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Risk Management ESSENTIALS

Tips, Knowledge and Tools for Nonprofit Organizations

THE VOLUNTEER RISK ISSUE



The Changing Volunteer Landscape

By Rachel Sams

A few years ago, I took part in an intensive volunteer project for a local nonprofit, telling the stories of families the organization had supported. The people I interviewed shared stories of the hope and acceptance they'd found in the nonprofit's support groups.

As intimate as the conversations I had with these people were, I never met them in person. It was early in the COVID pandemic, so I conducted interviews by videoconference and communicated with staff on video or email.

That's just one example of how the volunteer landscape has changed in recent years.

Nonprofit volunteer managers, and staff members who help nonprofits manage

volunteer risk, face an increasingly complex environment. More volunteering takes place remotely. That can mean fewer slip-and-fall risks, but more digital risks like the possibility of data privacy breaches. Some communities that nonprofits support, like immigrants or the LGBTQIA+ population, are facing more targeting and violence. That can increase safety risks to volunteers who may be part of or travel into those communities.

On top of all that, a volunteer manager in 2026 may work with individuals across an age span of up to seven decades.

This changing landscape requires flexibility, as well as attention to risk and

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safety. Luckily, those things aren't mutually exclusive. In this article, we'll share some key trends in volunteering and tenets to build a safe and flexible volunteer program.

How Volunteering Is Changing

Just finding volunteers who are willing and available can be a challenge. Nearly half of nonprofit CEOs say finding enough volunteers is a problem, according to the 2023 State of Volunteer Engagement survey by the University of Maryland School of Public Policy's Do Good Institute.

Formal volunteer service declined for years, exacerbated by the COVID pandemic, before beginning to rise again in 2024, research by the U.S. Census Bureau and AmeriCorps shows. About 28 percent of the American population volunteered that year. While some people (like me!) started new volunteer service commitments during COVID, more than a quarter of people who volunteered before the pandemic stopped volunteering during it, according to a survey by University of Pennsylvania's School of Social Policy and Practice. Still, virtual volunteering increased during COVID.

"Just finding volunteers who are willing and available can be a challenge."

The Johnson Center for Philanthropy predicted in a 2025 article that the prevalence of virtual volunteering would continue to increase. "Routine, in-person engagements—such as having the same volunteer show up for the same four-hour slot at an information desk week after week—are becoming harder to fill," the Johnson Center wrote. The center also forecast more "bite-sized" small project-based volunteer engagements.

An increasingly diverse population is showing up to volunteer, whether in person or online. According to AmeriCorps and the U.S. Census Bureau, the largest relative increases in formal volunteering between 2021 and 2023 came among:

- Millennials (ages 27 to 42).
- People who identified as Asian, Native Hawaiian or Pacific Islander, or Hispanic.
- Those with less than a high school education.
- People with family incomes of less than \$25,000.

As nonprofit teams consider how to reach, recruit, and retain a diverse volunteer base, they must also plan to train and equip those volunteers and manage the risks of volunteer service. Here's a thumbnail guide to do that at every step of the volunteer process. For additional information on volunteer training, see our accompanying article in this issue of *Risk Management Essentials*.

Start at the Beginning: Volunteer Recruiting

Before you seek volunteers, it's important to assess your nonprofit's volunteer needs.

- Where do you need volunteer help most urgently?
- How many volunteers can your organization realistically recruit, train, and supervise?
- Who will recruit volunteers? How much time and effort can they devote to the work?
- Who has the time, skill set, and interest to supervise volunteers?

Once you've decided what areas you want to focus your volunteer search in, create a volunteer position description. Identify:

- The responsibilities and key duties of each volunteer position

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- Educational requirements, skills or licenses needed, and other qualifications
- Who the volunteer reports to and whether the volunteer will supervise others

Reflect on the risks a volunteer might experience.

- Consider the risks associated with each volunteer role, including risks volunteers face (such as driving clients in a multi-passenger van) and risks volunteers pose to clients and outside parties (e.g., especially if volunteers will work directly with clients or interface with long-time donors or their financial data).

Establish volunteer eligibility and disqualifying criteria.

