

Opn. No. 2000-F1

PUBLIC OFFICERS LAW § 17.

Participants in the Volunteer Lawyers Project of the Housing Court are employees within the meaning of Public Officers Law § 17 therefore are eligible to receive defense and indemnification by the State, subject to the procedural terms and conditions of the statute.

February 3, 2000

Hon. Jonathan Lippman
Chief Administrative Judge
Office of Court Administration
111 Centre Street, Rm. 1240
New York, NY 10013

Formal Opinion
No. 2000-F1

Dear Chief Administrative Judge Lippman:

Your Special Assistant has asked whether participants in the Volunteer Lawyers Project established by the Office of Court Administration ("OCA") to assist litigants in Housing Court are eligible for defense and indemnification by the State pursuant to Public Officers Law § 17. We conclude that the volunteers are eligible to receive defense and indemnification by the State under section 17.

Your assistant has explained that most litigants in Housing Court are not represented by lawyers and many need extensive advice about court procedures. In 1997, the Chief Judge announced a Housing Court Initiative intended to address that need and to make the Housing Court more accessible to the public.

To implement the Housing Court Initiative, OCA established a Resource Center staffed by two attorneys who are employees of OCA and advise pro se litigants at all stages of Housing Court proceedings. Within the Resource Center, OCA also established the Volunteer Lawyers Project. Under the supervision of the two staff attorneys, volunteer attorneys provide legal advice to pro se litigants. Attorneys selected as volunteers must attend a 12-hour training session sponsored by OCA before they can participate in the Volunteer Lawyers Project.

Public Officers Law § 17 provides for defense and indemnification by the State of an employee, which the statute defines to include

any person holding a position . . . in the service of the state, whether or not compensated, or a volunteer expressly authorized to participate in a state-sponsored volunteer program . . .

In our view, the Volunteer Lawyers Project is a "state-sponsored volunteer program" within the meaning of section 17. The characteristics of the Project clearly establish State sponsorship. The Housing Court Initiative, which includes the Volunteer Lawyers Project, was formally established by the Chief Judge; attorneys must attend a training program sponsored by OCA to qualify as volunteers; and the volunteering attorneys are supervised by two OCA staff attorneys. Thus, the volunteer project has been formally established by the State and operates within a regulated State program. The Volunteer Lawyers Project is a "state-sponsored volunteer program." See Op Atty Gen No. 97-F3.

For these reasons, we conclude that participants in the Volunteer Lawyers Project are employees within the meaning of Public Officers Law § 17 and therefore are eligible to receive defense and indemnification by the State, subject to the procedural terms and conditions of the statute.

Very truly yours,

ELIOT SPITZER
Attorney General

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