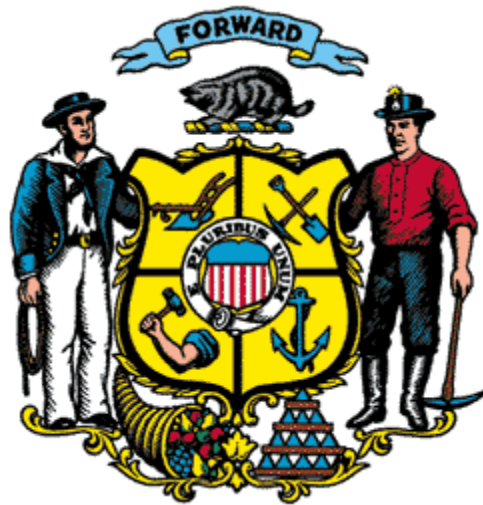


# VOLUNTEER MANAGEMENT DURING EMERGENCIES AND DISASTERS

## FREQUENTLY ASKED QUESTIONS (FAQs)



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**NOTE:** This document is only meant to serve as a guide to answer general questions about legal issues in emergency/disaster volunteer management and pertains specifically to volunteers registered with a unit of government. "Volunteer" refers to an individual who assists during emergencies or under disaster declarations. Individual legal issues will be situation-specific; thus, actual outcomes or advice may differ from the responses provided in this document. **Acknowledgement:** Special thanks to Jim Kennedy with the Kenosha County Department of Human Services for his assistance in developing these questions.

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## **I. Costs and Coverage**

**For a volunteer\* who incurs costs as a result of volunteering (e.g., medical expenses or lost wages/income due to injury related to volunteer service), which of the following costs are covered? See Table 1.**

Table 1: Costs and Coverage

<b>Type of Cost</b>	<b>Coverage Afforded a Volunteer of a Unit of Government</b>
Medical expenses for volunteers who are injured	Medical costs are covered for injured volunteers. There is no distinction between short or long term costs – delayed onset health conditions arising from the initial injury are also covered.
Lost wages/income for volunteers who are injured	Volunteers are eligible to receive worker’s compensation benefits.
Lost wages/income for volunteers who are killed	Volunteers who are killed while in the scope of volunteer activities are eligible for death benefits and compensation related to burial expenses.
Damage to a volunteer’s personal property	Damage to a volunteer’s personal property is not covered.

*\*The volunteer must have registered in writing with the appropriate unit of government prior to volunteering. The volunteer is also responsible for immediately reporting any injuries or accidents that happen. Volunteers are distinct from volunteer healthcare practitioners (VHCPs). VHCPs are not addressed here.*

### **What amount or percentage of each of the above costs would be covered?**

Generally, claims for medical expenses are subject to review by claims adjusters and risk management officials. In many instances, claims adjusters review and adjust costs for medical procedures, medications, and other pertinent factors. Claims for permanent or temporary disabilities are paid out subject to certain formulas based upon the percentage and type of disability suffered.

### **What time or monetary limits apply?**

Injuries or accidents not reported to the sponsoring unit of government by the volunteer within 30 days of the occurrence of injury or within the first 30 days of knowledge of injury may be denied. Under §323.42 of the Wisconsin Statutes, there is a monetary cap of \$1 per capita for a sponsoring unit of government for injured volunteers. (For example, a city with a population of 30,000 would have a monetary cap of \$30,000 of eligible costs per event.) The state provides excess reimbursement to the sponsoring unit of government for costs above the cap. There is no monetary limit for excess reimbursement claims.

### **Who bears responsibility?**

Volunteers must register in writing with a sponsoring unit of government. The sponsoring unit of government is responsible for paying costs associated with volunteer injury or death. The state acts to reimburse a sponsoring unit of government when the liability cap is exceeded. If claims are denied, some costs could be borne by the volunteer or his/her insurer. This is most likely to happen when a volunteer is not registered in writing or a volunteer acts beyond the scope of permissible and reasonable volunteer activities.

### **Is the \$1 per capita limit for local units of government a per calendar year or per event cap?**

Statutorily, the \$1 per capita limit is a per calendar year cap; however, in practice the cap is per emergency or disaster event. When a local unit of government accrues more than \$1 per capita in liability, every dollar above the cap may be eligible for state reimbursement. This includes events that result in long-term injuries that require years of recovery and rehabilitation. Once the \$1 per capita threshold for an event is reached, eligible excess costs will be reimbursed by the state.

