

Manager/Supervisor Risk Management

#89– 9/13/12

A twice weekly e-mail training for YCPARMIA members

TOPIC: DEFINITIONS

YCPARMIA's liability coverage agreement is a contract between the Authority and its members. To clearly identify the rights and obligations of the parties under the agreement it is necessary to define certain terms and words used in the document. Section II of the Memorandum of Coverage is "Definitions." We are going to limit this discussion to two of the twenty-nine defined terms: "Covered party," and "Occurrence."

"Covered party" defines who is protected by the coverage – in a personal insurance policy it would be the "insured." Under the YCPARMIA coverage agreement covered parties include:

- The member entity named on the declaration page including any and all commissions, agencies, authorities, and boards controlled by the member's governing Board.
- Past or present elected or appointed officials, employees or volunteers acting for or on behalf of the member entity.
- Any person or entity that is added as an additional insured under a contractual requirement.
- Any person using an owned or leased automobile with the permission of the member entity.

The definition specifically qualifies coverage by stating that the duty to defend or indemnify the individuals under the coverage agreement is limited to the obligations found in the Government Code; in other words, coverage provided by YCPARMIA satisfies the duty found in the GC requiring California public entities to defend and indemnify their employees for liability growing out of their employment.

There are a couple of things to recognize. Volunteers are covered for their activities made on behalf of the entity; the issue is whether they were working under the direction and control of the entity at the time of the accident. Also, if the entity appoints an official or employee to an outside board, they are covered for their activity on the board. Lastly, just like member entities require their contractors to name the entity as an additional insured on the contractor's coverage, it is common for the entity to be required to name other individuals or businesses as additional insureds under their YCPARMIA coverage. There is coverage for these situations with endorsements being issued by our office.

"Occurrence" is also an important term because coverage under the agreement is triggered by an "occurrence;" no "occurrence" means no coverage. The agreement defines occurrence as "...an accident...which results in bodily injury or property damage neither expected nor intended from the standpoint of the covered party..." The definition includes other specifics, but the important concept here is that to trigger coverage there has to be an accident with consequences that were neither expected nor intended. One of the most common reasons that coverage is denied is because the injury or damage was caused by an intentional act where the employee knew what the consequences of the actions would be, but did it anyway.

Next topic: Exclusions