

# Public Official Errors & Omissions Insurance

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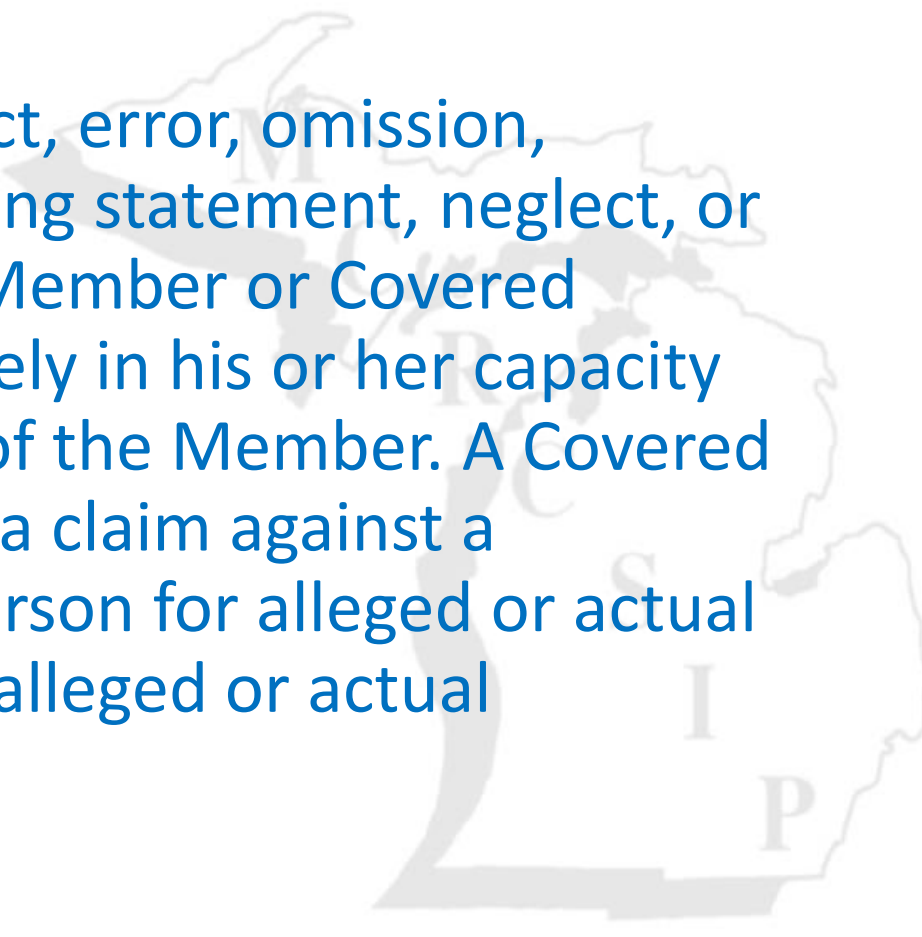


# MCRCSIP

- **The Michigan County Road Commission Self-Insurance Pool – is a Governmental Group Insurance Trust**
  - **Organized in 1983, pursuant to Section 5, Chapter 124-P.A. 138 of 1982, MCL Sec. 124.1-124.13 that was enacted to allow public entities, by inter-local (Intergovernmental) agreement to form governmental self-insurance trusts to manage risk.**
  - **We provide insurance to our Members; but we are not an “insurance company”**
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# What is Covered under Public Officials E&O Coverage?

Any actual or alleged act, error, omission, misstatement, misleading statement, neglect, or breach of duty by the Member or Covered Person while acting solely in his or her capacity as such and on behalf of the Member. A Covered Event shall not include a claim against a Member or Covered Person for alleged or actual gross negligence or an alleged or actual intentional tort.

