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Avoiding Unintended Consequences When Volunteers Help Too Much

Many nonprofit organizations rely on volunteers to achieve their missions. In Minnesota, volunteerism rates throughout the state are among the highest in the country. Volunteers mentor kids, help them learn to read, work on cleaning up the environment, address issues of homelessness and hunger, and provide professional services such as legal work, tax preparation and mediation. In their desire to help, volunteers sometimes take actions beyond the scope of the organization's mission. A recent Minnesota Court of Appeals decision highlights how that can result in unintended liability for the volunteer and the nonprofit organization.

The Minnesota Nonprofit Corporations Act limits the liability of unpaid volunteers. Under the Act, a person volunteering for a nonprofit organization "is not civilly liable for an act or omission by that person if the act or omission was in good faith, was within the scope of the person's responsibilities as a[n] . . . agent . . . did not constitute willful or reckless misconduct," and did not personally and directly cause the injury.

However, in *Hogan v. Brass* a volunteer who went beyond the scope of the organization's mission was found *not* immune from civil liability. In *Hogan*, a boy and his father brought a negligence suit against a volunteer mentor after the boy was severely injured while riding an ATV on the volunteer's farm. The court determined the volunteer was not immune from liability because the volunteer's actions were outside the expressly limited mission of the organization for which he was volunteering. This case highlights the potential issues that can arise for both volunteers and nonprofit organizations that rely on volunteers and should spur nonprofits to examine their volunteer management processes.

Nonprofits need to carefully look at how they define the scope of services volunteers are providing, make sure these services are aligned with the organization's mission, and ensure volunteers have clearly defined roles and parameters. One practical way to address this is by creating clear volunteer job descriptions. Volunteer job descriptions should define the activities, responsibilities, and limitations of the volunteer position. They also give organizations a touch point for checking-in with volunteers and offering training opportunities. Another important but sometimes overlooked best practice is establishing volunteer policies and putting them in a handbook. Creating a volunteer handbook allows organizations to orient and inform volunteers about the organization's culture, policies, and expectations.

Volunteers are a tremendous resource for nonprofit organizations and the *Hogan* case should not discourage nonprofits from relying on volunteers. It should, however, serve as a reminder to nonprofit organizations to clearly define and communicate the roles of volunteers within the scope of the organization's mission.