### **Does the \$1 per capita maximum liability figure apply only to single units of government, or can it be shared between multiple units of government?**

The \$1 per capita maximum of liability applies to the “sponsoring” unit of government. The unit of government that registers volunteers in writing is the sponsoring unit and is responsible for the \$1 per capita liability. A situation could arise where the \$1 per capita maximum could be lumped together with other sponsors. See Table 2.

Table 2: Determining Sponsors

Relevant Factors
<ul style="list-style-type: none"><li>• Where the volunteer registered</li><li>• The site where the injury occurred</li><li>• Who the volunteer registered with (i.e., what unit or units of government were on the registration document)</li></ul>

## **II. Volunteer Conduct**

**Volunteers may be subject to tort liabilities. Such liabilities could arise from situations where the volunteer caused death, injury, or property damage. What protections do volunteers have against these liabilities?**

Typically, volunteers register in writing with a local unit of government. Assuming the registration is valid and the volunteer was acting within the scope of his/her volunteer duties, the local unit of government is responsible for paying volunteer costs associated with tort liability.

**With respect to tort liability protections, what time or monetary limits apply?**

To the extent that tort liability protections exist, there are statute of limitations and monetary limits associated with claims against governmental bodies.

**Does there need to be a formal disaster declaration for coverage to apply?**

A registered volunteer is considered an employee of the sponsoring unit of government for worker’s compensation purposes *during a disaster, an imminent threat of a disaster, or a related training exercise*. Formal declaration of disaster is not required by statute.

**What is required for a volunteer to be covered to the greatest extent possible under Wisconsin law?**

Volunteers must register in writing with the state or a local unit of government at the time of the event. Volunteers who are not registered in writing are not covered, regardless of circumstance. Volunteers who register have the full protection of state law. However, willful, wanton, or intentional misconduct is not covered under any circumstance.

**Are there any special provisions for volunteers under the age of eighteen?**

Volunteers under the age of eighteen must obtain consent from a parent or guardian before they volunteer. Those who obtain consent are covered in the same manner and afforded the same protections as other volunteers.

**Are non-citizen volunteers covered?**

There is no statutory language distinguishing coverage based on citizenship. Non-citizen volunteers are protected like citizen volunteers.

**Are volunteers that provide mental or pastoral care covered?**

Volunteers who provide mental health services (and are certified or licensed to do so) would be covered as volunteer health care practitioners (VHCPs). Volunteers who provide pastoral care (i.e., clergy, lay ministers, etc.) would be covered as volunteers.

**What type of volunteering (as it relates to Chapter 323 of the Wisconsin Statutes) is covered for volunteers registered with the state or a local unit of government?**

Activities covered include responding to an imminent threat of disaster, responding to a disaster, and training activities.

**Are there minimum information requirements for volunteers to be registered in writing? Does meeting or exceeding the minimum registration requirements offer increased liability protection?**

There are no minimum information requirements to register a volunteer in writing; however, the sponsoring unit of government should request sufficient information so that the volunteer is identifiable based on his/her responses.

Table 3: What to Include on a Registration Document

<b>Recommended Information to Request Volunteers to Provide</b>
<ul style="list-style-type: none"><li>• First and last name</li><li>• Permanent street address (not P.O. Box)</li><li>• Date of birth</li><li>• Task assigned</li><li>• Work location</li><li>• Time in</li><li>• Time out</li></ul>

Obtaining, at a minimum, the information in Table 3 increases the likelihood that registered persons will be identifiable. Never request Social Security numbers on the volunteer registration document, as the form may be subject to release under the Wisconsin open records law.

**Is it necessary for volunteers to have undergone training in order for them to be fully protected by Chapter 323 or other Good Samaritan laws? Are units of government less protected if their volunteers have not been trained?**

Volunteers acting in good faith are equally protected whether or not they have been trained. Volunteer negligence, however, might increase liability for the unit of government. For example, if a volunteer was provided a chainsaw, but received no formal training on the proper use of the chainsaw and went on to injure himself/herself or someone else, the unit of government could be held liable based on willful, wanton, or intentional misconduct.

**Are local units of government liable for tort claims against their volunteers?**

If volunteers act in good faith, they are likely to be covered. In this context, “good faith” means not acting with willful, wanton, or intentional misconduct. Criminal actions are, however, not covered.

### **III. Recommendations**

- ✓ **Collect sufficient information from volunteers to ensure identification. (See Table 3.)**
- ✓ **Assign volunteers to specific task(s) and location(s), i.e., scope.**
- ✓ **Record time in/time out of each volunteer.**
- ✓ **Ensure volunteers are informed of and understand the scope of their volunteer activities.**
- ✓ **Supervise volunteers to ensure they do not exceed their assigned scope of volunteer activities.**