

Nonprofit Organizations Directors and Officers Liability Application

NOTICE: ALL COVERAGES FOR WHICH THIS APPLICATION IS MADE ARE WRITTEN ON A CLAIMS MADE BASIS, MEANING EXCEPT AS OTHERWISE PROVIDED, APPLY ONLY TO **CLAIMS** FIRST MADE AGAINST **INSUREDS** DURING THE **POLICY PERIOD**.

CAREFULLY READ THE ENTIRE POLICY FOR WHICH THIS APPLICATION IS MADE AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER. WORDS AND PHRASES WHICH ARE PRINTED IN BOLD ITALIC TYPEFACE HAVE SPECIFIC MEANING AND ARE DEFINED IN SECTION III. OF THE POLICY.

THE APPLICATION, ITS ATTACHMENTS AND ALL PREVIOUS APPLICATIONS SHALL SERVE AS THE BASIS OF THE POLICY, AND SHALL BECOME PART OF SUCH POLICY SHOULD A POLICY BE ISSUED, AND PHYSICALLY ATTACHED. THE **INSURER** RELIES UPON THE APPLICATION IN ISSUING THE POLICY. COMPLETION OF ANY SECTION OF THIS APPLICATION DOES NOT IN ANY WAY IMPLY SUCH COVERAGE UNDER THE POLICY. COVERAGE IS AFFORDED ONLY IF AND TO THE EXTENT INDICATED BY THE TERMS AND CONDITIONS OF THE POLICY IF ISSUED.

1. GENERAL INFORMATION *(This section must be completed)*

| | | | |
|--|--------|-----------|-------------------------|
| Proposed named Organization : | | | Website Address: |
| Street Address: | | | State of Incorporation: |
| City: | State: | Zip Code: | Date of Incorporation: |
| Description of operations/nature of services: <input type="checkbox"/> YMCA <input type="checkbox"/> JCC <input type="checkbox"/> CAMP <input type="checkbox"/> BOYS/GIRLS CLUB <input type="checkbox"/> Other (Provide Details): | | | |

2. ORGANIZATION LIABILITY SECTION *(This section must be completed)*

- A. Does the proposed named **Organization** have tax exempt status as defined by the IRS? Yes No
- B. Is there or has there been any dispute as to the **Organization's** tax exempt status? Yes No
If "Yes," provide details.
- C. Have there been any changes, other than electoral, in senior management in the last three years? Yes No
If "Yes," provide details.
- D. Does the proposed named **Organization** have any **Subsidiaries**, or control any other entity or organization? Yes No
If "Yes" list Subsidiaries/controlled entities below and provide requested information for each.

| Name | Description of Operations | Date Acquired or Created | For Profit or Nonprofit | Relationship to Applicant and % Applicant Owns |
|------|---------------------------|--------------------------|-------------------------|--|
| | | | | |
| | | | | |
| | | | | |

- E. Has the proposed named **Organization**, or any entity included in question 2.D:
(Attach full details with respect to each "Yes" answer referencing the specific question.)
1. been involved in any merger, consolidation, acquisition, or divestment or sale of its operation within the last 12 months, or is such being considered within the next 12 months? Yes No
 2. promoted, sponsored or provided any form of insurance program to its members or non-members within the last 12 months, or is such being considered within the next 12 months? Yes No
 3. conducted professional ethics or peer review activities, accreditation or certification activities of others, or endorsed or licensed members or members' products/services within the last 12 months, or is such being considered within the next 12 months? Yes No
 4. considered creating any new **Subsidiaries** or entities it will control within the next 12 months? Yes No
- F. During the past five years has the proposed named **Organization**, any entity included in question 2.D, or any director, officer, trustee, or **Employee** thereof been involved in any:
(If "Yes" attach full details.)
1. Anti-trust, copyright, patent or trademark litigation? Yes No
 2. Civil or criminal actions or administrative proceedings charging a violation of any federal, state, or local antitrust, fair trade, or securities laws or regulations? Yes No
 3. Representative actions, class actions, or derivative suits? Yes No
 4. Other criminal proceedings? Yes No
- G. Indicate total number of Board members: _____
- H. Does the Board of Directors conduct an annual written review of the performance of the Executive Director/CEO? Yes No
- I. Does the Board of Directors approve compensation of the following:
1. Executive Director or CEO: Not Applicable Yes No
 2. CFO, Treasurer or Financial Manager: Not Applicable Yes No
- J. Is compensation of the positions listed in I. above comparable to salaries in the marketplace? Yes No
- K. Has the Board of Directors adopted a conflict of interest policy? Yes No

