
INTERIM POLICY 61.06

Section: Coverage and Jurisdiction **Effective:** 8-1-16

Title: INTERIM Policy 61.06 - Workers' Compensation Insurance Coverage for Volunteers **Cancels:** Policy 61.06 dated 4-7-14

See Also: [RCW 24.03.005](#) (Washington non-profit corporation act)
[RCW 28A.150.010](#) (public schools)
[RCW 28A.150.020](#) (common schools)
[RCW 38.52.180](#) (emergency management)
[RCW 41.24](#) (volunteer firefighters' and reserve officers' relief & pensions)
[RCW 51.08.180](#) ("worker" defined)
[RCW 51.08.185](#) ("employee" defined)
[RCW 51.12.020](#) (employments excluded)
[RCW 51.12.035](#) ("volunteers" defined)
[RCW 51.12.110](#) (elective adoption – withdrawal – cancellation)
[RCW 51.12.140](#) (volunteer law enforcement)
[RCW 51.12.170](#) (student volunteers)
RCW 51.12.XXX (school sponsored unpaid students)
RCW 51.12.XXX (100 hour reporting option for volunteers, student volunteers, unpaid students)
[RCW 54.04.020](#) (PUD - districts authorized)
[WAC 296-17-925](#) (student volunteers)
[WAC 296-17-930](#) (volunteers)
WAC 296-17-935 (options for reporting qualifying volunteers, student volunteers, and unpaid students)
Employer Services Policy 61.02 (determining coverage for law enforcement officers & firefighters)
Employer Services Policy 61.04 (processing applications for elective coverage)

Approved
by:

Chris Bowe, Program Manager for Employer Services

Elizabeth Smith, Assistant Director for Fraud Prevention and Labor Standards

James Nylander, Program Manager for Self Insurance

This policy explains what a volunteer is, and when volunteers are or may be covered for Workers' Compensation benefits. "Volunteer coverage" provides for medical aid benefits only.

1. A volunteer is a person who donates labor to another by his or her own free choice without receiving material or monetary or other value in exchange.

The business or organization may provide volunteers with maintenance and reimbursement for actual expenses necessarily incurred. "Maintenance" includes things such as meals and transient sleeping quarters incurred while performing assigned or authorized volunteer duties. However, if a person receives any type of material or monetary or other value in excess of the expenses, he or she may be considered a covered worker.

If a business or organization claims someone as a volunteer and pays the person a "stipend," the amount paid and its relation to the work performed must be evaluated to determine whether it is maintenance and reimbursement or is value or compensation for labor provided.

Gifts of appreciation do not transform a volunteer into a worker and must be evaluated to determine whether they are maintenance or reimbursement, a token of appreciation, or compensation for labor provided.

Unpaid job training received with the promise of a future paid job with a specific employer is considered value in exchange for work performed. The trainee is a covered worker. Exception: If the job training is performed by a student volunteer or unpaid student in a school-approved program, the training is not considered covered work and elective volunteer coverage may be available. See policy point #7.

True "volunteers" fall outside Title 51 with two exceptions:

- those under the medical aid only section (RCW 51.12.035) and
- those whose employers can and do elect to cover the volunteer (such as student volunteers and/or unpaid students as mentioned in RCW 51.12.170).

2. An employer may not elect either full coverage or “volunteer coverage” unless such elective coverage is provided for in Title 51.

3. For-profit businesses are generally presumed not to have volunteers.

In some limited circumstances, the department may recognize an individual as a volunteer when the business can show:

- Both parties intended volunteer status in advance of the work, **and**
- No remuneration is offered beyond maintenance and reimbursement expenses as described in policy point #1 above, **and**
- The work is similarly advantageous to both the business and the worker volunteer such as in circumstances where goodwill is being provided by the worker in an emergency on a temporary basis,¹ **and**
- The volunteer is not a member of a vulnerable or penal population. Examples of persons from a vulnerable or penal population include, but are not limited to:
 - Members of a work release population;
 - Persons in substance abuse treatment;
 - Economically disadvantaged individuals who are long-term jobless or homeless.

Volunteer status at for-profit businesses can include situations such as:

- Adult family members related by blood within the third degree or marriage² working at a family business in emergency situations on a temporary basis;
- Work that constitutes a hobby activity;
- Limited work that constitutes a grant of professional or personal goodwill, such as a close family friend who volunteers to assist in a small grocery store for a short time while the owner's spouse is sick.

¹ Other employment and wage laws may or may not recognize volunteers at for-profit enterprises.

² See analogous language in RCW 51.12.020. This language includes a person and that person's spouse, children, grandchildren, great grandchildren, brothers and sisters, nephews and nieces, parents, grandparents, great grandparents, and aunts and uncles. Cousins are not related by blood within the third degree. Legal adoptions or step-relatives are considered as if genetically related.

NOTE: Each situation will be reviewed in full context of relevant facts to determine status.