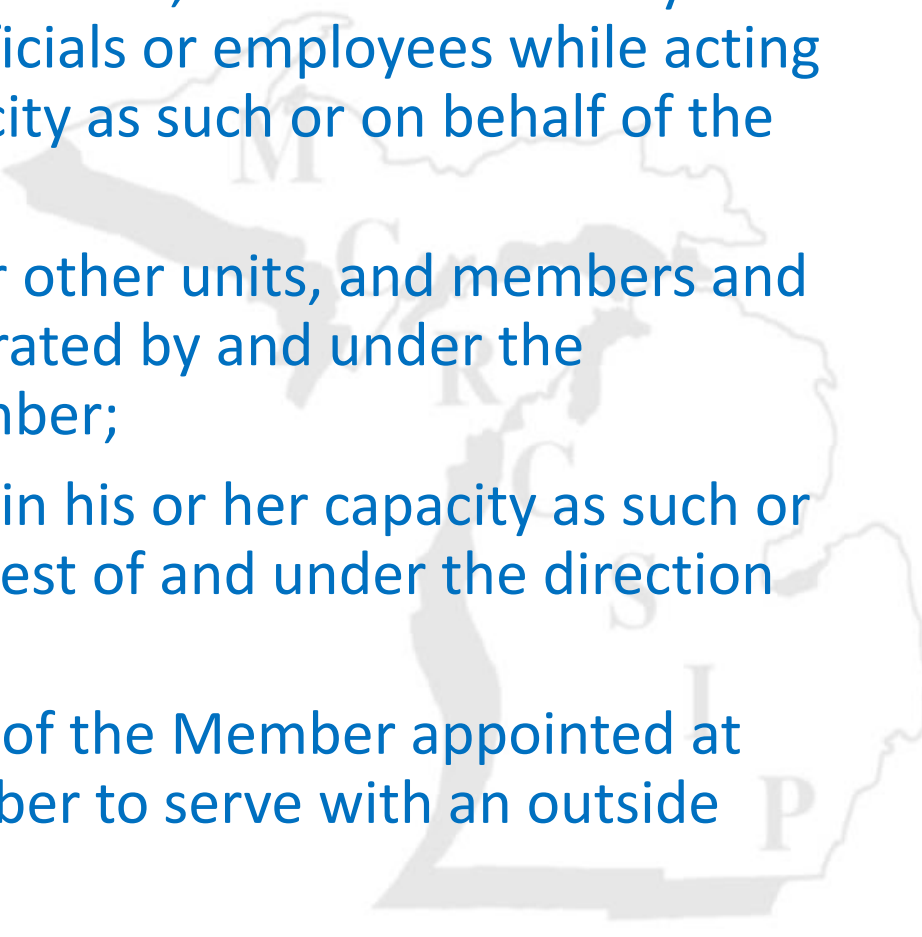


This coverage serves the same function for elected/appointed officials of state and local government as directors and officers (D&O) insurance serves for the directors and officers of corporations.

However, one major difference is that **under public officials liability forms, employees and the public entity itself are insureds**, whereas this is not the case with D&O policies.

Exclusions under this policy include losses due to fraud or dishonesty, bodily injury (BI) or property damage (PD), assault and battery, defamation, and fiduciary liability. (Intentional Acts)

# Who is covered???

1. The Entity... in this case Road Commission;
  2. All persons who were, now are, or shall be lawfully elected or appointed officials or employees while acting solely in his or her capacity as such or on behalf of the Member;
  3. Commissions, boards, or other units, and members and employees thereof, operated by and under the jurisdiction of such Member;
  4. Volunteers acting solely in his or her capacity as such or on behalf of, at the request of and under the direction of the Member;
  5. Officials and Employees of the Member appointed at the request of the Member to serve with an outside governmental entity.
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# What is covered???

## **Financial Management**

Commissioners could be held personally liable for unpaid wages of employees as well as unremitted source deductions and taxes.

## **Misrepresentation**

The financial officers and commissioners can be sued for misrepresenting the actions of the road commission if someone is harmed.

## **Defamation**

Commissioners and other staff can be sued by individuals for defamation.