3. FIDUCIARY LIABILITY SECTION *(Only complete if coverage is required)*

A. **Sponsored Plan** Information (continue on separate sheet if necessary):

| Plan # | Name of Sponsored Plan | Date Established | Total Plan Assets | Type of Plan* | # of Participants |
|--------|------------------------|------------------|-------------------|---------------|-------------------|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |

*DB-Defined Benefit; SEP-Simplified Employee Pension Plan; PS-Profit Sharing or Stock Bonus Plan; 403(b) Plan; 401(k) Plan; ESOP-Employee Stock Ownership Plan; MP-Money Purchase Pension Plan; CB-Cash Balance Plan

B. Complete the following chart for all plans listed in A above:

| Plan # | Administrator | Investment Manager | CPA | Actuary | Legal Counsel |
|--------|---------------|--------------------|-----|---------|---------------|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |

- C. Has any **Sponsored Plan** been merged or terminated, or its benefits reduced in the past two years? Yes No
- D. Are any **Sponsored Plan** mergers or terminations, or reductions in benefits anticipated in the next two years? Yes No
- E. Have the **Sponsored Plans** been reviewed to assure that there are no violations of any Plan trust agreements, prohibited transactions, or party-in-interest rules? Yes No
- F. Have any **Sponsored Plans** experienced any event reportable to the Pension Benefit Guaranty Corporation ("PBGC")? Yes No
- G. Has the IRS withdrawn or threatened to withdraw the tax-exempt status of any **Sponsored Plan**? Yes No
- H. Has any **Sponsored Plan** been the subject of an investigation by any government agency? Yes No
- I. Does the **Organization**, any director, officer, or **Employee** have final authority over determination of whether benefits will be paid under any **Sponsored Plan**? Yes No
- J. Do any **Sponsored Plans** hold assets invested **Company** real property? Yes No
- K. During the past five years have any of the proposed **Insureds** been:
1. Accused or found guilty of, or held liable for a breach of ERISA or similar law? Yes No
 2. Involved in any civil or criminal action regarding any of the **Sponsored Plans**? Yes No
 3. Named in any **Claims** (other than for benefits) against the **Sponsored Plans** or any of their current or past fiduciaries? Yes No

If "Yes" to any of the above, attach full details.

4. EMPLOYMENT PRACTICES LIABILITY SECTION (Only complete if coverage is requested)

A. **Employee** and Volunteer census of the proposed named **Organization** and all of its **Subsidiaries** /Entities it controls:

| Location | Full-Time | Full-Time One year ago | Part-Time | Part-Time One year ago | Independent Contractors** | Volunteers and Seasonal Employees |
|------------------|-----------|---------------------------|-----------|---------------------------|------------------------------|---|
| California | | | | | | |
| All other states | | | | | | |
| Foreign | | | | | | |
| TOTAL | | | | | | |

**If Independent Contractors, attach detailed job description(s) and employment relationship.

B. Does the proposed named **Organization** and each of its **Subsidiaries**/Entities it controls:

1. Have a full-time Human Resources ("HR") Manager? Yes No
 If "No", please indicate the following:
 Name of Person who handles HR matters: _____
 Title of the above named person: _____
 List all job duties of above named person: _____

2. Use employment applications for all applicants? Yes No
3. Maintain an "at-will" relationship that is expressed in writing with all **Employees** who are not under contract? Yes No
4. Distribute an employee handbook to all **Employees**? Yes No

