

# Volunteer Board Members are Protected by Federal & State Laws

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The phrase "no good deed goes unpunished" is well known and, thankfully, ignored by countless citizens who volunteer their time and services to nonprofit organizations. Such volunteers perform in a multitude of capacities, including in leadership roles as board members. Many likely are uncertain of their own civil liability for acts or omissions while performing volunteer services, but they volunteer nonetheless.

Yet the news is good: both Federal and Florida law provides limited immunity from civil liability for such volunteers. In 1997, Congress passed the Federal Volunteer Protection Act (the "Federal VPA"). The Federal VPA provides protection to volunteers of nonprofit organizations or governmental entities in the form of limited immunity from civil liability for harm (including

physical, nonphysical, economic, or non-economic losses) caused by acts or omissions of the volunteer on behalf of the organization or entity.

The immunity is "limited" because, in order to be protected, a volunteer must have been acting within the scope of his or her responsibilities and, where appropriate, must have been properly licensed, certified or authorized for the activities undertaken. A volunteer will not be immune if the volunteer caused the harm while engaged in certain types of willful, criminal, or reckless conduct, as specifically listed in the act. Additionally, volunteers are not immunized from suits brought by their own organizations.

The Federal VPA expressly preempts any state law to the extent that such State law is inconsistent with it, but does not preempt any state law that provides additional

protection from liability for such volunteers. The relevant state law in Florida is the Florida Volunteer Protection Act (the "Florida VPA"), which was passed in 1993. To date, no published Florida court decision has determined whether the Federal VPA preempts the Florida VPA, which is more protective in some respects but more limited in its application.

The Federal VPA expressly provides that directors, officers and trustees are included within the definition of "volunteer." Similarly, the Florida VPA includes officers and directors within its definition of "volunteer." Those who sit without compensation on boards of directors can thus continue with their good deeds, knowing that both Congress and the Florida Legislature encourage their valuable services.