

## CHECKLIST

# Nonprofit Risk Management: Essential Questions and Coverage Checklist

Nonprofits face a rapidly evolving risk environment that requires complex insurance coverage to protect their organizations. But understanding the various coverages and policy language and whether they meet the organization's needs is no easy task. This guide provides critical questions to ask your broker and a comprehensive coverage checklist to ensure your organization has the right protection.

Use these tools to identify coverage gaps, strengthen your risk management approach and protect your organization, your board and your mission in an uncertain landscape.

## 5 Critical Questions to Ask Your Broker

### 1. Directors and officers (D&O) coverage:

- Does our claim definition include regulatory proceedings, investigations and criminal proceedings?
- Do we have entity investigation coverage, not just coverage for individual board members and officers?
- Is pre-claim expense coverage included and what are the sub-limits?
- How does our policy address subpoenas and circumstances that could give rise to claims?

### 2. Employment practices liability (EPL) insurance:

- Do we have third-party discrimination coverage addressing claims from vendor selection, grant-making and service delivery decisions?
- Are independent contractors, interns and volunteers covered as insureds under the policy?
- Does our wrongful act definition include all key exposures, such as bullying, negligent hiring, misrepresentation, defamation and FMLA violations?
- What supplemental coverages are available at no additional cost (workplace violence, wage and hour defense, WARN Act coverage)?



### 3. Cyber and crime coverage:

- Do we have at least \$3 million in coverage for vendor breach scenarios?
- Are regulatory fines and penalties covered under the policy?
- Does the policy include breach response services and access to a breach coach? Are those services provided within, or separate from, the policy aggregate limit?
- Is third-party vendor breach coverage clearly included, not excluded?

### 4. Professional liability/errors and omissions (E&O):

- Is publishers liability included in our coverage for content dissemination that addresses libel, slander, defamation, infringement and plagiarism claims?
- Do we have coverage for vicarious liability arising from unqualified contractors or volunteers?
- Does the policy address failure to adhere to our stated mission?
- What exclusions exist that might affect our specific services?

### 5. Definition of loss across all policies:

- Are punitive damages, civil penalties and multiplied damages covered where insurable by law?
- Are defense costs included inside or outside policy limits?
- Does the loss definition include regulatory fines and penalties?

## Coverage Checklist: Verify Your Protection

### D&O insurance policies should include:

- Claim definition includes criminal proceedings and regulatory investigations
- Claim definition includes extradition proceedings
- Claim definition includes non-monetary relief including injunctive relief
- Entity investigation coverage included
- Pre-claim expense coverage with appropriate sub-limits
- Policy addresses subpoenas and potential claim circumstances
- Policy provides both individual insured coverage (Sides A and B) and entity coverage
- Side A coverage protects directors' and officers' personal assets

### EPL insurance policies should include:

#### THIRD-PARTY DISCRIMINATION COVERAGE:

- Grant-making decisions
- Service delivery claims
- Vendor selection decisions

#### DEFINITION OF "INSURED" THAT INCLUDES COVERAGE FOR:

- Independent contractors
- Interns
- Leased employees
- Temporary employees
- Volunteers

#### WRONGFUL ACTS DEFINITION THAT COVERS:

- All forms of discrimination and harassment
- Bullying
- Defamation
- FMLA violations
- Misrepresentation
- Negligent hiring

#### SUPPLEMENTAL COVERAGE:

- Employee privacy violation defense costs
- Wage and hour defense costs
- WARN Act defense costs
- Workplace violence coverage (typically \$250,000)

#### Professional liability/E&O policies should include:

- Appropriate limits for the organization's scope of services
- Failure to adhere to stated mission
- Negligence in service delivery
- Publishers liability for content dissemination
- Vicarious liability for unqualified contractors

#### Cyber and crime insurance should include:

##### CYBER COVERAGE (MINIMUM POLICY LIMIT OF \$3 MILLION):

- Access to breach coach
- Breach response and notification costs
- Business interruption coverage
- Media liability component
- Regulatory fines and penalties
- Third-party vendor breaches

##### DEFINITION OF LOSS ACROSS ALL POLICIES SHOULD INCLUDE:

- Civil penalties
- Defense costs outside policy limits (for maximum protection)
- Exemplary damages
- Multiplied damages
- Punitive damages (where insurable by law)
- Regulatory fines

##### CRIME COVERAGE:

- Computer and funds transfer fraud
- Employee dishonesty

## Governance Actions: Strengthening Your Foundation

#### Board and fiduciary oversight:

- Active board involvement in recruiting senior leadership
- Annual fiduciary training implemented for board members
- Board monitoring and accountability mechanisms in place
- Clear KPIs established for C-suite leadership
- Comprehensive succession planning documentation
- Retirement plan fiduciary training provided (if applicable)
- Training addresses duties of loyalty, care and obedience

## Financial controls:

- Dual signature requirements for checks above specified thresholds
- Dual signature requirements for electronic fund transfers
- Outsourced bookkeeping solution considered (if internal expertise limited)
- Separation of duties for financial transactions

## Policy and compliance framework:

- Biennial policy compliance reviews scheduled (annual if facing higher scrutiny)
- Defensible hiring and compensation records maintained
- Executive compensation reviewed through an independent third-party assessment
- HR policies updated to reflect current federal and state requirements
- IRS Section 4958 requirements met

## Documentation and record retention:

- Comprehensive financial records maintained
- Record retention responsibilities clearly defined
- Records maintained beyond 7.5 years where required (e.g., more than 30 years for sexual abuse/molestation claims)
- Training records kept with policy acknowledgments
- Vendor contracts reviewed for performance guarantees and security protocols
- Volunteer screening documentation current

## Strategic Preparedness

### Regulatory monitoring:

- Documentation prepared for potential investigations
- Federal and state regulatory developments monitored
- Mandated reporter requirements understood
- Website content reviewed to avoid overly bold claims

### Integrated risk management:

- Coordination across retirement, benefits and risk management teams (“three-legged stool” approach)
- Organizational gap analysis performed every one to two years
- Risk assessments conducted before expanding services
- Scenario planning implemented (tax-exempt status loss, funding cuts, investigations)

### Operational controls:

- Credentials verified for all service providers
- Human oversight maintained for all activities
- Technology oversight (payroll accuracy, HR software, data security)
- Vendor contracts reviewed annually

## Taking Action: Your First Steps

### Start with these three immediate priorities:

**1. Schedule a comprehensive coverage review with your broker.**

Use the five critical questions to meet with your broker and identify gaps or opportunities in your current insurance program. Focus first on claim definitions, entity coverage and defense cost structure.

**2. Conduct an executive compensation review.**

Ensure compliance with IRS Section 4958 requirements through independent third-party assessment with documented board approval. This protects against penalties and reputational risk.

**3. Implement annual board training.**

Ensure leadership understands fiduciary duties, organizational exposures and their personal responsibilities in the current risk landscape.



Don't wait for a claim or investigation to discover coverage gaps or governance weaknesses. Proactive risk management protects your organization, your board and your mission. For more information about HUB International's nonprofit practice and risk management services, [contact a HUB nonprofit advisor](#) today.