



Citizen Corps Volunteer Liability Guide

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Citizen Corps Volunteer Liability Project

A nationwide project to support emergency & disaster volunteer programs through research and development of online tools and good practices:

Workers' compensation

Civil (tort) liability

Licensure/certification/permits



Project Steps

Interview Citizen Corps leaders

Survey state and local Citizen Corps Councils

Develop working relationships

Formulate questions

Research state statutes (substance and methodology)

Prepare tools and resources for publication



2007 Survey & Conversations Found...

Concern about liability for volunteer's acts

Concern about liability for injury to volunteers

Concern about volunteer licensure

Concern about interstate mobilization

Need for state specific information

Limited access to legal advisor

Limited time



Questions Formulated

Who are emergency volunteers?

What functions do emergency volunteers perform?

What are the potential sources of liability?

Why does liability matter?

To whom does liability matter?

What liability protection is available?

How can emergency volunteer programs manage liability risk?



Who are Emergency “Volunteers”?

Individuals (not always unpaid)

Nonprofit organizations

Businesses

Organized volunteer teams



What Functions do Emergency “Volunteers” Perform?



Sources of Liability?

The volunteer may cause harm

Bodily injury

Personal Injury

Property damage

Intentional or wrongful acts

Vehicle accidents

Professional errors/omissions

The law may limit the volunteer's activities

Licenses

Permits

Certificates



The volunteer may be harmed

Injury

Illness

Death

Property damage

Discrimination



Why Does Liability Matter?

Direct consequences of liability

- Damage awards
- Settlements
- Costs of legal defense
- Loss of property
- Loss of personnel

May be some protection

Indirect consequences of liability

- Damage to reputation
- Loss of support & funding
- Loss of partnerships
- Diminished volunteer base
- Higher insurance premiums

No protection

Chilling effect



To Whom Does Liability Matter?

Governmental agencies

Organizers of volunteer programs

Business and nonprofit organizations

Employers of volunteers

Individual volunteers

Supervisors and trainers of volunteers

Donors of premises, equipment & supplies



What Liability Protection is Available?

Good Samaritan Laws

Volunteer Protection Acts

Emergency Management and Homeland Security Acts

Governmental Immunity

Workers' Compensation Acts

License, Certificate or Permit Laws

Emergency Management Assistance Compact

Model Legislation

Insurance and Contractual Agreements



What Liability Protection is Available?

Liability protection is primarily state law, and varies greatly

The following descriptions are general – check with a legal advisor about your state’s particular laws.



What Liability Protection is Available?

Good Samaritan Laws

Limited immunity for individuals who assist others in emergencies, usually in settings where access to professional care is not immediately available

Usually protect only individuals

Limited immunity protects only for ordinary negligence

Protection may be limited to those with specific credentials

Protection is not limited to declared emergencies & disasters



What Liability Protection is Available?

Volunteer Protection Acts

Limited immunity for individuals who work as uncompensated volunteers for government agencies and nonprofit organizations

Federal and many states' governments have VPAs

Protect volunteers registered with governments and nonprofit organizations but not the organizations

Protection is not limited to declared emergencies & disasters

Limited immunity protects only for ordinary negligence

Many limitations and qualifications



What Liability Protection is Available?

Emergency Management and Homeland Security Acts

Emergency Management and Homeland Security Acts may provide:

- *Limited immunity for emergency and disaster volunteers*
- *Compensation for injured emergency and disaster volunteers*
- *Temporary recognition of licenses, permits and certifications for emergency and disaster workers, both paid and unpaid*

Limited immunity protects only for ordinary negligence

Immunity is often limited to individuals

Usually required to register as a volunteer with an emergency response agency and be involved in authorized activities

May specifically protect owners of shelter premises and architects and engineers who inspect damaged premises



What Liability Protection is Available?

Governmental Immunity

Limited immunity for a government and its representatives, usually set forth in a statute

Often included in a “tort claims act” that describes how the government can be sued



What Liability Protection is Available?

Workers' Compensation Acts

Require an “employer” to provide statutory benefits to “employees” who are injured on the job

In some states, registered disaster or emergency volunteers are treated as “employees”

Benefits for disaster and emergency volunteers may be more limited than for regular employees, or may be subject to contingencies

In some states, local governments and agencies are permitted but not required to provide injury benefits to disaster or emergency volunteers



What Liability Protection is Available?

License, Certificate or Permit Laws

In an emergency, may provide for temporary waiver of license, certificate or permit requirements or temporary recognition of licenses, certificates and permits from another jurisdiction

An issue for paid and unpaid emergency and disaster workers working out of jurisdiction and retired professionals with no active license

Usually required to register with an emergency response agency and to be involved in authorized activities

State's governor often can limit scope of activities



What Liability Protection is Available?

Emergency Management Assistance Compact

An national disaster relief compact – all 50 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands are signatories – triggered by a governor's emergency declaration

- *Liability protection*
- *License, certificate and permit recognition*

Provides liability protection for an assisting state and that state's officers or employees when they are aiding a requesting state

Licenses, certifications, and permits recognized by the assisting state are recognized by the receiving state, subject to limitations and conditions prescribed by the governor's executive order.

. Must be part of the state's EMAC response for EMAC protection



What Liability Protection is Available?

Model Legislation

Uniform Emergency Volunteer Health Practitioners Act

- *License recognition*
- *Optional liability protection*
- *Optional workers' compensation protection*

Limited to the health care context

www.uevhpa.org/



What Liability Protection is Available?

Insurance & Contractual Agreements

Local government insurance or self-insurance programs

Memoranda of agreement

Mutual aid agreements

Note:

1. Protection depends on the terms of the insurance document or agreement
2. Agreements can also establish a basis for liability claims



How Can Citizen Corps Programs Manage Liability Risk?

Understanding the Law

Online research (statutes and pending legislation)

Consult with knowledgeable attorney or risk manager

Network with other programs

Working within the Law

Constructing the program to qualify for existing protection

Changing the Law

Building coalitions, making contacts and finding an advocate



How Can Citizen Corps Programs Manage Liability Risk?

Components of Risk Management

Risk identification & assessment

What can go wrong and the likely consequences

Risk “control”/mitigation

Reduce losses and their consequences

Comply with the law

Enhance the program’s ability to fulfill its mission

Risk financing

Pay for losses that occur



How Can Citizen Corps Programs Manage Liability Risk?

Risk Financing - Nothing Provides 100% Protection

Protection under statutes

Insurance

Agreements with others

NO GUARANTEES!



How Can Citizen Corps Programs Manage Liability Risk?

Risk Identification & Assessment

Identify possible liability events

Assess the likelihood and consequences

Establish priorities



How Can Citizen Corps Programs Manage Liability Risk?

Risk “Control”/Mitigation

Screening and selecting volunteers & affiliates

Preparing volunteers for their roles, i.e. training

Managing volunteers, i.e. supervising



Four Steps to Take Now

Find a legal advisor

Go to your state's online statutes

Begin to establish a network

Go to the *Citizen Corps Volunteer Liability Guide*

www.citizencorps.gov/councils/volunteer_mgmt.shtm



Contact Information

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