

YOUR EYE ON THE WORLD



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KNOWLEDGE EQUALS POWER

Non-Profit Liabilities and Exposures

When does a non-profit need to worry about liability and exposures? The day it opens for business. A non-profit organization faces most of the same liability exposures as a for profit corporation.

These liability exposures can be broken down into different categories. Two main issues are employment and liability exposures.

With employment, there is the exposure of hiring the wrong person. Wrong person can be defined as the wrong personality, a person who lacks the proper skills or someone who brings their own liability issues by having a criminal history. This includes paid staff and also volunteers that are often the backbone of a non-profit organization.

Many organizations are not aware that volunteers have the same rights to protection as do paid employees. As well, non-profits can be exposed by the actions and activities of volunteers.

EMPLOYMENT ISSUES

Much of the liability from inefficient hiring practices can be prevented by performing pre-employment background checks on both volunteers and staff. The purpose of screening is to aid volunteer and non-profit organizations and agencies in determining whether prospective volunteers and staff have a pattern of criminal behavior that would make it unwise for them to be working with vulnerable populations.

Pre-employment background checks

- Helps protect non-profit organizations from negligence claims
- Helps ensure safety of vulnerable populations such as children and the elderly
- Helps protect non-profit organizations from negligence claims

Although the majority of surveyed nonprofit human service organizations conduct some screening, most agencies that serve vulnerable populations could benefit from more thorough and comprehensive volunteer screening practices.

The urgency of such questions has risen in recent years, as millions of volunteers (61 million in 2006)(1) donate billions of hours, sometimes serving in roles previously reserved for paid staff. Thorough security practices, play a critical role in protecting vulnerable clients from harm and nonprofit organizations from liability.

Organizations that do not screen volunteers reported a variety of reasons, including the cost of screening, questions about the usefulness of screening, and concerns about offending potential volunteers. Of those that do screen, nearly 50 percent had identified "inappropriate" volunteers through screening.

LIABILITY ISSUES

Liability exposure is the peril of not having the proper insurance policy and coverage to cover the people that work for the non-profit and also those that are served by the non-profit, along with the general public.

These categories are defined really by the insurance coverage that responds to them. The main liability exposures to non-profit organizations are as follows:

- **General Liability Exposure**
- **Workers Compensation**
- **Professional Liability**
- **Employee Benefits Liability**
- **Auto Liability**
- **Directors Liability Exposure**

General Liability Exposures

- Bodily Injury
- Property Damage
- Personal Injury

Worker's Compensation Exposure and Coverage

Worker's Compensation provides coverage in two parts. Part one is the statutory benefits for the injured employee. Part two is the "Employer's Liability" coverage.

Worker's Compensation coverage is REQUIRED by law.

Please remember that you have NO defense in the event an employee is injured and you do not carry worker's compensation coverage. You WILL pay the statutory benefit to the injured employee. Bankruptcy is not an option. The personal assets of the directors and officers WILL be attached if there are no other assets. Directors and Officers coverage WILL NOT defend the D&O's and the organization if you fail to maintain workers compensation coverage.

Professional Liability

Directors and Officers Insurance does indeed provide coverage for Professional Liability. However, there are two very important reasons why you should look at a separate policy for professional liability

Directors and Officers Insurance does not provide for Bodily Injury claims. The directors and officers policy may specifically exclude coverage for certain business practices of a non-profit organization.

Employee Benefits Liability Exposure and Coverage

Employee Benefits Liability applies to errors made by the human resources individual in your organization responsible for administering the employees benefits. Liability arising from providing erroneous information concerning group health, COBRA, worker's compensation, and other employee benefits can be insured by purchasing an employee benefits liability policy.

Fiduciary Liability Exposure

Fiduciary Liability arises when promised results are not met, or when you are accused of giving bad financial advice.

Auto Liability Exposure and Coverage

Liability arising out of the ownership or use of an automobile. If you own vehicles, purchase the insurance. If you do not own vehicles, add hired and non-owned auto liability to your General Liability coverage. If you frequently rent vehicles, add hired physical damage coverage to your auto policy and avoid paying the rental car waiver fees.

Directors & Officers Liability Exposure & Coverage

The exposures facing directors and officers are unique and complex. Any action taken by a board member can be legally challenged by a third party. In addition, the scope and impacts of the directors and officers duties are continually expanded by the courts. Direction of the non-profit organization has an impact not only on the organization, but on the employees and volunteers of the organization. Directors and Officers are now held accountable for the business practices of the organization such as hiring and firing of employees.

Nonprofits are vulnerable because they are mission driven. Everyone is working based on the belief that the mission is important and everyone in the organization is passionately working for the cause. No matter how deeply you are engaged in your mission, how much you hate dealing with the money, or how short staffed you are, never ever entrust one person to handle all the matters.

ISGU can help you make safe, informed decisions about the people you work with, the companies you contract with and the policies and procedures needed to help you make these decisions.