

## ***Form 990 Policy Series***

The attached Memorandum is a part of the *Form 990 Policy Series*, developed by a group of lawyers, all members of the California bar and practicing nonprofit law (the “Form 990 Policy Series Group”). The *Form 990 Policy Series* includes Memoranda containing rationales and procedures for legal counsel to use in advising their clients on drafting and adopting appropriate policies responding to the new Form 990 as well as form policies and/or questionnaires.

The members of the Form 990 Policy Series Group with respect to the attached Memorandum (posted July, 2011) were as follows: Joel S. Corwin, Co-Chair; Barbara Rosen, Co-Chair; Elizabeth Bluestein; Lani Meanley Collins; the late Gerald A. Laster; Henry Lesser; Nancy McGlamery; Louis Michelson; Joy P. Paeske; Alicia Plerhoples; Lisa A. Runquist; Robert Siemer; Myron Steeves; Patrick Sternal; and Martin J. Trupiano. The views expressed in the Memoranda do not necessarily reflect the views of the law firms or employers at which these lawyers practice or any individual member of the Group.

The date at the top of the attached Memorandum is the date that the Memorandum was finalized, and the Memorandum may not reflect changes in law or practice since that date.

**FORM 990 POLICY SERIES  
MEMORANDUM**

**Re: Fundraising Policy -- Form 990, Part I, Line16; Part IV, Lines 17, 18 &29; Part VIII, lines 1c and 8, and Column D; Part IX, Lines 11e and 25; Schedule G; Schedule M (Form 990 Policy Series Memo #13.2)**

**Date: May 21, 2010**

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**NOTE ON THE SCOPE OF THIS MATERIAL**

This material is designed to provide general guidance about an aspect of nonprofit corporate governance in the specific and limited context of the governance questions contained in the new IRS Form 990 (published by the IRS in 2008 and applicable to 990 filers based on a 2009-2011 filing year phase-in period depending on the size of the nonprofit). It is intended to provide some general guidance on the establishment of processes and/or policies to address a specific governance question in the Form. The subject matter of that question implicates a broad array of legal and practical issues ranging far beyond the immediate subject matter of the question itself. This material may address some of those issues but does NOT attempt to review them comprehensively and is NOT intended to be relied on for guidance on how they should be addressed in any specific situation.

Whether or not a nonprofit organization adopts a specific governance process or policy (or modifies an existing one), either in response to the disclosure requirements of the new IRS Form 990 or to change its governance practices for other reasons is a matter to be carefully considered by that organization, with input from its board and advisors and evaluation of its specific circumstances. The IRS has explicitly stated that adoption of the policies and practices about which the new Form 990 asks is not mandatory, although the IRS has also indicated that it attaches significance to the manner in which all tax-exempt nonprofit organizations govern themselves. The inclusion of a sample policy in this material is not intended to suggest that the policy is appropriate for every nonprofit organization nor that, if a policy on that topic is determined to be appropriate, the formulation in the sample necessarily fits the needs of an individual nonprofit organization. A customized approach, with outside professional advice, is recommended. Accordingly, this material is intended as general information for legal practitioners advising nonprofit organizations as to their governance and does not constitute legal advice for any particular nonprofit organization.

Although the subject matter of this material may have relevance to nonprofit organizations that are not required to file informational tax returns with the IRS or are permitted to file on an IRS form other than Form 990, the focus of this material is 990 filers. While this material is meant to apply to Form 990 filers who are exempt under Section 501(c) of the Internal Revenue Code, certain portions of this material may be applicable only to Section 501(c)(3) organizations. In addition, although this material may be of assistance with respect to nonprofit organizations that are not subject to oversight under California law, there may be portions of this material that are relevant only to nonprofits organized under, or (by reason of their California-related activities) otherwise subject to, California law and, except as specifically discussed in this material, the laws of other States are not addressed.

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**1. Summary**

Any nonprofit organization that engages in, or for whom others engage in, solicitation and receipt of donations should consider adopting a fundraising policy in order to promote sound institutional practices with regard to such activities. Good practices include compliance with federal, state and local law, as well as applicable ethical norms regarding fundraising activity.

