



United States Naval Sea Cadet Corps

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13 March 1998

Memorandum for the Distribution

Subj: VOLUNTEER PROTECTION ACT OF 1997

Encl: (1) Explanation of the Volunteer Protection Act of 1997

1. Enclosure (1) was developed by our National Chairman to provide relevant information concerning the recently signed Volunteer Protection Act. Accordingly, the information contained therein is passed along to share with other members of your unit.



M. D. FORD

Distribution:
National Chairman
Nation President
NSCC Board of Directors
Regional Directors
Commanding Officers
Field representatives

Memorandum for Distribution

Subj: The Volunteer Protection Act of 1997

There has been a growing problem among organizations that rely on volunteers; namely, that individuals have been withholding their services out of fear of potential liability lawsuits. The Volunteer Protection Act of 1997 grants immunity from personal liability to those who volunteer for non-profit organizations. It is intended to encourage volunteerism and facilitate volunteer organization recruiting by reducing the legal liability risks to individuals who choose to serve. The law preempts inconsistent state laws, standardizing protection that now varies from state to state.

2. The law is complex, containing numerous conditions, qualifications, and limitations. The following are some practical considerations regarding the impact of the act on the NSCC/NLCC, and an overview of the protection it provides NSCC "volunteer adult leaders":

- * The law preempts state law to provide that volunteers would not be liable for harm if:
 - they were acting in the scope of the volunteer activity;
 - they were properly licensed (if required by the nature of the training);
 - the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the claimant; and,
 - the harm was not caused by the volunteer operating a vehicle.

- * Volunteers for organizations exempt from federal income tax under Section 501(c)(3) of the IRS Code are covered by the law. NSCC is a 501(c)(3) organization.

- * The NSCC does not have to take action to ensure that its volunteers are protected under the law. The law automatically provides a bar to liability suits brought against association volunteers in circumstances covered by the law.

- * Lawsuits against association volunteers are not prohibited. The law does, however, provide a strong defense when liability suits are brought against volunteers in circumstances where the law applies. There is the consideration that the law may assist in deterring or discouraging potential claimants from bring such suits in the first place.

- * The law grants immunity from personal, individual liability only for volunteers, not for the organizations themselves or for their employees, i.e., the NHQ staff. While the Volunteer Protection Act increases and enhances NSCC risk management, it does not eliminate the need for comprehensive organizational liability protection which is provided NSCC, and other sponsoring organizations, by the NSCC liability insurance program.