## **Violations of statute**

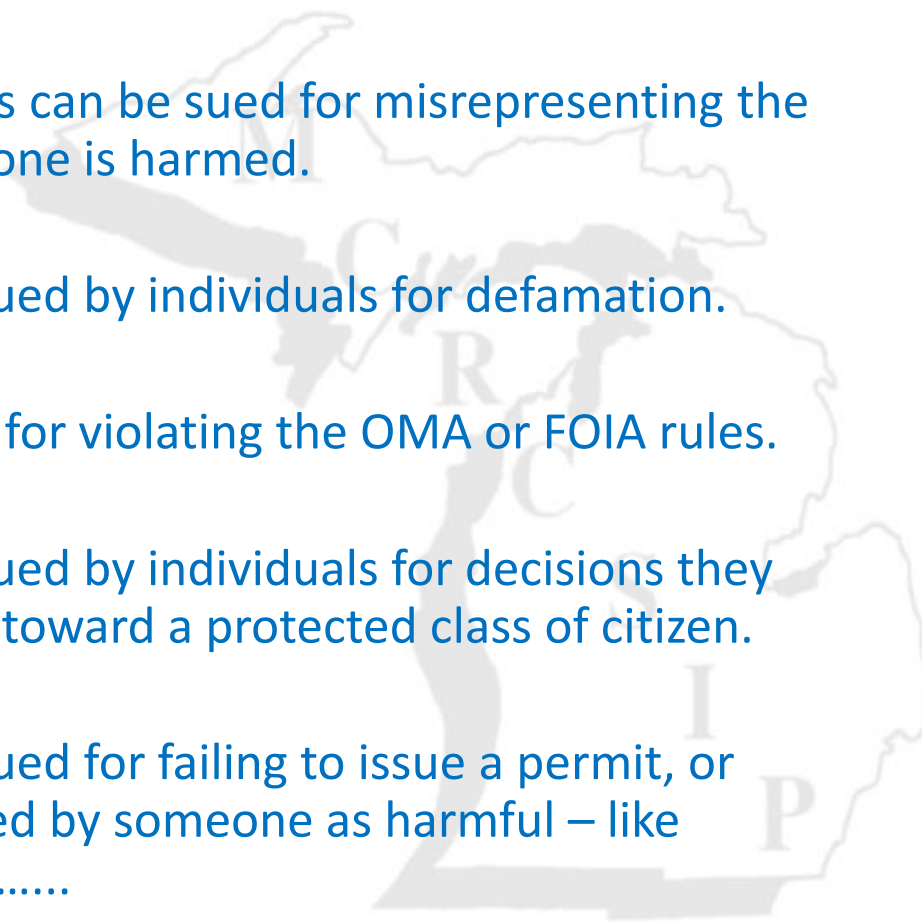
Commissioners can be held responsible for violating the OMA or FOIA rules.

## **Discrimination**

Commissioners and other staff can be sued by individuals for decisions they make that are viewed as discriminatory toward a protected class of citizen.

## **Challenges to their decisions**

Commissioners and other staff can be sued for failing to issue a permit, or revocation of a permit, or a policy viewed by someone as harmful – like cutting down trees, spraying vegetation.....



# What claims are not covered under our E&O Agreement?

- Due to gains not legally entitled to by any covered Person – profits or advantages.
- Arising out of Criminal or Fraudulent acts.
- Bodily injury or property damage or theft - these are covered under different Agreements.
- Arising pursuant to Contract terms.
- Pollution.
- Due to other Intentional Acts.
- Claims by a Covered Person against another Covered Person in our Pool.