## **2. Rationale for Adoption of the Policy**

Most charitable organizations and a number of other nonprofits engage in some kind of fundraising activity. There are several aspects to fundraising that require decisions on the part of the organization. These include how the contribution is solicited, what is contributed, and the consequences of the donation, both to the donor and the recipient organization. Fundraising activity is subject to regulation under federal, state and local laws. A fundraising policy is designed to alert the board, staff and volunteers that a nonprofit organization that raises funds for furthering its activities and purposes is subject to these laws. A fundraising policy should also seek to reassure donors that the organization is operating its fundraising activity in good faith and in compliance with the law. Organizations may also need to adopt and consult a gift acceptance policy.

## **3. Background of Requirements/Sources for the Policy**

### **A. California Law**

(i) **The Supervision of Trustees and Fundraisers for Charitable Purposes Act** (Government Code (“Gov C”) sections 12580-12599.7) requires commercial fundraisers, fundraising counsel, and charitable organizations that conduct fundraising activities to register, report and have written contracts, unless specific exemptions exist. These requirements are summarized as follows:

Gov C §§ 12585 and 12586: Charitable organizations are required to register with the Attorney General and file periodic written reports regarding assets held for charitable purposes.<sup>1</sup>

Gov C § 12599: A “commercial fundraiser” is defined as any individual or entity who, for compensation, solicits funds for charitable purposes, or who receives or controls funds as a result of solicitation for charitable purposes.

Gov C § 12599.1: “Fundraising counsel” is defined as a person who, for compensation, plans, manages, or consults on charitable solicitation in California.

Gov C § 12599.2(a): “Commercial coventurer” is defined as any person who, for profit, is regularly and primarily engaged in trade or commerce other than in connection with the raising of funds, assets, or property for charitable organizations or charitable purposes,

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<sup>1</sup> Many other states also require registration of charitable organizations as a condition to certain charitable solicitations in such states. A Unified Registration Statement has been developed by NAAG (The National Association of Attorneys General)-NASCO (the National Association of State Charities Officials), which can now be used in most states, although many states require supplementary forms for complete registration. The Unified Registration Statement is available on the NASCO website, <http://www.nasconet.org>.

and who represents to the public that the purchase or use of any goods, services, entertainment, or any other thing of value will benefit a charitable organization or will be used for a charitable purpose.

Gov C § 12599: Commercial fundraisers for charitable purposes and fundraising counsel must register annually with the Attorney General, pay an annual fee, and file annual financial reports on charitable solicitation activities conducted during the preceding year.

Gov C § 12599(i): There must be a written contract between a commercial fundraiser and a charity for each solicitation campaign, event, or service and the contract must contain certain information.

Gov C § 12599(m): A commercial fundraiser may not solicit in California on behalf of a charity unless the charity is registered or is exempt from registration with the Attorney General's Registry of Charitable Trusts.

Gov C § 12599.6: Charities shall not misrepresent the purpose of a charitable organization or the nature or purpose or beneficiary of a solicitation. A charity must exercise control over fundraising activities conducted for its benefit, may not employ any commercial fundraiser or fundraising counsel who is not registered with the Attorney General and may not raise funds for any other charity which is required to register with the Attorney General unless that charity is also registered.

See also the applicable regulations available on the Attorney General's website: [http://ag.ca.gov/charities/pdf/registry\\_fee\\_regs.pdf](http://ag.ca.gov/charities/pdf/registry_fee_regs.pdf).

(ii) **Business and Professions Code (“Bus & P C”) sections 17510-17510.95** govern solicitations for charitable purposes and impose disclosure requirements on organizations that solicit funds or sell goods for charitable purposes.

Bus & P C §§ 17510.2 -17510.4 require a person or entity who solicits a gift or sale for charitable purposes to make required disclosures.

Bus & P C § 17510.8: If a charitable solicitor tells the person who is being solicited that the donation will be used for a particular charitable purpose, then the charity has a fiduciary duty to use the donation for that purpose.

