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Pokémon GO carefully

Nonprofit organizations and businesses worldwide are taking advantage of the augmented-reality game app Pokémon GO, to attract players to their locations and potentially turn those players into supporters, volunteers and customers. If their locations aren't actual PokéStops,



they sometimes buy an in-app “lure module” (or earn it by attaining higher levels in the game) to attract Pokémon temporarily, and use social media to entice players to “catch ‘em all” at their location. (Predictably, Niantic Labs, the game developer, is now offering the opportunity to have

your location considered as a Pokéstop or Pokémon GO Gym, via [this support page](#).)

Nice, but...

Many are applauding the app's requirement that players get out of the house and walk around, getting exercise while having fun. But as with most opportunities, there are risks. Computer security firm Norton has published a three-part series to help Pokémon GO players and their families enjoy the app safely.

Among the recommendations, which also would apply to whatever augmented reality app succeeds Pokémon GO as the Next Big Thing :

[Cybersecurity and privacy](#)

Be sure to download apps only from trusted sources, such as the Google Play Store and the Apple App Store. Malicious, "trojanized" versions of Pokémon GO appeared soon after the authorized version did. Also, watch out for online offers of "hacks" to obtain Pokecoins or power-ups in exchange for participating in surveys that ask for personal information. With this app or any other, take time to read the "permissions" the app requires, privacy policy, and the terms of service. When Pokémon GO first was released, those signing in through Google had to grant permission that, theoretically, could have granted the game developers full access to those Google accounts. (The developers quickly revised the permissions, saying they never intended that they be so broad.) The terms of service regarding "safe play" go so far as to remind gamers that it is their responsibility to have appropriate insurance policies in place!

[Parents' guide for child safety](#)

A recent survey found that a quarter of Pokémon GO gamers are age 13-17. Norton advises, "While the purpose of the game is to be social, real-life rules still apply. Tell your kids about stranger-danger. A huge part of the gameplay involves common areas called gyms and Pokéstops, which will attract a good amount of strangers playing the game. You can still encourage your children to interact with new people, but set some guidelines. Always make sure they are supervised by a trusted adult when venturing into these public areas. If you can't go with them, or you have an older teen, be sure to have them establish a buddy system and check in with you regularly, as it's just not safe for anyone of any age to aimlessly wander around unfamiliar areas of town by themselves."

If you don't have one already, consider a real-time location-tracking device for your child's phone.

Remember that anyone, including a child predator, can get a "lure module" (described above.) Consider parental controls to limit in-app spending on Pokecoins, power-ups, etc. Apple has an "Ask To Buy" option that will notify you before new purchases or free downloads can be made.

The Google Play Store has an authentication feature that requires certain information, such as a password, to be entered on your device before a purchase can be made.

[Other risks and safety tips](#)

In a Las Vegas park in July, gunfire was exchanged and two people were hospitalized when two men attempted to rob a group of Pokémon GO players at gunpoint. One of the players had a concealed-carry permit, and was armed himself.

More commonly, players walk into objects, sprain ankles stepping off curbs, or cross streets unsafely. Norton points out that you don't have to watch the screen constantly to spot Pokémon. You can leave the phone in your pocket, and it will vibrate or make a sound when your quarry is near.

The game is a battery glutton because it constantly uses your GPS. Consider a portable battery charger, against the possibility that you or your favorite player will be in an unfamiliar neighborhood with a dead battery.

Driving while playing? Remember the words of Marvin Gaye and Kim Weston -- it takes two. One drives, the other navigates the Pokémon hunt.

New overtime rules – What every nonprofit should know

*The following article was written by attorneys in the nonprofit practice of Venable LLC (www.venable.com) and is used here with Venable's permission. The Department of Labor's final rule regarding overtime pay is controversial within the nonprofit community. This article is intended to help nonprofit employers understand the changes to the Fair Labor Standards Act that the final rule (effective December 1) makes, and what options employers should consider. Note that there is a link near the end of the article to another Venable article, regarding "compensable time." We encourage you to read that piece as well, for its guidance on rules that employers often don't know, or misinterpret. The **Resources** section at the end also might be helpful as you prepare for the effects of the final rule.*

After decades of relative inaction, the federal Fair Labor Standards Act (FLSA) has become an epicenter of change and litigation in recent years. That change continued when the U.S. Department of Labor (DOL) released its highly anticipated final regulations altering the overtime exemptions under the FLSA. Nonprofit employers need to understand the implications of these changes on their workforces, as the changes may have the effect of converting many "white-collar" exempt employees to overtime-eligible employees when the new rules take effect in December 2016, and may have a significant impact on many nonprofits' fiscal bottom

line. There are steps, however, that your nonprofit can take to at least partially mitigate the adverse economic impact of the new rules on your organization.

