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Common Non-Profit D&O Claims Scenarios

Illustrative Examples of Management Liability Exposures

Non-profit organizations face unique governance and operational risks that can lead to management liability claims. The following examples highlight common scenarios where board members and executives may be exposed to allegations.

1. Misuse of Donor Funds

A donor alleges that contributions intended for a specific program were redirected to other purposes without proper authorization.
Potential allegations: Misrepresentation, breach of fiduciary duty

2. Employment-Related Disputes

A former executive or employee claims they were wrongfully terminated or retaliated against after raising concerns about organizational practices.
Potential allegations: Wrongful termination, retaliation, whistleblower violations

3. Donor Misrepresentation

A donor asserts they were misled regarding how their donation would be used or the impact it would achieve.
Potential allegations: Misrepresentation, negligent statements

4. Governance and Bylaw Violations

Board decisions are challenged due to failure to follow organizational bylaws (e.g., improper voting procedures or lack of quorum).
Potential allegations: Breach of duty of care, governance failures

5. Regulatory Investigations

State regulators or the IRS initiate an inquiry into financial practices, executive compensation, or use of charitable assets.
Potential allegations: Significant legal defense costs regardless of outcome

6. Conflicts of Interest

A board member is accused of benefiting personally from a transaction involving the organization without proper disclosure.
Potential allegations: Self-dealing, breach of fiduciary duty

7. Inadequate Oversight of Programs

Claims arise alleging the organization failed to properly oversee programs, resulting in harm or financial loss.
Potential allegations: Negligence, failure of oversight

8. Discrimination Allegations

An individual claims they were denied services or treated unfairly based on a protected characteristic.
Potential allegations: Discrimination, civil rights violations

9. Financial Distress or Insolvency

Creditors or stakeholders pursue claims alleging the board failed to properly manage finances during periods of financial difficulty.
Potential allegations: Breach of fiduciary duty, mismanagement

10. Merger or Strategic Transaction Disputes

Stakeholders challenge a merger, acquisition, or affiliation, alleging inadequate due diligence or poor decision-making.
Potential allegations: Failure of oversight, misrepresentation

Key Takeaways

- Board members and executives can be **personally exposed** to claims arising from governance decisions
- Many claims are **costly to defend,** even when allegations are not substantiated
- **Strong internal controls, governance practices, and insurance protection** are critical risk management tools