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Protect Directors and Officers From Legal Liability

It's an age of personal responsibility and legal liability can cause financial ruin for your organization's officers and board members.

Directors and officers of nonprofits can be *personally* responsible for managing the affairs of the organizations. (This can also be true for directors and officers of for-profit companies.)

Being an effective board member takes time, effort and diligence. Neglect or a disgruntled party can result in your directors being held individually liable for their actions in court.

Suppose you run a mentoring program and a parent sues because one of the mentors has a history of drug abuse. Your directors could be individually liable for not performing strict background checks on volunteers.

Here's a list of just some of the claims that have been filed against non-profits and their officers and directors:

- Employee discrimination.
- Wrongful termination.
- Sexual harassment.
- Hiring decisions.
- Promotions and compensation.
- Activities in which volunteers are injured.
- Donors who feel their contributions have been misused or mismanaged.

The risks are particularly keen for not-for-profit organizations because many of them aren't wealthy enough to mount a legal defense and pay settlements, which can run \$1 million or more. These sums can devastate your organization and the personal finances of its directors and officers.

To provide protection, buy "directors' and officers' insurance" or update your current coverage. This insurance can reimburse the organization for indemnification expenses; make payments to directors who aren't reimbursed for legal expenses; and -- with careful planning -- cover employment cases, which make up 50 percent of all claims against boards.



The Allocation Complication

One of the most misunderstood aspects of directors' and officers' insurance is *allocation*: What is covered and what isn't? Who is insured and who isn't? How to divide up responsibility for defense costs and settlement between the directors and officers and the organization itself.

Allocation is required when a policy doesn't provide "entity" coverage to the organization and a lawsuit is brought against directors and officers *and* the organization. In that situation, a policy would cover the defense and settlement expenses of the individuals but not the organization.

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