

# Volunteers

What is the difference between an employee and a volunteer? According to the United States Department of Labor, individuals may volunteer or donate their services to public sector employers such as the state. When they do this without contemplation of pay or profit motivation, they are not considered employees, but rather as volunteers.<sup>1</sup>

From a best work practices perspective and apart from compensation, there should be little difference between the direction provided for employees and volunteers. However, there is a difference between the control<sup>2</sup> an agency can provide over a volunteer. Too much control over a volunteer may make them an employee under civil rights law.<sup>3</sup> In other words, train volunteers well and supervise them with a light hand. Volunteers should be allowed to refuse work and have a voice in when they work. Volunteers should not be disciplined or promised future jobs. Volunteers should be provided with:

- Descriptions of the scope of work to be performed.
- Training for how to perform the work satisfactorily and safely.
- Training for how to interact with others appropriately in the workplace.

## Risks to Agencies

- Acceptance of liability for volunteer as an agent of the state
- Lawsuits for work practice violations
- Volunteer injuries

## Insurance Coverage

Tort liability coverage: Volunteers are agents of the state for purposes of the Oregon Tort Claims Act [ORS 30.260-300](#) and receive liability coverage by the state for their acts and omissions when acting within the course and scope of their duties.

Volunteer Injury Coverage Options: Agencies have three options for providing injury coverage to volunteers unless statutorily required to do otherwise. The three options are no coverage, workers' compensation coverage, or Voluntary Injury Coverage (known as VIC). Workers' compensation coverage is supplied by the state's workers' compensation insurance carrier and is similar to coverage provided to employees.<sup>3</sup> VIC is offered through [DAS Risk Managements VIC Policy Manual 125-7-204](#) and supplements a volunteer's personal health insurance by paying for things not covered by their health insurance plan.<sup>4</sup>



For more information about and how to obtain volunteer workers' compensation coverage or Volunteer Injury Coverage, visit DAS Risk Management's [Volunteer Injury Coverage Toolkit](#).

## Volunteer-Related Information and Best Practices

- If volunteers are paid stipends or receive remuneration as defined by the IRS<sup>5</sup>, full workers' compensation generally needs to be provided. This may affect boards, commissions, and park/camp hosts among others. Remuneration includes an exchange of work for non-cash items of value such as firewood and camping spots provided to camp hosts.



## RiskWise



## A Guide to Controlling Risk

### Volunteers

- Risks to Agencies
- Insurance Coverage
- Volunteer-Related Information and Best Practices
- References and Resources

# Volunteer-Related Information and Best Practices - Continued

- Avoid providing volunteers gifts such as cash or cash equivalents. This may create taxable income and may also require the need to provide full workers' compensation coverage. Gifts that are considered de minimis<sup>5</sup> under IRS rules (low value, low frequency, non-monetary) are not considered taxable income.
- When providing full workers' compensation coverage, hours and wages/assumed wages<sup>6</sup> must be reported as part of the payroll reporting process. In most situations Oregon's assumed wage is the wage used for this purpose. The minimum wage now varies by region of the state where the work is performed.<sup>7</sup>
- Reimbursement of expenses does not count as wages or remuneration.<sup>5</sup>
- Agencies should develop a tracking system for numbers of volunteers and their hours worked. Each year on the Risk Report, DAS Risk Management asks for this information.
- Track and recover state-owned property assigned to volunteers.<sup>8</sup>
- Many statewide human resource policies apply to volunteers including Discrimination and Harassment Free Workplace, Professional Workplace policies and Violence Free Workplace.<sup>9</sup> Assure volunteers receive training required by policy.
- Minors may volunteer. When utilizing minors as volunteers, use the Bureau of Labor and Industries' Child Labor Laws as a best practice guide. Limitations for minors under the OARs include but are not limited to restrictions of work hours, operation of power-driven machinery, driving, arduous work restrictions and hazardous exposures.<sup>10</sup>
- When utilizing minors as volunteers, ensure parents/legal guardians complete the required Volunteer Injury Coverage forms.<sup>4</sup> Securing [medical releases](#) is also recommended in case injury treatment is required (completed forms should be kept in a confidential locked location). Consider requiring parental/legal guardianship accompaniment when minors are performing volunteer work. Otherwise, consider how the agency will provide adequate personal protection of the minors.
- Provide volunteers the same safety and health training that would be provided employees doing the same work.



## References and Resources

<sup>1</sup>United States Department of Labor: [elaws – Fair Labor Standards Act Advisor, Volunteers](#)

<sup>2</sup>Bureau of Labor and Industries: [Right to Control Test](#)

<sup>3</sup>SAIF Corporation: [Volunteers Employer Guide](#)

<sup>4</sup>DAS Risk Management VIC: [State Agency Volunteer Coverage](#)

<sup>5</sup>IRS: [De Minimis Fringe Benefits](#)

<sup>6</sup>SAIF Corporation: [Minimum Hourly Assumed Wage Change](#)

<sup>7</sup>Bureau of Labor and Industries: [Oregon Minimum Wage Rate Summary](#)

<sup>8</sup>Statewide Policy 107-004-010: [Information Technology Asset Inventory & Management](#)

<sup>9</sup>Statewide Policy 50.010.01 [Discrimination and Harassment Free Workplace](#)

<sup>10</sup>Bureau of Labor and Industries OARs: [Employment of Minors in Oregon, Procedural Rules](#)

United States Code: [Volunteer Protection Act of 1997](#)

DAS Risk Management: [Volunteer Injury Coverage Toolkit](#)

DAS Risk Management: [Emergency Medical Care for Minor Child](#)

OSPA Reference Manual: [Volunteers, Boards and Commissions](#)

**DAS RISK MANAGEMENT**  
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