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Legal Pitfalls For Nonprofits

Ten Things You Can Do To Protect Your Organization

With changes to the 990 form looming on the horizon, it appears that the IRS will be looking even more closely at the policies and procedures nonprofits have in place. While many of the following items are not required by law for nonprofits, they are all important steps toward good governance and could provide protection in the future.

1. **Code of Ethics.** Developing a general statement of principles for your organization can be a worthwhile and enlightening exercise. By laying out in writing the values that are important to you, donors and supporters will be able to better understand whom they are giving to, and the commitment you make to the community.
2. **Conflict of interest policy.** Does your nonprofit make every effort to avoid not only conflicts of interest, but also the appearance of conflicts? If not, take the time to discuss the issue with staff and board members, and design an appropriate statement about such potential conflicts that all board, staff and volunteers can sign.
3. **Document retention and destruction.** How you handle critical and confidential documents is just as important as what is contained within those documents. Staff, board and volunteers should be trained on a regular basis on how to handle and destroy both paper and electronic files.
4. **Insurance issues.** Your organization should regularly review your insurance for directors and officers, as well as general liability coverage and, if needed, look at special event coverage or protection for any inventory you may have.
5. **Whistleblower policy.** To ensure that those reporting any wrongdoing by your organization not face retaliation, the implementation of a whistleblower policy is critical. In creating such a document, your organization also provides clarity on the steps to be taken should someone within your organization seek to report suspected bad acts.
6. **Gift Acceptance.** With so many ways for individuals and organizations to give funds to your agency, it is useful and often fortuitous to have a gift acceptance policy in place. Work with your development staff and a financial advisor to adopt a policy that will allow for a wide variety of gifts to be evaluated before being accepted or turned down.

7. General steps toward transparency. We have all heard the buzzword “transparency” in the past several years. But how can you really achieve this goal? A few simple steps, such as ensuring that visitors to your website have access to your most recent 990 and an annual report, are valuable first steps.
8. Nondiscrimination policies. Employment-related claims are by far the most common reason nonprofits end up in court. This is an area in which extensive work needs to be done by most organizations, and a good way to begin is by reviewing and updating your organization’s nondiscrimination policy.
9. Lobbying regulations. Nonprofits have not only the opportunity, but also the responsibility to educate the public about their work through advocacy efforts. Don’t shy away from meaningful work in this area because you are unsure about lobbying regulations. Here’s another area where board, staff and volunteers should be briefed annually.
10. Financial Oversight and Fundraising Procedures. It should go without saying that nonprofits should strive to maintain diligent accounting practices and maintain clarity around current fundraising procedures. Doing so will put your organization and your donors at ease.