

Volunteer Programs: Laws, Screening & Police Checks

April 13 2016

Volunteer Toronto

Who We Are

We are a charitable organization whose work strives to build engaged communities. We connect volunteers to the causes that need them and help organizations create great volunteer programs.

What We Do

We provide in-house, online and on-demand training and have a resource library covering a wide range of volunteer management topics.

How We Learn

We stay up to date on current legislation and best practices, conduct original research, learn from sector experts, and get feedback from our extensive network of non-profits.



Part One: Volunteer Programs and the Law

Icebreaker!

**Get on
your feet!**

**Find a
partner!**

**Introduce
yourself!**

What law might help you
solve the problem

Problem 1

Problem 2

Problem 3

Introduction

Legislation



Policies & Procedures

- Ontario & Federal laws that govern creation of policies, procedures & operations
- Guiding statement
- Document indicating the position of your org
- Principle, plan, course of action
- Procedures are the “how” of the policy’s “what” – includes forms, templates & actions

Legislation & Policy Puzzle

Direct	Indirect	Not At All
OHSA?		

The 5 Laws

Employment Standards Act

ESA

Personal Information Protection
& Electronic Documents Act

PIPEDA

Ontario Human Rights Code

OHRC

Occupational Health & Safety
Act

OHSA

Accessibility for Ontarians with
Disabilities Act

AODA

Employment Standards Act

ESA

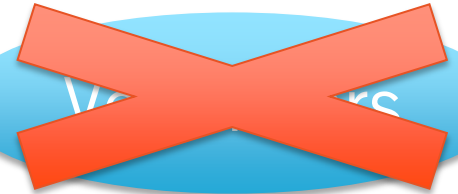
Employment Standards Act

Safe working conditions for all workers in Ontario

Ministry of Labour

Volunteers not eligible for rights & protections

Employees



Training,
Mentoring,
Apprenticeship

Unpaid Internships

ESA

**Employment
Standards Act**

Unpaid
Internships

**Ministry of
Labour**

Criteria for Unpaid Internships

- Training position - training similar to that which is given in a vocational school
- Training benefits the intern (new knowledge or skills), employer derives little benefit
- Doesn't take someone's job, intern is not promised a job
- Told they will not be paid for their time

Personal Information Protection & Electronic Documents Act

PIPEDA

Some activities of charities & non-profits covered by PIPEDA

Collect, use, safeguard, retain & disclose personal information

Affects private & voluntary sector organizations (includes charities)

Accountability, accuracy, receiving consent and limiting disclosure

Ontario Human Rights Code

OHRC

Adopted in 1962
Protects Ontarians from
discrimination

Employment social area
(Volunteers included)

Protected Grounds

Gender Expression

Gender Identity

Colour

Disability

Sexual Orientation

Age

Citizenship

Record of Offences

Place of Origin

Ancestry

Ethnic Origin

Receipt of Public Assistance

Creed

Race

Marital Status

Family Status

Sex

Occupational Health & Safety Act

OHSA

Safe & healthy workplace for all workers (including volunteers) & workplace violence & harassment is avoided/dealt with appropriately

Assess work environment for risk

Take immediate action to minimize/manage risk

Communicate policy to all employees & volunteers

Report incidents

Communicate procedure for handling incidents & being safe

Accessibility for Ontarians with Disabilities Act

AODA

Create a fully accessible province for all Ontarians

Customer Service Standard

Reasonable access
to services on a
regular basis

Applies to all organizations providing services that
have at least one employee in Ontario
Does not include volunteer-run organizations

Customer Service Standard

January 1, 2012

Volunteer
Toronto

Rights & Responsibilities for Volunteers



Volunteers Have Rights

- Organizations recognize volunteers as an important resource and support their engagement
- Practices ensure effective volunteer involvement
- Safe & supportive environment for volunteers

Volunteers Have Responsibilities

- Volunteers commit and are accountable to organizations
- Volunteers act with respect for the cause, stakeholders, organization & community
- Volunteers act responsibly & with integrity

Applying the Laws





Part Two: Screening & Police Checks

What is Screening?

Screening

Process for selecting the right volunteer for the role – a variety of tools to make the right choices

Create &
maintain a safe
environment

Ensure a good
match between
volunteer & task

Screening is
based on risk of
the role



Responsibility and an On-Going Process

Proper screening is your responsibility

Duty of
Care

Standard of
Care

Ontario Human
Rights Code

Screening is an on-going process

Before hiring

Risk analysis

Develop process

Orientation

Training

Evaluation/follow-up

10 Steps of Screening

- 1 Risk Analysis**
- 2 Position Design/Description**
- 3 Recruitment Process**
- 4 Application Form**
- 5 Interviews**
- 6 Reference Checks**
- 7 Police Reference Checks**
- 8 Orientation & Training**
- 9 Support & Supervision**
- 10 Follow-up & Feedback**



VOLUNTEER
BÉNÉVOLES
C A N A D A

**The
Screening
Handbook**

Looking closer at Step 7

Bona Fide Occupational Requirement

Specific reason for a recruitment or screening decision

the relationship between the requirement and the position

the requirement is imposed in good faith

the needs of the person cannot be accommodated by your organization without undue hardship

Police Criminal Reference Checks

Clearance Letter

Formal document **issued by the local police service** & produced on secured paper indicating that the subject applicant of the Clearance Letter has no **criminal convictions** in the National Repository of Criminal Records maintained by the RCMP

finding of guilt, in which you were put on probation, served a sentence, paid a fine or a combination thereof

Police Vulnerable Sector Check

- Criminal convictions from CPIC & local databases
- Summary convictions, for 5 years, when identified
- Findings of guilt under the Youth Criminal Justice Act within the applicable disclosure period
- Outstanding criminal and provincial warrants
- Outstanding charges before the courts
- Probation information
- Prohibitions
- Persons of Interest
- Non-conviction Information where relevant

Requesting PRCs from Volunteers

Is requesting the PRC tied to the volunteer role?

Who will coordinate getting the PRC?

Who will pay for the PRC?

What will you do with results?

What specific information are you looking for?

Record of Offences

“a conviction for an offence in respect of which a pardon has been granted and has not been revoked, or a conviction for an offence in respect of any provincial enactment”

Having a federal offence conviction without a pardon is *not* a prohibited ground

Volunteer role
handling money

BFOR request
for PRC

No indication of
theft, but
driving incident

Unrelated information is irrelevant

Determining Need for Check

Would a police reference check give you **information that's relevant to the specific position** in question?

Do you need this information to be able to **make a decision about which applicants to select** for the position?

Are there other, less invasive ways to **determine whether or not applicants are suitable** for the position?

What are the **essential requirements** for the position?

What **criteria** will you use to decide what would be a good fit?

How to use a PRC?

1 **Volunteer Role:** Front-desk administration
PRC shows: Driving incident in 2011

2 **Role:** Friendly visitor for isolated seniors
PRC shows: Shoplifting in 2013

3 **Role:** One-to-one tutoring with youth
PRC shows: Threatened assault in 2015

Asking for Specific Information

Scenarios

What screening process should you use?

What requirements should be expected/what are you asking for?

What will you do with this information?



Stay in touch!

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