

E-newsletter Articles

June 2008: *Who's Driving for You? Managing the Driving Exposure*



In "[My Employee Had an Accident — Am I Covered?](#)" (January 2008 issue of *Risky Business*) we discussed the insurance implications when an employee or volunteer has an accident while driving on behalf of your organization. To the surprise of some, your organization can be liable for an employee's or volunteer's auto accident. To be responsible, the employee or volunteer has to be driving on your behalf, with your authority (which can be implied or express), and within the scope of the person's duties.

While insurance is critical to any organization it is equally important to take steps to prevent accidents from occurring and be ready to respond in the event of a loss. Risk management is the process to minimize the possibility and severity of losses while maximizing the probability and profitability of opportunities. People driving on behalf of your organization may be important to your operations but is a significant loss exposure. Driving is also an activity that can be managed effectively.

Risk Management Techniques

The key to managing the automobile risk is to know who is driving on the organization's behalf — almost all auto accidents involve driver error — so you need to know who is driving for you and if they are acceptable drivers. The first step is to review all job and position descriptions to identify the positions with a driving component. Your goal is to identify who is driving for your association or nonprofit and to what extent. The range of driving is continuum, one end has the positions with no driving and on the other end are positions where driving is an essential function of the job. The selected risk management techniques vary depending upon the extent of driving — the more driving the more stringent the screening and criteria for acceptable drivers.

Basic Guidelines

For any position that involves driving whether occasional or extensive you should implement the following:

- Verify the person has a valid driver's license
- Identify any driving restrictions (night driving, special equipment, etc.)
- If driving a personal vehicle, confirm the person has personal auto insurance.

The volunteer exposure is always difficult to manage. If the position requires the volunteer to drive to complete the tasks such as providing transportation, making deliveries, or renting a vehicle then these people should be subject to stringent driving guidelines. For associations most of their volunteers are board or committee members at either the national or local level with very limited, if any, driving responsibilities. However in charitable or community service organizations many volunteers drive as a condition of the position and these are the people that should be subject to thorough driver screening.

Driver's License

You may be surprised how many people are driving without a license. Needless to say if the person does not have a driver's license don't let them drive for you. Ask to see the license, photocopy both sides of the license and place it in the person's personnel or volunteer file. Determine if the person has any driving restrictions such as the need for corrective lenses, special mirrors or other equipment, or no night driving. If there are significant restrictions, try to ensure that you never place the person in a situation violating the restrictions (i.e., asking them to drive at night).

Personal Auto Insurance

The person's personal auto insurance is the first line of financial defense. Ask for a certificate of insurance or other proof of personal auto insurance from the people that drive their own vehicles on behalf of the organization even if only occasionally. You may get push back from the staff that it is an invasion of privacy and none of your business. Explain that when they are driving on behalf of the organization, the nonprofit has a risk that needs to be managed. Both the Board and senior management has the fiduciary responsibility to protect the assets of the organization and insurance provides financial protection.

Policy Limits

Your organization needs to decide what personal auto liability limit it will mandate for employees and volunteers when driving their cars for the nonprofit. Many states have financial responsibility or compulsory auto liability insurance requirements for vehicle owners. The required limits are generally low — \$50,000 or less (Alaska and Maine require \$100,000). If the claim exceeds the employee's policy limits, your organization has to pay the difference.

At a minimum, the driver needs to have personal auto insurance limits that meet the state's financial responsibility law. However the low state requirements may not be adequate with high health care costs and substantial settlements. Another option is to require your drivers to carry higher liability limits. Many insurance companies now stipulate that the organization require its employees and some volunteers subject to the driving guidelines to have higher personal auto liability limits (usually \$300,000). The insurers make the mandated limits as a condition to write the association's Hired and Nonowned Auto Liability coverage. Consider the extent the person drives on behalf of the organization when setting personal auto limits requirements. If driving is a key component of the position or the person is transporting others then a higher liability limit makes sense. If the driving is incidental then the state financial responsibility limits may be adequate.

