Sailing Organization Insurance: Top-10 Questions

Gowrie Group
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Sailing Organization Insurance is Like Gybing, You Need to Think Ahead (and remember to duck!)

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Top-10 Questions Flags and Board Members ask about their organization's insurance

1. Do we need liquor liability insurance if we don’t sell liquor?
2. Do most claims happen on the water or on land?
3. Does our insurance covers junior sailors swimming off boats and docks?
4. Does our organization’s insurance covers floods?
5. Would our insurance pay to restore our historic clubhouse after a fire?
6. Does our insurance covers sexual molestation and abuse?
7. Can employees file allegations against yacht clubs?
8. Are Directors & Officers excluded from coverage on our policy?
9. Are coastal locations exposed to more severe weather than in the past?
10. Are Level One certified instructors covered by US Sailing’s insurance or our policy?
Have you heard anyone say this before?

We can’t do “that,” our insurance doesn’t allow it.

- Are you sure “that” is true?
- Coverages can be added
- Coverages change over time
- Policy can be customized

Don’t worry about it, we have great insurance.

- This is not a smart strategy
- Read your 300 page policy
- Ask questions
- If it isn’t stated in the policy, you may not be covered
1. Do we need *liquor liability insurance* if we don’t sell alcohol?

Do you sell drink tickets at regatta parties?

Do you bill members for attending social events that serve alcohol?
Host Liquor Liability Insurance may not be adequate coverage

Is your club: “In the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages”

Host Liquor Liability Insurance
• Varies by state.
• May not include adequate coverage for:
  o Cocktail parties that members are billed for
  o Regattas parties with drink tickets or entry fees
  o Post racing beers on the deck

Considerations:
• Know your local and state liquor ordinances
• Permits may be needed
• You may need a Full Liquor Liability policy
• Verify if your umbrella policy covers over your liquor policy
2. Do most claims happen on the water or on land?
Many more claims on land than on the water

By Volume (# of claims)
1. Boat damage
2. Property damage (non-dock)
3. Workers compensation
4. Slip & Falls (Liability)
5. D&O / EPLI
6. Dock damage
7. Theft
8. Auto
9. JR Sailing
10. Liquor liability

By $’s of Claim Payout*
1. Dock damage
2. Property damage (non-dock)
3. Slip & Falls (Liability)
4. Workers compensation
5. Dock damage
6. Liquor liability
7. D&O / EPLI
8. Theft
9. Auto
10. JR Sailing

*Burgee Program data analysis, 2007 to 2009, claims over $5,000.
3. Does our insurance covers junior sailors swimming off boats and docks?

Swim test day.

No wind capsizing fun!
Know what is excluded from coverage

EXCLUSIONS. This insurance does not apply to loss, damage, liability or expense directly or indirectly caused by or contributed to or resulting from:

Marine Liability

2.7. Any liability, loss, damage, or expense arising out of swimming, snorkeling, diving, or similar activities

2.8. Any liability, loss, damage, or expense arising due to the failure of the Insured to have a competent employee of the Insured at all times in charge of any watercraft being navigated

2.9. Towing of boats

Note: 2.7 and 2.8 are policy text copied from an enforce policy for a yacht club.
Know what voids your coverage

**WARRANTIES.**

*This insurance shall be void unless:*

**OWNED WATERCRAFT INSURANCE**

3.1. The watercraft insured are maintained by the Insured in a *seaworthy condition* at all times during the term of this insurance.

3.2. The watercraft insured are operated by *duly qualified persons,* as required by federal, state or local regulation.

Note: Policy text copied from an enforce policy for a yacht club.
4. Does our club’s insurance cover floods?

Hurricane Irene, 2011.
Sachems Head Yacht Club in CT

Hurricane Sandy, 2012.
Hyannis Port Yacht Club in MA.
Image: Cape Code Times, Steve Heaslip

Hurricane Carol, 1954.
Edgewood Yacht Club in RI
Image: NOAA
Flood Insurance should be considered for each building and docks/piers

**National Flood Insurance Program (NFIP, FEMA):**
- Coverage capped at $500,000 per building
- Each policy only covers a single building
- Values are depreciated
- Retaining walls, decks, docks and piers are NOT covered
- Not just for coastal properties; rivers and lakes also flood
- If more than 50% damage, have to rebuild to NFIP standards

**Excess Flood Insurance:**
- Can be purchased to cover above the FEMA limits
- Available outside of NFIP

**Dock & Pier Coverage:**
- Burgee Program includes flood and wave-wash coverage for docks and piers
5. Would our insurance pay to restore our historic clubhouse after a fire?
The difference between restoration coverage and replacement coverage matters

Coverage Considerations

• Only Restoration Coverage restores to original condition
• Building limits matter
• Limits need to include cost to build to code, and to zoning & ordinance laws
• Be aware of Co-Insurance, Actual Cash Value, Sub-limits, and Deductibles
• Partial losses can be complicated

Property Valuations are Critical

• Frequent appraisals are essential (about every 3 yrs)
• Replacement values and construction costs increase
• Dock systems expand
• Out buildings are overlooked
6. Does our insurance covers sexual molestation and abuse?

