CLASSIFICATION GUIDE | JURISDICTION: NONPROFIT | VERSION 2026.1

Volunteer vs. Employee Classification Guide

Where genuine volunteering ends and employment begins — control, compensation, and the traps that turn goodwill into wage claims.

> WHAT THIS HELPS YOU DO
> Use this guide to classify every unpaid role honestly — testing control, compensation, and duties against the rules that decide when a 'volunteer' is legally an employee owed minimum wage and overtime.

WHEN TO USE THIS DOCUMENT

- Before creating any new volunteer role
- When a volunteer's hours, duties, or 'thank-you' payments have grown
- When employees want to 'volunteer' extra time for the mission
- When stipends are proposed for any unpaid role
- During any classification audit or before a funder's due diligence

WHAT THIS DOCUMENT HELPS PREVENT

- Wage claims from 'volunteers' doing employee work on employee schedules
- Stipends that quietly become wages — with back-pay math attached
- Employees 'volunteering' unpaid overtime in their own jobs (never lawful for nonexempt staff)
- Displaced paid positions refilled with volunteer labor
- Goodwill relationships ending in TWC hearings

> *Faulkner HR Solutions focuses on the system behind the people problem. This tool is designed to help employers slow down the decision, identify the risk, and create proof before the issue becomes a claim, complaint, turnover event, or credibility problem.*

BEFORE YOU START: READINESS CHECKLIST

Gather the following before working through this document. Incomplete inputs are one of the most common reasons employer decisions fail under later scrutiny.

Have it	Input	Notes / location
☐	Employee name and role	
☐	Date of incident, request, or separation	

Have it	Input	Notes / location
☐	Supervisor involved	
☐	Policy or handbook section that applies	
☐	Prior documentation on file	
☐	Pay records, if applicable	
☐	Relevant emails, texts, notes, or complaints	
☐	Decision-maker name	
☐	Deadline, if applicable	

CLASSIFICATION GUIDE

The core test: a genuine volunteer donates services freely, for civic or humanitarian reasons, without expectation of compensation — and without displacing paid work. Everything below stress-tests those elements.

Part 1 — Role Snapshot

Role title and description	
Typical hours per week and schedule pattern	
Who directs the work, and how closely	
Anything of value provided (stipend, gift cards, housing, meals, discounts)	
Does the role replace or resemble a current/former paid position?	

Part 2 — Volunteer Legitimacy Test

Mark each statement true or false. False answers are exposure.

True?	Legitimacy element	Notes
☐	Service is genuinely voluntary — no penalty, schedule discipline, or 'required shifts' enforced like employment	
☐	Motivation is civic, charitable, or humanitarian — not an expected paycheck or promised job	
☐	No compensation is expected; any benefits are nominal and not tied to hours or productivity	
☐	The volunteer does not displace a paid employee or perform work a laid-off employee used to do	
☐	Hours are typically part-time and flexible, not a full-time work pattern	
☐	The person is NOT also our employee doing the same type of work they're paid for	

Part 3 — The Stipend Trap

Checked	Stipend test	Finding
☐	Any payment is a nominal fee — as a working guide, if it approaches 20% of what a paid employee would earn for the same service, it stops being nominal	
☐	Payment is not per-hour or per-shift (hourly 'stipends' are wages)	

Checked	Stipend test	Finding
☐	Payment doesn't rise with hours worked or productivity	
☐	Expense reimbursements are actual and documented, not disguised pay	
☐	AmeriCorps or similar program stipends follow that program's specific rules	

Part 4 — The Employee-Volunteer Trap

Compliant	Rule for your own employees	Notes
☐	Nonexempt employees NEVER 'volunteer' hours doing the same or similar work they're paid for — those are hours worked, owed at their rate (and overtime)	
☐	Employee volunteering in genuinely different roles (accountant serving meals at the gala) is voluntary, uncoerced, and outside working hours	
☐	No manager 'expects' staff to volunteer for events — expectation is compulsion	
☐	Event 'volunteering' by staff is either paid time or genuinely optional with zero consequence	

Part 5 — Classification Decision

Finding	Classification	Action
All legitimacy elements true; benefits nominal	Genuine volunteer	Document role; add to volunteer handbook
Payments tied to hours/productivity, or expected compensation	Employee	Put on payroll; assess back-wage exposure
Full-time pattern, close direction, displacing paid work	Employee (likely)	Restructure the role or convert to employment
Our own nonexempt employee doing their job 'off the clock'	Hours worked — always	Pay the hours; stop the practice today

Part 6 — Documentation

Done	Documentation step	Notes
☐	Volunteer role description on file (duties, boundaries, no-compensation acknowledgment)	
☐	Volunteer agreement signed (see Volunteer Handbook Starter Template)	
☐	Any nominal benefits listed and valued	
☐	Annual re-check calendared for roles that tend to grow	

Role	Name / signature	Date
Assessed by		
Reviewed by (ED)		

STOP AND REVIEW BEFORE ACTING

If any statement below is true, pause. Get the decision reviewed by HR, counsel, or Faulkner HR Solutions before you act.

- ☐ A 'volunteer' works 35 hours a week on a schedule they can't miss.
- ☐ Someone receives $400/month cash 'to help with gas' for 20 weekly hours.
- ☐ A laid-off employee's duties are now covered by volunteers.
- ☐ Nonexempt staff stay late 'off the clock for the mission' — with management's grateful knowledge.
- ☐ A volunteer was promised the role 'converts to paid' if they prove themselves.
- ☐ The volunteer program has no written role descriptions at all.

MINIMUM DOCUMENTATION STANDARD

Before this file is closed, the employer should be able to answer every question below and point to where the proof lives.

Question	Your answer / where the proof is stored
What happened?	
When did it happen?	
Who observed or reported it?	
What policy, standard, deadline, or expectation applies?	
What decision was made?	
Who had authority to make the decision?	
What alternatives were considered?	
What risk was reviewed?	
What follow-up is required?	
Where is the proof stored?	

COMMON MISTAKES

1. Assuming nonprofit status immunizes volunteer arrangements — the FLSA tests facts, not tax status.
2. Paying hourly 'stipends' and calling them appreciation.
3. Letting the most devoted volunteer drift into a full-time, supervised, essential role.
4. Accepting employees' unpaid overtime as devotion — for nonexempt staff it's a wage violation with the employer holding the liability.
5. Promising future employment as the reward for unpaid work now.
6. Having no paper at all, so the classification rests entirely on memory when challenged.

WHAT TO DO NEXT

Classify every current unpaid role with Part 5's table, fix the misclassifications now (payroll going forward; get advice on any back-wage exposure), and adopt the Volunteer Handbook so new roles start with boundaries. Re-check annually — volunteer roles grow silently.

> **Before you terminate, deduct, discipline, classify, or respond, get the decision reviewed.**
> Call 210.446.8730 or email thomas@faulknerhrsolutions.info.

Mission does not replace infrastructure. If the same people problem keeps coming back, the system needs to be rebuilt.

Need help applying this to a real workplace decision?

Faulkner HR Solutions helps Texas employers, nonprofits, municipalities, and growing businesses fix the people systems behind recurring workplace problems.

If this document raised a risk flag, do not guess your way through the next step.

Call: **210.446.8730**
Email: thomas@faulknerhrsolutions.info
Website: faulknerhrsolutions.info

DISCLAIMER