

Volunteers and Non-profits in Quebec

Rights, Responsibilities
and Good Practices





Éducaloi is a neutral and independent charity with recognized expertise in legal education and clear legal communication. Our mission is to explain the law to Quebecers in everyday language, enhance their skills when dealing with legal issues, and promote greater autonomy in legal matters for individuals and communities.

Note

The legal information in this guide is up to date to April 2021.

The law changes over time. Visit the Publications section of Éducaloi's website at educaloi.qc.ca/en/ to check for the most recent version of this guide.

The information in this guide applies only in Quebec and is not legal advice. If you need legal advice on a specific situation, consult a lawyer or notary.

This guide may be reproduced for non-commercial use as long as it is not modified. This guide is the property of Éducaloi.

© Éducaloi, 2021.

Made possible with the financial support of



Ministère de la Justice
Canada

Justice

Québec



Québec



Table of Contents

Volunteers are not employees	1
A contract between organizations and volunteers	1
Using job descriptions to plan volunteer work	2
Recruiting volunteers without discrimination	3
Police checks	7
Driving records	9
Appropriate duties and clear instructions	9
Training and supervision	10
People in distress	12
Protecting personal information	13
Insurance	15
Accidents	16
Construction work	17
CNESST (labour standards, pay equity and workplace health and safety board) registration	18
Ending contracts for volunteer services	19
Checklist	20
Useful resources	21

Volunteers often play a key role in non-profit organizations, so be sure to treat them well!

Even non-profits have legal responsibilities toward volunteers.

This guide explains your responsibilities when working with volunteers. It suggests good practices for recruitment, management and more.

Volunteers are not employees

Volunteers are not employees because they are not paid for the work they do. This means that the minimum workplace standards that protect employees in Quebec do not apply to them.

Even so, organizations must supervise volunteers' work. You also have certain responsibilities toward them, like giving them clear instructions so they can do their jobs properly.

A contractual relationship



The legal relationship between an organization and its volunteers is called a contract for volunteer services. It can either be written or verbal.

It means that the organization and the volunteers each have rights and responsibilities toward one another.

For example, the organization must provide volunteers with a safe work environment. On the other hand, volunteers must respect their commitments to the organization and follow the organization's instructions.

Using job descriptions to plan volunteer work

Creating a detailed written description for each volunteer position in your organization is a good practice. This description can help you define volunteers' duties, avoid problems, and find qualified volunteers.

Start by assessing your needs and objectives, as well as your financial, material and human resources.



What kind of volunteers do you need? Regular, long-term volunteers who commit to a minimum time (e.g., three months), or casual volunteers for a particular event?

If you need volunteers for your board of directors, remember that special rules apply. For more information, visit the [Charities and Non-profits section](#) of Éducaloi's website.

Writing the job description



Now that you've identified your needs, it's time to create your job descriptions. These can include the following:

- the title of the position
- the objectives of the position
- specific tasks
- the number of hours per week or month
- the minimum commitment required (e.g., one event, three months)
- the benefits (e.g., meals)

You should also list the skills and qualifications needed. This could include things like listening skills, people skills, a driver's licence, or experience with children or people with loss of autonomy.

Your job descriptions should be impartial and non-discriminatory. For more information, see *Recruiting volunteers without discrimination*.

Recruiting volunteers without discrimination



Recruit and screen your volunteers as carefully as you do your employees. This lets you provide the best possible service and prevents problems from arising.

When someone applies to volunteer with your organization, objectively compare their application to the job description you created. Do their skills match the qualifications required? This method can help you avoid being biased or discriminating against someone in a way that is illegal. For more information, see *Using job descriptions to plan volunteer work*.

Illegal discrimination

Choosing your volunteers carefully also means not excluding anyone because of what is often called a prohibited ground for discrimination.

