



This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

Are Clients and Volunteers Coming Back to Your Facility?

Many organizations have halted in-person operations, stopped using volunteers, and changed the way they are providing services to clients during the COVID-19 pandemic. This article will summarize some of the things nonprofits should start to consider as the shelter-in-place requirements are loosened and nonprofits consider whether to re-engage in person with clients and volunteers. *Please be aware that this article is not intended to induce any organization to re-open facilities or invite clients or volunteers to enter before it is safe or feasible to do so, but is intended to help you to start thinking about those items that need to be considered before and when you do re-open.*

Throughout this crisis, we have learned a lot about flexibility, and those lessons will be instructive as you are designing the processes you will use in returning clients and volunteers to your organization's facilities. As you are considering bringing back clients and volunteers, there are a number of things that you need to think about, including the safety of everyone in the facility and potential liability issues your organization may face.

- 1) **Maintaining A Safe Environment:** Nonprofits need to consider and comply with Centers for Disease Control (CDC) guidelines, Occupational Safety and Health (OSHA) requirements, and other state or local public health administration recommendations related to maintaining a safe environment in their facility for employees, as well as clients, volunteers and others who are entering the facility. Depending on the industry in which the organization operates, there may be specific rules that apply. The need for these precautions is not going to end merely because shelter-in-place rules become more relaxed over time. Nonprofits need to monitor these recommendations as they continue to evolve and abide by them to keep persons visiting their facilities safe.
 - a. **Encourage Anyone Who is Sick or Potentially Exposed to Stay Home:** Avoid having anyone in the facility who has:
 - i. experienced symptoms associated with the COVID-19 virus, including cough, shortness of breath or difficulty breathing, fever, chills, muscle pain, sore throat, fatigue, or new loss of taste or smell within the last 14 days;
 - ii. been exposed to someone with COVID-19 within the last 14 days;
 - iii. traveled to any foreign country in the last 14 days;
 - iv. been on a cruise or in an airport in the last 14 days; or
 - v. attended an event with more than 10 people in the last 14 days.It may be appropriate to ask clients, volunteers or other visitors to sign an acknowledgement that they do not fit into any of these categories prior to each entry.
 - b. **Cleaning:** The CDC (see this [link](#)) has outlined cleaning protocols for cleaning the facility as a whole, special cleaning protocols if you have had a COVID-19 positive individual in the workplace, and advisories regarding cleaning workspaces and equipment used by those in the facility.

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- c. Temperature Checks Before Entering: This is something that organizations are permitted to do if they have a good faith basis for the need for such checks. If the organization institutes temperature checks, please consider how to be sure that the checks are being applied consistently to all who enter the facility – the same rules should apply to employees, volunteers, guests or anyone else who enters. If possible, make an effort to keep the checks in a private location so that information is not shared among those being checked. Also, it is very important to keep any records or information related to the checks confidential. If employees or others are administering tests to those who enter, make sure they have proper personal protective equipment, such as gloves and a mask. Consider self-administered temperature checks. When the checks are done, if an individual does have a fever, consider the options that may be available, including sending the individual home.
 - d. Safety Policies and Procedures: The CDC has made recommendations regarding personal safety. See the link above to the CDC guidelines for more information. Consider how these recommendations should be applied at your organization. Document your safety policies and procedures, communicate them to employees, volunteers and clients, provide training and necessary equipment, and consider how to address non-compliance.
 - i. Personal protective equipment (such as wearing cloth face coverings in public settings and appropriate glove usage),
 - ii. Safety hygiene (such as requiring individuals to wash and sanitize hands, cover coughs/sneezes and avoid face touching or handshaking), and
 - iii. Social distancing (such as separating individuals by at least six to ten feet in spaces where activities are being conducted, limiting meeting size, and avoiding gatherings in common areas).
 - e. Facilities management: As you implement safety policies and procedures, consider making changes to your facilities to improve compliance. These changes may include adding signage, putting tape on the floor to designate where people should sit or stand, controlling the flow of people through the space, moving work spaces farther apart, moving some activities outdoors where virus spread may be less likely, and ensuring easy access to handwashing stations.
- 2) Reducing Potential Liability Risks/Developing a Risk Management Strategy: In addition to following CDC and OSHA guidelines designed to keep your facilities as safe as possible, there are a number of other steps that nonprofits may take to reduce potential liability in the normal course of carrying out their mission, and that should be examined in this COVID-19 environment.
- a. Recognize the Risks: Be aware that interaction among employees, volunteers, clients or others in your facility gives rise to the risk that COVID-19 will be transmitted among those who interact.
 - b. Be flexible: Have a plan for when and how volunteers and clients will return. Do not require clients or volunteers who express reluctance to enter the facility to do so. Consider limiting the overall number of individuals in the facility at one time. Consider continuing alternative ways to provide services. Consider whether non-traditional

volunteer opportunities, such as providing virtual or at-home opportunities may be feasible.

- c. Enforce Safety and Conduct Policies: Require volunteers, clients and other visitors to abide by your safety policies and procedures, including policies addressing appropriate conduct in the facility, and take prompt action to address any behavior that is not in compliance.
- d. Insurance: Consider whether you have adequate liability insurance coverage to address the risks that exist now. This [webcast](#) provides helpful information about insurance and risks in the face of this pandemic.
- e. Waivers of Liability: A waiver of liability (also known as a “release”) is a written statement in which a client or a volunteer agrees to assume the risk of injury inherent in the activity being conducted with a nonprofit organization, and also releases the organization from potential legal liability for any injuries that he or she might sustain. Many nonprofits ask clients and volunteers to sign waivers releasing all rights to sue the organization and its board members and employees for injuries arising out of the client or volunteer relationship. When drafted correctly, these waivers are typically enforceable in Georgia unless the conduct at issue is intentional, grossly negligent, or contrary to public policy. While it is not yet clear whether or not a release from claims related to COVID-19 will be enforceable, it is a good idea for nonprofits to review their existing waivers to ensure that risks posed by COVID-19 to clients and volunteers who enter into the organization’s offices or facilities are specifically disclosed, acknowledged and expressly waived. If an issue does arise in the future, the organization will at least have an argument that such claims were knowingly waived. Nonprofits should consider adding language such as the following to waivers:

In addition to any other risks posed by participating or volunteering with Organization, the individual signing below understands that, despite any safety precautions being taken by Organization, by participating or volunteering with Organization, there is a risk of potential exposure to COVID-19 or any other harmful virus or bacteria, which may result in illness or death. The individual signing below releases, forever discharges, indemnifies and holds harmless Organization and its directors, officers, employees, volunteers, successors and assigns from any and all liability, claim, costs or expense related to such risk.

For more information about risk management in the nonprofit workplace, please see this [webcast](#), and this [article](#). For additional information about liability issues that arise when working with volunteers, see [this webcast and the accompanying article](#). Please contact your PBPA attorney if you have any questions about managing these risks or about liability releases for clients and volunteers.