

Risk Management ESSENTIALS

Tips, Knowledge and Tools
for Nonprofit Organizations

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The Center is pleased to announce a new fall series of webinars on human resources risk. The series features four, 90-minute programs on topical HR issues. Each program is packed with information and offers time for interaction with the presenter around your toughest HR challenges.

- September 15 – Top 10 HR Risks Facing Nonprofit Organizations
- October 20 – Planning and Conducting Effective Interviews
- November 17 – Managing Workplace Safety Risks
- December 15 – Background Checking: What You Need to Know

Visit www.nonprofitrisk.org and choose the “Webinars” tab to learn more.

How to Bring the Power of Intuition to the Discipline of Risk Management

By *Melanie Lockwood Herman*

In her thought-provoking book, *Artistry Unleashed*, Hilary Austen lays out a framework for tapping surprise, uncertainty, ambiguity and change to improve personal performance. To a traditionalist, risk management theory and practice seem to be at war with Austen’s invitation to embrace uncertainty. The stereotypical risk manager works to eliminate or reduce uncertainty in order to assure the

leaders of a nonprofit that little, if anything will go wrong.

Yet a commitment to “manage risk” in a complex and evolving nonprofit organization demands more than adherence to a prescribed set of “steps,” or a series of mathematical calculations. Austen writes: “Conventional wisdom tells us that the road to progress is paved with

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Risk Management ESSENTIALS

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Nonprofit Risk Management Center

...find the answer here

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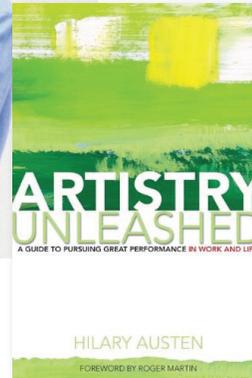
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How to Bring the Power of Intuition to the Discipline of Risk Management continued from page 1



Hilary Austen



systematic steps toward measurable goals and reward.” She contrasts a conventional approach with the approach that an artist might take: “... true artists have an uncanny ability to elude this external pressure. Instead, they rely on their unquenchable desire to connect the immediate qualities they produce in any given effort to the somewhat ill-defined, ideal qualities they can imagine.”

In Chapter 4, “The Territory, The Map and a Compass,” Austen explains one of the downsides to relying solely on quantitative methods and analytical skills to solve complex problems, noting that “In the best of all quantitative worlds, we eliminate the human element.” When nonprofit leaders embark on a risk management journey, many feel compelled to begin by listing and “scoring” their nonprofit’s risks. Writing down numeric scores for “likelihood” and “severity” makes the process of evaluating risk seem objective and scientific.

With a combined score for likelihood and severity plotted on a “heat map,” the next logical step is to

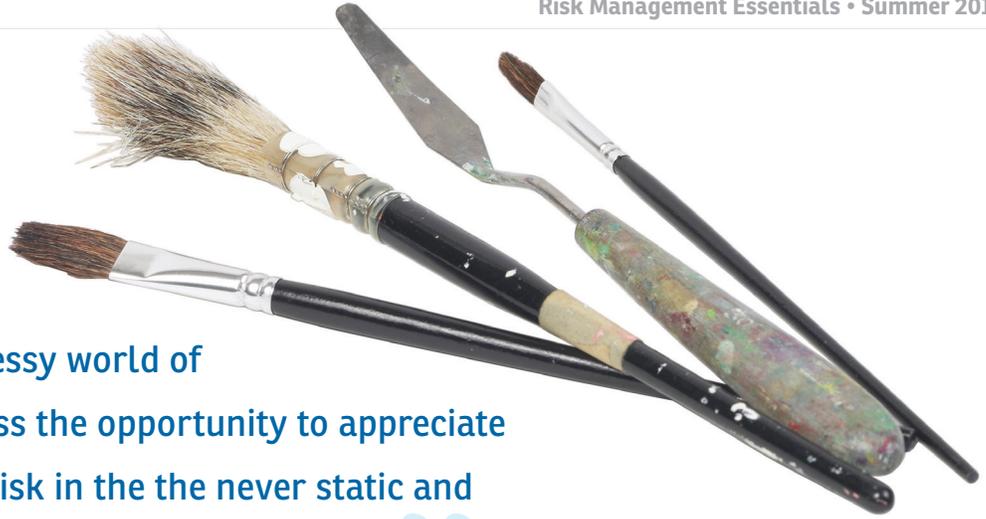
identify “what should we do about these risks and who should do it?” Focus shifts to the steps and skills required to manage the high-scoring risks. While reading Austen’s work I was reminded of the common mistake of jumping to the numbers: the failure to first take time to develop a true awareness of the context for risk in a nonprofit and the nature of risk itself. Why are we so eager to score and sort the risks we face? One reason may be that doing so seems easier, and more straightforward. Delving into the nuances of risk and organizational context is arguably harder and as a result, a risk management road less travelled. Austen reminds her reader that “Developing the ability to be aware isn’t automatic; it requires an active, effortful search.”