Under the Quebec *Charter of Human Rights and Freedoms*, these are prohibited grounds of discrimination. In other words, it is illegal to discriminate for these reasons:

- race or colour
- sex
- gender identity or expression
- pregnancy (being pregnant or on parental leave)
- sexual orientation
- civil status (family situation: e.g., single, married, divorced, having children or not)
- age
- religion
- political beliefs
- language
- ethnic or national origin
- social condition (income, occupation, level of education, student, retired, unemployed, etc.)
- disability or the use of any means to compensate for a disability (service dog, wheelchair, etc.)

Exception

Sometimes, the nature of a non-profit organization allows it to exclude certain volunteers without this being considered discriminatory.

For example, a women's shelter for victims of domestic violence could recruit female-only volunteers for positions that involve contact with the women staying at the shelter. But it can't recruit female-only volunteers for positions that do not involve contact with these women.



To be eligible for this exception you must fit these criteria:

- be a non-profit or an institution devoted exclusively to the well-being of an ethnic group
- you want your volunteers to work in direct connection with your organization's mission
- what you are looking for in a volunteer is closely linked to your organization's mission

Avoiding discrimination when recruiting volunteers

Here are some good practices for recruiting volunteers without discrimination. You might want to create a policy on recruiting volunteers.

Job postings and other ads for volunteers



- Use gender-neutral job titles (e.g., “homecare services”, “manual labour”, “activity leader”).
- Do not mention any qualities that could be discriminatory, including age and sex.
- Describe duties and tasks objectively to avoid discrimination. For example, if you need volunteers who can lift heavy loads, say “must be capable of lifting 5-10 kg”, not “must have great physical strength.” Requiring “great physical strength” could suggest that you are discriminating based on sex.

Application forms and interviews

- Never ask for information about any prohibited grounds for discrimination.

Police checks



In general, organizations are not required to do police checks for volunteers. But your organization might decide that a police check is appropriate. For example, if volunteers will work with the organization's money, you can check to see if they have a history of fraud or theft.

Your organization works with vulnerable people



You must do a police check on any volunteers who will be in contact with vulnerable people. For example, if volunteers will be in a position of authority over children, it's important to know if they have a history of sexual offences.

Definition of vulnerable person

People may be considered vulnerable because of their age, a disability, or other circumstances, either temporary or permanent.

People are also considered vulnerable if they are in a position of dependency on someone else. For example, children are dependent on their parents or guardians. Elderly people with a loss of autonomy are dependent on their caregivers.

People may also be considered vulnerable when someone is in a position of trust or authority toward them. For example, coaches and teachers are in a position of authority over teenagers.

Risks of not doing police checks

An organization that does not adequately verify a volunteer's background could be held responsible for any harm caused to a vulnerable person, such as a child. Of course, this would also be awful for the organization's reputation.

Carrying out police checks

To carry out a police check on a current or potential volunteer, you first need their permission.

Then, contact your local police service. Explain the volunteer's tasks so that the police can do the appropriate type of check.

You must keep all results confidential.

For more information on police checks, visit the website of the [Royal Canadian Mounted Police](#) or the [Sûreté du Québec](#) (French only), or contact your local police.

If the person has a criminal record

You must ask yourself whether the crimes are relevant to the tasks the volunteer would carry out.

In general, you can't exclude someone if the crime is not at all connected to their duties. That would be considered discriminatory.

Driving records



If your organization needs volunteers to drive, you can request a copy of their driving record from the Société d'assurance automobile du Québec (SAAQ). You need the volunteer's permission to do this.

The driving record has information about the status of people's licences and any traffic offences they have committed.

For more information, visit the [SAAQ](#) website.

Appropriate duties and clear instructions

Give volunteers tasks that fit their preferences, training and experience.

Give them clear instructions on what they may and may not do, and give them a detailed description of their responsibilities.

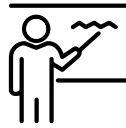
Volunteer handbooks



It is a good idea to give volunteers a description of their duties and a volunteer handbook. This handbook covers the rules and procedures volunteers must follow.

