

# The Risk Management Process

And Discussion for  
2015 Board Leadership Conference

May 30, 2015



# Introductions

- What group do you represent?
- How long have you been in the not-for-profit sector
- For your group, what do you feel is the greatest risk exposure?

# Today' Agenda

- General Introduction to the Risk Management Process
- Including a discussion on common risk exposures / concerns
- Loss control tools to reduce risk
- The introduction of insurance to finance the consequences of risk

# Risk Management



# The Risk Management Process



# The Risk Management Process – 5 Steps

- 1) Identify and analyze your exposure to accidental and business losses
- 2) Examine feasible alternative risk management techniques for dealing with those exposures
- 3) Selecting the apparently best risk management techniques
- 4) Implementing those techniques
- 5) Monitoring the results to ensure the program remains effective



# Step 1 – Risk Identification

- Complete a survey
- Review the loss histories for your organization and other associations
- Analyze your association's financial statements
- Review other records and documents – i.e. bylaws, policy and procedures, correspondence, contracts etc.

# Step 1 – Risk Identification – Cont.....

- Create flowcharts for your association
- Complete a personal inspection
- Consult with other experts both within and outside your own association:
  - ❖ Lawyers
  - ❖ Accountants
  - ❖ Insurance and Risk Broker

# Identification Application

- ❖ Buildings
- ❖ Equipment
- ❖ Contents
- ❖ Human Capital
- ❖ Services and programs offered

# Elements to Keep in Mind

- Not all risk is Insurable Risk
- Volunteer board positions carry the same personal exposure as compensated for profits roles
- Reduction of Risk is the Key
- Record Keeping – Key Element in Negligence Defense
- Litigiousness of Society On the Rise

# Step #2 – Risk Management Options Review

- A) Risk Control Options:
  - Avoidance
    - Not engaging in certain activities
    - Effective but potentially not practical
  - Loss Prevention
    - Instituting/improving building maintenance and record keeping
    - Staff and board member training
    - The development of rules related to third party rentals