- Consider the responsibilities of the role and set disqualifying criteria. For example, organizations screening candidates for teaching, coaching, or

counseling positions might decide prior convictions for any crimes against people, sex offenses, or convictions for child abuse and neglect would automatically disqualify an applicant.

- Determine whether licensing or regulatory agencies have identified specific offenses that would disqualify applicants for some assignments with your organization.

Develop a recruitment plan.

- What groups of people might be most interested in your organization's volunteer opportunities?
- Where will you post and/or share those opportunities?
- How will you track applications?

Don't overlook potential volunteers who might not pop up in your traditional searches.

- Recruit within your own volunteer base. When a new opportunity arises,

“Establish volunteer eligibility and disqualifying criteria.”

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see if any of your existing volunteers would like to switch to that project. The best fit for a project could be someone who already knows and loves your organization.

- Have you received unsolicited volunteer offers, or expressions of interest from people your organization didn't have any volunteer work for at the time? Reach out to those people and let them know what opportunities are available.

Stay Involved: Volunteer Management

Provide a volunteer orientation. An orientation should cover:

- The nonprofit's history, mission, and services
- Instruction on the essential tasks and duties of the volunteer position

- Relevant volunteer policies and procedures, and where to find documentation of them
- A safety briefing that outlines the nonprofit's approach to client and staff safety, risk management program, and emergency protocols

Assign tasks thoughtfully.

- When you assign tasks to volunteers, give priority to your biggest needs. Assign as many volunteers as you can to those things, so you don't come up short on essential projects.
- Match tasks with volunteers' skills and interests to the best of your ability.
- Offer as much flexibility in volunteer assignments as you can. Many organizations lose volunteers because they assign tasks that don't interest enthusiastic volunteers, or never offer enthusiastic volunteers the opportunity to try something new.

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Celebrate your volunteers.

- Make a schedule for volunteer celebration communications and promotions. Assign necessary tasks to make sure volunteer appreciation work gets done.
- With permission, give your volunteers shoutouts on social media.
- Highlight a special volunteer and their work in regular volunteer communications or newsletters.

Communicate expectations clearly.

- Spell out what volunteers can and can't do, and what great work in the role and on the assignment looks like.
- Use online tools and file sharing services to make it easy for volunteers to find information about scheduling and key documents they'll need for their work.

Measure and build on success.

- Gauge volunteer satisfaction rates. You can use a survey, informal questions during regular meetings, or any other method that works for your organization.
- Evaluate your progress and set goals for continued improvement.

- Share your wins with volunteers! Let them know when their work helps your organization achieve something it couldn't have done without them and make sure they know how their work impacts the people your organization serves.

Be Flexible, Be Risk-Aware

Many aspects of volunteer service are changing. Keep this evolving environment in mind as you consider how to manage the risks of working with volunteers. The effort will be rewarded. Volunteers can bring fresh perspectives to your organization and build connections with your community. They may see risks you hadn't noticed and have unique ideas for solutions. With thoughtful preparation, you'll be able to create a flexible and risk-aware approach to navigate this changing volunteer landscape.

Rachel Sams is a Lead Consultant and Editor with the Nonprofit Risk Management Center. A few things have changed about volunteering since her short-lived stint as a teenage volunteer at her local hospital. Reach her with thoughts and questions about this article at rachel@nonprofitrisk.org or (505) 456-4045.

SOURCES AND RESOURCES:

Managing Volunteers: Balancing Risk and Reward - Nonprofits Insurance Alliance

How to Build an Effective Volunteer Management Plan in Six Steps - WildApricot

The 27 Best Practices of High-Performing Volunteer Organizations - HuffPost

No Surprises: Harmonizing Risk and Reward in Volunteer Management



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Craft a Volunteer Training Program That Works

By Rachel Sams

A new volunteer shows up for their first day of service at your organization with a positive attitude. That's a big plus, because several volunteers no-showed for that day's client services. The new volunteer has a professional background in your nonprofit's sector of service. Stressed but relieved, you skip the day's planned volunteer orientation and send your new volunteer straight into working with clients.

At the day's end, the volunteer, looking harried, ducks out before you can catch up on how things went. Later, staff members say the volunteer seemed overwhelmed and repeatedly left their post to ask questions of staff, leaving clients waiting for answers past their designated time slots. A brief email from the volunteer the next day says they don't feel the role is a good fit and they won't be back.

