



Do You Need D&O/EPL Insurance?

Is it worth the cost?

By Sara Ruggiero and Rich Geoghan

Q: I'm the executive director of a new nonprofit organization with only a few employees and board members. We have been hearing about D&O/EPL insurance. What is it? Do we need to purchase it in addition to our general liability insurance? How much will it cost us?

A: In today's litigious environment, there's a greater need than ever before for nonprofits to purchase Directors and Officers (D&O) and Employment Practices Liability (EPL) insurance. Recent laws governing employment, wrongful termination, discrimination, and sexual harassment have boosted awareness of the need for such insurance. State and federal laws and indemnification clauses in an organization's bylaws may provide some protection to officers. But if your organization has employees — paid or volunteer — it's strongly recommended that you explore the benefits of a D&O/EPL policy to protect your organization.

Nonprofit directors and officers are legally responsible for the organization's day-to-day decisions and are held personally liable for their judgments. The heavy responsibilities of these positions are accompanied by substantial risk to those who perform them. A director's personal assets, such as retirement savings, investments, or even a home, are at risk if your organization is sued and proper coverage isn't in place.

What Is Directors' and Officers' Insurance?

D&O insurance was created to protect nonprofit organizations and their board members against claims not covered under the organization's general liability policy. These claims or allegations are a result of the decisions or actions made by the board or the director. Examples of such claims include alleged misuse of funds, age discrimination, failure to supervise an executive director, and breach of fiduciary duty.

Board members for organizations without D&O coverage could be putting their own personal assets at risk. Even with indemnification clauses in place, an individual's assets may not be adequately protected in the event of a lawsuit. Claims of this nature can quickly become expensive. In some cases, a single D&O claim has forced an organization into insolvency.

What is Employment Practices Liability Insurance?

EPL insurance is usually provided as part of D&O insurance at a small extra price. It protects the insured from a variety of employment related claims, including employees suing for wrongful termination, discrimination, failure to promote, wrongful discipline, retaliation, sexual harassment, and many others.

Why Do You Need Employment Practices Liability Insurance?

- **Organizations are more likely** to have an employment practices claim than a general liability or property claim.
- **Three out of every five employers** are sued by former employees.

- **Over 60% of firms** that have fired an employee have been hit with an employment related lawsuit.
- **The median award** for plaintiff verdicts is over \$200,000.
- **Over 40% of all employment practices claims** are brought against firms with less than 100 employees.

Who Would Sue You, and Why?

Ever have to fire someone? That simple act puts your organization at high risk for a discrimination, harassment, or wrongful termination lawsuit. Employees, members, volunteers, and donors who disagree with management decisions are just a few of those who could sue your organization. Even if a director or officer hasn't done anything wrong, lawsuits still become costly. Over 80% of nonprofits have an annual budget less than the average cost to defend a D&O claim.

Directors and Officers coverage with Employment Practices Liability is available to most nonprofit organizations for a minimal premium. It's a small price to pay for the peace of mind and assurance that the organization will be protected from litigation.

The cost is based on the organization's revenue, number of employees, claim history, and coverage requested. If your organization doesn't currently carry D&O/EPLI coverage, now is a better time than ever to explore your coverage options with your board of directors. ■

Sara Ruggiero & Rich Geoghan
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