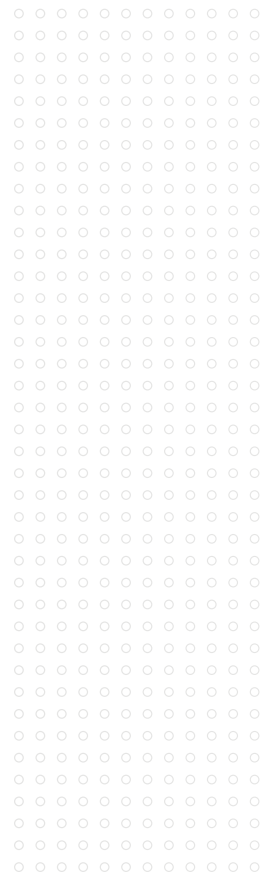


CHECKLIST

Nonprofit Management Liability Insurance 101: Learning the Language

Most nonprofit management liability insurance products are modular, enabling the buyer to bundle the coverages needed within a single policy. Here are some key terms to understand before shopping for a policy:

- ☐ **Insured** — Nonprofit insureds should include the entity (i.e., the organization) and any person who is a past, present and future director, officer (or equivalents such as trustees and governors), committee member, employee, manager or volunteer. Employment Practices Liability coverage may extend protection to independent contractors to this list (IRS-1099 individuals, not institutional contractors) since they often perform the same functions as employees.
- ☐ **Wrongful act** — This is the trigger for coverage. What qualifies as a wrongful act depends on the type of management liability coverage the organization carries, but the term usually encompasses acts, errors, omissions, misstatements, neglect and breach of duty. A Directors & Officers (D&O) liability policy may also extend the definition to include personal injury (including libel, slander and invasion of privacy) and publisher's liability. A Fiduciary Liability policy covers wrongful acts committed within the scope of fiduciary responsibilities.
- ☐ **Claim** — Claims are demands seeking redress for the harm caused by the wrongful act. Claims may seek monetary damages or can take the form of demands for injunctive or declaratory relief, regulatory investigations and actions, EEOC complaints and criminal and extradition proceedings. Ideally, the policy definition should be broad enough to accommodate all of these claims.
- ☐ **Loss** — Loss sets the boundaries of what the insurer may be obligated to pay, including legal defense, settlements and judgements.



□ **Responsibility of defense** — Many nonprofit management liability policies are “duty-to-defend” contracts, meaning that the insurers have the sole right and duty to select defense counsel and manage the defense through disposition. Organizations with greater resources might prefer “non-duty-to-defend” contracts that enable them to select their own counsel and have more control during litigation.

□ **Limits and retention structure** — The limit in an insurance policy is the highest amount an insurer will pay for a covered claim. Limits are typically quoted per-claim (the most payable for a single event) and in the aggregate (the maximum payout over the entire policy term). Management liability policies normally cover defense costs within their limits of liability, meaning that as an organization or its individual insureds incur defense costs, they erode the limits remaining for settlements and judgements.

When policies bundle multiple coverages, the limit and retention structure can be complex, with limits quoted per claim, aggregate per coverage line and policy aggregate. Management liability policies usually impose self-insured retentions, which act like deductibles that the policyholder must absorb before the insurer begins paying loss.

□ **Exclusions and qualifications** — No insurance contract covers everything, so it’s important to know what’s excluded. D&O policies, for example, invariably exclude claims of bodily injury and property damage, which should be addressed by separate Commercial General Liability insurance. Check your policy and its endorsements to avoid unpleasant surprises at the moment of need.

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