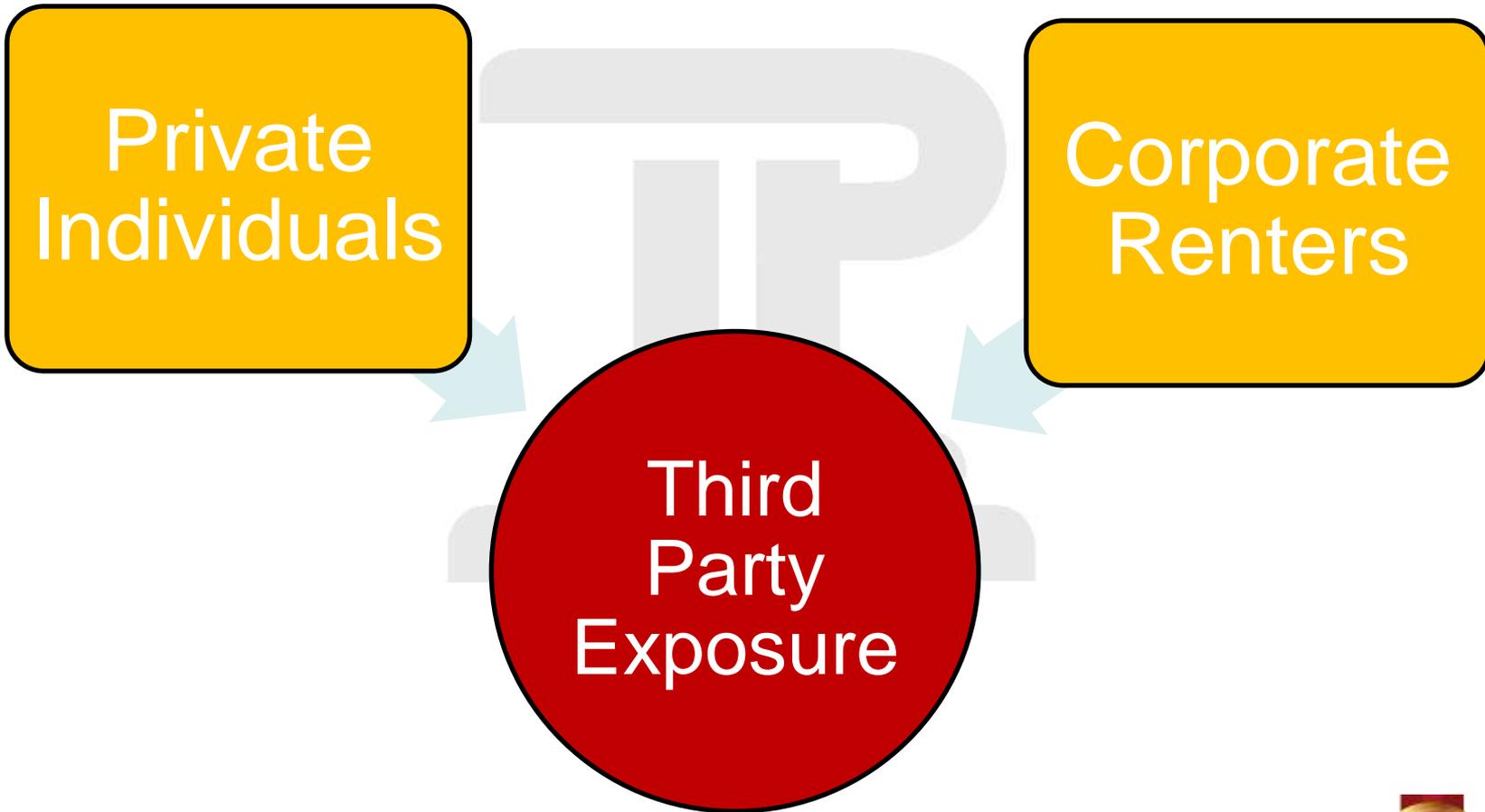


# Loss Prevention - Third Party Risks



**To protect the liability interests of Associations against claims in which a third party renter doesn't have their own liability coverage**





# A) Private Individual Renters

- In a perfect world, we would get a copy or details about their personal liability coverage (usually in the form of a homeowners or tenant's policy)
- The reality is that this rarely occurs
- In the absence of this insurance coverage, the Association has the option to refuse the renter, therefore forgoing the potential rental revenue or allowing the individual to rent the facility as requested

- Since the latter is, in most cases, what actually occurs, the rental agreement can be amended by adding a section advising something similar to “the renter is aware that any liability arising out of their function will be the sole responsibility of the renter and that the policy of the Association will not respond to protect them”.

# B) Renting to Corporations

- The main difference when renting to businesses is that there is a process in the commercial insurance “world” where a certificate of insurance can be easily obtained as proof of their insurance policy.
- In addition to this certificate, we also recommend that the Association be added to the corporation’s policy as an “Additional Insured”.

- “Additional Insured” status under a renters’ policy protects the association by having the renter’s policy respond should the association be sued as a direct result of the renter’s actions
- Requests for these certificates and this additional insured status are extremely common and as a result, should be easily obtained.

- We usually request that renters carry the same limit of liability as your association
- \$2 million should be the minimum requirement however

# Liquor Related Exposures

- This is one coverage that the renter should be required to purchase as a condition of renting the facility.
- PAL Liquor Policies can be purchased, on-line ([www.palcanada.com](http://www.palcanada.com)) by the renter directly or through a broker

## Loss Prevention Cont...

- From a D&O perspective ensuring that the board reviews and ensures that bylaws are up-to date, and understood by all board members
- Managing uninsured / under insured exposures by ensuring that property and liability limits are adequate



# Step #2 – Risk Management Options Review Continued

- Loss Reduction
  - Installation of fire extinguishers
  - sprinkler systems in new construction or building expansion/renovations
  - liability waivers (limited protection)
  - Ensuring that all other safety items (exit signs, smoke detectors etc.) are in good working order

# Step #2 – Risk Management Options Review Continued

- Separation
  - **Property to be stored in more than 1 location**
  - **computer files backed up off site**
- Duplication
  - **If possible, have more than 1 location for computer servers**
  - **Have more than 1 location performing the same activity**
- Diversification
  - **Engaging in low risk activities, not just high risk ones**