What's the missing ingredient in this picture? Training.

A great volunteer training program meets the needs of volunteers, staff and the organization and bonds everyone together in service of the mission. It ensures volunteers are prepared and equipped to perform their roles safely and effectively, addresses common risks that may arise within their service, and informs them when and how to ask for help or report a problem. A strong training program helps increase the likelihood that promising volunteer recruits will work with your organization long enough to reach some of their goals in volunteering and make a difference for your team and community.

A training program that's too rigid will deter people who might be great fits for volunteer service and increase the risk of a weak or unqualified volunteer pool. But if training is missing or underdeveloped,

"A training program that's too rigid will deter people who might be great fits for volunteer service and increase the risk of a weak or unqualified volunteer pool."

risks to safety and effectiveness multiply. How do you find the right balance?

This article offers simple steps to develop a flexible and effective volunteer training program that can evolve as your organization's needs do.

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“Volunteers have varied backgrounds and levels of experience.”

Where Risks Arise in Volunteer Service

Some areas of risk related to volunteer work may come quickly to mind. Others can be harder to spot. Here are some areas where risk tends to surface in volunteer roles.

Physical safety: Volunteers may experience or cause injury or an environmental hazard. A lack of proper training or appropriate equipment can increase this risk.

Reputational risk: A volunteer could behave in a way that damages your nonprofit’s reputation, or post information online that could harm the organization.

Legal and compliance risk: A volunteer could do something that violates data privacy laws, mandated child abuse reporting requirements, or other legal

or compliance requirements of your organization.

Operational risks: A volunteer could provide poor or inconsistent service, as in the example at the beginning of this article.

Great volunteer training can help make these risks less likely to become realities—and ensure your organization and its volunteers are as well prepared as possible if the risks materialize. Consistent messaging is key. So is sharing the “why” behind everything you ask volunteers to do.

What makes this communication challenging? Volunteers have varied backgrounds and levels of experience. Their service with your organization is limited, as is their time commitment to you.

To cross those barriers, a great training program offers multiple ways to learn, whether in-person, live virtual training, or

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asynchronous, self-paced virtual training. Having the right technology helps, but keep technological requirements simple and ensure products or systems truly serve the mission and your volunteer needs.

Core Components of Risk-Aware Volunteer Training

Nonprofit volunteer training programs are, and should be, as varied as the organizations and missions they support. Here are some core components to consider including in your risk-aware volunteer training program.

Onboarding/Orientation (required for all volunteers): This should cover the organization's mission and values, code of conduct and behavioral expectations, and give an overview of the key risks and responsibilities for all volunteers at your nonprofit. Spell out what volunteers can and can't do, and what great work in the role and on the assignment looks like. Use online tools and file sharing services to make it easy

for volunteers to find information about scheduling and key documents they'll need to serve with confidence.

Role-Specific Training: Tailor this instruction based on a volunteer's duties. Depending on their role, they may need additional training on youth protection and mandated reporting of any abuse or neglect of a young person; handling confidential information and data privacy; or safety measures for working in environments that could be hazardous, like a warehouse.

Scenario-Based Learning: When possible, especially for higher-risk roles, offer opportunities to practice decision-making for things like responding to a safety incident or managing boundary issues with clients. You could ask a volunteer supervisor to roleplay a hypothetical situation with a volunteer or have them shadow a more experienced volunteer.

Compliance and Reporting: Emphasize that your organization wants to work with the volunteer, not look over their

“Nonprofit volunteer training programs are, and should be, as varied as the organizations and missions they support.”

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“Gather volunteer input on the effectiveness of your training through surveys or informal check-ins.”

shoulder. Let volunteers know what kind of incidents need to be reported and how to report them. Make sure they know you encourage reporting of all concerns and they won’t face retaliation for reporting. Communicate any protections your organization has for whistleblowers. Let the volunteer know how and where they will need to document issues that may arise in their work.

Refreshers and Ongoing Training:

Update volunteer training annually or as new risks emerge.