It can be used both as an introduction and a memory aide. It can also include your mission statement, the volunteer coordinator's contact information, and any other useful information.

Training and supervision



You must properly supervise and train your volunteers.

Volunteers must understand their duties and the rules they must follow. Along with this training, it is helpful to give volunteers a summary document (checklist, memory aide, etc.).

Designate someone from your organization to take time to supervise volunteers. This person can answer their questions, serve as a contact person, and help them with any problems they encounter. It should be easy for volunteers to contact this person when they need to.

Don't hesitate to provide volunteers with feedback if it is appropriate given the kind of work they do.

Volunteering with vulnerable people

It is even more important to supervise volunteers if they work with vulnerable people. You must make sure that things run smoothly and that no abuse takes place. Volunteers must also understand that they can't make decisions on behalf of someone they take care of. For example, a volunteer can help someone phone the government to ask about their file, but they can't make any decisions for that person. Similarly, a volunteer can help someone fill out a form, but can't decide what information to include.

Legal information vs. legal advice

A person who is not a lawyer or notary can give people legal information but can't offer legal advice. Legal advice means interpreting the law by applying it to someone's specific situation and giving recommendations on what to do. Legal information, on the other hand, means saying in a general way what the law says. It is important to explain to your volunteers that they could be charged and fined for illegally practising a profession if they give someone legal advice.

Legal action against non-profits because of volunteers



Again, proper screening, training and supervision of volunteers is very important. Organizations can be legally responsible for actions of their volunteers. However, legal claims against community organizations for errors or omissions by volunteers are extremely rare.

Here is an example.

In one court case, an 89-year-old man sued a community organization after a volunteer at a seniors' centre helped him fill out a travel insurance form for his trip to Florida.

While in Florida, the man was hospitalized and received a bill for U.S. \$11,042 in medical expenses. His insurer refused to compensate him because he had provided incorrect information on the insurance form.

In this case, the court ruled that neither the volunteer nor the organization was at fault. The judge found that the volunteer had acted within the limits of her volunteer duties, and that it was the man himself who had failed to give her the correct information when they filled out the form together.

People in distress

Certain legal responsibilities apply when someone is in distress. Make sure all your staff and volunteers understand these obligations.

Life in danger: the duty to provide help



People have a duty to provide help to someone whose life is in danger, unless doing so would be too dangerous or is not possible. For example, you should not try to rescue a drowning person if you don't know how to swim, but you do have to call for help.

In case of emergency, call 9-1-1.

Children in danger: reporting to the DYP



If your organization or one of your volunteers witnesses or becomes aware of any physical or sexual abuse of a child, you must report the situation to the Director of Youth Protection (DYP). You can also contact the DYP if you believe that a child's safety or development is in danger.

To do so, find the contact information for your local DYP by visiting the [Reporting a situation to the Director of Youth Protection \(DYP\)](#) page on the government of Quebec website.

In case of emergency, call 9-1-1.

Protecting personal information



Non-profits must protect any personal information in their possession. “Personal information” means any information about a person that makes it possible to identify them.

Collect necessary information only. Always ask permission.

When recruiting volunteers, you can only collect personal information that is necessary for the position. You must ask the volunteer directly for this information. You need the volunteer’s permission to request information from other sources, for example, if you want to do a police check or contact their references.

Protecting information you collect

You must protect your volunteers’ personal information. This includes police checks and driving records.

You must also protect the personal information of the people who use your services. This includes information about their health, family, finances, and criminal record. You must store this information in a secure place, like a locked filing cabinet, to prevent unauthorized access.

You must also ensure that volunteers respect the confidentiality of this information. Volunteers should have access only to information they need to do their jobs.

Have volunteers sign a confidentiality agreement

Your organization might consider it appropriate to have volunteers sign confidentiality agreements to protect personal information, financial information of the organization, etc. Tailor this agreement to the kind of work your volunteers do.

