette compares it to the passage and implementation of the Affordable Care Act in the early 2010s—but “on steroids” and without warning or any time to prepare.

Even if things do return to a sort of normal, Duquette expects some virtual member engagement will continue, since certain people do respond better to that kind of interaction. She acknowledges continued remote outreach will challenge their small team, which will have to balance in-person and virtual meetings in the future.

Another area where SchoolCare has been challenged is in the volume of inquiries from subscribers for refunds and financial support. This was unexpected—the school environment has collective bargaining agreements that make layoffs or benefit changes more difficult, and so there haven’t been major changes to the scope of subscriber benefits.

Still, subscribers and member entities have been asking for money back—for example, due to the cancellation of a SchoolCare wellness biometric event. The pool has found success in focusing on the regular return of surplus to members, though Duquette sees a need to get better at articulating the return’s purpose and the factors that go into it.



SchoolCare's livestreamed videos have received positive reaction from its member entities.

Expanded HR Services

Benefit pools often already have a “fuzzy line” between benefits administration and HR processes (e.g., FMLA, COBRA extensions). These days, SchoolCare’s insurance programs are providing more help than usual to their member entities’ HR staff—despite it not quite being their normal mission scope to do so. For example, when the IRS [relaxed its regulations regarding flexible spending arrangements \(FSAs\)](#) in May, SchoolCare helped its members navigate the new rules and helped subscribers understand their election options.

Duquette describes the decision to expand SchoolCare’s scope and member assistance as natural given revenue shortfalls and increased demand on SchoolCare’s member entities—at least for the next 12 to 18 months.

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Stop-Loss Coverage

From SchoolCare's perspective, stop-loss carriers don't seem to be that concerned about COVID-19. More top-of-mind are the expensive gene therapies on the market (costing hundreds of thousands or millions of dollars) and expenses related to the underlying health conditions SchoolCare covers.

Duquette calls this out as an important aspect of managing a health pool operation. Just because there's a lot of focus on COVID-19, the baseline health needs of subscribers don't go away. Like other health pools, SchoolCare is mindful there could be pent-up demand for health care and some underlying health issues that are not being fully addressed right now.

Strategic Planning

When the pandemic hit, SchoolCare was about to kick off strategic planning, which it has since put on hold. But, as luck would have it, the pool's prior strategic plan emphasized the need to strengthen its data and communication infrastructure. In fact, SchoolCare had recently budgeted for those items—a timely investment that helped it navigate pandemic operations.

Duquette says she didn't exactly *predict* the pandemic, but similar scenarios had been part of the pool's prior strategic planning work. In fact, in 2019, SchoolCare identified a pandemic as one of the top five threats to its members and its operations. Having thought broadly about the pool's risks and possible futures helped SchoolCare's governing body and staff team when faced with the need to make quick decisions in light of COVID-19.

Leadership Lessons

To lead effectively in the new remote environment, Duquette quickly found it necessary to bring her team together for daily morning calls. This was not just for the sake of task coordination and member response, but also to make sure the team was mentally sound and prepared. Over the last few years, Duquette says she has thought about the importance of empathy as a leader—understanding people's differences, feelings and perspectives. “I don't think you can underestimate that—folks need to know that as a leader of the organization you really care about them.”

Among the things she's done to demonstrate she cares for her team: Duquette drove 350 miles in one day around New Hampshire distributing personalized coffee mugs to her staff along with handwritten notes thanking them and recognizing their challenges. “It was very fulfilling for me,” she says. “Group meetings really felt lifted after I made that drive.”

Duquette sees a leadership lesson here for normal times as well: recognizing how important it is to check in with your staff even if you're busy—that a little nurturing can create a better outcome. “I think any leader should recognize the impact that they have on a team.”

She emphasizes that employees need nurturing as people—and she’s learned how important it is for her personally to support her staff. When the crisis abates, Duquette plans to spend more time in one-on-one conversations.

Despite the challenges, Duquette reflects on the last few months pretty positively. She admits it’s been chaotic, but adds, “Not every organization has been able to maneuver through the process as quickly as we did. I’m really proud of what the SchoolCare team has accomplished.”

As the COVID-19 pandemic and its implications continue to evolve, so too will our understanding of the shifting expectations of and pressures on pools.

We hope these three case studies will elucidate both immediate pool needs and responses (the trees) and the overall, long-term ramifications (the forest) of this transformative time in public entity pooling.

Please [contact AGRiP](#) if your organization has insights to share or if you would like to connect with the pools featured in this article.

About the Author



ANN GERGEN oversees operations, governance functions and member service delivery for the Association of Governmental Risk Pools. Ann routinely communicates and collaborates with the more than 200 pools that participate in AGRiP and their service providers.

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The **ASSOCIATION OF GOVERNMENTAL RISK POOLS** is a multinational organization for public entity risk pools with over 200 members from the United States, Canada and Australia. By providing support in the fields of education, intelligence, advocacy, networking and best practices, AGRiP energizes the power of pooling, making member organizations more effective, collaborative and informed.