Encourage staff who work with volunteers to be available as resources to them. Whenever possible, offer volunteers constructive feedback on how to improve. Make sure your training materials are available in formats for diverse audiences across language and accessibility differences.

Evaluate and Improve

Once you have your volunteer training program in place, remember to evaluate how it’s working. Gather volunteer input on the effectiveness of your training through surveys or informal check-ins. Use that input to improve your program.

Track key metrics and review them for patterns. What are your training completion rates? How about volunteer incident rates and reporting rates? (Remember that sometimes increases in incident rates reflect an increase in reporting, which is what you want!) Do the volunteer incidents reported reveal places where you may have training gaps?

How do your volunteer retention and satisfaction rates look? This information can also help identify strengths and weaknesses in your volunteer training program.

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Craft a Volunteer Training Program That Works

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Volunteer Training: An Ongoing Journey

If your nonprofit's leaders find themselves turning into pretzels wondering where to start or how to take the next step in volunteer training—just try something! It's OK to start small and build over time. Prioritize the highest-risk areas of volunteer service first and build from there.

Once you know the core safety and ethical tenets you can't compromise on with volunteers, look for places where you can be flexible in response to their needs and concerns. Flexibility and openness to updating volunteer training are key to effective risk management. Volunteer

training that evolves as the organization matures reflects a true commitment to safety and benefit for everyone involved, versus a check the box approach. If you create a risk-aware volunteer training program that can evolve with the needs of your volunteers, your team, and your community, its effects will ripple throughout your services.

Rachel Sams is a Lead Consultant and Editor at the Nonprofit Risk Management Center. Her first volunteer experience was as a terrified candy striper at her hometown hospital. Thankfully, she's found volunteer opportunities that better match her skills. Reach her with thoughts and questions about this article at rachel@nonprofitrisk.org or (505) 456-4045.

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Caution, Care and Compassion: Understanding Volunteer Liability

By Melanie Lockwood Herman and Elyzabeth Joy Holford

A strong volunteer program offers nonprofits the opportunity to increase mission impact. Yet when a nonprofit retains volunteers, its liability exposure—the legal, financial, or other obligation to another—includes two disruptive possibilities. The first is potential liability for harm a volunteer experiences while performing service for the nonprofit. The second possibility is the nonprofit’s potential liability for harm, damage or loss a volunteer causes while serving the nonprofit’s mission. Thoughtful volunteer risk management practices account for both possibilities. In some cases, steps and strategies your nonprofit takes will mitigate both exposures and build the confidence and resilience you need to engage volunteers without regret.

Managing the Risk of Volunteer Injuries

Reducing the likelihood—and potential severity—of volunteer injuries requires attention to four key areas: position design, equipment and supplies, training and support, and readiness to respond.

Position design. Preventing injuries to your invaluable volunteers begins with thoughtful position design. Most nonprofits that recruit and engage volunteers offer multiple volunteer roles, with varying expectations, tasks, and needed skills or experience. A volunteer who will pull weeds at an older person’s home may need no prior experience, while a volunteer who will lead the music program at a camp may require credentials, talent, and experience in the performing arts. Some nonprofit leaders

“A strong volunteer program offers nonprofits the opportunity to increase mission impact.”

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try to save time by creating an ‘everything but the kitchen sink’ position description that conveys the unappealing message that ‘volunteers may be asked to do anything we want.’ Avoid that mistake with position descriptions that honestly describe distinct volunteer roles in your nonprofit.

Equipment and supplies. If you can’t afford to provide the equipment and materials needed to increase the safety and comfort of your volunteers, you have no business recruiting volunteers. Whether those tools and materials include safety goggles, left-handed scissors, or training on your phone system, skimping on supports increases your liability risk.

