

Legal Considerations when Engaging Volunteers

Volunteers are an invaluable and often essential resource that allow nonprofit organizations to provide a full range of services to their communities. Without proper consideration and management, however, volunteers can also expose nonprofit organizations to various types of liability.

Potential Liability for Acts of a Volunteer. A nonprofit organization needs to be cognizant of the fact that it can be held liable for the wrongdoing of an employee or volunteer. Under the doctrine of “[respondeat superior](#),” an employer is responsible for torts committed by an employee while the employee is acting in the course and scope of his or her employment. Arizona courts have acknowledged that volunteers may also be considered servants or agents for a principal under doctrine of respondeat superior. Respondeat Superior is a legal doctrine which states that an employer is responsible for the actions of employees performed within the course of their employment under certain circumstances. Thus, a nonprofit organization can be held liable for the actions of a volunteer who is acting in the course and scope of his volunteer relationship with the organization.

Because your organization could potentially be liable for the actions of its volunteers, it is important to consider the following:

- How will volunteers be utilized? The risk of liability increases as the volunteer is given more responsibility and independence. Carefully choose the responsibilities that will be given to volunteers. Also, there should be a clear delineation between the tasks performed by employees and those performed by volunteers. Situations such as these will sure make a company start asking around for a professional liability insurance quote.
- What selection criteria should be used? You should use care to ensure that the volunteers selected are fit to serve in the positions at your organization. Your selection criteria may differ based on the responsibilities given to different volunteers. If you are using volunteers to serve children, disabled individuals, or other vulnerable populations, your selection criteria may include a background investigation and criminal history check. If your volunteers sort food for a food bank serving adults, however, a background investigation may not be required.
- What training is necessary? Before putting volunteers to work, they need to be trained to perform the assigned tasks. Otherwise, you could be held liable for their negligent performance of those tasks if it causes injury to others. Also, the nonprofit organization could be held liable if a volunteer who is not properly trained injures himself or herself because of inadequate training.
- How will the volunteers be supervised? Volunteers should have appropriate supervision based on the tasks assigned. A warehouse volunteer who is performing physical labor

may not need close supervision, whereas volunteers dealing with vulnerable populations may need to be closely monitored.

- How will problems be addressed? Although good volunteers provide invaluable assistance, bad volunteers can expose you to substantial liability. Do not be afraid to address problems head-on and terminate the volunteer relationship if a volunteer exhibits inappropriate behavior.

Potential Liability for Injury to a Volunteer. Nonprofit organizations may also be liable for injuries suffered by the volunteer while providing volunteer services. In the traditional employer-employee relationship, the employer owes a duty to an employee who is injured in the course and scope of his or her work. The system of worker's compensation laws describes and details the employer's duty to compensate the employee for injuries sustained by the employee in the course and scope of his or her duties. In exchange for providing compensation to injured workers, an employer is also able to limit its liability for injuries to employees. Nonprofit organizations need to be careful to distinguish between employees, who are subject to worker's compensation provisions, and volunteers, who may not be.

An employer also has a duty to maintain safe working premises for an employee. Many states have applied this doctrine expressly to nonprofit organizations, requiring them to maintain a safe place for volunteers to work or finding them to be negligent in failing to provide a safe place for a volunteer to deliver services. This duty can apply even if the volunteer is working off premises while providing services for the nonprofit organization, making the nonprofit corporation liable for the actions or inactions of a third party.

It is essential for a nonprofit organization to keep its premises free from any known hazards in order to protect its employees, volunteers, and clientele. In situations where a volunteer will be providing services off the premises, the volunteer should receive adequate training, supervision, and safety equipment, if applicable, to protect them from potential hazards they will encounter. For nonprofit organizations that send their volunteers out into the community to serve clients, consider using a team or buddy concept to ensure that no volunteer is alone. It is often advisable to use a waiver and general release for volunteers. This is a form that advises the volunteer of the potential dangers involved and requires the volunteer to release the nonprofit organization from any liability for injuries that the volunteer might sustain as a result of those dangers.

Other Liability. Many nonprofit organizations have dedicated employees who wish to "volunteer" their time to the organization. Before allowing an employee to volunteer time, you need to determine whether the organization may be held liable for overtime wages under the Fair Labor Standards Act for any such volunteer time.

Compensating volunteers may cause additional problems as well. If your organization does more than provide reimbursement for minor expenses, such as providing a stipend or regular compensation for the work, the [Department of Labor](#) might consider such volunteers to be employees and entitled to minimum wage. To avoid such issues, have your legal counsel review any such compensation arrangements before implementing them.

Conclusion. Volunteers are often the lifeblood of a nonprofit organization. With appropriate planning and management, your organization can reap the benefits offered by volunteers while minimizing potential liability.