Exception: Serious risk

The organization's employees and volunteers may disclose personal information without the permission of the person concerned if there is a serious risk of death or serious bodily injury and there is urgency to the situation. For example, volunteers who witness an act of violence or suicidal behaviour can contact the police.

Insurance

Be aware that general liability insurance and board-of-director liability insurance do not generally cover volunteers.



Taking out liability insurance that covers volunteers is a good practice. Depending on the kind of work your volunteers do, extra insurance might be appropriate. Contact your insurance provider for more information. It's a good idea to ask more than one insurance provider for a quote and information about your options.

Be clear with volunteers about whether they are covered by liability insurance. When volunteers agree to give their time to an organization, they need to know the risks they face if they, or the organization, are at fault.

What if a volunteer has an accident while volunteering? For more information on this, see *Accidents*.

Accidents



Your organization must provide volunteers with a safe work environment and all necessary protective equipment. You must also give them adequate information about the risks, and appropriate training and supervision.

Explain to volunteers that they must take care of their own health and safety, and that of others. This means avoiding careless behaviour.

Injuries



If a volunteer is injured while performing their duties, and the organization is at fault, the volunteer could take legal action against the organization. Check whether your insurance coverage includes protection against this. For more information, see *Insurance*.

If you have registered your volunteers with the Commission des normes, de l'équité et de la santé et de la sécurité du travail (CNESST), the injured volunteer could receive workers' compensation. For more information, see *CNESST registration*.

Here is an example from a real case:

In one court case, a volunteer sued an organization because she cut two of her fingers off with a table saw during a volunteer activity. However, the court ruled that the organization had provided the volunteer with appropriate training and supervision during the activity. Because of this, the organization was not responsible for the injury.

Construction work



Special rules apply to volunteer construction work.

People who hold a competency certificate issued by the Commission de la construction du Québec may perform, voluntarily, any construction work corresponding to their certificate.

Volunteers without a competency certificate may do certain other manual work, including work related to these things:

- ✓ painting
- ✓ flooring, walls, ceilings
- ✓ finishing carpentry
- ✓ interior doors, cabinets, counter tops

They can't do all the tasks that certified construction workers can do.

Caution! Volunteers can be fined if they do work reserved for certified construction workers.

CNESST registration

Volunteers are not automatically insured by the CNESST for accidents that happen while they are volunteering. (The CNESST is the labour standards, pay equity and workplace health and safety board.)

However, non-profits can ask the CNESST to provide this coverage so that volunteers can get compensation for accidents while they are volunteering. Organizations are not required to get this coverage.

To apply for it, you must file a special form each year and pay a fee. You must also keep an up-to-date list of all volunteer workers covered by this insurance.

For more information, visit the [CNESST website](#).

Ending contracts for volunteer services



Like any other contract, contracts for volunteer services can be ended.

The organization can end the contract

Your organization can end a contract for volunteer services. You have the right to do so, for example, if you shut down or if the person receiving the volunteer's services no longer needs them. You don't have to provide reasons when you end a contract for volunteer services, but doing so is good practice.

Try not to end the contract too suddenly. It is better practice to give the volunteer a few days' or weeks' notice.

You can end the contract when volunteers don't meet their commitments, for example, if they miss work without informing you. You can also end the contract if a volunteer steals or damages property belonging to your organization or clients. You may choose to file a police complaint as well.

The volunteer can end the contract

Volunteers can also end a contract for volunteer services. They have the right to do so, for example, if they have health problems, or if they are no longer available to help.

Avoid surprises by asking your volunteers to tell you as soon as possible if they decide to leave. This could be included in the contract for volunteer services. Advance notice lets you make plans and transition to a new volunteer.