In general, the FLSA requires that nonprofits pay non-exempt employees an hourly wage at least one-and-a-half times their regularly hourly rate for time worked in excess of 40 hours in a given workweek. However, workers employed in certain capacities, including a "*bona fide* executive, administrative, or professional capacity," may, under certain circumstances, be considered to be exempt from overtime. Under the current rule, an employee is exempt from overtime under the "white-collar" exemptions if (i) the employee is paid on a salary basis not subject to reduction based on the quality or quantity of work ("salary basis test"), (ii) the employee's salary meets a minimum salary level of at least \$455 per week (\$23,660 per year)("salary level test"), *and* (iii) the employee's primary job duties fall within the federal definition of one of the above-noted exemption categories ("standard duties test"). In other words, an employee must generally (lawyers, doctors, teachers, and computer professionals are excepted) meet the salary basis test, the salary level test, *and* the standard duties test in order to be exempt from being paid overtime; it is the salary level test that is being changed. There also is an exemption for highly compensated employees earning at least \$100,000 per year (HCE exemption). The new changes to the law will restrict the number of employees eligible for these exemptions in the following ways.

First, the salary level threshold for overtime exemption doubles to \$913 per week (\$47,476 per year), and employees earning a weekly salary of less than \$913 will be eligible for overtime pay. Second, the threshold for the HCE exemption increases from its previous threshold of \$100,000 to \$134,004. Third, the new salary level thresholds will increase every three years based on the salary level at the 40th percentile and 90th percentile, respectively, for full-time salaried workers of the lowest-wage Census region in the country (currently the Southeast). Fourth, subject to certain details, the new rules allow up to 10 percent of the salary level threshold for all non-highly compensated employees to be attributable to non-discretionary bonuses, incentive pay, or commissions, so long as such payments are made on a quarterly or more-frequent basis.

Importantly, the "standard duties test" has not changed under the new rule (as had been initially intimated by the DOL), so employers will be able to rely on prior guidance to determine whether employees who meet the salary requirements also perform primary duties which meet the definition of one of the exemptions. (Prudent nonprofit employers will use this opportunity to re-evaluate whether employees who meet the new salary level test *also* meet the standard duties test; this test has historically been an area of significant non-compliance in the nonprofit community.)

The FLSA sets the floor for the overtime exemption requirements and many states, such as New York and California, have salary thresholds that exceed the amounts set by the federal government. Consequently, nonprofits should educate themselves about the state and local laws governing their employees, as state laws often extend more rights to employees than provided under federal law.

The new rule takes effect on December 1, 2016, so nonprofits have little time to evaluate and implement any necessary changes to their pay and employee management practices. As the planning process for next year's budgets is already well underway in many, if not most, nonprofits, potential added overtime costs need to be taken into immediate consideration.

Nonprofits that contract with federal, state, or local governments for grants, cooperative agreements, and contracts may find themselves in the difficult position of having to absorb new overtime costs that were not accounted for at the time the federal, state or local awards were made. Unlike commercial enterprises that sink additional payroll expenses into advance pricing structures, nonprofits bound by existing government grants and contracts likely will be required to perform the same tasks and provide the same services despite the added and unforeseen costs that the new rules impose.

Like other nonprofit organizations, nonprofit colleges and universities also are vulnerable to the burdens of this rule change. While there are special regulations that exempt teachers, high-level academic administrators, and other inherently academic positions from the new rules, university employees whose duties are not unique to higher education will be subject to the increased threshold for overtime exemption. In a tacit acknowledgment of the significant impact the rule change will have on academic institutions, the DOL issued a guidance memorandum specifically tailored to higher-education institutions, which can be viewed [here](#).

Nonprofits will have to make some difficult decisions to adapt to these new changes, which may include increasing the salaries of certain exempt employees to get them to the new threshold, paying overtime to employees not previously eligible, realigning now-non-exempt employees' workloads and responsibilities and otherwise managing their hours worked to avoid paying overtime, and/or altering the job duties of certain otherwise-non-exempt employees to bolster the likelihood that they will, in fact, be considered exempt.

