



Non-Profit Organization Liability in Preparedness Training

MEMORANDUM

January 14, 2011

Non-Profit Organization Liability Related to Volunteer Actors during Preparedness Training Exercises

Question Presented

Under Arizona law, is a non-profit organization liable for injuries or damages caused by, or to, volunteers it registers and coordinates for emergency preparedness training exercises at local hospitals?

Brief Answer

A non-profit organization may be liable under Arizona law for injuries (or damaged property) caused by a volunteer acting within the scope of his or her duties. Similarly, an organization may be liable for injuries to a volunteer if the volunteer is characterized as an employee or gratuitous employee of the organization, or if the injury was caused by negligence of another volunteer.

Note: Initial research did not yield any protections under federal law for a non-profit organization coordinating volunteers to participate in emergency preparedness training exercises. The federal Volunteer Protection Act¹ provides some legal protections to individual volunteers in similar circumstances. However, these protections do not extend to an entity.

Analysis

During preparations for emergencies, non-profit organizations may coordinate volunteers to serve as actors during emergency exercises held by or within a hospital. This memorandum discusses liability risks for a non-profit organization that coordinates and registers college students to serve as volunteers, and provides transportation for the students to a hospital on the day of an exercise. Section 1 addresses liability risks for injuries or damages caused by a volunteer during the course of the exercise as well as in transit to the hospital



on the day of the exercise. Section 2 addresses liability to injuries suffered by a volunteer during or in transit to the exercise.

Section 1. Liability for Injuries/Damages Caused by a Volunteer

Under Arizona law, a non-profit organization is liable for injuries or damages caused by a volunteer if the injury occurred during the course of the volunteer's duties.² Arizona statute indicates that a non-profit organization is vicariously liable for a volunteer's actions occurring in the scope or course of their duties. "Vicarious liability" refers to the liability assumed by a principal (e.g., non-profit organization) for the actions of an agent (e.g., volunteer). Similarly, Arizona courts have found that a non-profit organization can be vicariously liable for an uncompensated volunteer's actions if the volunteer submits to the "directions and control" of the organization.³ Therefore, where a volunteer acts on behalf or under the supervision of a coordinating non-profit organization, the non-profit organization may be liable for the non-criminal acts of the volunteer that cause harm to others.

Additionally, liability has been found where an injury was caused while an agent of a non-profit organization was driving a personal vehicle.⁴ Thus, an organization may be liable for injuries caused by a volunteer who transports other volunteers, employees, or supplies at the direction of the organization.

Section 2. Liability for Injuries to a Volunteer

A non-profit organization may or may not be liable for injuries to a volunteer while the volunteer is serving as an actor during an emergency preparedness training exercise or in transit to the exercise. Liability for injuries to a volunteer is directly related to the classification of the volunteer. For example, whether an individual is an employee, gratuitous employee, or a volunteer directly impacts an organization's potential liability.

An organization may be liable for workers' compensation benefits concerning an injured volunteer if the volunteer is classified as an employee. A volunteer may qualify as an employee for workers' compensation purposes if the volunteer (1) participates in emergency management training, exercises, or drills; (2) serves without compensation; and (3) is registered with emergency management or a political subdivision.⁵

Additionally, a non-profit organization may be liable if a volunteer is found to be a gratuitous employee. A gratuitous employee, while uncompensated, has an interest in performing the work. Under this circumstance an organization owes the volunteer the duty to create a safe work environment. For example, a college student serving as a volunteer for the non-profit organization coordinating volunteers for emergency preparedness training exercises may have an interest in volunteering as a part of academic course work. Therefore the organization may be liable if it neglects to provide a safe work environment.⁶

Finally, an organization may be vicariously liable, as indicated above, for injuries caused to a volunteer by another volunteer acting within the course of his or her duties.

Conclusion

A non-profit organization may be liable under Arizona law for injuries caused by volunteers serving as actors during emergency preparedness trainings if the organization registers and coordinates the volunteers. It may

also be liable for injuries to a volunteer according to the volunteer's classification as an employee, gratuitous employee, or volunteer.



Robert Wood Johnson Foundation

SUPPORTERS

This document was developed by Jalayne J. Arias, JD, Deputy Director, Network for Public Health Law – Western Region, Sandra Day O'Connor College of Law, Arizona State University.

The Network for Public Health Law is a national initiative of the Robert Wood Johnson Foundation with direction and technical assistance by the Public Health Law Center at William Mitchell College of Law. The Network provides information and technical assistance on issues related to public health. The legal information and assistance provided in this document does not constitute legal advice or legal representation. For legal advice, please consult specific legal counsel.

References

¹ [42 U.S.C.A §§ 14501 - 14505](#)

² [A.R.S. § 12-982\(B\)](#)

³ *Bartell v. Mesa Soccer Club, Inc.*, No. 08-0024, 2010 Ariz. Ct. App. WL 502993, at * 6 (Ariz. Ct App. Feb. 11, 2010) (finding a soccer club liable for injuries caused by a player who drove teammates to a practice location under the instructions of a coach).

⁴ *Id.*

⁵ [A.R.S. § 23-901\(6\)\(n\)](#) (Similarly, [A.R.S. § 26-314\(C\)](#) requires state government departments, agencies, and boards to provide workers compensation to volunteer emergency workers).

⁶ *Bond v. Cartwright Little League, Inc.*, 112 Ariz. 9, 14-15 (Ariz. 1975)