

Board Member's Personal Liability Risk Checklist

- ☐ **Cyber insurance** – covers breaches due to the loss, exposure, theft and/or corruption of electronic information.
- ☐ **Employment practices liability (EPL) insurance** – covers claims made by employees against employers about issues of discrimination, harassment, violence or abuse in the workplace.
- ☐ **Environmental liability insurance** – covers allegations of environmental wrongdoing involving the contamination of air, water or land caused by your organization.
- ☐ **Product liability** – covers product defects that causes a catastrophic injury.
- ☐ **Product recall liability** – covers the costs to remove a product from the consumer stream as well as disposal and public relations liabilities.
- ☐ **Sexual abuse or molestation** – covers allegations of abuse or molestation that occurs while under your organization's direction or location.
- ☐ **Crime or fidelity insurance** – covers incidents involving theft by employees.
- ☐ **Media liability** – covers slander and libel allegations involving for publishing, marketing or trusted information sources (such as social media influencers).

As a board member, you could be held personally liable for the decisions and actions of the board, even in the case of impropriety on the part of other members. A lawsuit might name everyone at an organization, including board members, before a determination is made. Think in terms of long-haul and worst-case scenarios when insuring yourself.

Determine the risk areas

Think about some of the bigger issues that your organization might be facing and consider the insurance coverage options available, such as:

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Research your organization's risk plan

Do some legwork before you accept your leadership position:

- Review your exposure areas with your lawyer and your insurance broker.
- Inventory your assets and insure yourself to that level if you can. You'd be surprised what can be considered an asset and named as payment in a lawsuit (real estate, monetary assets, trusts, current and future earned income, spousal and domestic partner income and future earned income and so on). Think of long-haul and worst-case scenarios.
- Talk to the organization's current leaders and gather as much insight as you can from the organization's financial statements and claims history.
- Get copies of their current insurance coverage such as commercial general liability, D&O liability, hired and non-owned, environmental liability, cyber liability, crime and fidelity, abuse and molestation liability and employment liability insurance.
- Be clear on the insurance policies in play, and their exclusions and limits.
- Review all sides of a D&O policy (sides A, B and C) and layer them appropriately. It could be a combination of coverage between what the organization offers and what you buy for yourself.
- Review the organization's activities, service base and the risk factors associated with them (such as youth groups, elder care, developmentally disadvantaged). Depending on the organization, you could be held to a higher standard, regardless of assets.
- Ask the organization if it has assessed its exposure areas and made a mitigation plan.
- Review any written risk management plans for addressing exposure areas.
- Discuss the organization's insurance and claims history with your lawyer and your insurance broker so you can make an informed strategy for your own personal liability.
- Review your insurance policy annually with your insurance broker – laws and exclusions change.

Already on a board? Ask for a policy review

If you're already in your position on the board, ask to discuss the coverage with the board at an upcoming meeting. Reach out to your insurance broker for more information on D&O coverage or other coverage options. Your insurance broker might be willing to do a presentation to your board about exposure areas and coverage options.

Being on a board or in a leadership position is exciting and meaningful. Take time to protect yourself and the organization that you care about.

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