# Step #2 – Risk Management Options Review Continued

- B) Risk Financing Options:
  - Retention –
    - Increased deductibles or fully self insuring the exposure
  - Risk Transfer
    - Insurance
    - Non-Insurance Risk Transfer – Contractually transferring the risk onto another (additional insured status added to subcontractors' or hired vendors' insurance policies)

# Insurance Policies

## ➤ Property Policies:

- ❖ Building & Contents
- ❖ Business Interruption

## ➤ Liability Policies:

- ❖ General Liability - for operational risk protection
- ❖ Directors and Officers – personal risk protection

# Directors & Officers Coverage



Liabilities of directors and officers can arise in many ways, including allegations of breach of common law duties, breach of duties owed to shareholders, and statutory liabilities imposed by federal or provincial laws.



# Directors & Officers Coverage

- Responsibilities of individuals serving on a non-profit board of directors are similar to those of directors of for-profit companies.
- However, non-profit organizations have limited resources to indemnify directors and officers or respond to expensive litigation, settlements or damage awards.
- Where no indemnification or only partial indemnification is available, the personal assets of directors and officers are at risk, as well as those of the entity itself.



# Directors & Officers Coverage



- Directors and officers liability coverage is a critical component of the overall insurance protection package that no non-profit organization should forgo, particularly if it wants to attract and retain qualified and motivated directors and officers.



