



ARCHDIOCESE OF INDIANAPOLIS

Safety and Loss Control News

May 2009

Michael J. Witka, Director of Parish Financial Services and Risk Management
Archdiocese of Indianapolis • (317) 236-1558

Prepared by Gallagher Bassett Services, Inc.

Liability Facing Organizations and Their Volunteers *By: Monica L. Maple, The AGOS Group*

Many organizations rely heavily upon volunteers to help run their organization and without their assistance, many organizations would not be able to function. However, utilizing volunteers can raise a number of liability issues for organizations as well as for their volunteers.

Volunteers are somewhat shielded from personal liability for their actions while acting within the scope of their responsibilities in an organization. In 1997, the Volunteer Protection Act (VPA) was enacted to limit liability of volunteers. The VPA provides that a volunteer cannot be held personally liable for harm caused by an act or omission of the volunteer on behalf of the organization if the volunteer was acting within the scope of his or her responsibilities, unless the harm was caused by "willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer." There is also an exception if the volunteer was "operating a motor vehicle, vessel, aircraft, or other vehicle" for which state law requires an operator's license and liability insurance. 42 U.S.C. §14503. There are also various state laws which offer some additional protections for volunteers.

While volunteers are somewhat shielded from liability, organizations are not. Organizations can be held liable under three theories. The first is direct liability for the organization's own negligence. For

example, the recreational equipment used by the volunteer was faulty and injured another individual. The second is vicarious liability, in which some states make the organization liable under an agency theory. If a volunteer was acting within the scope of his duties for the organization, the organization is automatically liable for the volunteer's negligence. The last theory is based on the organization's own negligence in retaining the volunteer. Under this theory, an action might be brought alleging the organization was negligent in accepting or supervising the volunteer. These are examples of potential liability. Employers should also be aware that each state's laws may vary on these issues.

The key issue is what your organization should do in an attempt to avoid or limit its liability for the acts of its volunteers. The most important step is to be careful in the selection of volunteers. Conduct a background check of each potential volunteer and be sure to check references. Make sure the background check includes a search of the individual's criminal record.

Once an individual passes the background check and is offered a position as a volunteer, make sure the individual is thoroughly trained. It is important to have a "volunteer handbook" which outlines the responsibilities of the volunteers as well as the behavior that is expected from each volunteer. There should be a

(Continued on page 4)



The most important step is to be careful in the selection of volunteers. Conduct a background check of each potential volunteer and be sure to check references.

Inside this issue:

Electricity: Handle With Care! 2

Substance Abuse in the Workplace 3

Electricity: Handle With Care!

According to the Consumer Product Safety Commission, 13,000 preventable electrical fires claim more than 700 human lives, cause 6,700 injuries and cost \$1.2 billion in property damage each year. Five out of every 20 workers who die on the job are killed as a result of electrical accidents. As with any type of accident, many electrical accidents can be prevented with a little background knowledge.

Electricity is part of our daily lives. We depend on electricity and electrical products to provide us with light and entertainment. It makes work easier and keeps us comfortable year-round. Although most products and facilities are designed and built so that they are safe in normal use, product defects or improper use can cause hazardous situations to occur, such as an electrical shock or fire. Many of these situations can be avoided by careful use of products and by taking simple precautions.

Circuit Breakers, Fuses and GFCIs

Circuit breakers and fuses are safety devices that shut off power when a problem occurs on a circuit. A tripped circuit breaker or a blown fuse can be caused by a short in the wiring or a defective appliance, but often occurs when there are too many electric products operating on a circuit. For this reason, it is critical that employees avoid the use of extension cords and plug splitters (devices that create more outlets on a receptacle). If it is absolutely necessary to use a power strip, verify that the strip has an Underwriter's Laboratories (UL) stamp and surge protection.

Employers should also have a Ground Fault Circuit Interrupter (GFCI) within six feet of all water sources including: sinks, coffee pots, toilets, water fountains, fish tanks, and swimming pools. GFCIs are sensitive circuit breakers designed to prevent electrocutions. Most building codes require that GFCIs be installed in the bathrooms of new buildings. Their use is also

recommended in kitchens and other areas where the risk of electric shock is high. The GFCI system should be tested regularly according to the manufacturer's instructions.

Appliances

The appliances most commonly found in the workplace include: buffers, drills, sanders, saws, grinders, lathes, coffee pots, microwaves, refrigerators and ovens. Always verify that appliances have the UL seal of approval before using them. The "UL" is contained in a circle, and stamped somewhere on the appliance. It communicates that the product has met certain basic requirements set forth by an accepted testing organization. When using appliances around water or wet locations, always use them with GFCI protection.

Cords and Outlets

Cords and outlets are the source of many electrical accidents in the workplace. Blank plastic plugs should be inserted into unused outlets. Wiring circuits should not be overloaded with plug extenders. Plugs should be removed from wall outlets by pulling on

the plug, not the cord. Only heavy-duty extension cords should be used with portable tools and heavy appliances.

Inspect all electrical cords for wear or broken insulation, especially near the plugs. Never run cords under rugs, through doorways or across high traffic areas, as these are highly traveled and can contribute to the deterioration of the cord's protective sheath.

Additional Noteworthy Items

- Never use a water-based fire extinguisher to put out an electrical fire. Fire extinguishers for use on electrical fires are marked with a class "C" stamp.