The importance of cultivating and honing awareness before applying our skill set is timely advice for leaders who want to upgrade their risk management efforts. By spending time to build a keener awareness of the nature of risk in your nonprofit’s environment, you will be honing your intuitive risk management capabilities along the way.

To better understand the concept of “risk intuition,” consider the culinary intuition of an accomplished chef. One of my favorite cooking shows is the Food Network program “Chopped,” a cooking competition that begins with four contestants. During the first round, the contestants—all experienced, highly-skilled chefs—must prepare a delicious appetizer showcasing the ingredients in a

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“...when we rush to tidy up the truly messy world of uncertainty, we miss the opportunity to appreciate the very nature of risk in the the never static and therefore always intriguing nonprofit world.”



“mystery basket.” The contents in the mystery basket may include unpopular proteins (e.g., rabbit kidney) as well as packaged products that cause eye rolling by the chef contestants (think packaged chocolate frosting). While watching “Chopped” I’m reminded that my so-called culinary “skills” are of little use without a chef-tested recipe nearby. In contrast, the winning chefs on “Chopped” rely on their culinary intuition and artistry. Do they have knife skills? Absolutely. But their impressive skills in the kitchen are simply the tools that bring their culinary intuition and artistry to life. When keen awareness underpins and precedes the application of skill—whether you’re creating in the kitchen or at a meeting of the risk management committee—you’ll be able to find your way in situations where a precise recipe or rigid formula simply doesn’t apply. As Austen reminds us, by cultivating a deep sense of awareness we enable “skill [to] work[s] automatically and responsively, rather than in reference to a recipe or a routine.”

Many nonprofit leaders who profess an interest in risk management also yearn for a simple process or a neat framework into which they can sort and then file away the risks their agencies face. The risk management

discipline offers many purported frameworks and schematics for those who insist on force-fitting their risks into a neat picture. But when we rush to tidy up the truly messy world of uncertainty, we may overlook or discount the very nature of risk in the never static and therefore always intriguing nonprofit world.

Author Hilary Austen will be the kick-off plenary speaker at the upcoming *Risk Management & Finance Summit for Nonprofits*, scheduled for September 18-20 at the Bell Harbor International Conference Center in Seattle, WA. Austen’s presentation on “Tapping Your Qualitative Powers to Manage Risk in an Uncertain World,” will take place at 9 am on Monday, September 19th. Each *Summit* attendee will receive a complimentary copy of Austen’s provocative book, *Artistry Unleashed*.

Melanie Lockwood Herman is Executive Director of the Nonprofit Risk Management Center. She welcomes your feedback on this article and questions about the Center’s resources at Melanie@nonprofitrisk.org or (202) 785-3891.

Melanie’s most recent books include *Ready...or Not: A Risk Management Guide for Nonprofit Executives*, and *EXPOSED: A Legal Field Guide for Nonprofit Executives*. Information on these titles can be found at www.nonprofitrisk.org/store/hot.asp.



