Volunteers and Liability

The Federal Volunteer Protection Act

Volunteers are crucial to the fight against childhood obesity—leading kids in physical activity through Safe Routes to School programs and after-school activities, teaching cooking and gardening classes, and encouraging healthy lifestyles through many other programs. Volunteers often make it possible for financially stretched schools, nonprofits, cities, and counties to do more to create healthy communities and help children lead healthier lives.

But people sometimes worry that they could be at risk of liability if an injury occurs while they are volunteering. Fortunately, a federal law—the Volunteer Protection Act—provides volunteers with significant protections from liability associated with volunteer activity in every state but one. Some states also have laws that provide additional protections for volunteers.

The Volunteer Protection Act protects volunteers under many circumstances, although it does not eliminate the possibility of a lawsuit. It does not shield the nonprofit or governmental agency using the volunteer’s services from liability; it only protects the volunteers themselves.
Generally, the Volunteer Protection Act protects volunteers from liability if they are:

1. **Volunteering for a nonprofit organization, school, or other government agency.** The Act covers individuals providing services to a nonprofit, school, church, or agency (such as a park department or city transportation agency) for little or no compensation.

2. **Acting in the scope of volunteer duties.** Volunteers are protected if they’re engaged in an activity that’s related to their volunteer role. But if, for example, an incident occurs when a volunteer detours from volunteer duties to carry out a personal errand, this might well be considered outside the scope of the volunteer duties.

3. **Negligent or accused of negligence.** Negligence occurs when a person or entity doesn’t act with the care that an ordinary, reasonable person would under the circumstances. Although no one wants to act negligently, in the real world, a momentary lapse in attention can lead to an injury due to negligence.

If all three of these conditions are met, volunteers will generally be protected from liability even if their negligence caused the harm.

However, the Act does not protect a volunteer under some circumstances. There is generally no protection if:

- The harm took place because the volunteer acted in an extremely negligent or deliberately criminal manner as (opposed to being somewhat careless).
- The volunteer’s activity required a license or certification in the state in question, and the volunteer did not have the required credentials.
- The volunteer was under the influence of drugs or alcohol.
- The harm was due to the volunteer’s operation of a motor vehicle.

The Act leaves open the possibility that a volunteer may be found liable despite the Act’s protections, if the injured person sues the nonprofit organization or government agency, which then sues the volunteer. Although volunteers should know that the Act does not provide total protection against liability, the Act does provide significant protections for volunteers.

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**Additional Resources**

The following organizations have additional resources and information about liability and risk management for volunteers and nonprofits:

- The Public Entity Risk Institute (PERI): www.riskinstitute.org
- Nonprofit Risk Management Center: www.nonprofitrisk.org

Other liability resources available at www.nplan.org:

- NPLAN’s Fact Sheet on Safe Routes to School and Liability has more information about negligence and liability in the context of Safe Routes to School programs, with specific tips on how to minimize risk of liability for schools, nonprofits, and others.