



Volunteer Administration in the 21st Century:

Managing the Risk Associated with Volunteer Service

Angela Burkham, Extension Program Specialist – Volunteerism, and
Chris Boleman, Assistant Professor and Extension Specialist,
The Texas A&M University System

There is risk in almost everything we do. Risk can be minimized, but never completely eliminated. When volunteers work for Texas Extension, Extension faculty must be sure volunteers understand their roles and do nothing that would jeopardize the agency's or any other group's

- people (employees, clients, other volunteers),
- property (buildings, equipment, intellectual property),
- income (sales, grants, contributions), or
- good will (stature and reputation in the community)

The importance of risk management

Risk management involves planning ahead for problems that could arise and doing everything possible to prevent them. It also involves knowing what actions to take if problems do occur. In volunteer administration, risk management means making sure staff and volunteers understand their respective roles, receive the proper training to carry them

out appropriately and safely, and always work in the best interest of the organization.

The Nonprofit Risk Management Center helps groups "prevent harm, conserve resources, preserve assets and free up resources for mission-critical activities" (Herman and Jackson, 2004). The Center suggests the following strategies.

Use common sense constantly and consistently across all program areas

Involve volunteers in risk management plans. Volunteers may be aware of problems and issues staff members are not aware of.

Give volunteers explicit directions and have specific expectations for them. Make sure they understand what is allowed and what is not. Never assume something is obvious.

Praise and punish according to stated expectations. Recognition is crucial to sustaining and supporting a volunteer base for your programs. Find ways to praise and reward excellent volunteers. It is just as important to address poor performance. If a volunteer does something that is prohibited or does not

fulfill expectations, the situation must be dealt with swiftly and tactfully.

Don't take it for granted that a volunteer knows everything he or she is expected to do, or is aware of all safety rules. When working with collaborators and partners it is especially important to make sure the other group has policies in place to minimize risk.

Establish rules and enforce them. Written rules establish clear expectations and responsibilities, prevent surprises, and encourage people to do what they are supposed to do. Rules ensure that a program will be conducted consistently. Having written rules can be critical in the case of litigation. If an organization doesn't ensure that everyone follows those rules, the organization might be liable for the consequences.

Empower members of boards and committees to fulfill their roles by managing their affairs in a proper way. This includes being informed, acting with care, conducting group activities according to agency and program rules, putting the organization ahead of personal interests, and complying with all applicable laws and regulations.

Inform volunteers about privacy issues that relate to their service. In their training, volunteers must be taught the rules related to using e-mail, the Internet and other technology. They must also understand when there is a need for confidentiality in their volunteer role. It's a good idea to reinforce these points from time to time. They could even be on reminder screens that appear when volunteers log in to use the organization's computers.

Use written agreements, on agency letterhead, to spell out the expectations, requirements and terms of volunteer service. Agreements should state that volunteers are working at the discretion and will of the organization. Such agreements make it easier to supervise volunteers and create a sense of responsibility and accountability to the organization.

Make risk management everyone's responsibility. Just as children who learn certain do's and don'ts early in life always remember them, an organization can make an awareness of risk and safety issues part of the "corporate" culture.

Use the following questionnaire to assess your level of risk.

Are You At Risk?

Yes No

- 1. Do you acquire insurance for all local events?
- 2. Do you know the ADA policy?
- 3. Do all youth, volunteers and families practice ethical behavior?
- 4. Do you have all dates for the year publicized and communicated in a timely manner?
- 5. Do you make exceptions to rules?
- 6. Do you publicize beginning and ending times for events and activities?
- 7. Do you have a volunteer enrollment/application form for all volunteers?
- 8. Do you have all membership, event and contest rules publicized and communicated at the beginning of the year?
- 9. Do you have medical releases and code of conduct forms for all overnight trips for young people?
- 10. Do you routinely conduct orientation meetings for volunteers?
- 11. Do educational program materials give details about activities—for example, dangerous activities, sharing hotel rooms, riding horses?
- 12. Do you have a plan for accommodating youth and adult volunteers with ADA needs?
- 13. Have you checked to see that all volunteers/parents who drive young people in vehicles have current driver's licenses and liability insurance?
- 14. Have you checked the state Web site for sex offenders in your community?
- 15. Are your program policies "incident driven"?

For each NO answer you increase your level of risk.

Volunteer liability

In the course of performing their tasks, volunteers may make mistakes, fail to act when they should, or take actions that cause harm. If that happens, many factors will determine whether a volunteer, and the organization, is held liable. Liability can depend on whether a person does something intentionally, accidentally or by mistake.