Training and support. From the part-time jobs we held in high school to the knowledge worker roles many of us hold today, none of us knew how to do our jobs without training and support. And if you remember ever being told to begin work without any training, we doubt your first days on the job were rewarding. See “Craft a Volunteer Training Program That Works” in this issue of RME for helpful tips on the phases of volunteer training, including

onboarding, role-specific training, scenario-based learning, compliance and reporting, and refreshers. Important risk reminders in this area include:

- **Remain open to any and all questions from your volunteers.** At NRMC we sometimes joke that when it comes to asking us questions about risk topics, there is ‘never a forever hold your peace moment’ with our clients and Affiliate Members. And remember to never dismiss, in words or facial expressions, the question of a volunteer, which would convey a lack of interest in and commitment to the volunteer’s success.
- **Make it as easy as possible to report injuries, share concerns, or provide feedback.** When you make it easy to provide feedback, you increase the possibility of receiving invaluable information you can use to change your organization for the better. Requiring volunteers to complete unwieldy forms—paper or online—or accepting complaints on days and at times convenient for you

limits the potential insights you could receive. Stop worrying about keeping up with an avalanche of complaints. Instead, resolve to find the wisdom and seeds of opportunity in the feedback from your volunteers.

- **Consider purchasing volunteer accident coverage.** A volunteer accident policy provides coverage for volunteers’ medical expenses and accidental injuries suffered while performing volunteer service. It is a form of excess coverage, meaning it is secondary to the volunteer’s primary personal health insurance. If the injured volunteer has no primary insurance, the volunteer accident policy will typically be primary. Accident policies are generally very affordable compared to other coverages purchased by a nonprofit.

Readiness to respond. Avoiding all volunteer injuries or harm caused by volunteers isn’t practical, given the roles in which volunteers serve and the risks inherent in a community serving mission. This requires that nonprofit leadership

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“Did you know your nonprofit could be held liable for the wrongful actions or inaction of your volunteers?”

teams be ready to respond when harm, loss, injury, or allegations of wrongdoing occur. The components of readiness will vary based on the mission of your nonprofit, the programs you offer, and the potential for harm or loss based on circumstances beyond your control, such as severe weather in your geographic location, the potential for criminal conduct, and more. Resolve to build readiness in the following areas:

- **Your first call:** Who will you call if a volunteer is injured while serving your mission at your headquarters, in the field, or elsewhere? In most cases the first call may be 911, but in other instances a nonprofit may have first-aid trained or nursing/medical staff on site. Anyone who might witness a volunteer’s injury should know how to reach help.
- **Your next call:** After a volunteer injury, your next call may be to

the injured volunteer’s emergency contact. If an adult volunteer is in stable condition and able to communicate with their loved ones, your next call may be to your insurance advisor. When insurable claims happen, many nonprofit leaders acknowledge not knowing exactly which insurance policy applies. Your best bet is to call your trusted insurance agent or broker and seek their guidance on filing claims with the policies that might apply.

- **Be ready to step in and help:** In a recent training designed by NRMCMC for a youth camp staff team, we referenced a public education program and courses by FEMA and the American Red Cross titled “You Are the Help Until Help Arrives.” The goal of the program was to teach bystanders basic life-saving steps to use before professional help arrives. Now is the

time to determine who should be trained to help until help arrives.

- **Your first communication:** In NRMCMC’s experience, trying to draft a thoughtful, written communication to the public, media, or a constituent group after a tragedy or event involving injuries is incredibly difficult. Instead, we suggest leaders draft simple statements that can be expanded when needed. Sometimes referred to as holding statements, these materials might simply describe your mission (purpose), commitment to safety, and provide a phone number and email address.
- **Caring outreach to affected constituents:** Communicating with constituents with empathy and humility is key to responding to any impactful incident. Silence sends a message that is inconsistent with the caring your mission and programs conveyed before the incident.

Vicarious Liability for Volunteer Service

Did you know your nonprofit could be held liable for the wrongful actions or inaction of your volunteers? As agents of a nonprofit, the conduct of volunteers can be imputed to the organization. Vicarious liability arises from the legal concept of respondeat superior, which means “let the master answer.” When vicarious liability applies, a nonprofit can be legally and financially responsible for the actions or inactions of a volunteer, even when it appears the nonprofit did nothing wrong. Three conditions are required for vicarious liability. First, the nonprofit must have the right to exercise control over the volunteer. Second, the volunteer must be acting on behalf of the organization when the harm occurs. And lastly, the volunteer must be acting within the scope of their duties.

The first condition above has led some nonprofit leaders to believe less is

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more. They wonder, “If we provide minimal direction to our volunteers and a volunteer causes harm, are we potentially absolved of responsibility for the harm they cause?” Our answer is a resounding “no.” While vicarious liability may not apply if harm results after the nonprofit fails to supervise its volunteers, direct liability for failing to supervise agents acting on the nonprofit’s behalf is a concerning possibility.