Background Checks, Screening and Your Nonprofit

By Melanie Lockwood Herman

The term “background check” means different things to different people. Some nonprofit leaders use the term loosely to refer to a variety of screening tools, such as criminal history background checks, credit checks, reference checks, or the verification of prior employment and higher education. One former client initially told me that her nonprofit was conducting “background checks” on prospective volunteers, and I later discovered that their process was limited to checking the state’s online sex offender registry.

It Takes a Toolbox

The biggest misperception about criminal history background checks is that they are the only effective way to prevent the hiring of unsuitable paid or volunteer personnel. Criminal

history background checks are a single tool in a toolbox of screening tools that nonprofit leaders should consider. Certain positions in a nonprofit may warrant the use of one combination of screening tools that looks quite different from the combination used for other positions. Applications, interviews, and reference checks are examples of other invaluable tools that savvy nonprofit leaders should keep close at hand in the screening toolbox.

Designing an effective screening program involves: (1) scrutinizing open positions (what risks does each position pose to clientele and the nonprofit?), (2) choosing the most appropriate screening tools for each position or cluster of positions, and (3) using the screening tools in a consistent, informed, legally compliant and appropriate fashion.

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Brave... or Frightening New World?

Like all aspects of nonprofit life, background checking and staff screening practices continue to evolve “with the times.” Important developments in the world of background checking include:

- **Growth in the number of nonprofits considering the use of background checking as a screening tool for prospective paid and volunteer staff.**

Common motivations for considering background checks as a screening tool include fear of lawsuits alleging negligent hiring, changing expectations of stakeholders, and the perspective of insurance providers that background checking is a minimum risk management requirement.

- **Improved options for conducting criminal history background checks.**

Nonprofit leaders may choose to conduct records checks through state criminal history records repositories or through private screening companies. The affordability and speed of both options have improved considerably during the past decade. Some state agencies offer a quick-turnaround and free or affordable background checking options. (See inset for an example of Minnesota’s free, name-based online “criminal history offender search.”) Private screening companies offer a wide range of options, from package pricing for background checks, employment verification and DMV checks, to discounted pricing for volunteer background checks, bulk discounts for associations or groups, to the option of designing a screening

The screenshot shows the Minnesota Public Criminal History website. The header is dark blue with the state seal on the left and the title "Minnesota Public Criminal History" in white. Below the header is a navigation menu with links: Home, FAQ, Use Compliance Agreement, Methamphetamine Offender Registry Search, and New Criminal History Search. The main content area is titled "Minnesota Criminal History Offender Search" and includes a welcome message, a disclaimer about the use of the website for employment, housing, or credit, and a checkbox for agreeing to the terms. A "Continue >>" button is located at the bottom right.

protocol around a nonprofit’s specific screening criteria, concerns and budget.

Using a third-party, private screening provider may offer additional, appealing benefits. Labor and Employment attorney Pamela Devata of Seyfarth Shaw explains, “Third party background screening companies may have access to data and resources that can provide nonprofit organizations with cost effective, timely, relevant information that is also compliant with applicable law and EEOC regulations. For example, many background screening companies will not provide arrest information to employers because the use of such information could lead to disparate impact claims under Title VII.”

- **New guidance from the FTC clarifies the applicability of Fair Credit Reporting Act protection to volunteers.**

The Federal Trade Commission published a “staff report with summary of interpretations” in July 2011 indicating that “volunteers” should be treated as employees with respect to the applicability of

Q: What is included in a Minnesota criminal history record?

Minnesota criminal history records contain information on all arrests and convictions. State statutes require all law enforcement agencies in the state to report juvenile felony and gross misdemeanor arrests, and adult felony, gross misdemeanor, enhanced gross misdemeanor and targeted misdemeanor arrests to the Bureau of Criminal Apprehension (BCA). They are not required to report other misdemeanor arrests, but they may report them if they choose. The law enforcement agencies send a copy of each arrest fingerprint card to the BCA. The information from each card is recorded in the CCH record. Courts and Corrections report information regarding convictions, court dispositions, probation, and custody actions which are recorded in CCH.