(iii) **The California Attorney General's Guide for Charities, Chapter 8 “Charity Fundraising”**, should also be reviewed by any organization conducting fundraising activities in California and is available online at: [http://ag.ca.gov/charities/publications/guide\\_for\\_charities.pdf](http://ag.ca.gov/charities/publications/guide_for_charities.pdf)

## **B. Internal Revenue Code**

The Internal Revenue Code (“IRC”) contains strict substantiation requirements for donors as well as disclosure requirements for organizations that solicit contributions.

(i) Under IRC Section 170(f)(8), an organization that receives a contribution of \$250 or more must provide the donor with a contemporaneous written receipt stating the amount of the contribution, whether goods or services were provided in exchange for the contribution, and a description of such goods or services, in order for the donor to take a charitable deduction for the contribution.

*IRC Sec. 170(f) (8) Substantiation requirement for certain contributions*

*(A) General rule*

*No deduction shall be allowed under subsection (a) for any contribution of \$250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).*

*(B) Content of acknowledgement*

*An acknowledgement meets the requirements of this subparagraph if it includes the following information:*

*(i) The amount of cash and a description (but not value) of any property other than cash contributed.*

*(ii) Whether the donee organization provided any goods or services in consideration, in whole or in part, for any property described in clause (i).*

*(iii) A description and good faith estimate of the value of any goods or services referred to in clause (ii) or, if such goods or services consist solely of intangible religious benefits, a statement to that effect.*

*For purposes of this subparagraph, the term "intangible religious benefit" means any intangible religious benefit which is provided by an organization organized exclusively for religious purposes and which generally is not sold in a commercial transaction outside the donative context.*

*(C) Contemporaneous*

*For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of--*

*(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or*

(ii) *the due date (including extensions) for filing such return.*

(D) *Substantiation not required for contributions reported by the donee organization*

*Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.*

The primary burden of failure to comply with this requirement falls on the donor, for whom the contribution is not deductible without proper receipt.

(ii) Under IRC Section 170(f)(17) a donor is required to maintain documentation for all monetary contributions, regardless of amount, in order for them to be deductible.

*IRC Section 170(f)(17) Recordkeeping*

*No deduction shall be allowed under subsection (a) for any contribution of a cash, check, or other monetary gift unless the donor maintains as a record of such contribution a bank record or a written communication from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution.*

As a courtesy to donors and for purposes of maintaining good public relations, many organizations make it a practice to provide a written receipt to all donors for all contributions, regardless of size.

(iii) Under IRC Section 6113, certain non-charitable organizations are required to disclose the nondeductibility of contributions.

*Sec. 6113 Disclosure of nondeductibility of contributions*

*(a) General rule*

*Each fundraising solicitation by (or on behalf of) an organization to which this section applies shall contain an express statement (in a conspicuous and easily recognizable format) that contributions or gifts to such organization are not deductible as charitable contributions for Federal income tax purposes.*

*(b) Organizations to which section applies*

*(1) In general*

*Except as otherwise provided in this subsection, this section shall apply to any organization which is not described in section 170(c) and which--*

*(A) is described in subsection (c) (other than paragraph (1) thereof) or (d) of section 501 and exempt from taxation under section 501(a),*

*(B) is a political organization (as defined in section 527(e)), or*

*(C) was an organization described in subparagraph (A) or (B) at any time during the 5-year period ending on the date of the fundraising solicitation or is a successor to an organization so described at any time during such 5-year period.*

*(2) Exception for small organizations*

*(A) Annual gross receipts do not exceed \$100,000*

*This section shall not apply to any organization the gross receipts of which in each taxable year are normally not more than \$100,000.*

*(B) Multiple organization rule*

*The Secretary may treat any group of 2 or more organizations as 1 organization for purposes of subparagraph (A) where necessary or appropriate to prevent the avoidance of this section through the use of multiple organizations.*

*(3) Special rule for certain fraternal organizations*

*For purposes of paragraph (1), an organization described in section 170(c)(4) shall be treated as described in section 170(c) only with respect to solicitations for contributions or gifts which are to be used exclusively for purposes referred to in section 170(c)(4).*

