

## Part 1 Liability Protection for Volunteers

### **78B-4-101 Definitions.**

As used in this part:

- (1) "Damage or injury" includes physical, nonphysical, economic, and noneconomic damage.
- (2) "Financially secure source of recovery" means that, at the time of the incident, a nonprofit organization:
  - (a) has an insurance policy in effect that covers the activities of the volunteer and has an insurance limit of not less than the limits established under the Governmental Immunity Act of Utah in Section 63G-7-604; or
  - (b) has established a qualified trust with a value not less than the combined limits for property damage and single occurrence liability established under the Governmental Immunity Act of Utah in Section 63G-7-604.
- (3) "Nonprofit organization" means any organization, other than a public entity, described in Section 501 (c) of the Internal Revenue Code of 1986 and exempt from tax under Section 501 (a) of that code.
- (4) "Public entity" has the same meaning as defined in Section 63G-8-102.
- (5) "Qualified trust" means a trust held for the purpose of compensating claims for damages or injury in a trust company licensed to do business in this state under the provisions of Title 7, Chapter 5, Trust Business.
- (6) "Reimbursements" means, with respect to each nonprofit organization:
  - (a) compensation or honoraria totaling less than \$300 per calendar year; and
  - (b) payment of expenses actually incurred.
- (7)
  - (a) "Volunteer" means an individual performing services for a nonprofit organization who does not receive anything of value from that nonprofit organization for those services except reimbursements.
  - (b) "Volunteer" includes a volunteer serving as a director, officer, trustee, or direct service volunteer.
  - (c) "Volunteer" does not include an individual performing services for a public entity to the extent the services are within the scope of Title 63G, Chapter 8, Immunity for Persons Performing Voluntary Services Act, or Title 67, Chapter 20, Volunteer Government Workers Act.

Renumbered and Amended by Chapter 3, 2008 General Session

### **78B-4-102 Liability protection for volunteers -- Exceptions.**

- (1) Except as provided in Subsection (2), no volunteer providing services for a nonprofit organization incurs any legal liability for any act or omission of the volunteer while providing services for the nonprofit organization and no volunteer incurs any personal financial liability for any tort claim or other action seeking damage for an injury arising from any act or omission of the volunteer while providing services for the nonprofit organization if:
  - (a) the individual was acting in good faith and reasonably believed he was acting within the scope of his official functions and duties with the nonprofit organization; and
  - (b) the damage or injury was not caused by an intentional or knowing act by the volunteer which constitutes illegal, willful, or wanton misconduct.
- (2) The protection against volunteer liability provided by this section does not apply:

- (a) to injuries resulting from a volunteer's operation of a motor vehicle, a vessel, aircraft or other vehicle for which a pilot or operator's license is required;
  - (b) when a suit is brought by an authorized officer of a state or local government to enforce a federal, state, or local law; or
  - (c) where the nonprofit organization for which the volunteer is working fails to provide a financially secure source of recovery for individuals who suffer injuries as a result of actions taken by the volunteer on behalf of the nonprofit organization.
- (3) Nothing in this section shall bar an action by a volunteer against an organization, its officers, or other persons who intentionally or knowingly misrepresent that a financially secure source of recovery does or will exist during a period when such a source does not or will not in fact exist.
- (4) Nothing in this section shall be construed to place a duty upon a nonprofit organization to provide a financially secure source of recovery.
- (5) The granting of immunity from liability to a volunteer under this section does not affect the liability of the nonprofit organization providing the financially secure source of recovery.

Amended by Chapter 218, 2010 General Session

**78B-4-103 Liability protection for organizations.**

A nonprofit organization is not liable for the acts or omissions of its volunteers in any circumstance where:

- (1) the acts of its volunteers are not as described in Subsection 78B-4-102(1) unless the nonprofit organization had, or reasonably should have had, reasonable notice of the volunteer's unfitness to provide services to the nonprofit organization under circumstances that make the nonprofit organization's use of the volunteer reckless or wanton in light of that notice; or
- (2) a business employer would not be liable under the laws of this state if the act or omission were the act or omission of one of its employees.

Renumbered and Amended by Chapter 3, 2008 General Session