Checklist

Before recruitment

- Create job descriptions
- Create volunteer handbook
- Create non-discriminatory recruitment policies that protect personal information
- Check your insurance plan
- Register with the CNESST if applicable

During recruitment

- Police check, if applicable
- Driving record, if applicable
- Create contract for volunteer services and have volunteers sign
- Create confidentiality agreement, if applicable, and have volunteers sign

During volunteering

- Give volunteers a handbook
- Give volunteers appropriate duties
- Give volunteers clear instructions
- Give volunteers training and supervision

Useful resources

Resources for volunteers

Volunteer Canada

volunteer.ca

Click on the Resources tab for helpful documents like the *Canadian Code for Volunteer Involvement* and the *Screening Handbook*.

Fédération des centres d'action bénévole (French only)

fcabq.org

Umbrella organization for volunteer centres in Quebec

Montreal Volunteer Bureau

cabm.net

Training and other resources for volunteers

Resources for organizations

Centre for Community Organizations (COCO)

coco-net.org

This Quebec non-profit works primarily with organizations working in English and multilingually to support the health and well-being of community organizations and the vitality of the community sector.

Centre québécois de services aux associations (CQSA) (French only)

associationsquebec.qc.ca

A range of services for non-profit members

Espace OBNL (French only)

espaceobnl.ca

Services and products for managers of non-profits

Imagine Canada

imaginecanada.ca

Imagine Canada's mission is to strengthen Canadian charities and non profits so they can better serve individuals and communities both here and around the world.

Legal information and services

Here are some resources for non-profits that have legal problems, whether or not they involve volunteers.

Barreau du Québec (Quebec bar) (French only)

<https://www.barreau.qc.ca/en/directory-lawyers/#!/searche>

A directory of lawyers

Boussole juridique

boussolejuridique.ca

A search tool for free or low-cost legal resources in your area

Community Justice Centres (Centres de justice de proximité)

justicedeproximite.qc.ca

Free and confidential legal information, regardless of your income or the nature of your problem

Chambre des notaires du Québec (notaries' association)

<https://www.cnq.org/en/find-a-notary.html>

Search for a notary by region, language and other criteria

Éducaloi

educaloi.qc.ca

A charity that helps Quebecers better understand the law

Juripop

juripop.org

Legal representation and advice at reasonable rates for people who earn slightly too much to qualify for government legal aid

JurisRéférence

jurisreference.ca

A directory of lawyers

Public services

Commission d'accès à l'information du Québec (access to information commission)

cai.gouv.qc.ca

Guide on the protection of personal information: *Opérations de renseignements et collecte de renseignements personnels* (French only)

https://www.cai.gouv.qc.ca/documents/CAI_FI_recrutement.pdf

Commission des droits de la personne et des droits de la jeunesse (Quebec human rights commission)

cdpdj.qc.ca

Recruter sans discriminer (French only)

<https://www.cdpdj.qc.ca/fr/publications/recruter-sans-discriminer-guide>

Commission des normes, de l'équité, de la santé et de la sécurité du travail
(CNESST or labour standards, pay equity and workplace health and safety board)

cnesst.gouv.qc.ca/en

Royal Canadian Mounted Police (RCMP)

<https://www.rcmp-grc.gc.ca/en/criminal-record-checks>

Société d'assurance automobile du Québec (SAAQ) (automobile insurance board)

<https://saaq.gouv.qc.ca/en/drivers-licences/driving-record-request>

Sûreté du Québec (French only)

sq.gouv.qc.ca/services/services-en-ligne/verification-casier-antecedents-judiciaires/



OUR LIVES AS CITIZENS

The law is at the heart
of life in society.
So knowing your rights
and responsibilities is key.



THE LAW IS EVERYWHERE

It's part of everyday situations,
not just conflicts.



HANDLE WHAT COMES YOUR WAY

By explaining the law, Éducaloi helps
Quebecers make informed decisions.

Éducaloï is there to help all Quebecers!



ēducaloï