

## **Volunteers' liability and insurance**

Our legal system allows lawsuits against almost everyone, including volunteers, but the threat of lawsuits should not keep you from volunteering. Know that the possibility of a lawsuit is real, but a Kansas law makes it harder for someone to win a suit against a volunteer.

In 1987, the Kansas Legislature passed K.S.A. 60-3601, which provides volunteers of 501(c) nonprofit organizations immunity from liability. The intent of the law is to encourage individuals to serve as volunteers by granting them immunity from liability for negligent acts or omissions, unless the acts are willful or wanton. Purchase of general liability insurance is a prerequisite to the law's limited power of immunity.

As a volunteer, it is important to be informed about your insurance coverage.

**This brochure does not provide legal advice, but it does give basic information about general liability insurance coverage and a Kansas law regarding immunity from liability for some volunteers.**

# Kansas Insurance Department



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# **Immunity from liability**



*For volunteers of  
nonprofit organizations*

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## Volunteers and nonprofits

Our legal system allows lawsuits against almost anyone. The first thing to know is that the threat of lawsuits should not keep you from volunteering. The next thing to know is that the possibility of a lawsuit is real.

To minimize the reason for suing volunteers, Kansas passed a law to make it more difficult to win a suit against a volunteer.

Volunteers of a nonprofit organization are afforded immunity from liability under K.S.A. 60-3601 when the organization is one of the many types of 501(c) organizations under the Internal Revenue Code and the organization carries general liability insurance coverage. Under Section 501(c), nonprofit organizations are exempt from federal income tax.

The fact that an organization is of a “non-profit” nature is not sufficient to meet the requirements of K.S.A. 60-3601: The organization must be a 501(c).

### Limitations on immunity

The immunity for volunteers provided by K.S.A. 60-3601 does not apply if: (1) the volunteer’s conduct constitutes willful or wanton misconduct or is intentionally tortious conduct; or (2) the volunteer is required to be insured by law or has other insurance coverage for such acts or omissions.

The immunity provided under K.S.A. 60-3601 does not extend to the nonprofit organization.

There are several types of general liability insurance. Members of a nonprofit should speak with a qualified professional about the best option for their organization.



### General liability insurance coverage

Qualified nonprofit organizations will be protected under the law only if they purchase general liability insurance. However, the law does not specify a type of liability insurance or a specified minimum amount of liability coverage. The law allows each group to tailor its liability insurance plan to meet its needs. For example, a nonprofit that only administers educational trusts likely would not need to purchase special events coverage.

### Types of general liability insurance

General liability insurance coverage is intended to pay on behalf of the insured for losses in which the insured becomes legally liable because of actions that caused bodily injury, property damage or personal injury to third parties. The following kinds of policies are included in the term “general liability coverage”:

- **Premises and operations liability** covers losses arising from the ownership, maintenance, or use of buildings, offices or other fixed property and all operations (on or off premises) of the organization.
- **Products and completed operations liability** covers food, goods, or services labeled, handled, sold or otherwise distributed by the organization that result in bodily injury or property damage that occurs away from the organization’s premises.
- **Contractual liability** covers liability assumed by the insured organization under a written contract or agreement.
- **Personal injury** covers such areas as defamation of character, libel and slander, false arrest, malicious prosecution and invasion of privacy. Instead of property damage, the injury occurs to a person.
- **Special events liability** covers those activities where the presence of crowds may cause specific increases in the organization’s risk exposures that do not exist on a regular and repeated basis. Examples include various kinds of celebrations, charitable fundraising, events, concerts, dances and sporting events.

It is important for each organization to carefully review its potential kinds of liability loss exposures with an attorney, insurance agent or other qualified professional, and obtain the appropriate insurance.