



D&O insurance: Some FAQs for nonprofits

Directors and officers (D&O) liability insurance enables board members to make decisions without fear that they'll be personally responsible for any related litigation costs. Such coverage is common in the business world, but fewer not-for-profits carry it. Nonprofits may assume that their charitable mission and the good intentions of volunteer board members protect them from litigation. These assumptions can be wrong.

Asked and answered

Here are several FAQs to help you determine whether your board needs D&O insurance:

Whom does it cover? A policy can help protect both your organization and its key individuals: directors, officers, employees and even volunteers and committee members.

What does it cover? Normally, D&O insurance covers allegations of wrongful acts, errors, misleading statements, neglect or breaches of duty connected with a person's performance of duties. Examples include:

- Mismanagement of funds or investments,
- Employment issues such as harassment and discrimination,
- Self-dealing,
- Failure to provide services, and
- Failure to fulfill fiduciary duties.

Are there coverage limitations? D&O policies are *claims-made*, meaning that the insurer pays for claims filed during the policy period even if the alleged wrongful act occurred *outside* of the policy period. The flip side of this is that D&O insurance provides *no* coverage for lawsuits filed *after* a policyholder cancels — even if the alleged act happened when the policy was still in place.

What if we need to make a claim after our policy has been canceled or expired? You might still be covered if you bought extended reporting period (ERP) coverage. It generally covers newly filed claims on actions that allegedly occurred during the regular policy period.

How do we file a claim? When a legal complaint is filed against your nonprofit, contact your insurer to determine whether the matter is insurable and includes defense costs. Most policies reimburse the insured for reasonable defense costs, in addition to covering judgments against the insured.

How can we keep costs down? Think seriously about the people and actions that should be covered and the amount of protection you need — and don't need. For example, you probably don't need coverage of bodily injury or property damage because these claims usually are covered by general liability and workers' compensation insurance. As with most insurance coverage, D&O premiums are likely to be lower if you opt for higher deductibles.

Making the decision

Not every organization needs D&O insurance. In some states, volunteer immunity statutes provide limited protection for negligence. Such protection, however, doesn't extend to federal statutes. If you're unsure, contact us.