



October 21, 2016

TO: LOCSO Board of Directors
FROM: Roy A. Hanley, General Counsel

SUBJECT: Agenda Item 11F – 11/3/2016 Board Meeting
Discussion and Potential Adoption of Resolution Declaring Certain Volunteers as Employees for Purposes of Workers Compensation Insurance

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Marshall E. Ochylski

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DESCRIPTION

The District currently utilizes volunteers in its Community Emergency Response Team (CERT). Those volunteers are currently not covered by the District's workers compensation insurance. In the event of injury such volunteers would either be without remedy or be forced to sue for compensation. The District has available defenses that would make receipt of compensation difficult for the volunteers, and such suits would be expensive for all parties.

Section 3363.5 of the Labor Code allows the District, by Resolution, to have volunteers covered by workers compensation insurance if they are injured in the course of their volunteer activities.

The attached form of resolution will cover existing CERT volunteers and in addition cover other volunteers that the District may elect to use in the future.

STAFF RECOMMENDATION

District Counsel recommends adoption of the resolution.

Motion: I move that the Board approve Resolution No. 2016-37 declaring volunteers, work study participants, and interns, deemed to be employees of the District for the purpose of providing workers compensation while providing their services.

DISCUSSION

This is purely a policy decision for the Board of Directors. District Counsel recommends approval because this provides certainty of some protection against injury suffered by volunteers and reduces the expense and exposure to the District of potential civil suits in the absence of such a resolution.

Attachment

RESOLUTION NO. 2016-37

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE LOS OSOS COMMUNITY SERVICES DISTRICT
DECLARING THAT VOLUNTEERS, WORK-STUDY, AND INTERNS SHALL BE DEEMED
TO BE EMPLOYEES OF THE DISTRICT FOR THE PURPOSE OF PROVIDING WORKERS' COMPENSATION
COVERAGE FOR SAID VOLUNTEERS, WORK-STUDY, AND INTERNS WHILE PROVIDING THEIR SERVICES**

WHEREAS, the Los Osos Community Services District utilizes the services of unpaid volunteers in the Community Emergency Response Team (CERT), and may in the future utilize the services of unpaid volunteers, work-study, and interns in positions within a number of its departments; and

WHEREAS, Section 3363.5 of the California Labor Code provides that a person who performs voluntary service without pay for a public agency as designated and authorized by the governing body of the agency or its designee, shall, upon adoption of a resolution by the governing body of the agency so declaring, be deemed to be an employee of the agency for the purpose of Division 4 of said Labor Code while performing such services; and

WHEREAS, Section 3363.5 of the Labor Code defines "voluntary service without pay" to include those services performed by any person who receives no remuneration other than meals, transportation, lodging, or reimbursement for incidental expenses; and

WHEREAS, the Board of Directors wishes to extend Workers' Compensation coverage as provided by State law to those persons providing voluntary services without pay, work-study, and intern services to the District.

NOW, THEREFORE, BE IT RESOLVED, that persons who perform voluntary service without pay, work-study, and interns be deemed to be employees of the Los Osos Community Services District for the purpose of Workers' Compensation coverage as provided in Division 4 of the Labor Code while performing such service. However, said volunteer, work-study, or intern will not be considered an employee of the District for any purpose other than for such Workers' Compensation coverage, nor grant nor enlarge upon any other right, duty, or responsibility of a volunteer, work-study, and intern, nor allow said volunteer, work-study or intern to claim any other benefits or rights given to paid employees of the District.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Los Osos Community Services District this 3rd day of November 2016, by the following vote:

On the motion of Director _____, seconded by Director _____,
and on the following roll call vote, to wit:

Ayes: _____
Nays: _____
Absent: _____
Conflicts: _____

Marshall E. Ochylski
President, Board of Directors
Los Osos Community Services District

ATTEST:

APPROVED AS TO FORM:

Renee Osborne
Secretary to the Board

Roy A. Hanley
District Legal Counsel