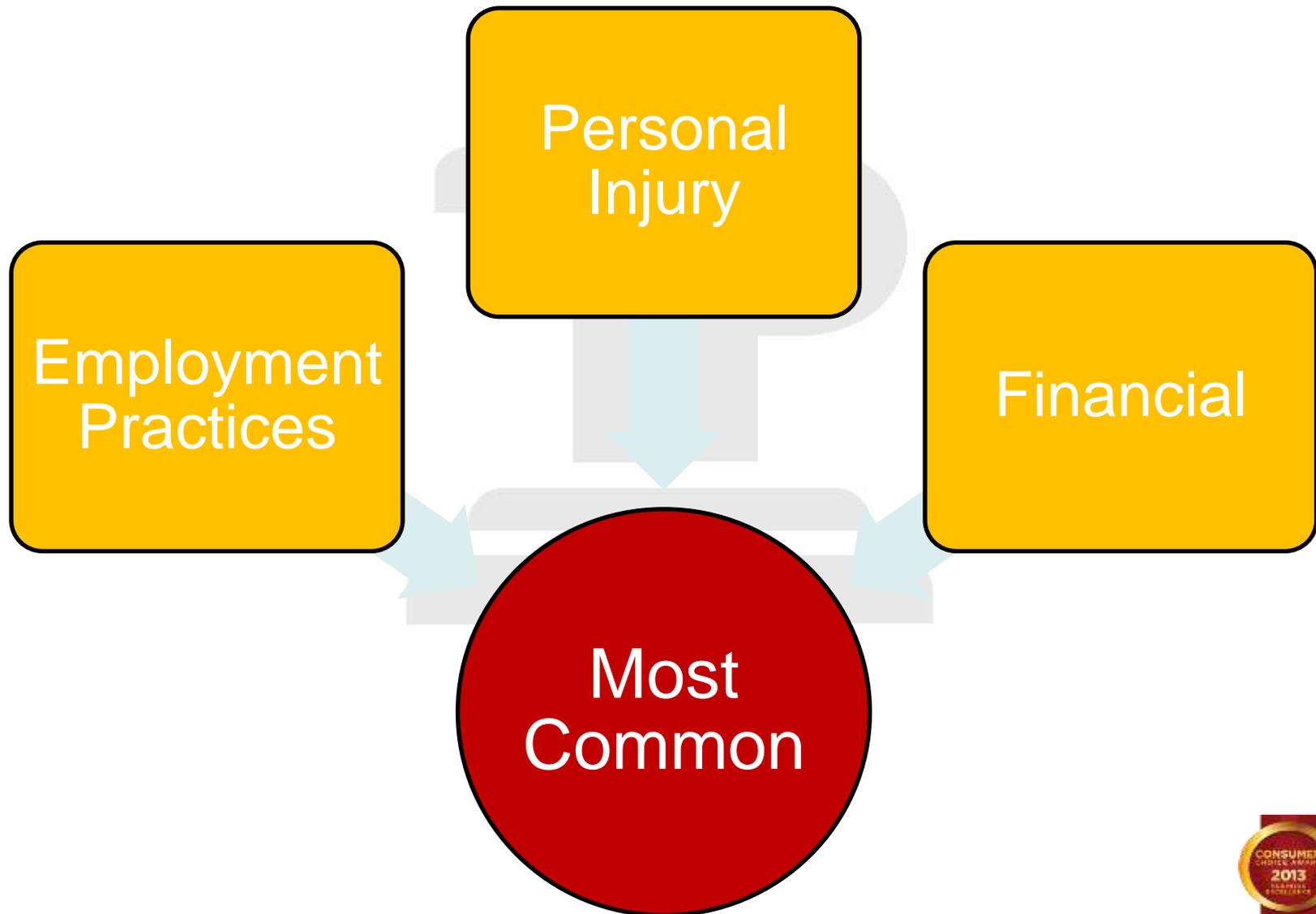
# Directors & Officers Coverage



“Directors and Officers liability insurance for non-profit organizations .....provides financial protection for directors and officers in the context of their wrongful conduct but also extends this same coverage to protect employees, volunteers, committee members, trustees and the organization itself. What this means is that the policy not only contemplates the errors and omissions of directors and officers but includes on its list of insured’s, all those who are associated with the entity.”



# Types of Not- For Profit D&O Losses



# D&O Claims Examples

1) A holiday parade in a major metropolitan city is sued by a spectator after one of the volunteer performers tossed a free gift into the crowd, injuring the plaintiff. Although the direct damages resulting from the bodily injury may seek indemnity under a CGL policy form, the plaintiff is suing for financial damages of \$200,000 from the directors and officers alleging inadequate safety protocol and training procedures.