It helps to understand what various laws say about the liability of volunteers.

First of all, the law usually connects the concept of liability with some type of negligence. Negligence is failing to act as a “reasonably prudent person would under the same or similar circumstances.” Gross negligence, which is more than just making a mistake, is defined as conduct that exhibits “reckless disregard or probable harmful consequences” (Conners, 1995). According to Conners, a volunteer may be held liable for wrongful conduct “only when the conduct constitutes breach of a duty the volunteer owed to the person harmed, the volunteer’s conduct itself caused the harm, and the harm was reasonably foreseeable.”

There are specific laws that apply to volunteers.

Texas Extension volunteers qualify under **Education Code 51.937** as higher education volunteers. That means that as long as they are offering direct service to Extension, acting within the scope of their volunteer positions, are unpaid except for the reimbursement of travel expenses, and act with discretion and judgment, they cannot be held liable for their actions. However, the law excludes the operation of motor vehicles, intentional acts that cause harm, and acts of gross negligence.

The Chapter 75 Civil Practice and Remedies Code limits the liability of agricultural landowners who allow others to use their property for recreation or activities associated with enjoying nature or the outdoors. Liability is limited to \$500,000 per person and \$1,000,000 per occurrence for personal injury or death, whether the injury or death was caused by a condition of the property or by the actions of others. However, certain conditions must apply. The landowner cannot charge a fee for using the land and must have liability insurance. Also, there is no protection from liability in cases of willful, wanton or gross negligence.

Of special interest in Extension is the **Chapter 87 Civil Practice and Remedies Code** in state law that applies to equine activities. The law says that

an equine activity sponsor cannot be held liable for damages if an injury or death of a participant results from the “dangers or conditions that are an inherent risk of equine activity.” The law lists approved equine activities. There are exceptions, however. First, a sponsor may be held liable if he or she supplies faulty equipment or fails to warn participants of latent dangerous conditions. Also, warning notifications must be posted at equine and livestock events. Here is the correct wording for such warnings.

WARNING

UNDER TEXAS LAW (CHAPTER 87, CIVIL PRACTICE AND REMEDIES CODE), AN EQUINE PROFESSIONAL IS NOT LIABLE FOR AN INJURY TO OR THE DEATH OF A PARTICIPANT IN EQUINE ACTIVITIES RESULTING FROM THE INHERENT RISKS OF EQUINE ACTIVITIES.

WARNING

UNDER TEXAS LAW (CHAPTER 87, CIVIL PRACTICE AND REMEDIES CODE), A LIVESTOCK SHOW SPONSOR IS NOT LIABLE FOR AN INJURY TO OR THE DEATH OF A PARTICIPANT IN A LIVESTOCK SHOW RESULTING FROM THE INHERENT RISKS OF LIVESTOCK SHOW ACTIVITIES.

The **Federal Volunteer Protection Act** of 1997 was written 1) to encourage people to volunteer by easing their fear of liability, and 2) to lessen the impact of liability on volunteers and organizations. The bill applies to nonprofit and governmental volunteers. However, the bill excludes intentional acts and acts of gross negligence. The bill also excludes volunteers who are

- not acting within the scope of their duties;
- operating motor vehicles;
- acting without required licenses; and
- acting under the influence of drugs or alcohol.

So although the Volunteer Protection Act gives protection to volunteers, it does not exclude liability. Many volunteers remain fully liable for their actions or failure to act.

Volunteers may have additional liability protection through their homeowners’ policies. Volunteers should know what their policies do and do not cover. Many policies include broad coverage, even membership in organizations. Most policies exclude actions of organizational officers. Volun-

teers should check with their insurance agents for details.

The most important thing is for people to act with due diligence. For volunteers, that means acting within their position descriptions and understanding all procedures and rules. For example, volunteers who handle money should follow Extension's Best Practices for Financial Management. Volunteers who work with youth should never be alone with a young person.

Additional reading

Conners, T. D. (1995). *The Volunteer Management Handbook*. John Wiley and Sons, Inc.: New York, NY.

Herman, Melanie L. and Peggy M. Jackson. (2001). "No Surprises: Harmonizing Risk and Reward in Volunteer Management." Nonprofit Risk Management Center and the Association for Volunteer Administration.

Other publications in this series on volunteer administration:

D-1451, *Volunteer Administration in the 21st Century: Roles Volunteers Play in Texas Cooperative Extension*

D-1452, *Leadership Advisory Boards*

D-1453, *Program Area Committees and Youth Boards*

D-1454, *Volunteer Associations and Groups*

D-1455, *Understanding and Managing Direct and Episodic Volunteers*

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