The DOL has provided [guidance specific to nonprofits](#) on the new changes.

For tips on the rules governing compensable time for non-exempt employees and managing overtime costs, click [here](#).

Finally, for a comprehensive overview of all of the relevant FLSA rules in this area as they apply to nonprofits, our recorded webinar on the subject from earlier this year can be found [here](#).

Resources

Labor Department final rule -- <https://www.dol.gov/whd/overtime/final2016/>

National Council of Nonprofits survey of 1,000 nonprofits, on concerns about the new overtime rules -- <https://www.councilofnonprofits.org/nonprofit-overtime-implementation-conundrum>

Venable, LLC nonprofit practice publications and Webinar recordings --
<http://www.venable.com/nonprofits/publications> and
<http://www.venable.com/nonprofits/recordings>

Article on the overtime rule's impact on nonprofits, Daryl Reese of the law firm Johnston Thomas, Santa Rosa, CA (used with permission) --
<http://www.johnstonthomas.com/articles/new-flsa-overtime-rule-will-impact-nonprofit-organization>

[HR 5813](#), legislation to phase in the overtime exemption threshold increases over a four-year period, rather than implement them December 1

VIS Connections article on Labor Department rules regarding interns (lead article, "Internal afouls") -- <http://www.cimaworld.com/wp-content/uploads/2013/08/VIS-Connections-September-2013.pdf>

A sample of applications to track work time of employees at remote locations -- bit.ly/time-apps.

Don't say these four things to an angry volunteer (and what you can say instead)

By Marla Benson

Editor's note: Marla Benson, founder and principal consultant of [Volunteer Relations Consulting Group](#), founded the Volunteer Conflict Management SystemSM, from which this article is adapted. Marla holds the professional designations of Senior Professional in Human Resources (SPHR) from the Society For Human Resource Management and Certified Mediator from the Mediation Training Institute, and is certified in alternative dispute resolution through the ADR program at Purdue University. She can be reached at mbenson@VolunteerRelations.com. We appreciate her sharing this information with VIS Connections readers.

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Volunteers are often the eyes and ears of an organization—by giving time and expertise, they are personally invested—and their feedback is critical to our growth. Sometimes, that feedback may come in a form that is more emotionally charged than a volunteer program administrator would prefer. As a matter of fact, at times, that energy may look and feel like a personal dispute or be infused with anger.

When we listen carefully, the actual context of the volunteer's message may be similar to what any customer might provide to an organization in the form of customer feedback. What every customer deserves when sharing feedback, is that they are met in a manner that is:

- **Safe:** responses do not mirror any negative emotions.
- **Non-judgmental:** listening openly without imposing personal bias.
- **Empathetic:** putting ourselves in the other person's 'shoes' to best understand the issue(s) at hand.

Here are some tips to support you in providing your volunteer with safe, non-judgmental and empathetic responses, while not (unintentionally) upsetting your volunteer further.

1. Don't Smile at an Angry Volunteer

Why you may want to:

We think that a smile will lighten the mood or show friendliness or openness.

Why it doesn't work:

A smile to an angry volunteer sends a message that you may be condescending toward their issue or not take them seriously. A smile may come across as an attempt to sway them from being angry, but keep in mind that they may have a right to be angry—and for some, it's how they're used to getting their issue across.

What to do instead:

Your body language and vocal tone should be neutral, yet present, to encourage the person to continue until they feel heard and can move on to exploring solutions.

Use these body language, listening, and helpful tone techniques instead:

- Eye contact (easy does it ... not too intense, just be present).
- Neutral face — not happy, nor sad.
- Head nods (show that you're listening by acknowledging what they're saying).
- Face the person directly (don't turn away like you're ready to run out of the room).
- Open, unclenched body—no crossed arms, no clenched fists.
- Use a quieter-than-normal vocal volume than you would during an average conversation.

2. Don't Tell an Angry Volunteer How They Feel

Why you may want to:

We think we are being empathetic when we use phrases like:

'I can see that you are really angry...'

'You are (unhappy, furious, upset, crushed) because...'

Why it doesn't work:

It's not unusual for an angry volunteer to experience an array of emotions. When you try to tag someone else's emotions with words like unhappy, angry or upset, that can simply inflame the person further. Their reaction may be to deny the words you are using. Now, you have diverted the conversation into an argument.