Member romance with summer-staff gone wrong…

Physical contact by a camp counselor to a camper…
Some General Liability policies exclude coverage for sexual molestation and abuse

Inappropriate physical contact between parties could result in allegations:

• College-age sailing coach and teenage racer
• General manager and young adult member
• Day-camp counselor and camper
• Member to another member

Coverage considerations

• Read your General Liability policy carefully for exclusions
• EPLI includes coverage for sexual harassment (non-physical)
• Consider 3rd party EPLI coverage (vendors)
7. Can employees file allegations against yacht clubs and sailing organizations?

Wrongful termination?

Failure to promote?
EPLI claims are frequent and complicated

Employment Practices Liability Insurance (EPLI)
Protects clubs for litigation alleging discrimination, wrongful termination, failure to promote, sexual harassment, retaliation, and more.

EPLI lawsuits on the rise, clubs and flag officers exposed
• 2011 and 2012 accounted for highest numbers of filed EPLI claims*
• Over a 5 year period, 6 of 10 employers will face an employee lawsuit
• Small employers (less than 100 employees) account for 50% of claims
• Most claims (80%) settle for between $20,000 and $40,000
• Average compensation award is more than $200,000

If you suspect a claim might be filed, and you are in the Burgee Program
• Burgee Program clubs receive complementary consultations from Jackson Lewis law firm
• Chubb pays for defense costs, as long as the claim is defendable

8. Are Directors & Officers excluded from coverage on our policy?

Are our flag officers covered?
Directors & Officers need coverage for bodily injury, property damage, and for their decisions

Club Officers and Directors are at risk for complex lawsuits
  • Management errors and omissions
  • Unintended financial mismanagement
  • Violation of state/federal laws
  • Race management errors and omissions
  • Membership discrimination

Coverage comes from multiple policies
  • Bodily injury and property damage covered on general liability policy
  • Decision making covered on a separate D&O policy (additional policy)
  • Umbrella should cover over all policies
9. Is severe weather occurring more frequently?

A Hurricane in late October?

Hurricane Sandy, October 30 2012.
Image: NOAA

Polar Vortex!?
Trend is clear, natural disasters in the US are on the rise

Source: MR NatCatSERVICE
10 of 12 most costly* hurricanes occurred in the last 10 years

Sources: PCS estimate as of 4/13; Insurance Information Institute.
*Note: Insurance dollars adjusted to 2012 dollars using the CPI.
10. Are Level One certified instructors covered by US Sailing’s Insurance or our club’s insurance?

- Private coach?
- Hired by US Sailing as a Championship clinic coach?
Every situation is different when it comes to insurance for certified instructors (CI). The situation determines which insurance is primary or excess.

1. CI is gainfully employed by a sailing school, community program, or club. 
   Sailing organization provides primary insurance coverage, **US Sailing’s insurance is excess**.

2. CI volunteers to help a school, community program, or club run a clinic.
   Sailing organization provides primary insurance coverage, **US Sailing's insurance is excess**.

3. CI volunteers or is paid to run or coach a clinic at a US Sailing Event or Champs. 
   **US Sailing’s insurance is primary**.

4. CI is a race coach for hire, a sole proprietor, or establishes a corporation/LLC to teach or coach sailors. 
   **US Sailing’s insurance does not apply**. The CI must purchase his own insurance.
Insurance considerations for certified race administration officials and certified classifiers

US Sailing names certified race officials and classifiers on 4 policies:
   1. General liability
   2. Hull and P&I
   3. Umbrella
   4. D&O Liability

Other insurance protection might be available to Certified Race Officials and Certified Classifiers personally beyond what US Sailing offers:
   1. If the Certified person is considered a volunteer at the hosting yacht club, the club’s insurance might offer protection
   2. If the Certified Classifier has a personal umbrella policy, it may protect him/her for their activities on behalf of a not-for-profit
Smart questions to ask your insurance broker

1. Does our policy exclude **swimming**?
2. Do we have **full liquor liability** coverage, and is it under our umbrella?
3. Do we have coverage for **flood and wave wash damage** to our docks/piers?
4. Would a **dock claim** be **depreciated**?
5. Is **Regatta Liability** built into our policy?
6. Does our **umbrella policy** go over our MOLL and Marine GL polices?
7. Do we have **flood insurance** coverage on each building?
8. Do we have **restoration coverage** on our clubhouse?
9. Does our **yacht policy** have a **navigational** limit?
10. Are there **seaworthiness warrantees** on our boats?
11. Do we have **Jones Act coverage** on our instructors, launch drivers, and dock hands?
12. Does our policy cover **sexual molestation and abuse**?
13. Are member, employees, and volunteers included as **“additional insureds”** on our policy?
14. Do we have hull and liability coverage on **borrowed boats**?
15. Do we have coverage for **race management errors**?
16. Do we have coverage for **accidental fuel spills**?
The Burgee Program insures:

- More than 50% of sailing organizations in the US
- Nearly 1,000 entities in total, including clubs, schools, and community programs

Team behind the program is best in class:

- Managed by marine experts at Gowrie Group
- Underwritten by Chubb
- Endorsed by US SAILING

Learn more:

- [www.burgeeprogram.com](http://www.burgeeprogram.com)
- 800.262.8911