Source: <https://cch.state.mn.us/pcchOffenderSearch.aspx>

“Many leaders find it hard to imagine that trolling the Internet for information on an applicant could put their nonprofit at risk. Yet potentially costly risks—including claims alleging discrimination or breach of privacy—lurk in those seemingly “free” searches.”

the FCRA. The report notes that “Because the term ‘employment purposes’ is interpreted liberally to effectuate the broad remedial purpose of the FCRA, it may apply to situations where an entity uses individuals who are not technically employees to perform duties... [including] a nonprofit organization staffed in whole or in part by volunteers.”

- **The risk associated with “free” online background checking suggest that caution should be your guide.** Many leaders understandably prefer the safety factor that comes with the use of a private screening company. Nancy Lynn Roberts, Chief Operating Officer of Trak-1 Technology adds: “By entrusting your screening to a professional background firm—one with expertise in understanding data sources and a commitment to FCRA compliance—nonprofit leaders can provide an additional layer of protection for their organizations.”
- **Unprecedented scrutiny of the use of criminal history and credit records by state legislatures and growing popularity of “ban the box” laws and policies.** In January 2011 Illinois joined the list of states that have adopted laws that restrict the use of credit histories to evaluate applicants. And a growing number of public sector employers now prohibit questions about criminal history on the initial application for employment through the adoption of “ban the box” policies. The only states with “ban the box” laws for private employers are Massachusetts and Hawaii (the City of Philadelphia has a provision as well), but

according to the Society for Human Resource Management, “more than two dozen cities and counties and at least five states have narrowed questions on their applications to cover only felony convictions or have stopped asking entirely about criminal history” (source: *HR Magazine*, February 2011). Legislators are facing pressure from consumers who fear their disqualification based on inaccurate records and also from advocates who believe that the stigma of having a criminal record unnecessarily limits employment opportunities and impairs the societal goal of rehabilitating ex-offenders.

- **Increasing popularity of informal “checking” up on prospective staff using familiar Internet search technology.** Many nonprofit hiring managers report checking Facebook and other social media sites to gather information on candidates. According to careerbuilder.com, 45% of employers use social networking sites as a screening tool. But as explained below, nonprofit employers should exercise caution when researching candidates on social media sites and be careful not to rely on protected categories of information.

That “Free” Search May Be Risky

Many leaders find it hard to imagine that trolling the Internet for information on an applicant could put their nonprofit at risk. Yet potentially costly risks—including claims alleging discrimination or breach of privacy—

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*Background Checks, Screening, and Your Nonprofit
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lurk in those seemingly “free” searches. An untrained manager may discover information on an applicant that cannot be used in determining an applicant’s eligibility. While most nonprofit leaders are well aware of the prohibition on asking an applicant about medical conditions and family status, when similar information is discovered in an online query it may seep into the process of evaluating the applicant and expose the nonprofit to allegations of disparate treatment under Title VII and other civil rights laws.

Good News...Bad News

The good news about background checking is that nonprofit leaders today have faster, cheaper options for

identifying prior criminal offenses that would render an applicant ill-suited for a key paid or volunteer position. But the bad news is that faster turnaround and more affordable pricing does not reduce the risk associated with less than careful screening. And as was true when criminal history background checking was a laborious and expensive process, it remains a single tool in a toolbox of screening options that should be considered by leaders focused on choosing the most suitable applicants for key positions.

Melanie Lockwood Herman is Executive Director of the Nonprofit Risk Management Center. Melanie welcomes your feedback on this article and questions about the Center’s resources at (202) 785-3891 or Melanie@nonprofitrisk.org.