What to do instead:

Use empathetic, neutral phrases to indicate that you are listening and doing your best to relate. These can be used without causing a negative reaction because you are not attempting to define the volunteer's exact emotions. (Truth: they may not even know what they are feeling, so just be supportive and let their story flow).

'I can appreciate that you appear to have strong feelings about this.'

'I can hear the intensity in your voice.'

'I can appreciate that you feel passionate about this...'

3. Don't Push Your Solutions

Why you may want to:

We think we are providing enlightened, personal wisdom when we use phrases like:

'Well, what you should do is...'

'That's an easy fix, all you have to say is...'

'When that happened to me, I...'

Why it doesn't work:

To provide an angry person with your solution may lead to a solution that doesn't stick (because they are not in the right frame of mind to hear it), or that they now want to argue with you about.

What to do instead:

You'll want to lead the person towards their own solutions by using gentle, supportive questions.

'What do you think your options are?'

'If you were advising someone else in your situation, what would you tell them?'

'Are you asking for my advice?'

4. Don't Hijack the Conversation

Why you may want to:

We think we are being sympathetic when we tell our stories.

'Your situation is just like the time when I was...'

'I know exactly what that's like, when I...'

'You're so lucky, when that happened to me...'

Why it's doesn't work:

When you attempt to sympathize by starting to share a story of your own, you can see the volunteer take a deep breath and sigh with the realization that they aren't going to be able to complete their story. You've now hijacked the conversation to being about you.

What to do instead:

Use good listening questions:

'Tell me more about how...'

'When that happened, what did you do next?'

For the most part, your role with the angry volunteer isn't to say much at all, but to encourage him/her to discuss the details of their issue. It's the only way for them to express the information of the situation, and clearing a path that will allow solutions to come to fruition.

With your empathetic and supportive listening skills, the once-angry volunteer now feels heard and will be more open to exploring mutually beneficial solutions that are best for the volunteer, the organization and YOU!

Resources

"How do you manage negative volunteers?" in the Winter 2016 issue of *VIS Connections*. View that issue and other back issues at www.cimaworld.com/vis-connections/index.

Event safety – start with this question...

"What could possibly go wrong?"

That is the threshold question of risk management, whether for a special event or for day-to-day operations. To answer it, begin by discussing what your staff and your volunteers do, or will be doing if a special event is coming up, against the history of injuries and liability incidents affecting nonprofit organizations. That will help you identify the most common risk exposures:

Falls – Falling is the most common type of injury claim, in the 40+ year history of the Volunteers Insurance Service program. Look at the environment where staff and volunteers work. What fall hazards do you see? Eliminate them.

Lifting and carrying – Another common type of injury. Make sure staff and volunteers understand proper lifting technique (with the legs, not the back), make sure loads are not too heavy (make smaller loads if necessary), and that any needed materials-handling equipment such as dollies or handtrucks is available.

Tools -- Have staff and volunteers *show* you – not just tell you – they safely can use the tools they need, before you allow them to begin their work. "What could possibly go wrong?" With tools, you can imagine.

Take time for training. Have veteran volunteers train newer ones. (NOTE: Volunteers Insurance Service has a number of "Preventer Papers" on safety. Email william.henry@visvolunteers.com for the index. Choose the papers you would like to have, and you will receive them by return email.)

Vehicles – Who will be driving, as part of their work assignments? Obtain a Motor Vehicle Record, and proof of current vehicle inspection (if your state requires inspection) before

allowing those people to drive for the organization. It demonstrates your “due diligence,” which can help protect you against charges of negligence. “What could possibly go wrong?” Unfortunately, the Volunteers Insurance Service program has had serious claims involving volunteer drivers.

Who’s that volunteer? – If you are hosting a large event, you will have volunteers you don’t know well. Obtain a criminal background check if the volunteer will have contact with vulnerable people such as the elderly, children, or those with disabilities. If the volunteer will be handling money, obtain a credit history. Again, it’s due diligence, which can protect your organization against claims that you were negligent (did something you should have known not to do, or failed to do something you should have known to do.) Verified Volunteers (www.verifiedvolunteers.com) is a background-check provider that has a partnership with VIS.

So...Ask the “what could possibly go wrong?” question, and be prepared to confront any answer.