- Two ways to protect yourself when working around dangerous electrical equipment: Always wear appropriate PPE and use only insulated tools.
- If working near overhead power lines on a ladder, use a non-conductive (wood or fiberglass) ladder.
- Never plug one extension cord into another.

What to Do in an Emergency

- Downed Power Lines: Any wire that is down and/or touching the ground or other conductor such as a fence should be considered potentially live and dangerous, as well as the object it is touching.
 - ⇒ If you see a downed power line, **STAY AWAY**. Contact the power company immediately. They will need to shut down power at the substation.
 - ⇒ Warn others to stay away.
 - ⇒ Do not go near conductive material in close proximity to the line (fences, poles, water sources). These may arc, and strike your body without you actually making contact with them.
 - ⇒ If you are in a vehicle touching a downed power line, **DO NOT LEAVE THE VEHICLE**. As long as you stay inside and avoid touching the metal on the vehicle, you may avoid an electrical hazard.
- The safest way to stop an electrical current from flowing through a victim's body is to: a) Turn off the power at the source (light switch, circuit breaker) or b) Use a non-conductive item (such as something made of wood or fiberglass) to push the victim away from the source.
- Call 911 (or your local emergency response center) immediately.

Electricity is a very useful resource that can also be very deadly. With the proper knowledge and an alert attitude, you can protect yourself and others from electrical injury.

Substance Abuse in the Workplace



Myths & Facts:

MYTH: Minorities are the problem.

FACT: 76% of our nation's drug addicts are white.

MYTH: Drug users don't work.

FACT: 90% of alcoholics and 70% of illegal drug users work.

MYTH: Drug users are poor.

FACT: 65% of people who use drugs earn at least \$25,000 a year and average 14 years of education.

MYTH: It is a big city problem.

FACT: Drug use is the same in urban, suburban, and rural areas.

MYTH: Only unintelligent people use drugs.

FACT: About 2/3 of people entering the workforce today have used illegal drugs.

Illegal Drug Use by Occupation:

- ◆ Construction: 28.1%
- ◆ Finance: 25.3%
- ◆ Repair: 22.7%
- ◆ Professional: 21.6%
- ◆ Wholesale: 20.6%
- ◆ Transportation: 18.4%
- ◆ Manufacturing: 14.8%
- ◆ Retail: 13.0%

The Nine Signs of Alcoholism:

1. Increase in alcohol tolerance.
2. Occasional or partial memory lapses.
3. Drinking beyond one's intentions.
4. Increased dependence on alcohol.
5. Sneaking drinks.
6. Preoccupation with alcohol.
7. Resentful whenever one's drinking is discussed.
8. Futile, frustrating attempts to quit.
9. Rationalizing loss of control.

Alcohol and the Workplace:

The Center for Disease Control and Prevention (CDC) found:

"An average of 138 workers died from alcohol related occupational and machine injuries in the U.S. from 2001-2005, the latest data available."

The solution? Random drug and alcohol testing.

-Source: CDC and Safety Compliance Alert, 2/26/09, pg. 8.

ARCHDIOCESE OF INDIANAPOLIS

Michael J. Witka
Director of Parish Financial Services
and Risk Management
1400 N. Meridian Street
Indianapolis, IN 46202
(317) 236-1558



If there are any subjects you would like to see addressed in this newsletter, or questions about a topic presented, please contact Ms. Amanda Weller, Gallagher Bassett Services, Inc., Two Pierce Place, Itasca, IL 60143, Telephone: 815-236-5170, Email: Amanda_Weller@gbtpa.com.

The information contained in this report was obtained from sources which to the best of the writer's knowledge are authentic and reliable. Gallagher Bassett Services, Inc. makes no guarantee of results, and assumes no liability in connection with either the information herein contained, or the safety suggestions herein made. Moreover, it cannot be assumed that every acceptable safety procedure is contained herein, or that abnormal or unusual circumstances may not warrant or require further or additional procedures.

Volunteer Liability, continued from page 1

procedure in place to counsel volunteers, up to and including, termination should the volunteer fail to follow the organization's policies and procedures, and these policies and procedures should be applied consistently. It is a good idea to have each volunteer sign an acknowledgement that they have received and read the handbook and agree to abide by the policies and procedures outlined in the handbook. Each organization should also have a training program to ensure that all volunteers are trained properly on the functions of his or her position and duties, the organization's policies and procedures, as well as any safety procedures the organization has in place.

Keep in mind that the scope of the background check as well as the scope of the training should depend on the nature of the volunteer's responsibility within the organization. In other words, the organization should engage in a risk assessment. For example, a volunteer who is taking tickets at a public event is going to require a less stringent background check and less training than a volunteer who is working with children in an after school program. The liability for the organization is obviously much higher with the volunteer working with children, and

therefore, the background check and training should be more stringent. Organizations should also consider having a procedure for addressing complaints against volunteers, as well as complaints lodged by the volunteers.

Remember...

- **Carefully select and screen volunteers.**
- **Thoroughly train all volunteers.**
- **If applicable, create and maintain a volunteer handbook.**
- **Be consistent with discipline procedures.**

While it is impossible to insulate an organization from all liability, following the above guidelines should help lessen the risk of harm caused by volunteers as well as the organization's liability for its volunteers.

Monica L. Maple is an attorney with the law firm of Herrold, Herrold & Co., P.C. in Tulsa, Oklahoma. Ms. Maple has significant experience in labor and employment law in which she advises clients on employee issues and policies as well as defends management in employment discrimination lawsuits and administrative hearings.