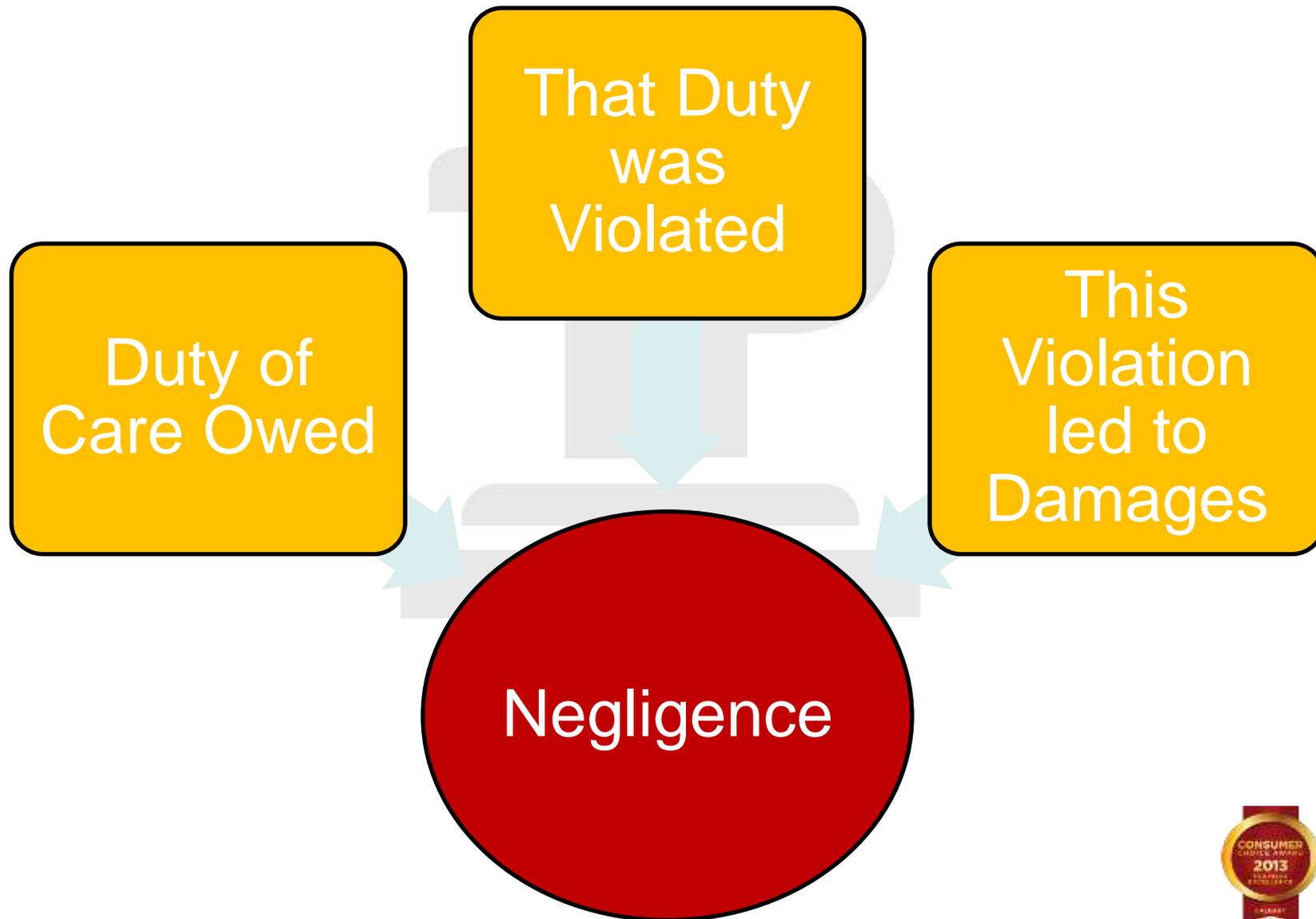
# D&O Claims Examples

2) The executive director of a day care center was terminated due to unauthorized spending of the organization's funds. The day care center was sued for wrongful termination resulting in a settlement in favor of the former executive director. The suit settled for \$75,000.

3) The board of directors of a condo corporation hire a contractor to perform significant work..... The board pays the contractor the full cost of the job prior to any work being completed. Soon after, the contractor files bankruptcy without completing any of the work. Upon investigation, it is determined that a member of the board has a personal relationship with the principal of the contracting company. The condo owners subsequently sue the board for mismanagement of funds to the amount of the contract, \$200,000.



# Concepts of Liability



# Step #3–Selecting the Appropriate Risk Management Option

- A) First Stage – To forecast how the option (s) effect the frequency and severity of the organization’s identified risk exposures –  
How will your risk be changed?
- B) Second Stage - To view the options in light of both the:
  - Financial (are the options economically feasible?)
  - Non-Financial Considerations
    - **Socially acceptable**
    - **Ethical standards**
    - **Legal**

# Frequency and Severity – Selecting Options

**Figure 3—Illustration of a Frequency and Loss Exposure Prouty Matrix**

		Loss Frequency			
		Almost Nil	Slight	Moderate	Definite
Loss Severity	Severe	Transfer	Reduce or prevent	Reduce or prevent	Avoid
	Significant	Retain	Transfer	Reduce or prevent	Avoid
	Slight	Retain	Transfer	Prevent	Prevent

# Step #4– Implementation of the Chosen Risk Management Option

- Based on two organizational factors that need to be examined:
  - ❖ Ability to make the appropriate **technical decisions**
    - The existing processes and procedures will need to be restructured to accommodate the addition of the new/fine tuned risk management strategy.
  - ❖ The coordination of the management as well as the board to make the **managerial decisions** needed to put the new process into action