Let's Get Entrepreneurial

By Melanie Lockwood Herman and Carlye Christianson

Are nonprofits “entrepreneurial”? Or is the term only applicable to for-profits? The website Dictionary.com offers the following definition of an entrepreneur: “a person who organizes and manages any enterprise, especially a business, usually with considerable initiative and risk.”

Effective nonprofit leaders demonstrate initiative and embrace risk-taking when they launch programs to address unmet community needs or when they take on societal problems that state and local governments can’t afford to tackle. Nonprofit entrepreneurs come to the rescue to provide critical

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services and resources when it isn't possible to do so AND generate a profit for shareholders.

Most would agree that both "initiative" and "risk-taking" are key to success in an increasingly competitive, fast-paced and high-tech nonprofit sector. But what tools and resources are available to ensure that awareness of both upside and downside risk undergirds the commitment to being entrepreneurial?

The Board

The mission of a nonprofit starts and ends with the Board. Board members are the trusted custodians of the nonprofit's mission and purpose.

But board members aren't like the "cars" that transport riders on a roller coaster circuit—connected together in a "train" and always in sync. Boards sometimes move in unpredictable patterns and a multitude of events and circumstances can lead to a break down in governance. In a healthy organization the board will be alert to warning signs, spot red flags before the train goes off the rails, and respond accordingly. In an unhealthy organization the board is more likely to overlook warning signs of an approaching disaster and may be eager to assign (rather than accept) blame once the damage is done. Some of the questions that can help a board guide entrepreneurial activity include:

- **What big risks should we take to advance our mission?**
- **What is our appetite for risk-taking?** What is our comfort level with highly uncertain events/outcomes?
- **What do we have to win... or lose?** How do potential upside gains measure against potential downside losses?
- **What existing policies are applicable to our deliberations?**
- **What do we know about the changing environment that informs our deliberations?** What more do we need to know before we take action?
- **How will we measure "success"?**
- **Do our governance structure and organizational chart truly reflect the mission, needs and focus of the organization?** In the board's view, are paid and volunteer personnel deployed effectively to support our programs? What

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impact will a new venture have on our ability to live up to existing commitments?

The Staff

Nonprofit staff leaders range from those who see their roles as limited to “implementing board policy” to executives who see themselves as innovators and partners (with the board) in mission fulfillment. Savvy executives recognize the potential glory associated with big risks that pay off, as well as the potentially severe penalty that may be due if the implementation of a “big idea” results in financial loss or reputation damage. Some of the questions that can help staff guide entrepreneurial activity include:

- **Do we have the staff talents and skills essential to undertake the new venture?**
- **Have we identified potential barriers or roadblocks that may occur during the implementation of the new venture?** What strategies will we use to overcome or work around those barriers?
- **Do we have a flexible plan for implementation that will support**

and enable necessary mid-course corrections?

- **How will we keep the board apprised and live up to our commitment to share both good and bad results, successes and tough lessons?**
- **What results or benchmarks will let us know that it is time to slow down, regroup or pull the plug on the new venture?** How do we ensure that we don't make the mistake of “throwing good money after bad”?

The word “entrepreneurial” has a nice ring to it. The word is used as a compliment when describing a business or nonprofit leader. Tapping your entrepreneurial spirit is likely to be a very good thing in an era of unprecedented uncertainty and fierce competition for scarce resources. Considering upside and downside risk along the way will help you promote experimentation, learn from success as well as failure, and better detect the warning signs that will enable timely mid-course corrections sensitive to stakeholder concerns.

A Closer Look at Impact

A strategic alliance involving the BBB Wise Giving Alliance, Guidestar USA and Independent Sector has launched “Charting Impact” an effort to help nonprofit leaders better communicate the impact of their work to stakeholders. The cornerstone of “Charting Impact” is a set of five questions whose answers are intended to help stakeholders see and understand the objectives, benchmarks for progress and impact of the work of nonprofits and foundations. The five questions that must be answered in order to complete a “Charting Impact Report” are:

- What is your organization aiming to accomplish?
- What are your strategies for making this happen?
- What are your organization's capabilities for doing this?
- How will your organization know if you are making progress?
- What have and haven't you accomplished so far?

