

What's the Plan? Nonprofit Business Planning for Success

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Planning is key for any nonprofit – as it gets started, as it grows with new funding opportunities and program activities, and as pivotal changes occur (internally and externally) that may dramatically affect its impact. Also essential is strong leadership, legal compliance, and responsiveness to changing circumstances. The following guidance addresses key legal aspects for launching a new nonprofit successfully, along with reminders for keeping existing nonprofits well on track.

Start at the Beginning

No nonprofit venture should begin without a great deal of careful, advance planning. Key questions include the following: Who will serve as leaders? What is the organization's purpose? What will the organization's revenue stream look like? Related legal questions include the following: What legal responsibilities will the leaders owe, and to whom? Will the organization's purpose qualify it for tax-exempt status? And what accompanying legal requirements, if any, will apply for its fundraising activities? Another helpful perspective may be to start with the end in mind: Where will the organization go, and how it will get there?

In short, every nonprofit needs a business plan that includes provision for legal aspects. The plan should include core elements such as the organization's name, purpose statement, leadership, anticipated funding, planned activities for achieving its purpose, governance structure, and accountability measures. After this business plan is developed, this tool may be used in a variety of ways: guidance for founders; marketing to donors and other supporters; recruiting for new board members; and groundwork for the organization's IRS Form 1023 tax-exemption application.

A business plan is a roadmap for how a nonprofit will operate successfully. The plan need not be carved in stone. Rather, it is a dynamic blueprint that can flex and adjust to future opportunities.

Legal Considerations for Growth

As an organization develops, its leaders need to remain attentive to accompanying legal considerations. For example, the IRS expects nonprofits to stay consistent with their initial representations made in their Form 1023 applications, as they report in future years through IRS Form 990 annual information returns. Nonprofits also may wish to position themselves optimally for state property and sales tax exemptions, which in turn may warrant certain

program adjustments. For example, many state government agencies look skeptically at fee-based programs, so ample allowance (and documentation) for fee waivers and reductions should be made if state exemptions are desired.

In addition, state charitable solicitation registrations may be necessary (sometimes in multiple states). This will depend, in large part, on a nonprofit's specific fundraising activities. The advisability of filing such registrations should be evaluated carefully since they come with significant annual reporting requirements, fees, and potential penalties for noncompliance.

Workforce development may also implicate significant legal considerations, such as employment tax compliance, unemployment registration (or related options), development of employee handbooks, and volunteer protocols. Nonprofits should work through these and other applicable legal issues in advance. Forward thinking will help prevent disputes or at least limit any negative impact if conflicts later arise.

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In addition to its business plan, the first building block for nonprofit organizational planning, a nonprofit needs to carefully develop its *strategic plan*. In contrast to a business plan, a strategic plan identifies a nonprofit's specific goals, available resources, and opportunities for maximum impact. This additional planning tool is just as important for a nonprofit's continued success. Further guidance on legal aspects of strategic planning will be provided in our law firm's next blog article.



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