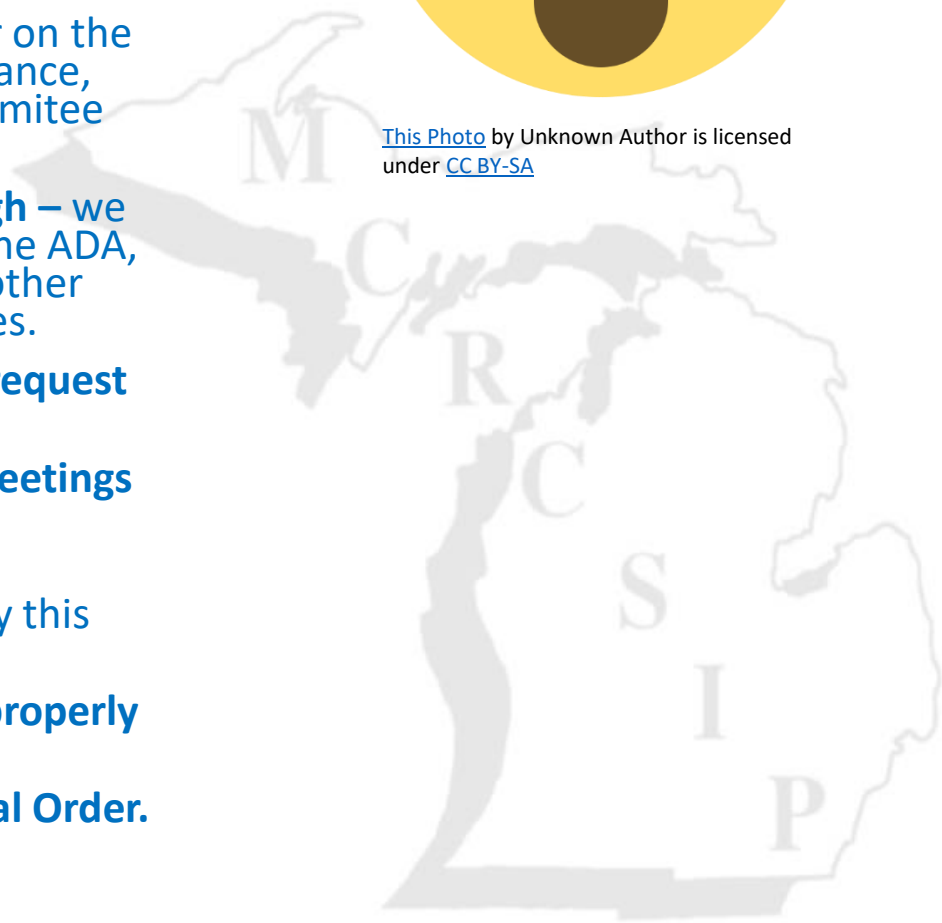


# Examples:

- **Flooding Claims** – if due to decisions made by the Road Commission to alter the drainage patterns/road design.
- **Revocation of a Permit** – if you are clear on the terms and conditions of your permit issuance, you can legally revoke a permit if the permittee doesn't adhere to same.
- **Allegedly not plowing a road fast enough** – we have complaints linking the problem to the ADA, and non-discrimination rules, as well as other issues – this is why you need good policies.
- **Allegation that the response to a FOIA request was wrong**
- **Allegation of a Violation of the Open Meetings Act.**
- **Allegations that a road was wrongfully abandoned** – if someone is landlocked by this action they may sue.
- **Allegations that a road end is being improperly used as a park.**
- **Challenges to an Encroachment Removal Order.**



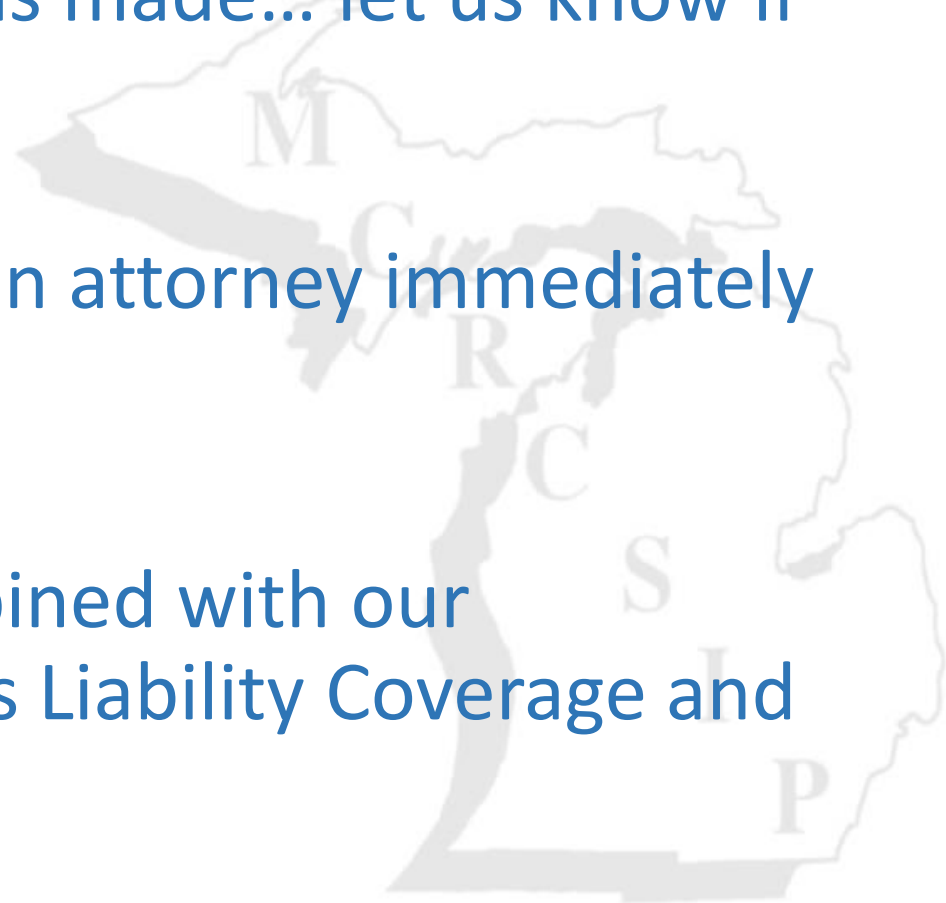
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# Filing a claim.....

