

Don't Be The Next Headline

Liability Protection Strategies For Nonprofit Organizations

Nonprofit organizations have seen a tremendous increase in lawsuits from some unlikely sources since the 1990s. Lawsuits have been filed by employees, donors, grantors, board members and third parties, as well as government organizations.

To mitigate the chances of your organization being sued, get proactive by building in safeguards for your existing policies and procedures.

Beware of Worker Liability

With the increased pressure to provide more services with fewer resources, many nonprofit organizations are doing their best to increase efficiency while keeping costs down; some are relying more on their volunteers and hiring less-qualified employees. While this may help their bottom lines, it may open up their nonprofit organizations to a huge risk — employment practice liability.

According to the Equal Employment Opportunity Commission, allegations of age and race discrimination, sexual harassment, and discrimination due to disabilities are the top reasons why employees file lawsuits against their nonprofit employers. Even if no discrimination or harassment occurred, the financial burden of defending a lawsuit, including attorneys' fees, settlement costs and a probable drop in donor funding, can devastate an organization.

Across the nation, nonprofit organizations are lobbying state and federal governments to initiate liability-limiting statutes to decrease these multimillion-dollar lawsuits.

Until these statutes are passed, however, consider acquiring employment practice liability insurance and volunteer liability insurance to protect your nonprofit's assets from such legal actions.

Nonprofit Community Insurance Fund of Florida was created by Florida Statute 624.4625 and allows Florida's governmentally funded, nonprofit corporations to pool their property, liability and workers' compensation coverages to more efficiently control costs.

Qualification:

- Nonprofit corporations located in Florida
- Revenue composed of a minimum of 75% local, state, or federal government funding or combination of such sources

Classifications include but not limited to:

- Alcohol and Drug Abuse Rehabilitation Centers
- Area Agencies on Aging
- Associations of Retarded Citizens
- Foster Care
- Hospices
- Mental Health Associations
- Community Transportation Coordinators

Lines of Coverages:

- Auto Liability/Physical Damage
- Boiler and Machinery
- Crime/Bond
- Directors and Officers Liability
- Employment Practices Liability
- Flood
- General Liability
- Property and Inland Marine
- Workers' Compensation



In addition, if you don't already have one in place, develop an employee handbook outlining your employment policies. It can help ensure your employees comply with employment laws and help protect your nonprofit against claims such as discrimination, wrongful termination and sexual harassment.

Protect Your Own

Because of their high level of responsibility, your directors and officers are always at risk. After all, they have fiduciary responsibilities and must answer to your donors, the media and the federal government if impropriety is uncovered.

And even though many directors volunteer their time and expertise, they can be held liable for allegations against them if it's found that they aren't performing in a way that is beneficial to the nonprofit. That's why it's important to protect your directors and officers by purchasing directors and officers liability insurance. But you should also review your directors' qualifications and leadership decisions, and, if necessary, evaluate those decisions to make sure they have the nonprofit's best interest in mind and not their own agenda.



Use Donations Wisely

Over the last decade, fraudulent activities at some nonprofit organizations — such as making false claims on employee expense reports and using restricted funds for other projects — have increased the risk of donor litigation. The result? Donors and governmental agencies are increasingly asking for proof that funds are being used properly.

Besides the risk of donor lawsuits, using restricted funds for spending that isn't within the scope of a contribution is a component of fraud, which can result in heavy fines from the IRS and possible loss of tax-exempt status.

Although limited resources at your nonprofit might make it difficult to maintain good funding records, make it a top priority. Ensure that books are closed in a timely manner and internal audits of sensitive accounts, such as donations and restricted funds, are accurate and have proper supporting documentation.

Prevent Problems

The remedy for these types of lawsuits and potential problems is to hire experienced employees, follow the law and good accounting practices, and carry appropriate insurance to protect your nonprofit's assets. Also, be sure you have knowledgeable individuals in executive positions who understand your nonprofit's mission and goals, and consult legal and accounting professionals as appropriate.



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