NOTE: This article also has been published as a guest blog post for InitLive (www.initlive.com), which offers a technology communication and scheduling tool for staff and volunteers to use during events. VIS members are entitled to a discount from InitLive, as well as from Verified Volunteers. Details are at <http://www.cimaworld.com/nonprofits/vis-member-discounts/>

Personal risk management – have a family communication plan

The phones and email we rely on for communication rely themselves on electricity. Are you prepared to communicate with your family and others if there is an extended power outage? [Do1thing](http://www.do1thing.com), a nonprofit dedicated to helping individuals and businesses respond to disasters, recommends that you:

- Have a car charger for your mobile phone
- Have a clear understanding, with all family members, about how you will communicate if some or all of you do not have phone service or Internet access for an extended time.
- Make sure all family members who have mobile phones store an ICE (“in case of emergency”) number in those phones.

For details and videos, go to www.do1thing.com and click on the phone icon under “12 Things For Individuals.” You also will find other suggested disaster-preparedness measures, one for each month.

How to file a claim when a volunteer is injured

When a volunteer is injured during his or her assignment, the Proof of Loss Form must be completed accurately in order for the claim to be processed in a timely way.

Please register claims with us, as soon as you are aware a claim has occurred, by completing the Proof of Loss Form found at <http://www.cimaworld.com/wp-content/uploads/2012/07/universal-claim-form.pdf>.

Important! It is the sponsoring volunteer organization's responsibility to complete page one of the form and oversee the completion of page two. Please do not mail the form to your volunteer for completion.

Do not wait until the volunteer gives you bills, Explanation of Benefits or itemized statements from providers with diagnosis codes, as this can take significant time. **Registering the claim promptly is extremely important.**

Every section of the Proof of Loss Form *must be fully completed*. Incomplete forms will be returned for completion, delaying resolution of the claim. Following these directions will allow us to register the claim for your injured volunteer in a timely manner:

1. On page one, in the "Check one" section near the top of the form, please check the appropriate box for the program where your volunteer is registered:

CNS/RSVP	Retired Senior Volunteer Program
CNS/SCP	Senior Companion Program
CNS/FGP	Foster Grandparent Program
VIS	Volunteers Insurance Program (traditional volunteers)
CRASVP	Court Referred Alternative Sentencing Program
WRVP	Work Release Program

2. Name of Sponsoring Organization – This is name of the organization that purchased the coverage, not the site where the volunteer was injured.
3. Sponsoring Organization Code – This code is on communication you receive from us, e.g., invoices, policies, etc. If you do not know the code, please call or email either Joan Wankmiller at 800.222.8920, ext. 7306, jwankmiller@cimaworld.com or Vicki Brooks at ext. 7301, vbrooks@cimaworld.com and they will be happy to provide your code. If you send an email, please provide the name of your organization, along with the city and state where you are located.
4. Address, City, State and Zip of the sponsoring organization
5. Sponsoring organization contact, email address and phone number

6. Last and first name of injured volunteer. *Please use full legal name to match the name that will be shown on bills submitted. Do not use nicknames.*
7. Social Security Number and Date of Birth of injured volunteer – These are indicators for Health Special Risk, our third-party administrator for accident claims. Refusal to provide the information is an insurance company's reason for nonpayment.
8. Nature of Injury: What body part was injured? Example: Volunteer fell, hitting leg and arm.
9. Describe how the accident occurred. – Example: Volunteer was walking out of the room and tripped.
10. Describe what the volunteer was doing when injured. – Example: Volunteer was serving lunch to client.
11. Date of the accident
12. Place of the accident (if the volunteer was at a volunteer station, it can be shown here), time of the accident and first treatment date (if known)
13. Name and title of person supervising activity (if any). List anyone present at time of the accident and whether he or she was a witness.
14. Please indicate to whom payments should be made. We suggest you enter "providers" here, so the provider is paid directly. If a volunteer has paid for something himself/herself, the volunteer will be reimbursed directly as long as receipts are provided.
15. Signature of authorized sponsoring organization representative, title, date.

Page 2, Part II is to be completed by the volunteer. All sections must be completed and/or checked and the volunteer must sign and date the form.

1. **Please do not mail the form to your volunteer for completion.** Give it to the volunteer in person, instead, and ask them to complete it then. We find that frequently the volunteer misplaces the form, if it is mailed, and the claim is not returned to be registered.

Please contact Joan Wankmiller at 800.222.8920, ext. 7306, Email: jwankmiller@cimaworld.com or Vicki Brooks at 800.222.8920, ext. 7301, Email: vbrooks@cimaworld.com any time, if you need assistance in completing the Proof of Loss Form.

CIMA licensing information

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