Direct Liability for Volunteer Actions and Inaction

Direct liability refers to an organization’s liability (responsibility) for failing to meet the standard of care: exercising the care of a reasonable and prudent professional. The standard of care applicable to nonprofits does not require that an organization do everything it possibly can to anticipate and prevent harm or loss. The core concepts within the standard are reasonable conduct and prudence. The NRMC team believes reasonableness and prudence include two components:

- **Risk Awareness:** awareness of the types of disruptive possibilities (events) that could arise from service delivery and the work of your volunteers. Psychic abilities are not required! Take time to consider the types of mistakes, misunderstandings, and mishaps that could arise when volunteers work on behalf of your mission.
- **Risk Management:** taking steps to reduce the likelihood of harm or loss, and readiness to respond when harm or loss occurs.

When nonprofit leaders recognize their responsibility to thoughtfully design and support volunteer work and take steps to manage risk, direct liability becomes less likely.

Screening, Supervision and Separation

Through thoughtful recruitment, training, orientation and supervision, a nonprofit leadership team can minimize the concerning risks of volunteer service while

maximizing the benefits volunteers bring to the organization.

Screening Risk Tips:

- Never recruit or engage volunteers your nonprofit cannot support and supervise properly. Believing an unpaid volunteer—even one serving a single shift—cannot cause mission harm or personal injury to others is naïve and dangerous.
- Use a volunteer application form to collect vital information from anyone who wishes to volunteer at your nonprofit. Consider tailoring the application based on the scope of the volunteer role. For example, an applicant for a mentoring role might be required to complete an extensive application that includes personal and professional references, while a volunteer for a team coaching role might be required to submit evidence of their first aid training, certification from a national governing body for the sport, and coaching and professional references.

Obtain the volunteer applicant’s permission to verify information on the application. The form should also ask the applicant to agree not to bring a legal claim against the nonprofit or hold the organization responsible for any harm that results

“Many managers experience complex, conflicting emotions when they realize it’s time to part company with a volunteer.”

from the nonprofit’s actions to verify information provided by the applicant or check additional sources for information necessary to the screening process.

Supervision Risk Tips:

- Clearly articulate duties, limits, expectations and requirements in position descriptions, volunteer agreements, volunteer handbooks and volunteer training.
- Always provide an orientation and training to volunteers to make certain they understand what they can, can’t, should, and shouldn’t be doing in their role.
- Design a straightforward complaint or grievance process that provides an opportunity for volunteers to express dissatisfaction with the supervision they are receiving or other aspects of their experience with the organization. A grievance process can serve as a valuable safety valve and help an organization avoid costly or otherwise damaging complaints from volunteers.

Separating a volunteer from their service role at your nonprofit can be challenging. Although volunteers generally don’t enjoy protection under anti-discrimination laws or workers’ compensation coverage, a disgruntled volunteer may bring a lawsuit alleging a wide range of torts, including intentional infliction of emotional distress, in lieu of other causes of action, such as wrongful termination. Therefore, treat volunteers in accordance with appropriate volunteer policies—not employment policies.

Many managers experience complex, conflicting emotions when they realize it’s time to part company with a volunteer. Why? Perhaps because we naively believe we should take all the free help we can get and opt for quantity over quality. Or we worry that by letting a volunteer go, we might jeopardize relationships with other volunteers or expose our nonprofit to negative feedback or reputation harm.

The truth is that the potential liability is greatest if you continue to engage a volunteer who isn’t supporting your mission. You also face the potential for

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significant liability exposure if you retain a volunteer who puts themselves or others in harm's way. *Never retain a volunteer who puts your mission or the communities you serve at undue risk.* Volunteers can be disciplined or terminated appropriately, for reasons such as shirking one's duties, driving negativity and conflict, or disregarding critical policies around workplace safety, anti-harassment, anti-discrimination, and more.

Discipline and Separation Risk Tips:

Try these tips to establish appropriate volunteer discipline and separation practices at your nonprofit and apply these procedures fairly and consistently.

