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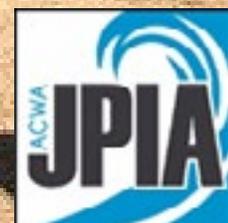
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VOLUME 4 ISSUE 4

ACWA JPIA Risk Management for the Water Industry

Volunteers

Requirements and Best Practices for
ACWA JPIA Members





Background

Section 3363.5 of the California Labor Code allows public agencies to designate persons performing voluntary service without pay to be deemed employees for Workers' Compensation (WC) benefits. In November 1997, the ACWA JPIA Board of Directors approved a recommendation of the Executive and Risk Management Committees that recommends all Liability Program members adopt a resolution making volunteers subject to WC coverage. Even if a member has no employees and an unpaid Board of Directors, and is in the JPIA's Liability Program, the member should adopt a Volunteer Resolution.

Workers' Compensation is a no-fault system, and with few exceptions, the exclusive remedy for injuries and illnesses suffered while working. If volunteers are covered under WC, they will be entitled to the same benefits as any of your agency's paid staff. Workers' Compensation benefits are finite and limited to medical and related costs associated with a specific injury or illness.

If volunteers are excluded from Workers' Compensation coverage, their recourse is to seek remedy in the civil court system. The court may award compensation for pain and suffering plus other damages. While the volunteer must prove fault on the part of the agency, the associated claims costs and civil awards are often much higher than the Workers' Compensation system.

Who is a Volunteer?

Volunteers at your agency can include student interns, youth and civic groups undertaking projects, work-release crews, court-referred community service programs, stakeholders/citizen committee members, park hosts, garden docents, tour guides, or individuals responding to or assisting in district-sponsored events or emergencies. This could include members' directors attending meetings or performing other services for which they are not compensated on a per diem or other basis.

A volunteer is an individual who, of their free will, and without compensation contributes services to assist an agency in the accomplishment of its mission.

When considering the use of volunteers, members should:

- Provide designated staff for the effective management and development of volunteer programs.
- Develop written policies covering volunteer job descriptions, recruitments, screening, training, and supervision.
- Ensure that a supervisor takes such actions as are necessary for volunteers to understand their duties and responsibilities, without injury to themselves, harm to others, or property damage.

Potential Liability

Third-party liability may result from the use of volunteers that cause personal injury to another person, or damage to the property of another party for the actions of a volunteer acting within the scope of their assigned duties. The best approach is to treat volunteers as unpaid employees who provide service and value to volunteers' duties. Assignments should have clear written expectations of the position with the skills and qualifications outlined in a job description. The volunteer position description should outline specific volunteer responsibilities, assigned tasks, performance standards, and the supervisory chain of command. An agency may be held liable for negligent acts or omissions of a volunteer in the performance of duties.

Member Responsibilities and Reminders

As with any benefit, comes responsibilities. Members using volunteers or interns are reminded to:

- Set up an application and screening process for volunteers.
- Create job descriptions and conduct orientations for volunteers.
- Have an assigned supervisor for volunteers.
- Provide training, both initial and ongoing, related to their assigned duties.
- Understand the liability and incident, injury, and accident reporting process.
- Keep a record or log of any volunteer service performed.



- Maintain recordkeeping with the names of volunteers, type of work performed, date, and the number of hours worked.

Members using volunteers need to report the following to the JPIA:

- The “equivalent payroll” of the hourly wage or value of service that would normally be paid for the work done by a volunteer/intern. This is for both workers’ compensation and liability coverage purposes.
- Immediately report any volunteer-related workplace injury, illness, or third-party damage to the JPIA and complete an accident investigation.



Members with questions regarding the use of volunteer labor should review the following link to Volunteer Resources on the JPIA’s website and contact Member Services with questions <https://www.acwajpia.com/services/#volunteer-resources>.

JPIA Member Services and Risk Control Efforts and Best Practices

New Liability Program members will be asked to adopt a Volunteer Resolution once they join the JPIA Program. Members can always contact the JPIA to help understand what constitutes a “volunteer.”

On occasion, Risk Control Advisors will check during loss review visits whether

members have a Volunteer Resolution on file with the JPIA. If no Volunteer Resolution is found, a sample Volunteer Resolution will be provided, and members will be asked to have their Board adopt the Volunteer Resolution within 90 days.

2022/23 Workers’ Compensation Policy Changes for Work Release Labor

As part of the 2022/23 Workers’ Compensation policy renewal, members that use labor provided by inmates, work release, and court-referred community service programs need to be aware of changes under the 2022/23 Memorandum of Workers’ Compensation Coverage (MOWC). For Workers’ Compensation purposes, these laborers are considered volunteers. Therefore, the following clarifying language now applies:

Section 1 – Definitions: Volunteers shall include, but are not limited to, inmates and work release and community service program workers.

This change in the MOWC now allows members the flexibility to use work-release labor at a premium charge of \$200 per day for each day using work-release labor, regardless of the number of workers. If you need to report payroll for this labor source, please contact the JPIA Member Services department to activate this class code on your quarterly report form.

Members Successfully Using Volunteers

At Helix Water District’s Lake Jennings Campground, volunteers make a significant contribution to park operations. Some volunteers live full-time at Lake Jennings in campers and trailers in exchange for campsite space and electricity. They perform key roles by staffing the information and registration kiosk, monitoring and maintaining the 97 campsites, answering questions, and responding on-call 24 hours. All volunteers receive training in first aid and evacuation procedures. In addition, Helix Water District has created job descriptions, volunteer orientation, and onboarding checklists.



Helix Water District Lake Jennings staff including Recreation Manager Kira Haley (front row, fifth from left) rely on their dedicated volunteers including Lori Stangel (front row, sixth from left).

At Joshua Basin Water District’s Water Wise Demonstration Garden, volunteers are used as tour guides and docents. Joshua Basin Water District has developed a volunteer contract and training manual to assist volunteers in fully understanding the expectations, responsibilities, and duties associated with becoming and performing as a Volunteer Docent for the Joshua Tree Water Wise Demonstration Garden and its related activities.



Volunteers from the Joshua Basin Community

Volunteers from the Joshua Basin community are trained as docents to provide tours of the Water Wise Demonstration Garden, teaching the value of using native and low water use plants in the landscape at home.

For more information on both of these programs, visit [Volunteer Opportunities at Water Agency Reservoirs](#) and [Joshua Tree Water Wise Demonstration Garden](#).

Photo credits: Helix Water District; Joshua Basin Water District

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The JPIASource is not intended to be exhaustive. The discussion and best practices suggested herein should not be regarded as legal advice. Readers should pursue legal counsel or contact their insurance providers to gain more exhaustive advice.

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