

Municipalities and Volunteers: *Preventing Liability Claims*

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While volunteers are an awesome asset, they also bring with them a certain amount of risk.

For instance, consider an individual who lives across the street from an empty, borough-owned lot. Knowing maintenance crews are already carrying a heavy load, this individual offers to mow it weekly. Sounds great. But is it?

Or perhaps a group of Cub Scouts want to help with a litter pickup. What risks does a borough need to consider before giving the boys and their leaders trash bags and letting them get started?

With municipalities relying more heavily on volunteers, how can a public entity protect itself if a volunteer gets hurt?

In the best-case scenario, the borough files an insurance claim. In the worst-case scenario, the borough ends up in expensive litigation and has its reputation damaged.

Before allowing people to volunteer, a municipality should consider:

- Who will be volunteering;

- What kind of work will they be doing;
- What preventative measures need to be taken to protect the borough; and
- What insurance products cover volunteers.

Volunteers

First know whether volunteers are with a group or on their own as well as whether minors will be included.

Usually, if an organized group is volunteering, their parent organization has insurance to cover incidents that could result in a claim.

With an organized group, any claims should be filed on their insurance policy. To make sure this happens, the borough should have a contract in place with the volunteer organization with the borough added to their insurance policy.

In terms of the contract, the solicitor should draw up documents in which the borough is

“indemnified and held harmless.” This language means that the municipality will not be responsible for any injury, illness, death, or property damage.

In order to have all risk transferred to the volunteer organization’s insurance policy, the borough must be listed as an additional insured on the organization’s insurance policy.

This will put the borough’s insurance in second place. Then if volunteers from the organization cause property damage or bodily injury, their insurance will cover the incident.

Because individuals do not carry commercial insurance, risk cannot be transferred to this type of volunteer. To address this, all individual volunteers should sign a waiver that will add protection for the borough.

This waiver should state that the volunteer releases the municipality from any liability, essentially waiving their right to sue if they are harmed.

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Minors and Volunteering

When minors volunteer for any organization, there is increased risk and a higher degree of liability. In lawsuits involving the harming of a minor, courts have traditionally awarded higher damages in favor of the minor.

If minors are allowed to volunteer, the borough must have sexual misconduct liability insurance.

For volunteering and programming that pertains to minors, other volunteers, staff, and officials may need to submit to background clearance checks, according to the PA Department of Human Resources' www.KeepKidsSafe.pa.gov.

Volunteer Work Options

Certain volunteer activities pose a higher degree of risk than other. For example, mowing grass because of the equipment used and potential for harm has a higher degree of risk than raking leaves.

In general, "jobs" that have the greatest risk for injury are ones where an individual might slip and fall or suffer strain from lifting heavy objects, which might include carrying bags of mulch, helping at a winter event where sidewalks are likely to be icy, or clearing out trash on a community clean-up day.

So, municipal officials need to think about the likelihood of an accident occurring when determining whether volunteers can be used for a task. Insurance agents can help with managing these types of risks and can offer advice on the potential for injury.

Very hazardous jobs, such as using heavy equipment like lawn mowers and front loaders, should be completed only by paid employees to make sure the borough is adequately covered in the case of an accident.

Borough officials must also consider the long-term risk that certain projects might present, including completed projects that will be used by the general public.

If a community group erects playground equipment and a child later gets hurt on that equipment because it was not properly installed, the borough is liable.

When volunteers help with these kinds of projects, staff and officials need to make sure those helping are capable and qualified to do the project. For added precaution, the finished project should be inspected before it is used.

Protecting the Borough

Beyond making sure that waivers are signed by individual volunteers or that potential risk

is transferred to the appropriate organization, there are other important steps for a municipality to take.

Just like employees, volunteers must be properly trained, which means any training given to an employee for a specific job should also be provided to volunteers.

The goal is to prevent injury or damage. So, for example, if volunteers are helping with tasks that can cause back strain or injury, they should be trained in lifting techniques.

Training volunteers lessens the probability of injury or damage and adds protection by decreasing the borough's liability.

Protective Gear

Volunteers also need to be outfitted with proper gear. If they are removing litter from roadways, they need orange vests and reflective gear, along with gloves and trash pickers.

By supplying the necessary protection, a municipality can decrease its liability.

Volunteer Insurance

With the various liabilities a borough faces when using volunteer help, officials should confirm that the necessary insurance policies are in place.

Generally speaking, most insurance policies cover volunteers

as insureds just like they would cover employees. This is the case with the following coverages:

- General liability, which covers damage done to other people or property;
- Cyber liability, which protects the municipality from any cyber incident;
- Auto liability, which covers damage or injury caused by a volunteer driving a borough-owned vehicle; and
- Sexual misconduct liability, which protects the municipality as a whole as well as the individual as long as the individual did not commit a crime.

One item of notes is that in Pennsylvania, volunteers cannot file a claim on the borough's workers' compensation policy for medical care or lost wages.

Best Practices

If a borough is going to rely on volunteers, it needs to have the following protocols in place:

1. Ensuring all risk is transferred to the proper organization,
2. Having all individual volunteers sign waivers,
3. Current sexual misconduct liability coverage if minors are involved,
4. Proper clearances from volunteers working with minors,

5. An assessment, with an insurance agent's help, of job hazards prior to assigning volunteers,
6. Inspection of projects completed by volunteers before they are used,
7. Training that mirrors what is given to employees,
8. Provision of protective equipment, and
9. Ensuring with the municipality's insurance agent that the proper coverages are in place to protect from liability claims.

Taking a proactive approach to volunteers and their work will protect the borough and prevent unnecessary claims.



About the author: Prior to joining Baily Insurance in 2002, Mike Baily worked as a

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