

# Nonprofit Liability Paradigm - “The Perfect Storm” (Root Causes)

Pervasive and Complex Federal (And Occasionally Ambiguous)/State/Local Regulatory Environment

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Civil Justice System

Members  
Fellow Directors  
Employees  
Volunteer  
Donors  
“Outsiders” (Third Parties)

Governmental Enforcement

IRS  
State Attorney General  
DBR  
Others (e.g. OSHA)

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Mystique of nonprofits (“Cognitive Dissonance”)

“It has never happened to us”

“It will not happen to us”

“We are immune from liability”



Passivity

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Culture

A huge plus

A potential minus in terms of risk creation

# Nonprofit Liability Paradigm - “The Perfect Storm” Cont’d

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Risk Factors - Areas that rise to legal or related side

Endowments/Budgets/Assets {\$}  
 Employees/Employee oversight/Volunteers  
 Users of Services (e.g. children, infirm)  
 Personal Data (Privacy)  
 Property ownership  
 Donation/grants  
 Vendors/Suppliers (contracts)  
 Highly Regulated  
 Media Attention  
 Others

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Limited Resources/Small Staff or inexperience/Lack of Board Experience or Engagement



Unaware of actual or potential problems  
 limited or no risk prevention/mitigation



Losses

Financial - obvious  
 Reputational – not so obvious



Decreased mission effectiveness or worse + or Board personal liability or both<sup>222</sup>

# Solution

1. Strong, fully engaged board
2. Risk Management recognized as a critical board task
3. Prudent Use of Risk Management Tasks (e.g. checklists) which including high risk areas, drive down on those high risk areas and findings communicated to Board for a cost management analysis and resolution