

The Frankenstein Effect



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With Halloween swiftly approaching, I've been humming 'Monster Mash' and craving anything pumpkin-flavored. A few nights ago I went shopping for dog food, but found myself drawn to the cheap-but-adorable doggie Halloween costumes. I came home with a bag of food and a hilarious Frankenstein costume for my dog. The costume reminded me of a workshop I presented recently: The Frankenstein Effect: the Risky Transformation of Volunteers into Employees.

Questions about worker classification are some of the most common requests for [RISK HELP](#) that we receive from our Affiliate Members. Whether it's exempt vs. non-exempt employees, employees vs. volunteers, or unpaid vs. paid interns, we all get confused about classification sometimes. During this Halloween season, take a hard look at your classification practices to prevent or correct any treacherous transformations at your nonprofit. Read on for a few tips on employee versus volunteer classification from The Frankenstein Effect workshop.

When a Legit Volunteer Becomes an Employee

The Frankenstein transformation is a risky one for both your nonprofit and your volunteers. If one of your volunteers is deemed an employee, your nonprofit could owe back taxes, penalties, and even payments to that individual, including wages, overtime (if applicable) and access to employee benefits. As a volunteer crosses the line to become an employee, that individual may no longer be protected by volunteer-centric regulations, such as the Volunteer Protection Act, which only applies to volunteers who are not compensated more than \$500 per year. Similarly, by offering volunteers thank-you gestures such as compensation or gifts, you could be unknowingly bestowing taxable gifts, or you could simply be causing volunteers confusion in regard to their role in your nonprofit. What scenarios might cause a volunteer to claim employee status or to evolve into an employee role?

A volunteer feels entitled to employment after a nonprofit staff member casually mentions that 'many of our volunteers end up working here.' Nonprofit staff members fail to clarify the volunteer's role, leading the volunteer to have misguided expectations for his duties, schedule, and/or compensation. A discontented volunteer is let go from a nonprofit, and then claims to be an employee who was subject to illegal discrimination and wrongful termination. A volunteer submits a complaint or grievance, but it is not addressed by the nonprofit. The volunteer believes the complaint would receive adequate attention if it was coming from an employee, so she claims employee status and demands that the complaint be

investigated. The nonprofit assigns an inflexible schedule or work shift to a volunteer, or asks the volunteer to complete work tasks that employees typically complete, thereby blurring the line between employee and volunteer roles.

The challenge is that ‘volunteer’ may mean different things to different people. Discrepancies in the colloquial usage of the word may lead us to misunderstand the true, legal definition of a volunteer. For example, would you consider a person a volunteer if she worked in a community garden in order to take home some vegetables? What about an employee who is paid to volunteer at a charity with his corporate team? Or a lawyer who offers pro-bono (free or discounted) services to disadvantaged community members? What about a Peace Corps Volunteer, whose title includes the word ‘volunteer,’ but who receives a monthly living allowance and other benefits? The definition of ‘volunteer’ may not be entirely clear to you, and this confusion can lead nonprofit leaders to misclassify volunteers/employees.

Quick Tips for Maintaining Volunteer Status

Remember that the key difference between employees and volunteers is that *employees are compensated in exchange for their work*, whereas volunteers give their time and effort freely with no expectation or promise of compensation. This means that volunteers should not be coerced, and they should not expect or be promised any type of payment in exchange for their time or services. Still, many of us wish to offer thank you gifts or small rewards to show our appreciation for volunteers. How can we do that safely?

- **Give appropriate gifts.** Many of us are tempted to pay our volunteers ‘a little something.’ But cash gifts are considered taxable income for the volunteer, so your volunteer and your nonprofit could owe FICA taxes (e.g., Social Security & Medicare) on cash gifts, and you could blur the line between volunteer and employee. Also watch out for gift cards and other items that are considered ‘cash equivalents;’ keep it simple by avoiding giving volunteers gift cards. Rather than offering cash or ‘cash equivalent’ gifts, focus on non-cash gifts that are valued at less than \$100, which is a general threshold for when gifts are considered taxable. You can provide small holiday trinkets, meals, plaques or certificates of recognition, or ‘swag’ that promotes your nonprofit (e.g., cups, mugs, stickers, basic t-shirts, etc.).
- **Be smart about stipends.** It is safe to pay volunteers minimally if the compensation qualifies as an appropriate stipend. If you do wish to offer a stipend, ensure that it is de minimis, meaning that it is no more than 20% of what you would pay an employee to perform a similar service. Be aware that most stipend payments that are less than \$600 are not reportable taxable income. And again, be aware that any payment above \$500 per year will cause the volunteer to lose any benefits provided by the Volunteer Protection Act. The IRS doesn’t care whether you call the payment a ‘stipend’ or something else. The IRS views this language as ‘immaterial,’ so it will always scrutinize the monetary threshold rather than the language you use to describe the stipend.
- **Reimburse responsibly.** It is appropriate to reimburse volunteers for their expenses as long as you do so responsibly. Of course all reimbursable expenses should be incurred only for the nonprofit’s business needs. Consider creating a volunteer reimbursement policy and educate your volunteers about appropriate reimbursements. For example, you might require that volunteers keep written records or provide itemized receipts. You can also ask volunteers to submit their reimbursement requests in a timely manner (e.g., within 30 days). Last, clarify the expenses that are considered business-related and can thereby be reimbursed, such as:
 - Mileage to/from distant volunteering sites
 - Long distance travel costs, meals & lodging
 - Necessary equipment or protective clothing
 - Required training, courses or certifications
- **Consider offering ‘no additional cost services.’** A nonprofit that provides services to the public as part of its mission may offer the same services for free to a volunteer, as long as it doesn’t impose any substantial cost on the nonprofit and the volunteer is involved in providing that service. For example, a nonprofit clinic may offer free health services to a clinic volunteer, such as immunizations or physical exams.

No matter what ‘volunteer’ means to you personally, the term should have a clear meaning at your nonprofit. Follow the quick tips above to ensure that you reward volunteers appropriately and clarify their volunteer status. For more help preventing Frankenstein transformations at your nonprofit, consider joining our [Affiliate Member Program](#) to access RISK HELP. If you specifically need tips on exempt vs. non-exempt employee classification, read our popular article: [Classification Conundrum](#).

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