

Volunteers, Facilities, Agreements

Academy for Good Governance

Presented by:
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October 9, 2024



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Learning Objectives

- Gain a better understanding of the basics of liability coverage
- Identify steps to better manage the use of volunteers and your public facilities
- Implement best practices

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Primex³ Liability Coverage

- Part of a package coverage; proprietary
- Property
- Boiler & Machinery
- Crime
- **Liability** (personal injury, property damage, unfair employment practices, employee benefit liability, educators' legal liability)
- Schedule Bond
- Cyber
- Volunteer Medical Accident



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Is our Volunteers' Liability Covered?

Multiple choice:

- A. Yes, in all cases, they help out the community after all
- B. No, they have their own health insurance
- C. No, they can rely on their homeowners insurance
- D. Yes, but only while acting on behalf of the municipality/school district



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Covered Persons under Liability

- Volunteers authorized and supervised by you while acting for or on your behalf and within the scope of their duties*

* subject to all terms, conditions and exclusions set forth by the coverage documents and declarations



Key Language

- Authorized and supervised by you
- Acting for or on your behalf and within the scope of their duties



Which Volunteers Are Not Covered?

Multiple choice:

- A. Volunteers acting under the influence of drugs or alcohol
- B. Volunteers acting outside of the scope of their duties
- C. Volunteers we don't like
- D. Volunteers who are not helpful
- E. All of the above
- F. A. and B.



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Volunteer Definition

...any individual performing services for a Member (but only within the scope of their volunteer acts) at the request of the Member...

Scope of volunteer acts does not include a Volunteer while acting under the influence of drugs or alcohol...

Volunteer Best Practices



Applicable RSAs

- Schools: RSA 189:13-a, School Employee and Designated Volunteer Criminal History Records Check
- Municipalities: RSA 41:9-b, Employee Candidate Background Checks



Check-in

- A. I background check all volunteers
- B. I background check only those volunteers allowed to be alone with children / elderly
- C. I do not background check any volunteers as they are closely supervised by staff
- D. I don't know



True or False?



Only long term/designated volunteers should be rostered

False

All volunteers should be rostered

Volunteer Best Practices (Continued)

- Roster your volunteers
- Have volunteers sign release forms
- Provide clear instructions and training to your volunteers
- Primex³ Volunteer Medical Accident



And what about staff training?

Multiple choice:

- A. I train all staff regarding the use of volunteers
- B. It's a centralized function, so staff should contact the town office/SAU
- C. It's nothing official...I hope they do the right thing
- D. Currently, we have no plan in place

Check-in

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Train staff regarding the use of volunteers:

- maintain the volunteer file
- roster volunteers
- coordinate background checks
- review applicable policies and responsibilities with volunteers
- contact person/periodic check-in
- what should they do if a request to volunteer is made?



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<http://www.nhprimex.org/>

- Primex³ Coverage Documents
- Sample Volunteer Release Form
- Volunteer Bulletin



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Use of Your Public Facilities



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Is the Use of our Facilities by Third Parties Covered?



Multiple choice:

- A. Yes, in all cases, they're our facilities after all
- B. Yes, but only while we are using our own facilities
- C. No, the third parties using our facilities should provide us with coverage
- D. No, our facilities are only covered for property damage

Is the Use of our Facilities by Third Parties Covered?



Multiple choice:

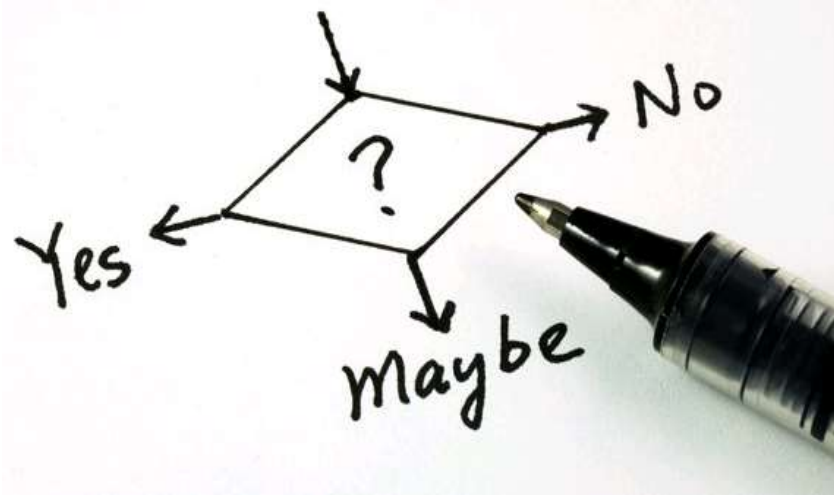
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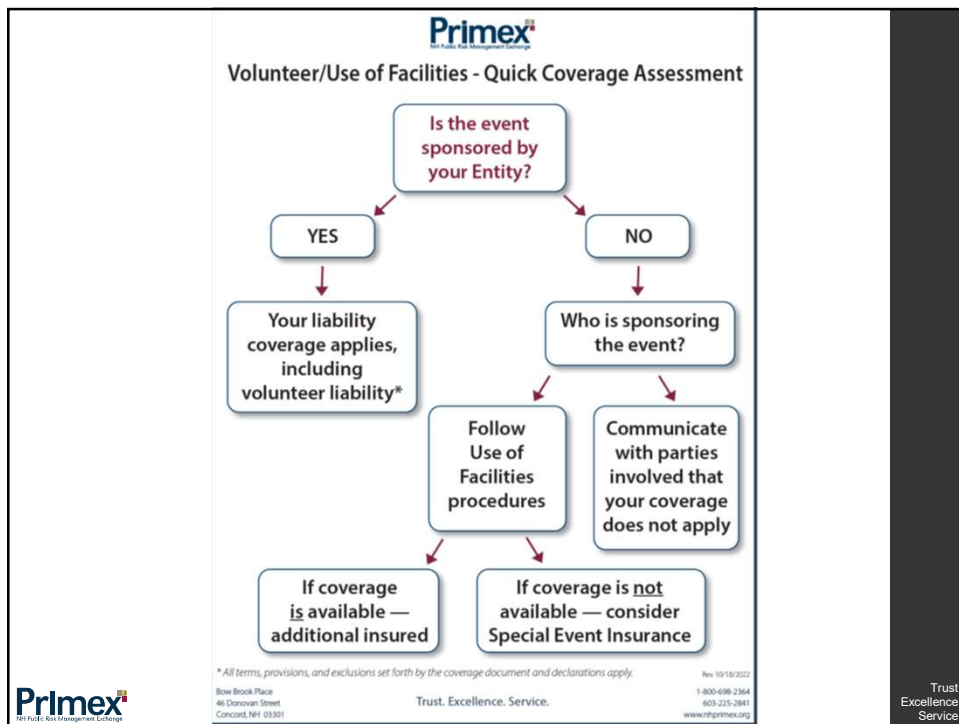
How Does Coverage Generally Work?



- Coverage/Insuring Agreement
- Exclusions
- No exclusion regarding use of facilities

How Do I Make a Coverage Determination?





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Use of Facilities Best Practices

- ☐ Implement a Use of Facilities Policy
- ☐ Sign a Use of Facilities Agreement with the party using your facilities
- ☐ Certificates of Coverage / Request to be named an Additional Insured
- ☐ Special Event Insurance
- ☐ Staff training

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□ Use of Facilities Policy



- Sources: professional associations, other public entities
- Generally, outlines when facilities can be used, identifies different categories of users, whether fees apply, etc.
- Likely refers to the agreement for details
- Have your legal counsel review the policy

□ Use of Facilities Agreement



What is an agreement/contract?

Multiple choice:

- A. A blueprint of expectations
- B. Several legal terms that no one understands
- C. A document that recaptures a business arrangement
- D. A. and B.
- E. A. and C.
- F. All of the above



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Use of Facilities Agreement

- Clearly define rights and responsibilities of both parties (involve legal counsel):
 - Procedures to be followed
 - Insurance and indemnification
 - Categories of organizations
 - Fee Structure
 - Prohibited uses
 - Securing the building, etc.



Insurance and Indemnification

- Typical insurance limits / Additional Insured
- Indemnification = assuming another party's liability



What are typical insurance limits for use of your facilities?

