



Covering Your Bases

Basic Tips About Insurance for Nonprofit Organizations

Insurance coverage is one of the basic ways that nonprofits can protect themselves from the risk of liability. This fact sheet contains a checklist of the steps a nonprofit should consider in acquiring insurance.

Nonprofit organizations like ChangeLab Solutions engage in a wide variety of activities that bring great benefits to local communities – organizing farmers’ markets, managing Safe Routes to School programs, leading afterschool activities for active children, and a vast array of other programs. But conducting activities of any kind inherently brings some risk of liability for injuries or mishaps.

Insurance coverage is one of the basic ways that nonprofits can protect themselves from the risk of liability. Acquiring insurance protects a nonprofit by ensuring that the organization can continue to function even if the unexpected occurs. Because nonprofit leaders are often pulled in many directions and don’t necessarily have expertise in the intricacies of nonprofit insurance needs, this checklist is intended to help nonprofits assess their general insurance needs and understand the steps and precautions that will make insurance work for them.

The Checklist

What follows is a step-by-step checklist, which will lead you through key considerations and action items for acquiring insurance for your nonprofit.

1. Do Your Homework: Consider Your Insurance Needs

- Examine what your nonprofit does. How does it describe its operations? Does it employ anyone or contract with outside parties, or is it completely dependent on volunteer labor? What is its organizational structure? Gather any written descriptions, advertisements, promotional and fundraising material. You may want to provide all or some of this to your insurance agent.
- Consider what types of insurance coverage you might need. A note: do *not* depend on your personal insurance coverage (homeowners, renters, or automobile insurance) to cover operations at your nonprofit unless you have a clear understanding from your insurer that these personal policies apply to your work with the nonprofit. Here are some likely candidates for nonprofit insurance needs:
 - **Commercial general liability (CGL) policy:** CGL policies cover liability for injuries to individuals and damage to property (other than malpractice and liability related to professional services), such as accidents that occur on property the nonprofit owns, rents, or uses.
 - **Management liability policy:** Nonprofits that are independently incorporated will have a board of directors or trustees, and this board should be protected from liability via a management liability policy (also known as directors and officers [D&O] insurance).
 - **Commercial auto or business auto policy:** If the nonprofit owns, leases, or uses motor vehicles, then separate insurance coverage is likely necessary. While these policies provide coverage that is similar to what is available in personal auto policies, they are often a necessary purchase because personal policies will usually exclude autos used for a business purpose, including for nonprofit operations. If employees or volunteers are using their personal vehicles for organizational activities, then they should ask their insurer whether they would be covered and confirm their understanding in writing. A personal policy would likely not cover the nonprofit itself unless nonprofit coverage is specifically added on.
 - **Insurance required by state law:** If the nonprofit employs workers, state law may require the organization to carry workers' compensation, unemployment insurance, and possibly disability insurance.
 - Other insurance to consider:
 - » *An umbrella policy:* Umbrella policies provide additional liability coverage, usually for a low additional cost. Umbrella policies and other forms of supplemental coverage are often quite affordable, because the primary cost of the duty to defend is absorbed into the initial insurance and doesn't add to the cost of the extra coverage.
 - » *Business property insurance:* Business property insurance provides coverage for damage to the nonprofit's property. This is useful because CGL insurance only covers *claims* against the policyholder, not the policyholder's own losses.

First Things First: Avoiding Injuries and Negligence

Insurance coverage is important, but nonprofits should also take reasonable care in how they run their programs and activities to prevent injuries and damage to property. Act with reasonable care in how you set up and carry out programs. Think about possible ways injuries could occur and take reasonable steps to prevent them.

Our resources contain more background information and suggestions about assessing risk and minimizing liability with regard to **safe routes to schools**, **shared use programs**, and **growing food**.

In addition, your insurer may be able to suggest ways to prevent claims before they occur, and if your nonprofit is affiliated with a trade association, the association may also have tools or recommendations.



- » *Endorsements*: Liability policies may exclude claims related to alcohol, sexual misconduct, and other types of torts. Coverage for these claims can often be added as a separate “endorsement” (an addition to an insurance policy that adds, modifies, or subtracts coverage).
- » *Errors and omissions coverage*: If the nonprofit engages in “professional services,” such as providing legal or medical assistance or advice, then errors and omissions coverage (malpractice insurance) may be necessary.

2. Get Started: Find an Insurance Agent or Broker

- Give yourself enough time to find and purchase an insurance policy. Start looking at least 45 days before you need insurance so that there’s enough time to get a policy that provides the right fit.
- Contact several insurance agencies or brokers that have experience working with nonprofits, and meet with them before having them purchase insurance on your behalf. Check their reputation with friends and colleagues, see how they promote themselves, and inquire about other nonprofits they have worked with. If the agent you end up selecting brands himself or herself as having specific expertise, make a record of that.



3. Meet with Your Insurance Agent

- Explain your operation to your insurance agent and provide him or her with the written material you gathered (from the first tip in Section 2, above). Save copies or document what materials you provided. Make sure to tell your agent about the use of automobiles, any professional services you provide (medical advice, etc.), and similar operations that might trigger the need for additional insurance. Your job is to thoroughly explain what your nonprofit does and how it operates; your agent’s job is to then explain what type of insurance you need. Usually your insurance agent will not have a legal or professional obligation to inquire about particular insurance needs or suggest insurance coverage if you don’t specifically describe your operations or ask about potential risks and coverages. This is why you want to be clear and thorough with him or her about how your nonprofit works.

