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Hiring a Nanny P.1

In this personal risk management column, the exposure created by the personal hiring of a nanny rather than using a nanny service is examined, and possible solutions to handle this exposure are offered.

Managing the Nanny Risk

by Jack Hungelmann, CPCU, CIC, ARe

There are many considerations to take into account when choosing whether to hire an in-house nanny from a professional service or hiring one personally. Hiring through a professional service does have many benefits – typically the nannies will be fully insured and bonded, they are employees of the service instead of an individual's household, but all this will often come at a much higher price. Because of the cost benefits, more families are choosing to hire a nanny directly. By choosing to employ directly, families often take on a lot of liability they are often times not fully aware of. Below are some examples: Here are the added risks Angela and I identified, in no particular order, relating to hiring her own nanny, and my corresponding risk management advice regarding that risk.

The Risk	Recommendation
<p>THE IRS RISK*</p> <p>The risk of fines, penalties, and payroll taxes for improperly paying an employee as a contractor and not withholding payroll taxes.</p>	<p>HIRE THE NANNY AS AN EMPLOYEE</p> <p>Eliminate all the risk. Do the withholding. Pay the payroll taxes.</p>
<p>THE RISK OF UNINSURED INJURY LAWSUITS*</p> <p>The risk of lawsuits for job-related injuries for which the nanny can sue you—something she could not do if you pay her as an employee and buy workers compensation coverage. Your home and umbrella liability coverage will not defend you nor pay any judgment because they both exclude injuries for which workers compensation benefits are due.</p> <p>By not covering her for workers compensation, you also are exposed to owing her all benefits that would have been payable under workers compensation plus substantial fines and penalties from the state.</p>	<p>BUY WORKERS COMPENSATION COVERAGE</p> <p>Pay her as an employee. If injured on the job, she will be limited to collecting her medical bills and lost wages under the workers compensation coverage.</p>



The Risk	Recommendation
<p>THE RISK OF FAMILY MEMBER LAWSUITS* Lawsuits from a spouse for loss of consortium, from other family members for loss of services she provided them, etc.</p> <p>Workers compensation coverage does provide employer's liability coverage but the limits may not be adequate to cover the lawsuit.</p>	<p>BUY EMPLOYER'S LIABILITY COVERAGE WITH HIGH LIMITS I recommend at least \$500,000 plus additional coverage under a personal umbrella policy. Important: Be sure to buy an umbrella policy that includes excess employer's liability coverage. The majority of umbrellas do not, so you may need to shop around.</p>
<p>THE ADDED HASSLE AND POTENTIAL ERRORS OF PAYROLL ADMINISTRATION* Payroll tax withholding and payment responsibility to the state and federal governments, payroll form responsibilities, W-2 forms, etc. Add the risk of IRS fines and penalties for errors, plus the payment obligation of FICA and unemployment compensation taxes. (Usually about 10 percent of total payroll costs)</p>	<p>HIRE A PAYROLL SERVICE Or consider a reputable software program designed to handle the nanny exposure that reduces or eliminates not only most of the work but most of the potential errors as well.</p>
<p>THE RISK OF INJURIES TO YOUR CHILD Most nannies will not have their own liability insurance which means there won't be adequate funds available to compensate your child for her injuries.</p>	<p>ASSUME THE RISK YOURSELF Medical bills should be covered by your health insurance, or hire a professional nanny service that generally will carry this type of coverage.</p>
<p>THE RISK OF EMPLOYMENT-RELATED MISUNDERSTANDINGS* Whether she's an employee or contractor, employment misunderstandings can occur, such as workable hours, who is responsible for what type of insurance, etc. Consider Using a Contract to Spell out Both Parties' Obligations</p> <p>Include requirements to buy their own liability, workers comp, auto, health, and disability insurance if hired as an independent contractor.</p>	<p>CONSIDER USING A CONTRACT TO SPELL OUT BOTH PARTIES' OBLIGATIONS Include requirements to buy their own liability, workers comp, auto, health, and disability insurance if hired as an independent contractor.</p>

The Risk	Recommendation
<p>THE RISK OF HIRING AN UNSAFE PERSON*</p>	<p>GET HER SIGNED PERMISSION TO RUN A PREEMPLOYMENT BACKGROUND CHECK Get references. Check cri</p>
<p>CAR ACCIDENT INJURY RISKS The risk of your child being injured in a car accident caused by the nanny's negligent driving or operation of the vehicle.</p>	<p>GET HER SIGNED PERMISSION TO CHECK HER DRIVING RECORD Get her driver's license number, and check her motor vehicle records. Check her claims activity on a CLUE Report. Request proof of her automobile insurance liability coverage if she uses her own car. Add her as an occasional operator to your car insurance if she uses your car. Be sure your Uninsured and Underinsured Motorist coverage limits are high—at least \$500,000 or more.</p>
<p>THE THEFT RISK Consider the risk of the nanny stealing personal property, jewelry, cash, your identity, etc.</p>	<p>DO BACKGROUND AND REFERENCE CHECKS Reduce the risk as much as possible by hiding valuables. A fidelity bond might also be available for about \$200 a year.</p>
<p>YOUR ADDED LIABILITY EXPOSURE HAVING THE NANNY WORK OUT OF YOUR HOME The risk of the parents of the other child with whom you are nanny-sharing suing you for an injury to their child arising out of a condition on your premises (i.e., a dog bite, a fall on the stairs, a burn from a hot coffeepot, etc.). This is the price of having the service provided at your home instead of theirs.</p>	<p>REDUCE THE RISK AS MUCH AS POSSIBLE Make sure your personal umbrella liability limits are comfortably high enough.</p>
<p>YOUR ADDED LIABILITY EXPOSURE HAVING THE NANNY WORK OUT OF YOUR HOME The risk of the parents of the other child with whom you are nanny-sharing suing you for an injury to their child arising out of a condition on your premises (i.e., a dog bite, a fall on the stairs, a burn from a hot coffeepot, etc.). This is the price of having the service provided at your home instead of theirs.</p>	<p>REDUCE THE RISK AS MUCH AS POSSIBLE Make sure your personal umbrella liability limits are comfortably high enough.</p>
<p>*These risks would be greatly reduced by hiring a Nanny Service</p>	

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