Insurance for Volunteer Programs

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Claims Against the Volunteer

Fear of incurring personal liability for volunteer service isn't uncommon among the estimated 90 million Americans who perform volunteer service each year. Volunteer board members may be targeted in suits alleging wrongful employment practices, breach of fiduciary duty, fraud and other causes of action. Suits against volunteer service providers may allege negligence or gross negligence in caring for a client. Despite the relative infrequency of these actions, it's important to understand the legal and insurance protections available to your volunteers. There are two major categories of protection that a volunteer can turn to if he or she faces a suit: volunteer protection laws at the state and federal levels, and insurance. This article addresses the topic of insurance protection.

Many nonprofits purchase broad forms of coverage that will defend a volunteer should he or she be named in a suit. And in some cases, an insurer may elect to defend a volunteer even if the coverage was intended to protect the nonprofit only. If volunteers aren't covered as insureds under the nonprofit's CGL, D&O or professional liability policies, or the nonprofit doesn't purchase any coverage, then the volunteer may look to his personal homeowners' policy or renters' policy for coverage. Other options are a volunteer liability policy purchased by the nonprofit to provide additional protection for its volunteers, and personal auto liability policies.

- **Homeowners' or Renters' Policies** — Volunteers who are homeowners may enjoy some protection under their existing homeowners' policies. In some cases coverage is provided for volunteer activities without the need for any action on the part of the homeowner. In other instances the volunteer must request a broadening endorsement. Whether it's provided at no additional cost or minimal cost, this coverage is potentially valuable protection in the event the volunteer is named in a suit. Volunteers who have a renters' policy may enjoy similar protection. Many homeowners? and renters' policies don't cover losses stemming from alleged "wrongful acts," but are limited to damages from bodily injury or property damage. Some policies include personal injury (libel, slander, defamation, invasion of privacy, etc.). Consequently, some homeowners' policies will only pay for your negligent acts that result in bodily injury or damage to the property of others — and won't respond if you are accused of violating someone's civil rights (e.g. in an employment practices suit) or mismanaging the organization (e.g. a suit alleging fraud by the board).
- **Volunteer Liability Policies** — Some volunteers don't have the option of relying on a homeowners' or renters' policy for coverage simply because they don't purchase such policies. Another option is Volunteer Liability coverage. This coverage is typically packaged with a Volunteer Accident policy that is purchased by a nonprofit. For example, one provider offers up to $1 million in personal liability insurance and up to $500,000 in excess automobile liability insurance above the volunteer's own insurance as part of its volunteer insurance package. The personal liability coverage provides protection for a personal injury or property damage liability claim arising out of the volunteer's duties on behalf of the nonprofit. Exclusions include alleged errors or omissions in connection with the volunteer's professional services and property damage to property in the care, custody or control of the volunteer. In some cases, a state agency or state-sponsored insurance program may offer volunteer coverage at a reasonable cost.

- **Personal Auto Liability Policies** — A volunteer who will be driving his or her vehicle while providing service for a nonprofit should review his or her personal auto insurance coverage. The volunteer's personal auto policy will extend protection to the nonprofit while the volunteer is driving for the nonprofit. Most states have laws that require the owner of a motor vehicle to purchase minimum levels of liability insurance. Volunteers should review their policy limits and consider the need to increase these limits depending on the nature of the services they provide to a nonprofit. It's possible that a volunteer's personal auto coverage is not adequate, or that the coverage could lapse or be cancelled. For these reasons, some nonprofits opt to purchase *non-owned auto liability insurance*, which protects the organization by covering liability for accidents caused by an employee or volunteer driving their own vehicle on a nonprofit's behalf. Learn more about non-owned auto liability insurance by reading our article, Risks on the Road: Managing Volunteer Driver Exposures.

Since these insurance policies differ to a large extent, urge your nonprofit's volunteers to check their policies and discuss their board or other volunteer service with their insurance agent to determine the extent to which these policies provide coverage.