Multiple choice:

- A. \$5 million
- B. \$375,000 per occurrence/no aggregate
- C. \$325,000 per person/\$1,000,000 aggregate
- D. \$1 million per occurrence/\$2 million aggregate



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True or False?

I cannot be liable if a third party uses my facilities, they have liability coverage and they named my entity as an Additional Insured



False

I could still be liable if a loss is caused by my negligence

Statutory Protection for Public Entities

RSA: 507-B:4 Limit of Liability.

- Liability of a governmental unit for bodily injury, personal injury or property damage sustained by any one person in actions brought under this chapter is limited to \$325,000.
- Liability of a governmental unit for bodily injury, personal injury, or property damage sustained by any number of persons in a single incident or occurrence is limited to \$1,000,000.

Case Law: Discretionary Function Immunity

- The **discretionary function** exception restores the government's **immunity** in situations where its employees are carrying out governmental or 'regulatory' duties.



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If someone uses our facilities...

1. I always obtain a certificate of coverage naming us as an Additional Insured
2. I always obtain a certificate and endorsement naming my entity as an Additional Insured
3. I obtain proof of insurance only
4. I don't know

Check-*In*



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Certificate Holder/Additional Insured

- Certificate holder vs. additional insured
- Your public entity should be named as an additional insured by endorsement or additional insured provisions in addition to obtaining a certificate
- Ask to be named an Additional Insured in the agreement

Additional Insured

SHORT DEFINITION:

Additional insured = not the named insured, but a party for whom insured status is arranged, usually by endorsement.

 CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY)																		
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.																				
IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).																				
PRODUCER GRBM, Inc. PO Box 231 Brewster NY 10509	CONTACT NAME: Robert T McCarthy PHONE: (845) 878-9293 FAX: (845) 878-3769 E-MAIL: rmccarthy@grbminc.com ADDRESS:																			
INSURED Your Company Name Your Company Address		INSURER(S) AFFORDING COVERAGE <table border="1"> <tr> <td>INSURER A:</td> <td>Insurance Company Name</td> <td>NAIC #</td> </tr> <tr> <td>INSURER B:</td> <td>Insurance Company Name</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </table>	INSURER A:	Insurance Company Name	NAIC #	INSURER B:	Insurance Company Name		INSURER C:			INSURER D:			INSURER E:			INSURER F:		
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I'm most likely to be an Additional Insured if....

Multiple choice:



1. I obtain a certificate showing proof of insurance
2. I obtain a certificate and the Additional Insured box is checked
3. I obtain a certificate and an endorsement
4. I ask to be named as an Additional Insured in the agreement
5. I take a belt and suspenders approach and ask for both 3 and 4 above

I'm most likely to be an Additional Insured if....

Multiple choice:



1. I obtain a certificate showing proof of insurance
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Special Event Insurance

- General Liability coverage for third parties that do not carry coverage but would like to use your facilities for an event.
- Typically, the policy protects the facility user and the facility itself from claims resulting from the event.
- Coverage can be obtained through the local agent or online.

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Let's Discuss...



The local book club would like to use your community center for a book sale.

They don't have insurance coverage, but they will donate all the money raised towards replacing your playground in the public park.

What Will You Do?

- A. Let them use the facility, no strings attached.
- B. Let them use the facility if they agree to purchase special event insurance through the local agent.
- C. The town will sponsor the event, and the book club members will be volunteers on behalf of the town.





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Staff Training

- Is it managed at individual locations or centralized?
- Designated employees authorized to sign agreements
- Who will ensure consistency and make the final decision
- Contact person for third parties
- What should they do if a request to use your facilities is made?



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Word of Advice...



- Consider First Amendment implications
- Contact your legal counsel
- Contact Primex³



<http://www.nhprimex.org/>

- Primex³ Coverage Documents
- Community Use of Facilities Bulletin
- Quick Coverage Assessment Form

And If All Else Fails....



Prompt Reporting: Property & Liability

General Conditions language:

“You must see to it that we are notified as soon as practicable in accordance with our policies and procedures of an Occurrence or Wrongful Act, incident or injury which may result in a claim.”

Contact Information



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