

# DO FRIENDS GROUPS NEED INSURANCE?

Presented by

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# Different Policies

- Personal or Commercial Liability Coverage

This coverage is broadly written for all operations and respects liability to 3rd parties subject to standard exclusions. The incident would be covered for damages and defense if needed. Defense limits can be inside or outside per occurrence limit.

- Directors and Officers Liability Coverage

Provides financial protection for the directors and officers of your company in the event they are sued in conjunction with the performance of their duties as they relate to the company. Think of [Directors and Officers Insurance](#) as a management Errors and Omissions policy.

# D&O Insurance vs. Personal Insurance

- Personal liability insurance - either homeowner's or umbrella - covers bodily injury and property damage for which you, the insured, are liable.
- Business endeavors are excluded. Volunteer activities are covered, but only for bodily injury and property damage.
- D&O insurance covers damage resulting from wrong decisions but not bodily injury or property damage.
- Don't depend on personal liability to protect you from your actions on a board. And don't depend on D&O insurance to protect you from liability for bodily injury and property damage.

# Volunteer Immunity Laws

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Volunteer service is no defense for improper acts. Many states, however, provide immunity from prosecution if the actions arise out of voluntary service in a nonprofit.

Remember that these laws are at the state level, and that they vary from state to state. State law cannot provide immunity from federal statutes such as ERISA, the Americans with Disabilities Act, or Civil Rights laws.

# Duties of Care

- Establishing and overseeing the organization's policies.
- Reviewing the organization's finances, including approving the annual budget to ensure resources are expended to only further the organization's activities.
- Defining, modify and communicating the organization's mission.
- Securing the resources necessary to enable the organization to fulfill its mission.
- Serving as an advocate for the organization.
- Recruiting new board members and evaluating performances of fellow board members.
- Establishing procedures to ensure that each board member understands and complies with his or her duties as a board member.

# Duty of Loyalty

- An undivided allegiance to the organizations mission and to further the best interest and the mission of the organization without regard for personal gain.
- Conflicts of interest – director may have a personal interest in a transaction or would further their own personal investments because of a specific transaction.
- Corporate Opportunities – competing with your own organization.
- Confidentiality

# Duty of Obedience

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- A director is charged with carrying out the purposes of the organization as defined in its mission statement
- Adherence to the nonprofits mission
- Compliance with laws

# The Suit

As a result, directors and officers could be sued under a few different situations.

- It could be alleged that they breached one of the 3 Duties of Obedience.
- Those dealing with the organization may suffer some personal or financial injury and, in addition to seeking relief from the organization exclusively, may seek to hold directors responsible as individuals.
- Directors may be personally subject to the requirements of particular statutes, the violation of which will subject them to liability in actions brought by governmental authorities.



# The Federal Law

- Federal Law Protection: The Volunteer Protection Act of 1997, 42 U.S.C. section 14501 et seq., (the "VPA"), provides that an individual who harms another by conduct engaged in as a volunteer for a nonprofit organization is not liable for and cannot be successfully sued for the harm inflicted. The organization or entity can be sued, but not the volunteer personally.

# What the VPA does NOT provide Immunity for

- Conduct engaged in without a license when a license was required.
- Willful, criminal or reckless misconduct (including hate crimes, sexual offenses, civil rights violations).
- Gross negligence or a conscious, flagrant indifference to the rights or safety of the person harmed.
- Negligence in the operation of a motor vehicle, aircraft, vessel or any other vehicle requiring insurance coverage or a license to operate.
- Acts committed under the influence of drugs or alcohol.

# CT State Statute

- State Law Protection: Under Connecticut General Statutes section 52-557m, officers, directors and trustees of nonprofit organizations exempt under section 501(c) of the Internal Revenue Code, acting in such capacity, are immune from suits brought by third parties. However, there would be no immunity under this statute if the individual engages in "reckless, willful or wanton misconduct," or violates certain Connecticut statutes (such as failing to pay sales tax collected, Connecticut General Statutes section 12-414a, or distributing assets in violation of the certificate of incorporation, Connecticut General Statutes section 33-1105) or federal laws (such as failing to deposit withheld employment taxes).

# General Liability Coverage

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- A commercial general liability policy only responds to bodily injury, personal injury, advertising injury and damage or destruction of property owned by others
- It will not cover employment related claims or claims for emotional or mental anguish

# Special Events

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- A special event such as a fund raising dinner, book sale, auction or other event has different exposures than that of the usual operations of an organization.
- If the event is held offsite, the venue may require evidence of general liability coverage and to be listed as an additional insured.
- If liquor is being served or sold you may need a liquor liability coverage as well.

# Where Do I Get The Coverage I Need?

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- TULIP – Tenant Users Liability Insurance Program
- Your local Bearingstar Office!  
[www.bearingstarinsurance.com](http://www.bearingstarinsurance.com)

# Contact Information

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