

# Addressing Liability & Managing Risk

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What happens if one of your volunteers is hurt while participating in an organizational function? What protections exist for volunteers and volunteer organizations from law suits? Can a volunteer injured while on duty apply for workers compensation benefits? These are some of the questions Citizen Corps aimed to answer through collaboration with the Public Entity Risk Institute (PERI) this past fall. PERI Executive Director Claire Reiss presented information on liability as it relates to volunteers and volunteer organizations at three seminars across the state. In addition to the video of the seminars, a white paper with the results of the research is available online at [ready.wv.gov](http://ready.wv.gov) and [riskinstitute.org](http://riskinstitute.org).

When a community need is not fulfilled by the government, volunteer organizations often step up to provide services. Most government authorities recognize what a valuable resource these volunteers are and welcome the partnership. However, volunteers and their respective organizations, as well as the agencies they assist, often express concern about liability and what protections are available in the event that someone is injured or damages property while volunteering. Thankfully, the West Virginia state code and federal legislation provide some protection for these individuals and groups.

Imagine you were in a park and noticed a person choking. While attempting to help the person, you accidentally bruised her. Good Samaritan laws extend immunity to individuals responding in good faith and without compensation to provide emergency care to someone injured in an accident or the victim at the scene of a crime.

Now imagine you intervened to stop someone from choking while volunteering at your local church. The Volunteer Protection Act of 1997 is federal legislation that offers you some protection. The act protects volunteers from charges of general negligence and can be used to dismiss a lawsuit. If you volunteer for a nonprofit or government organization this act offers you immunity for accidentally causing damage to persons or property.

In West Virginia law, immunity protection exists for volunteers, duly qualified emergency service workers (paid or unpaid) and good Samaritans. Various degrees of protection are provided, but most individuals acting in good faith, trying to help, are protected from liability for personal or property damage. Neither federal nor state legislation provide protection for acts that constitute “willful misconduct”.

One of the concerns expressed frequently by community organizations and businesses is about worker’s compensation. If a business allows an employee to volunteer during work hours, is the business liable for worker’s compensation? What about the organization that utilized the volunteer? While the risk of this happening is very low, your organization or business may be held responsible. In order to protect your organization, consider what the volunteer will be doing – is there a reasonable risk associated with the activity? If so, consider purchasing worker’s compensation coverage for your organization. Some agencies in West Virginia are willing to write coverage for volunteers. A list of possible agencies is found

on the West Virginia Insurance Commissioners website at:

<http://www.wvinsurance.gov/LinkClick.aspx?fileticket=eiYwSDOITbQ%3d&tabid=73&mid=752>.

Even if you don't need to extend worker's compensation coverage to your organization's volunteers, you can consider adopting basic risk management practices for your program. Risk management involves proper screening of volunteers, placing volunteers in jobs that are suitable, ensuring they receive adequate training, and other tactics to ensure your organization and its volunteers remain safe. Good risk management is just as important as immunity and indemnity, because it helps avoid the incidents that create liability.

For more detailed information on West Virginia liability statutes, as well as risk management strategies, please visit [www.ready.wv.gov](http://www.ready.wv.gov) and read the document titled *Utilizing Volunteers in Emergency Response: Addressing Liability and Managing the Risk in West Virginia*. You may also view video taken from the seminars on the site.

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