*(c) Fundraising solicitation*

*For purposes of this section--*

*(1) In general*

*Except as provided in paragraph (2), the term "fundraising solicitation" means any solicitation of contributions or gifts which is made--*

*(A) in written or printed form,*

*(B) by television or radio, or*

*(C) by telephone.*

*(2) Exception for certain letters or calls*

*The term "fundraising solicitation" shall not include any letter or telephone call if such letter or call is not part of a coordinated fundraising campaign soliciting more than 10 persons during the calendar year.*

(iv) If the organization provides goods or services in exchange for a contribution of \$75 or more, IRC Section 6115 requires the organization to provide a written disclosure statement to the donor indicating the value of the return benefits:

*Sec. 6115 Disclosure related to quid pro quo contributions*

*(a) Disclosure requirement*

*If an organization described in section 170(c) (other than paragraph (1) thereof) receives a quid pro quo contribution in excess of \$75, the organization shall, in connection with the solicitation or receipt of the contribution, provide a written statement which--*

*(1) informs the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the amount of any money and the value of any property other than money contributed by the donor over the value of the goods or services provided by the organization, and*

*(2) provides the donor with a good faith estimate of the value of such goods or services.*

(v) While there are no penalties on the organization for failure to make the disclosure under IRC Section 170(f)(8), Section 6714 imposes a penalty on the organization for failure to make disclosures for quid pro quo contributions required under Section 6115:

*IRC Sec. 6714. Failure to meet disclosure requirements applicable to quid pro quo contributions*

*(a) Imposition of penalty*

*If an organization fails to meet the disclosure requirement of section 6115 with respect to a quid pro quo contribution, such organization shall pay a penalty of \$10 for each contribution in respect of which the organization fails to make the required disclosure, except that the total penalty imposed by this subsection with respect to a particular fundraising event or mailing shall not exceed \$5,000.*

It should be noted that the requirements of Section 170(f)(8) and Section 6115 overlap. Where applicable, an organization will need to comply with both laws.

In addition, the organization should be aware of special rules and exceptions that may apply depending on the type of donation or the benefits provided by the organization. See Treas Reg Section 1.170A-13(f)(8). Especially notable is Section 170(f)(12), which imposes special substantiation and reporting rules that apply to vehicle donations. It is also important to be mindful of the additional donor substantiation and appraisal requirements for a contribution of property with a deduction of \$5000 or more as provided in Treas. Reg. Section 1.170A-13(c).

### C. IRS Guidance

**Life Cycle of a Public Charity - Governance and Related Topics - 501(c)(3) Organizations** ([http://www.irs.gov/pub/irs-tege/governance\\_practices.pdf](http://www.irs.gov/pub/irs-tege/governance_practices.pdf)) “Governance and Management Policies” states:

*Fundraising.* Charitable fundraising is an important source of financial support for many charities. **The Internal Revenue Service encourages charities to adopt and monitor policies to ensure that fundraising solicitations meet federal and state law requirements and solicitation materials are accurate, truthful, and candid.** Charities are encouraged to keep their fundraising costs reasonable and to provide information about fundraising costs and practices to donors and the public. Organizations that file Form 990 will find that Schedules G and M solicit information about fundraising activities, revenues and expenses. (Emphasis added)

IRS Publication 1771, **Charitable Contributions, Substantiation and Disclosure Requirements.**

IRS Publication 4302, **A Charity's Guide to Vehicle Donations.**

**D. Form 990**

Form 990 asks specifically about fundraising income and expenses in several places:

**Part I, Summary of Expenses, Line 16a** asks for professional fundraising fees (from Part IX, column (A), line 11e) and **Line 16b** asks for total fundraising expenses (from Part IX, column (D), line 25)

**Part IV, Checklist of Required Schedules, Line 17** asks:

“Did the organization report a total of more than \$15,000 of expenses for professional fundraising services on Part IX, column (A), lines 6 and 11e? *If “Yes,” complete Schedule G, Part I*”

**Part IV, Line 18** asks:

“Did the organization report more than \$15,000 total of fundraising event gross income and contributions on Part VIII, lines 1c and 8a? *If “Yes,” complete Schedule G, Part II*”

