

CYBER-LIABILITY INSURANCE 101 FOR NONPROFITS

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You've seen it in the news. There have been numerous high-profile cyber events affecting data held by for-profit companies. According to the *2017 Cost of Data Breach Study*, more than 1,935 cyber breaches were reported in 2016, of which 62 percent of the breaches were the result of hacking, more than half included malware, and 43 percent were social attacks. Plus, the average organizational cost for data breach in 2016 was \$3.2 million, according to the *2017 Data Breach Investigations Report*, while the average cost per compromised record was \$141.

It may be tempting to think that cyber-liability exposure is a problem isolated to the for-profit arena, but cyberattacks are not just a risk for large for-profits. Hackers do not care about your tax status. They will go after protected personal information, such as financial account numbers, patient health information, Social Security numbers, credit card information, and account passwords wherever they can find it. Failure to protect personal information can result in a financial loss to a nonprofit organization due to the cost associated with responding to a breach, as well as a loss of membership and funding from donors due to damage to the nonprofit's reputation.

As the networked world becomes ever more complex, it's critical to conduct a full organizational review of your nonprofit's cyber-risk with the executive committee, as well as IT, operations, and membership staff. This should include an in-depth review of any contracts with third-party vendors who store, manage, or otherwise have access to your member or donor data. Every nonprofit should have legal counsel review contracts to assess what responsibilities are assumed by these vendors in relation to the nonprofit's obligations to its members and donors.

Once your organization has identified its own cyber-risk, then you can outline concerns in writing to your insurance

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broker or consultant. It's important to note that the cyber-liability insurance marketplace has grown more complex in response to the evolving cyber-liability risk landscape. Within the insurance marketplace, there are varying degrees of cyber-liability coverage offered as potential "add-on enhancements" to current insurance policies (e.g., business insurance, management liability, errors and omissions insurance) or through separate insurance policies. Here are some of the cyber insurance basics you need to know:

- Cyber-liability can address both the first- and third-party risks associated with protected data in their care, custody, or control.
- Cyber-liability is insurance coverage for liability that arises out of unauthorized use of or access to protected data within your network or business. Cyber-liability policies also provide coverage for liability claims for spreading a virus or malicious code, computer theft, extortion, or any unintentional act, mistake, error, or omission made by your employees while performing their job.
- The typical business insurance policy only covers so-called "tangible" assets, and electronic data is not considered tangible under the typical policy definition. Cyber-liability insurance fills that gap and can go even farther.
- Most components of coverage address issues after a cyber-event, including, but not limited to, costs to notify those individuals impacted by the cyber event, including notice required by law, public relations expenses, and cost to respond to an extortion demand including reimbursement for ransom amounts paid.
- Some components of coverage address issues before a cyber-event happens such as breach-preparedness services.

Of course, as the extent of coverage afforded broadens, the cost will also increase. This is why it's key for nonprofits to rely on their insurance broker or consultant, as well as legal counsel, to provide guidance navigating the complex cyber-liability insurance landscape.

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