



MY EMPLOYEE HAD AN ACCIDENT—AM I COVERED?

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A common question from nonprofit and association executives is whether or not the organization is responsible when an employee or volunteer while driving her or her own car on organizational business has an accident. The follow-up question is “If we are liable will our insurance cover it?” As with all insurance and risk management questions the answer is “It depends.” It depends upon whether or not the employee or volunteer was driving on behalf of the organization and what

insurance coverages both the employee and organization purchased.

The Exposure

Whenever one of your employees or volunteers is driving his or her personal automobile on organizational business then your nonprofit or association can be liable for any harm caused by your employee or volunteer. The exposures include your employees or volunteers driving their own cars to attend an off-site meeting, visit clients, members, chapters or vendors, go to the bank or office supply store or to the airport for a business trip. Your organization can also be responsible even if you send your assistant on a personal errand to pick up your dry cleaning or go to your bank to deposit your pay check.

Your liability arises from the doctrine of *respondent superior* (“let the master answer”) where a master (employer) is liable in certain cases for the negligent acts of his servant (employee). This is called vicarious liability which society justifies on the belief that the entity that *directs* and *benefits from* an individual’s actions should bear the costs of any resultant harm.

Considering the many risky activities your nonprofit or association may undertake an automobile loss is one of your most significant exposures. With the construction and safety features of today’s vehicles it does not take much of an impact to cause a “total loss” of a car or for the occupants to incur substantial medical and

rehabilitation costs. But you need not despair there are insurance and risk management techniques to manage the risk.

How Insurance Works

If an employee or volunteer has an accident, the person's personal auto insurance will pay first since insurance follows the vehicle. The employee's personal insurance will also protect the organization through the policy's definition of "Insured" that includes any person or organization with respect to legal responsibility for acts or omissions of an insured person (the employee). However if the employee or volunteer does not have personal auto insurance or has very low limits your organization will have to pay the claim.

Good news — Nonowned Auto Liability insurance is available to protect your organization and pay these claims. Nonowned Auto Liability is usually sold in conjunction with Hired Auto Liability (protects the organization in the event of an accident involving a rental or borrowed vehicle). The Nonowned coverage extends the definition of "covered auto" to autos your organization does not own, lease, hire, rent or borrow including autos owned by your employees/volunteers or members of their households. This insurance is excess over the employee's or volunteer's personal insurance — it pays after the person's insurance company has paid its policy limit.

Nonowned Auto Liability coverage does not extend its protection to the employee involved in the accident, it only protects the organization. An endorsement is available to extend the coverage to your employees, "Employees as Insured" (CA 99 33). Some insurance companies have business auto broadening endorsements that add employees as insureds as a part of the endorsement. A few insurance companies will consider adding volunteers as an insured but you need to seriously consider the implications of extending your insurance protection to volunteers.

Your organization needs Nonowned Auto Liability coverage whether or not it owns any vehicles. It should be a mandatory part of your insurance program. The coverage can be written as a part of a business auto policy or as an endorsement to the general liability coverage. If your organization has an umbrella or excess liability policy make sure the Hired and Nonowned Auto Liability coverage is a part of the umbrella coverage. Talk to your insurance professional if you have any questions about this or any of your insurance coverages.

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