**Part IV, Line 29** asks:

“Did the organization receive more than \$25,000 in non-cash contributions? *If “Yes,” complete Schedule M*”

**Part VIII, Line 1c** asks for revenue from fundraising events.

**Line 8a** ask for gross income from fundraising events, less direct expenses (line 8b) for the total net income or (loss) from fundraising events (line 8c)

**Part IX, Statement of Functional Expenses, Column D** asks for allocation of “Fundraising expenses” for various lines.

**Schedule G**, requires reporting of certain information arrangements with professional fundraisers, fundraising events, and gaming activities.

**Schedule M** is used to report noncash contributions received during the year and certain information regarding such contributions.

## E. Fundraiser Compensation

Compensation arrangements for fundraising personnel should reasonably reflect the skill, effort and time necessary to perform the job of fundraising. Compensation arrangements based upon a percentage of funds raised create the potential for both ethical and legal breaches. They may create incentives for fundraisers to put their own interests ahead of those of the organization and its donors, which could lead to inappropriate fundraising activity. They may also result in compensation payments that are disproportionate compared to the actual work conducted. For example, in the case of a large unexpected donation which has been received by the charity through little or no effort of the fundraiser, a contract for a percentage of fundraising revenue may give a windfall bonus to the fundraiser. For these reasons, many associations of professional fundraisers prohibit percentage based compensation for their members in their ethical standards. See, for example, the Association of Fundraising Professionals' *Code of Ethical Principles and Standards*, Standard No. 21, available online at <http://www.afpnet.org/files/ContentDocuments/CodeOfEthicsLong.pdf>

Percentage based compensation may also create a situation of excessive compensation that would be subject to rules against private benefit or private inurement. In order to avoid private benefit or inurement, such percentage based compensation, if allowed, is often subject to a cap designed to limit the aggregate compensation to a reasonable level. It should be noted that, while some organizations like to give bonuses to employees for their work in fundraising, the criteria for such bonuses should be based on the reasonable value of the work performed, rather than on a percentage of the funds raised,. Such criteria must be set before the work is performed.

Also relevant to compensation considerations is that under California law (Gov C § 12599(i), noted above) a charity must have a written contract with a commercial fundraiser and a charity, and the contract must contain certain provisions, as set forth in the code, including provisions relating to fixed fee and percentage compensation for fundraisers. Specifically, subsections 12599(i)(4) and (5) state as follows:

*(4) If the commercial fundraiser is to be paid a fixed fee, a statement of the fee to be paid to the commercial fundraiser and a good faith estimate of what percentage the fee will constitute of the total contributions received. The contract shall clearly disclose the assumptions upon which the estimate is based, and the stated assumptions shall be based upon all of the relevant facts known to the commercial fundraiser regarding the solicitation to be conducted by the commercial fundraiser.*

*(5) If a percentage fee is to be paid to the commercial fundraiser, a statement of the percentage of the total contributions received that will be remitted to or retained*

*by the charitable organization, or, if the solicitation involves the sale of goods or services or the sale of admissions to a fundraising event, the percentage of the purchase price that will be remitted to the charitable organization. The stated percentage shall be calculated by subtracting from contributions received and sales receipts not only the commercial fundraiser's fee, but also any additional amounts that the charitable organization is obligated to pay as fundraising costs.*

## **F. Internet Solicitation**

The Internet has created new ways and new markets in which nonprofits can raise funds, while at the same time creating new questions about the applicability of state laws regulating charitable solicitation activity to fundraising activity on the Web. The National Association of Attorneys General (NAAG) and the National Association of State Charities Officials (NASCO) began addressing these questions at a meeting in Charleston, SC in 1999. In 2001, NASCO adopted a set of guidelines called the *Charleston Principles*. The document summarizes the *Principles* thus:

The basic premise of these Principles is this: Although existing state laws govern charitable solicitations on the Internet, in many instances the use of the Internet raises new questions that state charity officials must answer in order to effectively carry out their statutory missions. Therefore, state charity officials should require registration of those over whom their state courts could constitutionally assert personal jurisdiction to enforce a registration requirement. State charity officials and those who solicit contributions using the Internet should note that in actions to enforce state laws against deceptive charitable solicitations, including fraud and misuse of charitable funds, jurisdiction typically exists over some organizations not required to register in the state.