If you require a person to purchase a higher liability limit, they may complain loudly especially if they are a volunteer (you are increasing the cost of volunteering). The response to employees, if you pay the IRS mileage reimbursement rate, is that a portion of the IRS rate covers the expenses of operating an automobile including insurance. Today's high gas prices are an unexpected financial pressure but the 2008 IRS mileage rate of \$0.505 will still subsidize their insurance cost. Unfortunately the IRS mileage rate for volunteering is quite low (\$0.14)

Additional Guidelines

Once you have established that the person has a valid driver's license and adequate personal auto insurance you need to decide if their motor vehicle record (MVR) or driving history is acceptable to your organization.

Acceptable Drivers

One of the most difficult tasks is to establish the criteria for acceptable drivers based upon a person's driving record. The decision makers' personal driving records often cause difficulty in establishing an acceptable driving history. It is easy to eliminate a person with a conviction of driving under the influence (DUI), driving while impaired (DWI), vehicular manslaughter, or reckless driving. The harder decisions are how many speeding tickets, at-fault accidents or other moving violations will disqualify a person as an acceptable driver. Your insurance professional can help guide you through this process.

Recognize that the adoption of driver record guidelines may disqualify a current employee or volunteer so you must be prepared to deal with that situation. The culprit may be the CEO, a senior manager, or an employee or volunteer that must drive to perform her job so decide how you will handle the situation. This will test your resolve for establishing a safe driving program.

Verifying Driving Records

Establishing acceptability guidelines without verifying the person's driving history is a hollow endeavor. The best method is to receive a copy of the person's MVR from the appropriate state's Department of Motor Vehicles. However each state charges a fee for a person's MVR so the acquisition costs can mount depending upon the number of drivers you have. You should also secure new driving record histories on a periodic basis.

When driving is a requirement for the position whether paid or volunteer, you should receive a copy of the person's MVR. You can order them directly from the state or if you use a background investigation firm they can also secure MVRs. Some nonprofits require the volunteer to absorb the cost of the record – they have to secure a copy of their MVR for the nonprofit.

Another option if the driving is less frequent is to develop a Driving History Statement which documents the requirements. The person reviews and signs the statement attesting that their driving record meets the agency's criteria for an acceptable driver.

Additional Techniques

In addition to driver selection criteria, there are other policies and procedures you can implement to manage this risk. Here are some ideas for you.

- *Driving Rules* — Establish basic rules and regulations to be followed when someone is driving on your behalf. Items such as wear seatbelts, always lock the doors, avoid using a cell phone, PDA, Blackberry, etc., avoid driving when tired, etc.
- *Accident Procedures* — Establish the procedures an employee or volunteer should follow if they have an accident while driving on behalf of the organization. The procedures can supplement any instructions provided by the person's insurance company by stating to whom the employee or volunteer should report the accident and any additional information you want to require.
- *Safe Driving Training* — Contact your insurance professional for training ideas. Many insurance companies have training materials ranging from pamphlet to videos. Other safety organizations to consider:
 - [National Safety Council](#)
 - [AARP](#)
 - [The Defensive Driving School](#)
 - [American Safety Council](#)
- *Transporting Others* — Statistics show that especially for inexperienced drivers the more people in the vehicle the greater the possibility of an accident. Establish guidelines for transporting others especially if your organization works with people with special needs.
- *Rental Vehicles* — Guidelines for renting vehicles such as acceptable types, reasons for renting, and whether or not to purchase the various supplements coverages offered by the rental companies.
- *Selection of Transportation Companies* — If your organization contracts with transportation companies from limousine to charter buses, establish guidelines for evaluating and selecting the service provider.

Conclusion

The suggested risk management strategies can be done effectively. You have a responsibility to your employees, volunteers, members, clients, donors and the general public to know who is driving for your organization and that they meet minimum driver acceptability guidelines. If your association or nonprofit does nothing else, verify the person has a valid driver's license and personal auto insurance policy. The driver and insurance verification can be a part of the hiring or annual performance review process. Once you have that in place you can start to develop the remainder of your driving safety program. Good luck!