- 5. Require **Employees** sign a handbook acknowledgment statement? Yes No
 - 6. Have a written anti-harassment and discrimination policy? Yes No
 - 7. Provide harassment /discrimination training to **Employees**, managers and supervisors? Yes No
 - 8. Have a formal employment grievance procedure? Yes No
 - 9. Consult outside counsel prior to terminating any **Employee**? Yes No
 - 10. Require officer or executive director approval prior to terminating any **Employee**? Yes No
 - 11. Have a formal out-placement program for **Employees** terminated as a result of downsizing, layoffs, or staff reduction? Yes No
 - 12. Have a written policy on workplace violence that is circulated to all **Employees**? Yes No
 - 13. Train Supervisors and Managers to recognize, report, and respond to potentially hostile **Employees**, Volunteers or situations? Yes No
 - 14. Have a written whistleblower policy? Yes No
- If "Yes", does it provide protection for anyone who reports a whistleblower related complaint? Yes No

C. Has the proposed named **Organization**, or entity included in question 2.D, closed any location, facility, branch or office, or has it implemented staff reductions or layoffs within the last 18 months? Yes No

If "Yes":

- 1. Number of **Employees** terminated: _____
- 2. Date(s): _____
- 3. Was severance provided to each? Yes No
- 4. Were releases secured from each **Employee**? Yes No

D. Does the proposed named **Organization**, or entities included in question 2.D, anticipate a reduction in funding, change of employee classifications, or implementation of staff reductions or layoffs in the next 18 months? Yes No

If "Yes", advise details.

E. Provide the **Organization's** involuntary turnover ratio for the past 12 months: _____%; prior 12 months: _____%

- F. During the past five years has the proposed named **Organization**, any entities included in question 2.D, or any director, officer, or **Employee** thereof been involved in any:
- 1. Employment or labor-related litigation? Yes No
 - 2. Administrative proceeding before the Equal Employment Opportunity Commission("EEOC") or the U.S. Department of Labor including the Office of Federal Contract Compliance Programs ("OFCCP") or other federal, state or local government agency? Yes No
 - 3. **Claims** or suits by a non-employee (including Volunteers) for harassment, discrimination, or any other civil rights violation? Yes No

If "Yes" to any of the above provide an attachment for each such **Claim** or incident including:

- (a) Specific allegation(s).
- (b) Date of incident(s).
- (c) Parties involved and their positions.
- (d) If matter is closed, amounts paid in indemnity and the amount paid for defense expense.
- (e) If matter is open, amount for defense expenses paid to date and outstanding indemnity reserve or attorney's estimate of damages.

5. CURRENT OR PREVIOUS INSURANCE *(This section must be completed)*

A. Answer each item indicating the most recent policy (IF NONE, CHECK BOX PROVIDED):

| Policy | Insurance Company (Not Agent) | Exact Effective <u>and</u> Expiration Dates | Limit of Liability | Self Insured Retention or Deductible | Retroactive Date | Premium |
|---|-------------------------------|---|--------------------|--------------------------------------|------------------|---------|
| Directors & Officers Liability None <input type="checkbox"/> | | | \$ | \$ | | \$ |
| Employment Practices Liability None <input type="checkbox"/> | | | \$ | \$ | | \$ |
| Fiduciary Liability None <input type="checkbox"/> | | | \$ | \$ | | \$ |
| Professional Liability None <input type="checkbox"/> | | | \$ | \$ | | \$ |
| General Liability None <input type="checkbox"/> | | | \$ | \$ | | \$ |

B. Has any Insurer canceled or non-renewed any coverage applied for herein? (not applicable in Missouri) Yes No
 If "Yes," provide details including reason stated by Insurer.

PRODUCER NAME (IF ANY): _____

PRODUCER ADDRESS: _____

PRODUCER SIGNATURE: _____
 (IF NEEDED/REQUIRED)

Applicable in AL, AR, DC, LA, MD, NM, RI, VT and WV

Any person who knowingly (or willfully)* presents a false or fraudulent claim for payment of a loss or benefit or knowingly (or willfully)* presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison. *Applies in MD Only.

Applicable in CO

It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

Applicable in FL and OK

Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony (of the third degree)*. *Applies in FL only.

