

This worksheet was created for an ESLN presentation in 2024: "Unlocking the Mysteries of Directors & Officers Insurance for Libraries, Museums and Other Cultural Organizations" by Stephanie Adams, Esq. (c) 2024, The Law Office of Stephanie Adams, PLLC. All members of a chartered regional library council may use this worksheet (which is not legal advice); for further use, please contact info@losaplnc.com. Always get legal advice when interpreting insurance contracts.

Library, Museum, Archive, or Other Cultural Organization  
Directors & Officers Insurance  
Assessment Sheet

For clarity, in this table, an insurance policy is an "Insurance Policy" and a policy passed by a governing board is a "policy."

Factor	Reason it's important	Answer
1. Do the bylaws have an "indemnification" provision?	The D&O policy is partly how the organization meets the commitment in that provision.	YES  NO  Note: if YES, attach a copy of the bylaws.
2. Does the organization have a policy about "indemnification" or paying legal costs for directors, trustees, officers or employees?	The D&O policy is partly how the organization meets the commitment in that policy.	YES  NO  Note: if yes, attach a copy of the policy.
3. Does the organization have any contractual obligation to indemnify, defend, and pay for costs of directors, trustees, officers or employees who are named in a lawsuit due to their work for the organization?	The D&O policy is partly how the organization meets the commitment in that contract.	YES  NO  Note: if yes, attach a copy of the contract(s).

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<p>4. Is the organization sometimes/maybe considered a governmental entity? [Example: a good clue is if employees fall under Civil Service Law]</p>	<p>This is important because the answer impacts what types of liability the directors and officers can face, the notice periods for such claims, and how they are defended.</p>	<p>YES</p> <p>NO</p> <p>DON'T KNOW</p>
<p>5. Does your organization get any type of insurance coverage from another entity (such as a town, school district, or parent company)?</p> <p>NOTE: If your organization is assured it is covered by another, obtain a copy of the policy and verify the coverage with the carrier.</p>	<p>Sometimes, local libraries, historical societies, etc. get different types of insurance from other entities. This impacts how much D &amp; O an organization might need to arrange on its own.</p>	<p>YES</p> <p>NO</p> <p>DON'T KNOW (this is not a safe option)</p> <p>If "YES" attach a copy of the coverage.</p>
<p>6. Does your organization have any "Directors &amp; Officers" coverage?</p> <p>NOTE: There is no "one" type of "D&amp;O". <b>D&amp;O Insurance policies vary widely both in what they cover and how much of it they cover. This is why questions 7 through 10, below, are important.</b></p>	<p>"D&amp;O" generally includes coverage for:</p> <ul style="list-style-type: none"> <li>• wrongful termination,</li> <li>• Non-physical personal injury (such as defamation)</li> <li>• Negligent hire</li> <li>• Unintentional discrimination</li> </ul> <p>Many other types of claims may be included...or specifically excluded.</p>	<p>YES</p> <p>NO</p>

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<b>Factor</b>	<b>Reason it's important</b>	<b>Answer</b>
<p>7. If your organization currently has D&amp;O:</p> <p><b>What types of claims are covered?</b></p>	<p>This is listed in several places in the Insurance Policy; you can ask the carrier for a summary.</p>	<p>Attach the list.</p>
<p>8. If your organization currently has D&amp;O:</p> <p><b>What types of claims are EXCLUDED?</b></p>	<p>This is listed in several places in the Insurance Policy; you can ask the carrier for a summary.</p>	
<p>9. If your organization currently has D&amp;O:</p> <p><b>What is the total amount of coverage?</b></p>	<p>This is listed in several places in the Insurance Policy; you can ask the carrier for a summary.</p>	<p>Total coverage:</p>
<p>10. If your organization currently has D&amp;O:</p> <p><b>What is the coverage per incident?</b></p>	<p>This is listed in several places in the Insurance Policy; you can ask the carrier for a summary.</p>	<p>Coverage per incident:</p>
<p>11. If your organization currently has D&amp;O:</p> <p><b>What is the deductible ("retention") per claim?</b></p>	<p>This is listed in several places in the Insurance Policy; you can ask the carrier for a summary.</p>	<p>Deductible(s):</p>

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Factor	Reason it's important	Answer
<p>12. Whether or not your organization currently has coverage, your board should <b>consider these common risks often covered by D&amp;O</b> by how likely it is that an accusation of them will occur.</p>	<ul style="list-style-type: none"> <li>• Wrongful termination</li> <li>• Copyright claim</li> <li>• Trademark claim</li> <li>• Harassment/discrimination</li> <li>• Defamation (libel/slander)</li> <li>• Workplace violence</li> <li>• Wrongful denial of services</li> <li>• Breach of contract</li> </ul>	<p>You don't need to write this down, but it is important for a board to consider!</p>
<p>13. Things to consider when shopping for D&amp;O:  Does the carrier offer a <b>pre-termination hotline?</b></p>	<p>A pre-termination hotline can be a good final check before entering into the termination process. Remember, carriers DON'T want you to get sued...it costs them money!</p>	
<p>14. Things to consider when shopping for D&amp;O:  <b>Does the deductible require the organization to have a certain amount ready in a contingency fund?</b></p>	<p>There is nothing wrong with selecting an Insurance Policy with a higher deductible, so long as the library is prepared to pay it in the event of a claim. This is true even if the claim turns out to be baseless!</p>	
<p>15. Things to consider when shopping for D&amp;O:  <b>Does the carrier come with a good recommendation about responsiveness?</b></p>	<p>When you have a question about coverage, or if there is a claim, you want to know the carrier will be responsive.</p>	

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<b>Factor</b>	<b>Reason it's important</b>	<b>Answer</b>
<p>16. When you have coverage in place:</p> <p><b>Who is responsible for putting the carrier on notice of a claim?</b></p> <p><b>Who is the <u>alternate</u> person?</b></p>	<p>This can generally be the director/executive director, but in a larger organization it may be a Business Manager or other person.</p> <p>The alternate person is designated in case the primary person is out, or if the claim involves them in some way.</p>	<p>Primary person:</p> <p>Back-up:</p>
<p>17. When you have coverage in place:</p> <p><b>Where is a copy of the policy kept?</b></p>	<p>This should be accessible to trustees/directors and senior leadership.</p>	<p>Location:</p>
<p>18. When you have coverage in place:</p> <p><b>How often is the policy re-bid?</b></p>	<p>A policy should be reviewed by the board annually to make sure it meets the organization's current needs.</p>	<p>ANSWER:</p>
<p>19. When you have coverage in place:</p> <p><b>Who evaluates the policy and recommends the board purchase it?</b></p>	<p>This should be the employee in charge (director, ED), as they best know the day-to-day risks of the organization, and a board committee.</p>	<p>ANSWER</p>