

TEN NONPROFIT TIPS FOR AVOIDING LEGAL PROBLEMS

These ten common sense guidelines can go a long way towards helping your nonprofit avoid legal trouble:

1. *Have expert help ready when you need it* – Establish your relationships with an attorney and accountant experienced with nonprofits before a problem emerges. Make sure they understand your organization well enough that they can give you quick advice.

2. *Ask before acting* – Is this an activity that is new to your nonprofit? If it is, review your governing and other organizational documents to see how to respond. If you are still not sure after referring these sources, consider contacting your lawyer or accountant for additional or confirming advice.

3. *Your governing documents are not static* – Review and use them frequently. Identify where additional provisions or amended provisions would make your organization more efficient and operate with the best practices.

4. *Use caution if considering compensating a director or trustee* – Compensation is permitted but in those instances, the best policy would be to seek outside advice from your lawyer, or have a policy in place that has been prepared or reviewed by your counsel, and which you adhere to during hiring and compensation decision making situations.

5. *Adopt a conflict of interest policy* – Make sure is understandable and easy to use. If it isn't, your board won't use it. Make sure it deals with issues that your organization is likely to face (you might even want to include hypothetical situations which can help understand how to use the conflicts policy). On a yearly basis, make sure your directors read it and understand it. A yearly written acknowledgement from each director regarding the policy is also a good idea.

6. *Adopt a compensation policy* – As stated above, make sure it is understandable. Make sure it is tailored for your organization's needs. Make sure it requires your directors or others making compensation decisions to, at a minimum, meet the three IRS "safe harbor" criteria. Make sure the decisions get adequately documented.

7. ***Be alert when a person of influence within your foundation helps with decision making*** – (e.g., founding member, major donor) in those situations adopt procedures where necessary to avoid accidentally stumbling into a restricted or prohibited transaction.

8. ***Stay informed of changes in the law*** – The law is not static, especially tax law. You might want to consider appointing a director or employee to keep up to date with legal changes by subscribing to an email subscription service (many are free). Or, establish a policy that at least on an annual basis someone from your organization will attend a conference where seminars on legal and organizational issues will be offered.

9. ***Look at the positive side*** – While the rules affecting tax exempt charities can be frustrating, you should press forward and identify how the rules can help your organization be more efficient and focused on the its charitable mission. In the perfect situation, your organization has adopted best practices such that your organization's compliance with the rules becomes simply a byproduct of that effort.

10. ***Share these tips*** – Make sure everyone in your organization is aware of these common sense tips.