Insurance Policies Protect Against the Cost of Defense

One of the significant benefits generally provided by insurance policies is coverage for the cost and hassle of defense. Your organization and programs may be run carefully, and there may be little likelihood that anyone would find them negligent. But insurance policies not only protect a nonprofit from costs if the organization is found liable, they also protect against the cost of defending the nonprofit in court, which can be very expensive, even for successful organizations.

Resources

More resources for determining your insurance needs are available from:

- The National Association of Insurance Commissioners
www.naic.org

This website can take you to any state insurance department’s website.

Other organizations that provide general advice on insurance for nonprofits, and the websites of insurers, trade associations, and other organizations include:

- United Policyholders
www.uphelp.org
- The Insurance Information Institute
www.iii.org

- Also ask how *much* insurance is advisable (what your “limits” should be). Ask about an umbrella policy, which provides additional coverage, usually for a low additional premium. In considering the amount of insurance you’ll need, make sure you clearly understand whether the costs of defending against a claim will be subject to policy limits – sometimes they are, and sometimes they aren’t.
- If particular issues are important to you, then get your agent’s response in writing, such as an email or a letter.

4. Understand Your Policies

- When you get your policies, read them thoroughly. (While it may be a tedious and baffling task, it really is a good idea to go through and read the policies *before* a claim ever occurs.) Courts will usually assume that you have read them as a matter of law, regardless of whether it is true. Particularly focus on whether you have obtained the insurance you need for any specific risks you have described to your agent or insurer (e.g., coverage for volunteers). Even if your main policy provides broad coverage for all your needs, be sure to understand what is contained in any endorsements (often called “riders”) to the policy. An endorsement is an amendment to the policy, and if it excludes the key elements you wanted, the endorsement will take precedent over what is stated in your main policy.
- If you are unsure what is covered when you read the policies, ask your agent or insurer, and document your question and their responses.

5. Maintain Your Policies Once They’re in Place

- Save your written communications with the agent and insurer and any notes you made for at least two to six years after your nonprofit ends its activities (if it ever does). Claims may be made against an individual or organization years after the alleged injury occurred, and you may need to demonstrate your insurance expectations a long time after you first met with your insurance agent.
- Keep your agent and insurer updated on any major changes in your nonprofit, such as major new activities, new roles, significant changes in employment levels, and so on. Do so beforehand to make sure you have coverage in place before you start these new activities. You may want to do an annual review to ensure that your coverage remains adequate.

You Get What You Pay For

All insurance policies are not created equal, and often a policy is a lot cheaper because it provides considerably less protection. Some policies will provide adequate coverage, and others won’t. You need to discuss your needs with the insurance representative to be sure that you’re getting a policy that provides sufficient protection for your organization and board.

Ignorance Is Not Bliss

It is not a good idea just to hope or assume that your insurance policy provides sufficient coverage for all your activities. You need to know your policy limits and how they may be affected by other claims. In addition, the type of coverage provided by insurance policies can vary significantly, and if you want to be certain that an activity is covered by the policy, you should ask and confirm.

For example, many policies exclude dog bites and injuries; others exclude temporary structures such as tents; and most exclude alcohol. If you engage in activities that involve dogs, alcohol, temporary structures, or similar risks, you may want to inquire about adding coverage for an excluded area, or you may want to adjust your practices if you don’t have coverage. But even if you end up deciding to keep things the way they are, understanding what is covered is the starting place for making an informed decision.





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- When your policies are renewed, you should be clearly informed whether there are any policy changes from the previous year. If any are made that you think might be important, clarify them with your agent and insurer.

6. Report Claims and Try to Resolve Conflicts with Your Insurer

- If you receive or learn of a claim against your nonprofit, or you need to file a claim on its behalf, such as for property loss, contact your agent and insurer (and board of directors) immediately and cooperate with any necessary investigation. Even if you think the claim is frivolous, anything that sounds like a demand for money should be reported promptly. When a claim arises, you have two primary duties to your insurer to ensure that you remain eligible for coverage: notifying the insurer about the claim and cooperating with the insurer's investigation and follow-up.
- Your insurer should tell you promptly – in writing – whether it has any coverage concerns. You can also confirm this with your insurer.
- If your insurer denies coverage, doesn't pay you what you believe is the full value of your claim, or defends a liability claim under a "reservation of rights" (which means that the insurer thinks there may not be any coverage, but will defend you for now), make sure your insurer gives its decision and reasons for the denial in writing. Explain to your insurer in writing why you disagree or don't understand its decision. Contact your insurance agent to get his or her help.
 - Do not assume the insurer is correct, especially if your reading of your insurance policy is different. Insurers may try to interpret insurance policies fairly, but there is a fair amount of honest disagreement between insurers, agents, policyholders, lawyers, and courts as to what specific terms mean. Push back if you think you are right. Always insist that an insurer tells you in writing its reasons for denying a loss or paying less than the full amount.
 - Be persistent, courteous, and document all of your communications.
- If you can't resolve a conflict with your insurer informally, consider contacting your state insurance department and, if appropriate, filing a complaint. At some point you may want to consult with an attorney experienced in insurance coverage. Be aware that if you wait too long to pursue a legal claim against your insurer, you may be prevented from suing by the statute of limitations.

Conclusion

Insurance can make the difference between a nonprofit continuing to do good work in the world despite a legal claim, versus becoming swamped by legal troubles and closing up shop. By taking steps to minimize your liability and obtain insurance coverage that meets your organizational needs, you can protect your nonprofit from the risks that are part of every activity.