

# The Volunteer Protection Act

To promote volunteerism, the Volunteer Protection Act (VPA) was signed into law in 1997 under President Clinton. This Act pre-empts existing looser state laws protecting nonprofit volunteers, encouraging the public to participate in social service.

## Overview of the Volunteer Protection Act

The VPA protects volunteers against civil liability if:

- the volunteer was acting within the guidelines of his/her job description;
- the volunteer had the proper licenses, certifications or was authorized to act AND those acts were within his/her job description;
- the volunteer did not cause harm that was “caused by willful or criminal misconduct, gross negligence, reckless misconduct or a conscious, flagrant indifference to the rights or safety of the individual harmed”;
- the volunteer did not inflict harm while using a motor vehicle, aircraft or other vehicle.

The VPA provides consistent protection for all nonprofit personnel since states’ laws vary. More specifically, many states only provide protection to the organization’s director or board members, while others protect everyone associated with the organization.

The VPA does not, however, protect a volunteer from litigation brought by the organization onto the volunteer for violating one of previously mentioned criteria.

Most importantly, the VPA does not protect the nonprofit organization from litigation; it only protects the volunteer. In other words, the organization may be liable for the negligent actions of the volunteer, even when the volunteer is immune from litigation under the VPA. Therefore, the burden of responsibility is on the organization to assure that its volunteers are acting in a lawful manner while carrying out the duties assigned to them by the nonprofit.

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## The Volunteer Protection Act provides consistent protection of nonprofit personnel across the nation since state laws vary.

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### Examples of the Scope of VPA

- A child is severely injured while swimming at a church-sponsored summer camp. The volunteer camp counselor who neglected to supervise the pool would not be liable for the incident. However, the church is liable for not hiring a properly trained lifeguard to supervise the pool.
- While driving several young players to a little league baseball game, a volunteer coach makes an illegal left turn and hits another car. In this instance, the volunteer is liable and is not immune under VPA or the state law because he violated a traffic law.

### Consequences of VPA

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Though the act does encourage the public to volunteer without fear of litigation and assures that volunteer protection laws do not vary significantly from state to state, it also poses threats to you, the organization. With this added legal security, volunteers may take more risks while doing assigned jobs or take on responsibilities without proper training. Furthermore, they may not exercise the type of caution needed or become careless in their dealings with the populations the organization serves.

The act may also deter organizations from enacting risk management programs to ensure that volunteers are properly trained, knowledgeable and prepared.

## Organization Liability Prevention

To prevent excessive liability on your organization, you should do the following:

- Establish a risk management program run by a designated committee to address factors that could negatively affect your organization. The committee should identify risks that have the potential to be costly for the organization.
- Have risk financing in place to pay for damages, legal expenses, injuries or other costs associated with litigation.
- Obtain general liability insurance, which protects against bodily injury and property damage claims that are brought against you organization by the volunteer.

General liability insurance will protect an organization's assets in the event of a lawsuit. In some cases, the VPA may also reduce the organization's risk and, therefore, may reduce the insurance premium. Contact BCG Advisors, Inc. to learn more about our cost-effective liability insurance solutions to protect against litigation as a result of volunteer actions.