For more information, visit:
www.chartingimpact.org.

What's a Pilot?

The term “pilot project” is often used by nonprofit leaders to describe an experiment with something new. “We're embarking on a pilot project” may refer to an experiment with strategy, target audience to be served, or a newly formed partnership or collaboration. According to Harvard Business School Professor Amy C. Edmondson, “pilots projects are usually designed to succeed rather than to produce intelligent failures—those that generate valuable information.”

In her article, “Strategies For Learning From Failure,” featured in the April 2011 edition of the Harvard Business Review, Professor Edmondson offers a list of questions to help determine if an organization has designed “a genuinely useful pilot.” The list of questions includes:

- **Is the pilot being tested under typical circumstances (rather than optimal conditions)?**
- **Is the goal of the pilot to learn as much as possible (rather than to demonstrate the value of the proposed offering)?**
- **Is the goal of learning well understood by all employees and managers?**
- **Is it clear that compensation and performance reviews are not based on a successful outcome for the pilot?**

Professional Development and Training Calendar

In-person and Web training programs offer great content, access to experts, and networking opportunities:

MARK YOUR CALENDAR
September 18-20, 2011

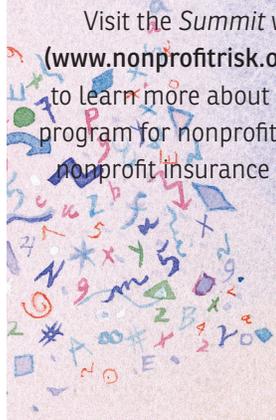
Risk Management & Finance Summit for Nonprofits

September 18-20, 2011

Bell Harbor International Conference Center, Seattle, WA

Mark your calendar and plan to join experts in the fields of risk management and finance for the Center's 17th annual conference.

Visit the *Summit* webpage (www.nonprofitrisk.org/summit) to learn more about this annual program for nonprofit leaders and nonprofit insurance specialists.



Nonprofit Risk Management Center

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FIRST WEDNESDAYS IN 2011 –

A Webinar Series at 2 p.m. Eastern

Join the experts at the Nonprofit Risk Management Center for a series of practical, to the point programs on risk management in the nonprofit world. The series features twelve, 60-minute programs on topical risk issues. Each program is packed with information and offers time for interaction with the presenter around your toughest risk management challenges.

The series of twelve topics is ideal for in-service training, risk-management skills polishing and orienting staff, managers and board members to critical aspects of understanding and managing risk in your nonprofit organization.

REGISTER

- Each webinar program is \$59.
- Register for all 12 webinars for \$459.00, a savings of \$249 if purchased separately!

First Wednesdays Schedule Recordings of the following programs are available:

JANUARY 5, 2011: *What's New? ERM, Risk Intelligence and Your Nonprofit*

FEBRUARY 2, 2011: *The 7 Deadly Sins of "Borrowed" Risk Management Policies*

MARCH 2, 2011: *Risk Communication*

APRIL 6: *Managing Partnership and Collaboration Risk: What You Need to Know*

MAY 4: Business Continuity Planning for Nonprofits

JUNE 1: Insurance Coverage Q&A

JULY 6: Managing Employee, Volunteer and Board Discontent

AUGUST 3: Accountability in Action: Enforcing Board Responsibilities

It's not too late to attend one of the following "live" programs. If you sign up for the series and miss a program, you can watch and listen to the recorded program at your convenience.

SEPTEMBER 7: Fiscal Oversight, Risk and the Nonprofit Board

One of the most important responsibilities of a nonprofit board is fiscal oversight. Yet many board members remain unclear about what exactly that means. This webinar will explore the board's role in providing fiscal oversight and risk oversight. Attend this program to learn more about these important responsibilities and how to inspire the board to strengthen its governance practices.

OCTOBER 5: Volunteers, Risk and Reward: What's New?