- **Promote understanding before reaching the point of no return.**

When a volunteer enlists to serve your nonprofit, integrate disciplinary and termination information into the volunteer's onboarding or training program. Volunteers must recognize from the outset that your workplace has behavioral expectations, and volunteers can be disciplined or terminated if their behavior warrants it. Some volunteers may help you out by 'self screening' or dropping out of the program early if they know they cannot meet your expectations.

- **Offer coaching or training before discipline.** If a volunteer has clearly committed harm or egregiously violated a volunteer program policy, immediate disciplinary action or termination may be necessary. But for minor violations or errors, positive support may be all a volunteer needs. Before you discipline an unsuspecting volunteer, offer role-specific or skills coaching or training to empower the volunteer to meet your expectations. Providing meaningful opportunities to succeed is one of the most important duties of a volunteer manager.

- **Discipline and/or terminate with care.** While you may have fewer

options for disciplining volunteers compared to employees, strong disciplinary measures may include a week or a month of volunteer probation, or the 'demotion' of a volunteer to a role with less responsibility or less frequent client contact. Depending on the infraction, you might offer disciplinary measures before terminating the volunteer. Clearly communicate that the volunteer is close to being dismissed and must modify their conduct in order to continue serving your mission.

- **Watch for shifting anti-discrimination laws.** Though only a few states have extended anti-discrimination and workplace harassment protections to volunteers and unpaid interns, more states may follow. Be mindful of shifts in your state laws and watch for cases that may set a precedent for volunteers to effectively claim anti-discrimination and anti-harassment protections under the law. Even if you have no legal requirement to protect volunteers and provide avenues for recourse (should they experience discrimination or harassment), your nonprofit's reputation is always at stake. Resolve to treat volunteers fairly and honorably and foster a workplace culture that rejects discrimination and harassment.

- **Conduct volunteer exit interviews.** If you left a job or volunteer role angry, might you be more willing to sue or threaten the organization in some other way? Conversely, if you leave a job with positive feelings, you will probably be far less likely to wish any harm upon the organization. Exit interviews provide closure to a volunteer's service while offering the individual one more opportunity to make a positive impact on your mission. Similarly, nonprofit leaders can benefit from analyzing exit interview data to understand their volunteers' experiences. Of course, the

“Providing meaningful opportunities to succeed is one of the most important duties of a volunteer manager.”

exit interview is also a chance for you to make one final positive impression, to ensure that the volunteer understands your gratitude for their commitment to your nonprofit's mission. For any departing volunteers that you would consider for 'rehire,' ask this question during the exit interview: "If there was one thing our nonprofit could call on you for in the future, what would it be?"

Prudent Steps Now Provide Benefits Later

We hope you'll never have to face liability for the actions, inactions or injuries of a volunteer. If you take the steps in this article, you'll make that less likely, be more prepared if harm or injury occurs, and raise the level of volunteer experience for all who perform uncompensated service for your mission.

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Classify Volunteers with Care to Minimize Liability for Misclassification

In addition to the liability exposures discussed in this issue of Risk Management Essentials, a nonprofit is also exposed to liability for misclassifying volunteers. In rare instances, volunteers may be considered employees by the federal or applicable state labor departments, triggering liability for minimum wage, tax withholding, and other employee fringe benefits and protections. And when volunteers are injured while serving a nonprofit mission, the injured volunteer could allege that they were actually an employee in order to gain access to workers' compensation benefits.

The Fair Labor Standards Act (FLSA) defines employment broadly as "to suffer or permit to work." Under the FLSA, a person can be properly classified as a volunteer if two conditions are met. First, the person must freely donate their services for a civic, charitable, religious or humanitarian purpose without any expectation or receipt of compensation. Second, the person's volunteer service must not displace regular paid employees.