- Our Coverage is claims made... let us know if you receive a claim.
- We generally assign an attorney immediately for these claims.
- The coverage is combined with our Employment Practices Liability Coverage and has a \$-0- deductible.



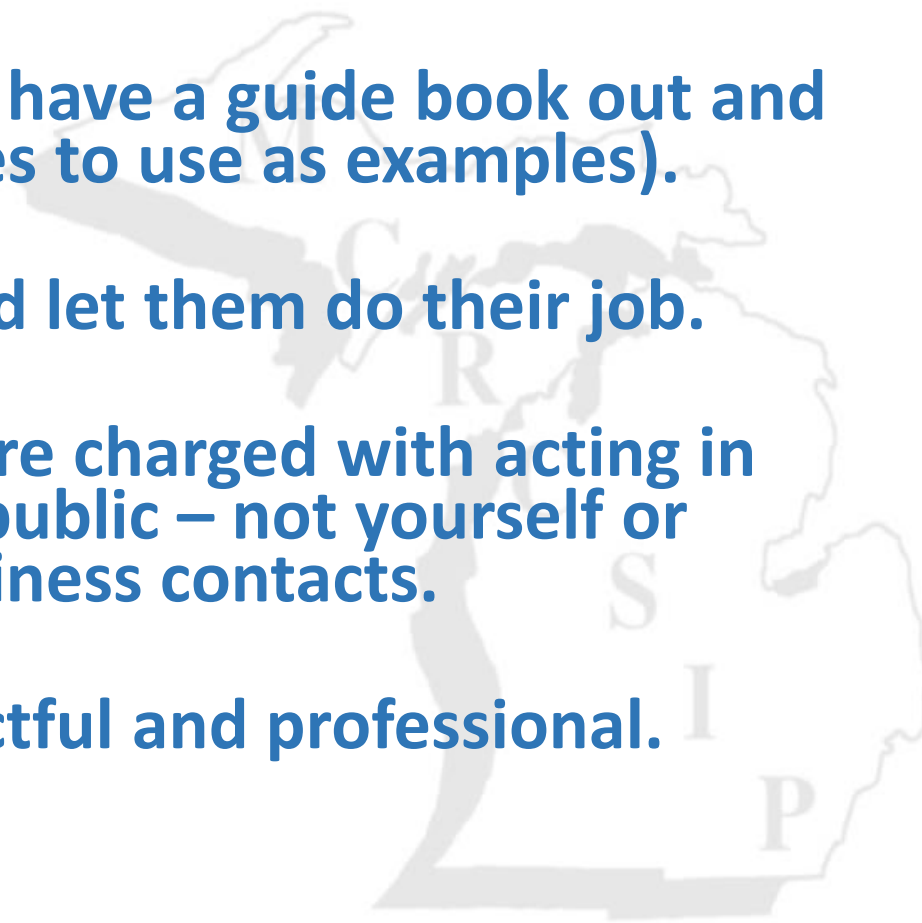
# Best Practices -

**Adopt good Policies (we have a guide book out and others have great policies to use as examples).**

**Hire a good Manager and let them do their job.**

**Always remember you are charged with acting in the best interest of the public – not yourself or your friends or your business contacts.**

**Keep things legal, respectful and professional.**



# Questions?

