

# MY VOLUNTEER DID WHAT?!



THE  
**GERTSBURG**  
LAW FIRM CO., LPA

We Solve Problems.

# WHAT WE'RE COVERING TODAY

- **SPECIAL INSURANCE CONCERNS WITH NONPROFIT VOLUNTEERS**
- **DRAFTING AND ENFORCING APPROPRIATE VOLUNTEER POLICIES**
- **HOW TO DEAL WITH DIFFICULT VOLUNTEERS**



# VOLUNTEER LIABILITY: SPECIAL CONSIDERATIONS RELATING TO VOLUNTEERS



- Volunteers should expect that their activities will be covered by the nonprofit's insurance.
- Even when they are, the organization may still have liability.



# SPECIAL INSURANCE CONSIDERATIONS



- Volunteers are generally not covered by worker's compensation
- General liability policy should include volunteers as additional insureds
- Volunteers may have coverage under personal homeowner's or renter's policies



## STATE AND FEDERAL LAWS PROTECT VOLUNTEERS

- The Federal Volunteer Protection Act
- Ohio: ORC 2305.38



## AS A GENERAL RULE THEY APPLY TO:

- Uncompensated volunteers.
- Volunteers properly licensed, certified, or authorized by state law.
- Volunteers of nonprofit organizations or governmental entities.
- Acts within a volunteer's scope of responsibility.
- Acts of ordinary negligence.



## THESE LAWS DO NOT APPLY TO:

- Willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual(s) harmed by the volunteer.
- Harm caused by operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires its operator to possess an operator's license or maintain insurance.
- Volunteers for businesses.
- **The organization or entity utilizing the volunteer.**



# VOLUNTEER POLICIES

- **Every Organization's Policy Should Be Unique To Its Mission, Values, Size, And Needs, But Every Policy Should:**
  - Clarify the volunteer's role, responsibilities, and obligations.
  - Establish the values, beliefs, culture, and direction of the organization for the volunteer.
  - Ensure continuity.
  - Formalize current practices.
  - Protect the organization.





# PRE-DRAFTING CONSIDERATIONS

- **How will you train and involve your volunteers?**
- **Who will be responsible for managing them?**
- **What level of supervision is needed?**
- **Are background checks necessary, and if so, for what roles?**
- **How are expenses reimbursed, if at all?**
- **Are the expectations and requirements for volunteers properly expressed?**
- **Does it contain a complaint process?**



# ADDITIONAL POLICY CONSIDERATIONS

- Dress Code?
- Record Management
- Participation Requirements
- Court-ordered Service Programs
- Training
- Youth Participation
- Recognition
- Conflict Of Interest
- Waivers



# WAYS TO IMPROVE THE VOLUNTEER EXPERIENCE



- Create A Well-reasoned Orientation Program
- Provide Meaningful Work
- Recognize Volunteer Involvement And Contributions
- Think Long Term
- Often Your Volunteers Will Become Your Best And Most Loyal Advocates And Donors



# DEALING WITH DIFFICULT VOLUNTEERS

- We can't always control who volunteers, but we can control how they volunteer
- Volunteers need to be managed just like employees
- The volunteer policy must be consistently enforced



# DIFFICULT VOLUNTEERS CAN CAUSE ALL SORTS OF PROBLEMS

- Factions
- Dissent
- Gossip
- Resentment
- Lost Potential
- Frustration
- Low Morale
- Impact An Organization's Reputation In The Community



# HORROR STORY

Autism Northern Ireland and its Volunteer Support Group (2015)



# NEVER IGNORE PROBLEM VOLUNTEERS; THEY WON'T GO AWAY ON THEIR OWN

- Take time to understand what the problem might be
  - Is it a character issue?
  - Is it a competency issue?
  - Is it a chemistry issue?



# POTENTIAL UNDERLYING REASONS

- Lack of understanding of the organizational mission or the assigned tasks
  - Potential training issue
- Differing view of what should be done or how it should be done
  - Potential training or compatibility issue
- Fear of change
  - Potential training or involvement issue
- Outside environmental issues





# STEPS IN DEALING WITH THE DIFFICULT VOLUNTEER



- Never ignore
- Speak privately with them
- Always be proactive and keep volunteers informed
- Engage in mutual problem solving where appropriate
- Use your volunteer policy as guidance
- Agree on a corrective action
- Follow up
- If all else fails, fire them



## SOME OPTIONS: THE “RE’S”

- RE-ASSIGN
- RE-TRAIN
- RE-VITALIZE
- REFER
- RETIRE



# SOMETIMES IT IS BEST TO RETIRE A VOLUNTEER



- YES, You can fire a volunteer
- Have a policy and procedure in place that includes
  - Policies for volunteer issues
  - A way to inform Volunteers about the policies
  - A way to measure when a Volunteer is failing
- Investigation and determination of decision
- Application of decision



# TERMINATION MEETINGS

- Conduct a termination meeting just like any employee
  - In private
  - With a witness
  - Be direct and absolute, don't string it out
  - Don't argue or counsel
  - Document, Document, Document
  - Follow up with a letter confirming the organizations decision



## WRAP UP

- Recognize the risks in using volunteers and protect your organization accordingly
- You need an organizational specific volunteer policy
- You need to enforce that policy consistently
- Engage your volunteers when making changes that affect their roles
- Recognize their achievements
- Never ignore a problem volunteer
- Don't be afraid to retire a volunteer

