

Frequently Asked Questions for Volunteer Organizations Renting Municipal Facilities

Q. Do volunteer organizations renting municipal facilities require their own insurance?

A. Any organization that operates independently of the municipality requires their own insurance. In most cases these organizations have their own executives who operate the organization's activities and have their own independent board of directors. Therefore, they are separate and distinct organizations that are independent of the municipality.

Q. When are volunteers covered under the municipal policy?

A. To be considered a volunteer of the municipality, similar characteristics to an employee must exist, excluding remuneration. The main requirements to qualify an individual or group of individuals as municipal volunteers are:

- They must work under the direction and control of the municipality.
- The municipality must have the ability to accept, suspend or dismiss their services.
- A master/servant relationship must exist.
- The activities of the volunteers must be carried out in accordance with the guidelines and standards set out by the municipality.

Q. They're only a volunteer organization, what is their liability exposure?

A. Any organization (public, profit, nonprofit, charity or volunteer) faces an exposure to liability from the programs they run, the services they provide and the premises they rent. There is always the risk of bodily injury or damage to someone's property. The legal environment in Canada today is such that injured parties are not afraid to bring legal action against the party that caused the injury. All organizations need to ensure they are properly protected from liability.

Q. If a lawsuit is brought against the volunteer organization, why do we, the municipality, care if they have insurance coverage?

A. The short answer is to protect your municipality from inheriting unnecessary claims. In Canada there is a common law principle known as Joint and Several Liability. It's better known as the 1% rule or the "deep pocket theory". If someone is injured on municipal property while engaging in an activity run by a volunteer organization, they may bring suit against both the municipality and the volunteer organization. If the municipality is found even just 1% liable, and the volunteer organization does not have the funds to pay

their share of the loss, the municipality must make up the shortfall. If the volunteer organization has no money and no insurance, the municipality may have to pay any and all claims caused by the organization. Protect your municipality by asking to see proof of insurance.

Q. As a municipality, what steps should we take to protect ourselves against a lawsuit?

A. When renting a facility, always make sure a rental agreement is completed that incorporates the following:

- The rules and regulations pertaining to the use of the facility.
- The requirement to obtain the services of fire, police (if required) and any required permits.
- Requirements if liquor is to be served.
- Damage deposits.
- Hold harmless/indemnification clause.
- Insurance requirements – add the municipality as an additional insured.

Make sure the facility is suitable for the rented activity. Do an inspection and make sure any outstanding maintenance is completed and any identified hazards are fixed. Document all inspections and work performed.

Liability insurance policies combined with sound risk management practices will help to protect your municipality and the volunteer organization.

For more information see our article Risk Management Considerations for Volunteer Organizations.

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