Most nonprofits depend on volunteers for mission advancement. Volunteers make our missions happen, but they also expose our organizations to risk. Attend this webinar to learn what's new and what's practical in the field of volunteer risk management.

NOVEMBER 2: Financial Risk Management for Nonprofits

The regulatory spotlight on fiscal oversight and finance-related risks has caused some leaders to sweat more than usual. This webinar will explore some of the recurring and evolving financial risk management challenges facing nonprofits across the sector. Learn what your organization can and should do to keep cool in a challenging environment. Topics that will be covered in this session include the dilemma of operating reserves, the board's role in fiscal oversight, unmasking conflicts of interest, and more. Expectations and interest in fiscal transparency and close scrutiny continue to grow: are you ready for your close-up?

DECEMBER 7: Risk Management and Strategic Planning

Nonprofit leaders are long accustomed to strategic planning exercises that involve the examination of strengths, weaknesses, opportunities and threats. The fine-tuning of an organization's "vision" and "mission" statements is often part of the process. This webinar will explore ways to integrate an appreciation for risk into your planning cycle. Learn how to update your planning framework by adding risk-related elements. This program will explain how to challenge assumptions, anticipate causes of failure, and evaluate the prospect of taking more (rather than less) risk.



**THIRD THURSDAYS
IN 2011 –**

An HR Webinar Series at 2 p.m. Eastern

Join the experts at the Nonprofit Risk Management Center for a series of practical, to the point programs on HR risk and reward. The series features four, 90-minute programs on topical HR issues. Each program is packed with information and offers time for interaction with the presenter around your toughest HR challenges.

The series of four topics is ideal for in-service training, risk-management skills polishing and orienting staff, managers and board members to critical aspects of managing HR risk in your nonprofit organization.

REGISTER

- Each webinar program is \$89.
- Register for all 4 webinars for \$259.00, a savings of \$97 if purchased separately!

Third Thursdays Schedule

September 15: Top 10 HR Risks Facing Nonprofit Organizations

October 20: Planning and Conducting Effective Interviews

November 17: Managing Workplace Safety Risks

December 15: Background Checking: What You Need to Know

How We Can Help You the Year Through

The Nonprofit Risk Management Center, established in 1990, provides assistance and resources for community-serving nonprofit organizations. As a nonprofit, the Center is uniquely positioned to both understand and respond to questions with practical, affordable suggestions for managing risks that threaten a nonprofit's ability to accomplish its mission.

Our mission is to help nonprofits cope with uncertainty.

- We provide **Free technical assistance** by telephone, (202) 785-3891, or e-mail, info@nonprofitrisk.org, to nonprofit staff and volunteers.
- We produce affordable, easy-to-read **publications**. (Some are free!)
- We design and deliver **workshops** at events and conferences sponsored by nonprofit organizations, umbrella groups and associations, and insurance providers.
- We offer helpful online tools, including **My Risk Management Policies**, an easy to use, program that helps you develop custom policies in various areas, including governance, human resources, technology, volunteer management, facility safety, and more. Visit www.myriskmanagementpolicies.org to learn more or purchase a license allowing unlimited use for \$179.
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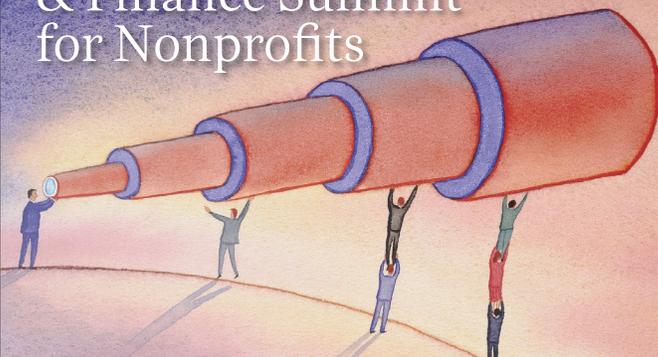
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2011 Risk Management & Finance Summit for Nonprofits



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