Holiday Volunteering and Giving: Employment Law Considerations for Nonprofits and Employers



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By Sarah Goodman

The holidays are peak season for generosity. Food banks need extra hands. Toy drives need sorters. Companies roll out giving campaigns and "day of service" events. Nonprofits staff up for year-end fundraising.

It is also the time of year when well-intentioned organizations can inadvertently create wage-and-hour exposure.

Whether you run a nonprofit, run an HR team, or just want your year-end gift to count, here are the key considerations to review before year-end.

Part 1

For nonprofits — employees volunteering for their own employer

Consider a common scenario: in December, ahead of a year-end gala, a development coordinator offers to stay late "as a volunteer" to help prepare mailings. However well-meant, that time may be compensable.

The Department of Labor addressed this exact issue in Opinion Letter FLSA2026-12, issued September 7, 2026. A paid employee of a nonprofit may volunteer for that same nonprofit only when all three of these are true:

- They offer freely, without pressure or coercion, direct or implied.
- They expect no compensation for it.
- The volunteer work is not the same as, or similar to, the job they're paid to do.

The letter involved a nonprofit that trains service dogs. Its veterinarians and directors could volunteer to socialize puppies at home, because that's different from their day jobs. Its dog trainers could not, because puppy socialization is basically training. Same task, different answer, depending on the employee's actual duties.

Two additional points are worth emphasizing: Exempt status doesn't matter. Salaried, exempt staff are held to the same-or-similar test. Don't ask during work hours. Work you request or direct during an employee's normal hours is work, and it gets paid.

Volunteers who aren't really volunteers

Outside volunteers get more room, but not unlimited room. Under the DOL's guidance, true volunteers serve for civic,

charitable, or humanitarian reasons, without expecting pay and don't replace paid staff. Watch for these warning signs:

- **Perks that look like pay.** A holiday thank-you is fine. Regular gift cards or stipends tied to hours can turn a volunteer into an employee.
- **Displacing paid workers.** If volunteers are doing the work you used to pay temps to do, that's a problem.
- **Commercial operations.** Volunteers in a nonprofit thrift store, café, or gift shop may be treated as employees because that work looks like ordinary business.

Seasonal hires are employees too

Holiday temps, event staff, and seasonal program workers are employees entitled to minimum wage, overtime, and the usual paperwork. If teens are pitching in for pay, check the federal and state child labor rules on hours and tasks before the first shift.

Part 2

For all employers — workplace giving campaigns

Workplace giving can strengthen culture, but it creates risk when participation stops feeling voluntary.

- **Keep giving truly voluntary.** No participation leaderboards by name, no "100% participation" pressure on teams, and never a link to reviews, bonuses, or promotions.
- **Get payroll deductions in writing.** Many states strictly limit what can come out of a paycheck. A signed, revocable authorization for each donation is the safe play.
- **Be consistent with matching gifts.** Write down which charities qualify and apply the rule the same way for everyone. Ad hoc exceptions invite complaints.
- **Mind religious and political sensitivities.** Offer a broad menu of causes and don't pressure anyone to support an organization that conflicts with their beliefs.

Company volunteer days

For-profit companies have no "volunteer exception" for their own work. If you require, direct, or schedule your team's service day, assume non-exempt employees must be paid for that time, including any travel. A paid volunteer-time-off (VTO) policy is a tidy way to encourage service while keeping the timekeeping clean.

Employers that pair a service day with a holiday event should also review their policies on alcohol and workplace conduct.

Part 3

For donors — 2026 charitable deduction changes

Tax advice is outside the scope of this blog, however this is the first holiday season under the charitable deduction changes from the One Big Beautiful Bill Act, and they're worth a heads-up for you and the employees in your giving campaign.

Who you are	What changed starting in 2026
You take the standard deduction	You can now deduct up to $1,000 ($2,000 married filing jointly) of cash gifts made directly to qualifying charities. Gifts to donor-advised funds don't count.
You itemize	Only giving above 0.5% of your adjusted gross income is deductible. At $200,000 AGI, the first $1,000 doesn't count.
You're in the top 37% bracket	Itemized deductions, including charitable gifts, are capped at

	a 35% tax value.
You're a corporation	Charitable deductions now apply only above a 1% floor.

The practical upshot: for many employees who don't itemize, holiday giving now carries a modest tax benefit it didn't have last year. That's a nice line for your workplace giving announcement. For bigger gifts and strategies such as bunching or IRA-qualified charitable distributions, loop in a tax advisor before December 31.

Year-end compliance checklist

- Keep volunteering voluntary. Employees should not feel required or pressured to participate, and volunteer activities should generally be separate from their regular work duties.
- No volunteer work requested during employees' normal hours.
- Volunteer perks are occasional thank-yous, not hourly rewards.
- Volunteers aren't filling roles you used to pay for.
- Seasonal hires are on payroll, with minor-labor rules checked.
- Giving campaigns have no pressure, rankings, or ties to reviews.
- Payroll donations have signed, revocable authorizations.
- Matching gift and VTO policies are written down and applied consistently.

The bottom line

Thoughtful planning helps ensure that seasonal generosity does not result in back pay, liquidated damages, or other liability.