Applicable in HI

For your protection, Hawaii law requires you to be informed that any person who presents a fraudulent claim for payment of loss or benefit is guilty of a crime punishable by fines or imprisonment, or both.

Applicable in KS

Any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written, electronic, electronic impulse, facsimile, magnetic, oral, or telephonic communication or statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act.

Applicable in KY, NY, OH and PA

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties* (not to exceed five thousand dollars and the stated value of the claim for each such violation)*. *Applies in NY Only.

Applicable in ME, TN, VA and WA

It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties (may)* include imprisonment, fines and denial of insurance benefits. *Applies in ME Only.

Applicable in NJ

Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

Applicable in OR

Any person who knowingly and with intent to defraud or solicit another to defraud the insurer by submitting an application containing a false statement as to any material fact may be violating state law.

Applicable in PR

Any person who knowingly and with the intention of defrauding presents false information in an insurance application, or presents, helps, or causes the presentation of a fraudulent claim for the payment of a loss or any other benefit, or presents more than one claim for the same damage or loss, shall incur a felony and, upon conviction, shall be sanctioned for each violation by a fine of not less than five thousand dollars (\$5,000) and not more than ten thousand dollars (\$10,000), or a fixed term of imprisonment for three (3) years, or both penalties. Should aggravating circumstances [be] present, the penalty thus established may be increased to a maximum of five (5) years, if extenuating circumstances are present, it may be reduced to a minimum of two (2) years.

6. APPLICABLE TO ALL SECTIONS FOR WHICH COVERAGE APPLIES

ANY PERSON WHO, WITH INTENT TO DEFRAUD OR KNOWING THAT (S)HE IS FACILITATING A FRAUD AGAINST AN *INSURER*, SUBMITS AN APPLICATION OR FILES A *CLAIM* CONTAINING A FALSE OR DECEPTIVE STATEMENT, IS GUILTY OF INSURANCE FRAUD.

Are any *Insured(s)* aware of any fact, circumstance, situation, transaction, event, act, error, or omission which (s)he (they) would suppose might afford grounds for a *Claim* which could fall within the scope of coverage applied for herein, or which indicate the possibility of any such *Claim*?

Yes No

If "Yes," provide full details below.

WITHOUT PREJUDICE TO ANY OTHER RIGHTS AND REMEDIES OF THE *INSURER*, ANY *CLAIM* ARISING FROM ANY FACT, CIRCUMSTANCE, SITUATION, TRANSACTION, EVENT, ACT, ERROR, OR OMISSION DISCLOSED OR REQUIRED TO BE DISCLOSED ABOVE ARE EXCLUDED FROM THE PROPOSED COVERAGE.

The signatory declares that to the best of his or her knowledge the statements herein are true. The signatory agrees that if the information supplied on this application changes between the date of this application and the effective date of the proposed insurance the undersigned shall notify the *Insurer* of such and shall provide the *Insurer* with information that would complete, update, or correct the application. The *Insurer* may withdraw or modify any of the terms or conditions of coverage accordingly.

Signature*: _____ Date Signed: _____ / _____ / _____

Print Name: _____

Title*: President Chief Executive Officer Chairperson of the Board of Directors

***MUST BE SIGNED BY THE PRESIDENT, CHIEF EXECUTIVE OFFICER OR CHAIRPERSON OF THE BOARD OF DIRECTORS WHO IS AUTHORIZED TO SIGN ON BEHALF OF ALL INSURED(S).**

COMPLETION AND/OR SIGNING OF THE APPLICATION DOES NOT BIND THE SIGNATORY TO PURCHASE, NOR THE *INSURER* TO PROVIDE ANY INSURANCE POLICY; HOWEVER, NO POLICY CAN BE ISSUED UNLESS THE APPLICATION IS PROPERLY SIGNED AND DATED.

Please submit the following items with this application:

1. Latest CPA audited annual report (CPA opinion, all statements, all notes to statements). If annual financials are not audited by a CPA, INCLUDE latest annual CPA Review Report or Compilation Report;
2. Currently valued, insurance company- issued, loss runs for past 5 years.