# Step #5 - Monitoring and Revision of the Risk Management Process

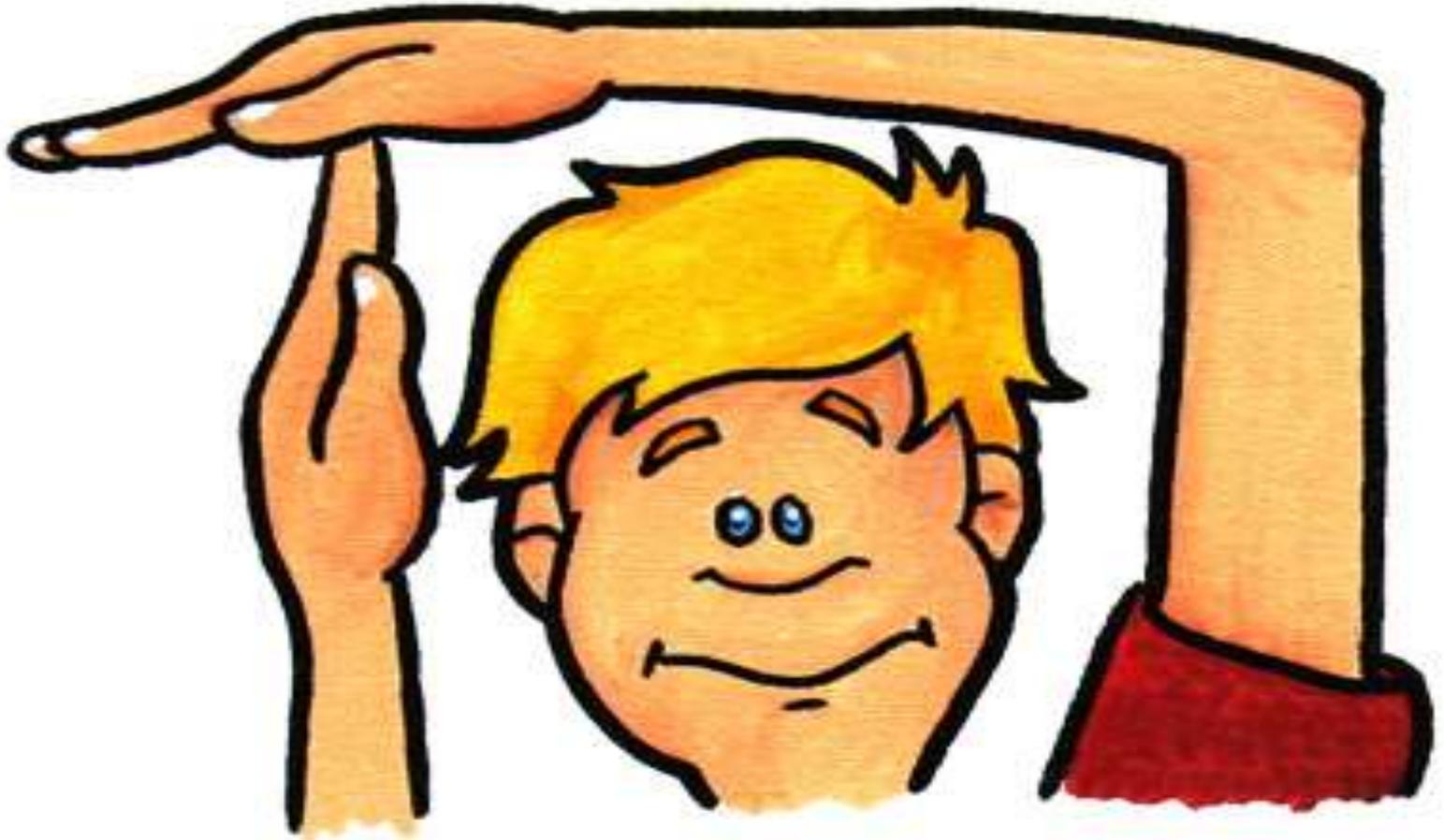
- The risk management process is circular or fluid in nature
- It needs constant review and adjustment to ensure that risks associated with our ever changing environment can be identified and mitigated.
- Without the periodic review the risk management process, as time goes on, the effectiveness of the preceding four (4) steps decrease

# New Developments

➤ **Legal Defense Coverage**

➤ **Cyber Risks**

# Break Time



# Session Based Questions & Discussion

Of the 20 Questions Directors of Not-For-Profit Organizations Should Ask about Risk Handed Out:

Choose at least 5 and Discuss how you would Answer them on behalf of your organization

# Any Questions?