Volunteer Classification Minimums:

- **No compensation.** Reducing the possibility of misclassification begins with addressing the issue of compensation. Paying volunteers anything of value that could reasonably be construed to be payment in exchange for work exposes your nonprofit to the risk of the volunteer being deemed an employee, triggering liability for back pay, taxes and penalties.
- **No coercion or dual roles.** U.S. Department of Labor guidance emphasizes that volunteer service must be given without actual or implied pressure, coercion or intimidation. This also means a nonprofit's employees may not be required to provide, on a volunteer basis, the same type of services for which they are being paid.
- **Civic, charitable, religious or humanitarian purpose.** Volunteering at a for-profit commercial business violates the FLSA, as does assigning volunteers to work in a commercial activity run by a nonprofit.
- **No displacement.** Volunteers should not replace or substitute for paid staff. Do not create positions in your organizations that are alternately filled by paid staff and volunteers. It is permissible, however, as part of a restructuring or redesign process to change a position on an ongoing basis from a paid employee role to a volunteer role.

Classification Risk Tips:

- **Do not adopt a fixed, prescribed schedule of work for all volunteer roles that mimics the schedule of paid staff,** such as 9 am-5 pm, Monday-Friday. You may, however, request that volunteers work a regular schedule, or choose the day(s) on which it is most convenient to serve. The more prescriptive you are about days and hours of work, the more the volunteer role begins to look like a paid employee role.
- **Do not ask volunteers to sign a contract of employment or agree to follow the rules found in your Employee Handbook.** Do, however, use Volunteer Position Descriptions and a Volunteer Handbook to convey the expectations and essential rules at the organization.
- **Do not pay volunteers other than reimbursing them for expenses.** What's the harm of token compensation to show appreciation for volunteer service? One area of potential harm is loss of the liability protection volunteers enjoy under the federal Volunteer Protection Act of 1997 and similar state laws. One of the conditions of VPA is that the volunteer receives no compensation, other than reasonable reimbursement of expenses, and nothing of value in lieu of compensation in excess of \$500 per year.

RESOURCES:

Factsheet #14A: Non-Profit Organizations and the FLSA, WHD, US DOL

Employee or Volunteer: What's the Difference? Nonprofit Risk Management Center

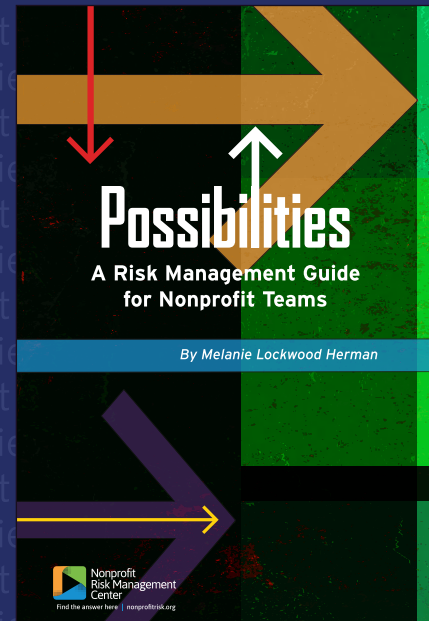
Your Risk Reading List Starts Here

NRMC's Newest Publication: *Possibilities*

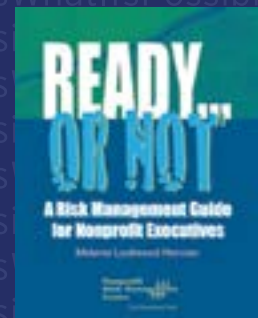
The NRMC team believes risks are simply possibilities: no more, no less. And you can take steps to understand, evaluate, and prepare for a possibility—even, and especially, when you don't know exactly how the possibility will play out. That's why NRMC Executive Director Melanie Herman has written *Possibilities: A Risk Management Guide for Nonprofit Teams*.

- Non-member price: \$40
- NRMC Affiliate Member price: \$36
- Bulk orders of 10 copies or more: \$32 each

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Risk Management ESSENTIALS

Tips, Knowledge and Tools for Nonprofit Organizations

PLEASE ROUTE TO:

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- ☐ Director of Volunteers
- ☐ Risk Manager
- ☐ Legal Counsel
- ☐ Human Resources
- ☐ Finance/Administration

NEW AFFILIATE MEMBERS

Learn more about NRMC's Affiliate Member program at nonprofitrisk.org/affiliate-membership. NRMC would like to welcome our new Affiliate Members.

The Campaign for Tobacco-Free Kids

Children's Council of San Francisco

Mercy Ships

SkillsUSA Texas

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