

# GOVERNMENT AND REGULATORY AFFAIRS

# BLAST

## The Volunteer Protection Act of 1997

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### STATUTE/REGULATION SOURCE

Volunteer Protection Act of 1997 42 USC 14501; also see individual states statutes concerning liability of volunteers.

### BRIEF DESCRIPTION

The 1997 Volunteer Protection Act was passed because of concern over the potential liability of volunteers. It was believed that by limiting liability, volunteers would be more willing to assist not-for profit entities, including colleges and universities.

### POTENTIAL/ACTUAL IMPACT

Many universities rely on volunteers. Understanding the scope of protections provided by federal and state statutes is important. Some activities are not protected, and sufficient checks and balances are needed to manage the risk to the institution.

### DISCUSSION

A volunteer is defined under the act as an individual performing a service for a nonprofit organization or a governmental entity who does not receive compensation or any other thing of value in excess of \$500 per year. They may receive reimbursement for incurred expenses.

Although the Act provides assurance that volunteers have some degree of immunity, substantial liability risks still remain and require insurance coverage.

The Act is intended to protect a volunteer from liability as long as he or she is acting within the scope of the volunteer responsibilities and harm is not caused by any willful or gross negligence, or criminal or civil misconduct. Where professional services are volunteered, the person must be licensed or otherwise authorized accordingly to perform such services. A volunteer activity does not exempt liability for operating a vehicle which requires a license; for fiduciary liability; incidents that occur under the influence of alcohol or drugs, involves a sexual offense, and constitutes a hate crime; or any other violation of federal or state civil rights laws.

The Act allows States to provide other conditions and limits to volunteer liability as long as they are not inconsistent with the Act. Examples include state laws which require risk management procedures, training, and insurance. State statutes can make an entity liable for the acts or omissions of its volunteers in the same way as an entity is liable for the acts or omissions of its employees.

### EXAMPLE

Risks associated with volunteers can include:

- + Injury while performing services
- + Claims filed against the institution as a result of harm or loss caused by a volunteer
- + Claims filed against the volunteer that resulted in harm or loss caused by a volunteer

An example that touches all three categories is one where a summer camp volunteer took campers in a lake canoe which capsized and two students drowned.

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### ACTION

In addition to insurance, a college or university can minimize its risk of liability arising from volunteers by implementing risk management policies and procedures. A few key risk management steps include:

- Having an attorney or other professional review volunteer applications and position descriptions
- Having volunteers complete applications similar to those for employment
- Having volunteer applicants undergo background, motor vehicle, and reference checks
- Having volunteers receive appropriate training for their assignments
- Having a staff member supervise volunteers

### SOURCES AND REFERENCES

1. Volunteer Protection Act of 1997 42 USC 14501 <http://www.gpo.gov/fdsys/pkg/PLAW-105publ19/pdf/PLAW-105publ19.pdf>

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