4. **Workers' compensation coverage is not available to volunteers of for-profit businesses except as described in policy point #7.**
5. **State government agencies must provide their registered volunteers with "volunteer coverage," which provides medical benefits only.**

Exception:

Workers' compensation coverage for volunteer emergency services workers is not available. The Department of Emergency Services administers these volunteer activities, which can include, but are not limited to:

- mountain search and rescue,
- explorer scout trackers,
- clean-up after volcanic eruptions, and
- sandbagging during floods.

The local jurisdiction, usually the sheriff's office, registers these volunteers and typically issues an identification card to the emergency worker volunteer.

6. **Other government agencies for any city, county, town, special district (such as a public utility district or PUD), municipal corporation or any other political subdivision may elect to provide their registered volunteers with "volunteer coverage," which provides medical benefits only.**

Exceptions:

- 6a. Agencies cannot elect coverage for volunteer firefighters which includes fire fighters and emergency medical technicians who support firefighting activities. These volunteers are covered under the Volunteer Firemen's Relief and Pension Fund.
- 6b. Agencies cannot elect coverage for registered emergency worker volunteers in policy point #5.

6c. Law enforcement agencies may elect either full coverage, reported in classification 6905, or “volunteer coverage”, reported in classification 6906, for their non-clerical law enforcement volunteers. These agencies must cover all their law enforcement volunteers with the same type of coverage.

7. Certain employers may elect “volunteer coverage” for qualifying student volunteers or unpaid students.

The entity receiving the service is the employer, who may elect volunteer coverage, and is responsible for premiums (Classification 6901).

Distinctions between student volunteers and unpaid students:

Student volunteers are:

- Currently enrolled in school or higher education, and
- Receiving no wages for the services, and
- Participating in a program approved or sponsored by their school.

Unpaid students are:

- Currently enrolled in an institution of higher education (beyond K-12), and
- Participating in a school-sponsored, unpaid work-based learning program, including, but not limited to, cooperative education, clinical experiences, or internship programs, and
- Receiving something of educational value from the school, such as credit or other educational value (such as completion of clinical hours) in return for the services they provide for the employer.

Example of an unpaid student, eligible for elective volunteer coverage:

Janet is a student enrolled in the veterinary assistant program at community college. To complete the course of study and receive her degree, the school requires her to complete 100 hours of clinical experience with a veterinarian. Dr. Brown is a veterinarian and has agreed to allow Janet to work in his veterinary business to earn the needed 100 hours of experience. Janet is not paid for her work for Dr. Brown. The work at Dr. Brown’s veterinary clinic is approved by Janet’s school. Janet qualifies as an unpaid student under this rule. Dr. Brown is her employer, and may elect medical aid only coverage for Janet.

8. A private, non-profit charity may elect to provide its registered volunteers with “volunteer coverage”.

To be considered a private non-profit charity, an organization must demonstrate that it qualifies under Internal Revenue Service (IRS) rules as a 501(c)(3) exempt organization. Under IRS rules, churches automatically qualify. All other non-profit charities should have a letter from the IRS saying they qualify.

9. Workers’ compensation coverage is not available for volunteers of non-profit organizations that are not charitable organizations as defined by relevant IRS rules except as described in policy point #7. Examples of entities that may not meet the IRS definition of charitable organizations may include:

- Homeowners’ associations,
- Chambers of Commerce,
- Fraternal organizations and clubs, such as the Eagles, Elks, Lions, Mountaineers, and Veterans of Foreign Wars (VFW).

10. An employer who qualifies under policy points 6, 7, or 8 may elect “volunteer coverage”.

If a qualified employer chooses to elect “volunteer coverage”, it must:

- Submit a completed “Application for Elective Coverage of Excluded Employments” form to the department. The effective date of coverage will begin at 12:01 a.m. on the day after the department receives the request unless a later date is requested.
- Notify its volunteers that the employer is electing coverage.
- Cover all its volunteers and report all their hours.

11. All employers reporting volunteer coverage in classifications 6901 or 6906, may choose a reporting method of either 100 hours per volunteer per calendar year (100-hour cap method), or actual hours worked.

Starting June 9, 2016, employers with volunteer coverage may notify the department in writing that they choose to report 100 hours per volunteer per calendar year rather than reporting actual hours.

Starting January 1, 2017, employers will choose which reporting method they want when filing their first quarterly report of the year. They must report all volunteers using the same method for the calendar year. If an employer hires additional volunteer(s) in a subsequent quarter, the employer must report the additional volunteer(s) in the next quarter after hiring using the same election method (100 hours or actual hours) for all additional volunteers hired.

NOTE: Employers may choose to change their reporting method each calendar year. If no choice is made, the default reporting method is actual hours.

12. Employers who have elected volunteer coverage for qualified volunteers may cancel the coverage by notifying the department in writing.

The employer must notify its volunteers that coverage is being cancelled.

The cancellation is effective 30 days after the department receives written notice of cancellation.

For further information about this or other Employer Services policies, contact Jo Anne Attwood, Employer Services Policy Coordinator at (360) 902-4777.