Specifically, the *Charleston Principles* state that “an entity that is domiciled within a state and uses the Internet to conduct charitable solicitations in that state must register in that state.” For an entity that is not domiciled within a state, the *Principles* state that it “must register in accordance with the law of that state if its non-Internet activities alone would be sufficient to require registration.” An out-of-state entity must also register, even without substantial non-Internet activities in the state, if it solicits contributions through an interactive website and it either specifically targets persons physically located in the state, or if it receives contributions from the state on a repeated and ongoing basis or a substantial basis through its website. If the entity solicits contributions through a site that is not interactive, but it specifically invites further offline

activity to complete a contribution, or it establishes other contacts with that state, such as sending e-mail messages or other communications that promote the website, it must register if the entity also either specifically targets persons physically located in the state for solicitation, or it receives contributions from persons within such state on a repeated and ongoing basis or a substantial basis through its website. Several of these terms are specifically defined and examples are provided in the *Principles*. The *Charleston Principles* are available on the NASCO website, <http://www.nasconet.org>.

## **G. Donor Privacy**

There is no federal law or California state law that mandates organizations observe standards of donor privacy. Nevertheless, because raising funds necessarily involves collecting personal and confidential information from donors, a nonprofit should be aware of its donor's interest in protecting that information. Various attorneys general, charity watchdog groups and fundraising associations have advocated that nonprofits undertake measures to protect the privacy of their donors.

A nonprofit organization can use information about donors such as giving history, age, location, etc. in order to target specific individuals who may be potential donors. There is no ethical or legal problem with this use of information. Staff and volunteers of the organization who handle such information should be instructed as to how to handle and protect confidential information. The organization should not, however, share, trade or sell contact information from donors without obtaining the donor's permission.

It is a good practice for a nonprofit to incorporate a donor privacy policy into its fundraising materials to reassure donors that the organization respects their privacy interests. Generally speaking, an organization's policy should discuss how it will use donor information, with whom donor information is shared, if at all, and how donors can have themselves removed from the organization's mailing list, if they choose to do so. A policy on donor privacy can be published in various fundraising and public relations materials, such as appeals, contribution receipts, annual reports, and especially on the organization's website.

## **H. Additional Resources**

The following documents provide guidelines and standards for fundraising activity:

*Principles for Good Governance and Ethical Practice: A Guide to Charities and Foundations*, "Responsible Fundraising," Panel on the Nonprofit Sector, available online at [http://www.nonprofitpanel.org/report/principles/Principles\\_Guide.pdf](http://www.nonprofitpanel.org/report/principles/Principles_Guide.pdf)

*Seven Standards*, "Standard 7 - Fund-Raising" Evangelical Council for Financial Accountability, available online at <http://www.ecfa.org/Content/7Standards.aspx>

*Standards for Charity Accountability*, “FUND RAISING AND INFORMATIONAL MATERIALS,” BBB Wise Giving Alliance, available online at <http://www.bbb.org/us/Charity-Standards/>

*Donor Bill of Rights*, Association of Fundraising Professionals, available online at [http://www.afpnet.org/files/ContentDocuments/Donor\\_Bill\\_of\\_Rights.pdf](http://www.afpnet.org/files/ContentDocuments/Donor_Bill_of_Rights.pdf)

#### **4. Considerations and Procedures for Implementation of the Policy**

Prior to adoption, it should be determined where the policy should be placed in the organization’s documentation. Alternatives may include, for example, in a board policies and procedures manual or as a stand-alone item. A fundraising policy should be regularly reviewed by the directors, officers and staff of the organization who are engaged in fundraising activity. The manner in which the policy must or will be adopted – such as by the board of directors, by the members, or both – should also be determined. In every case, the policy should be disseminated to all affected constituencies such as, for example, employees, directors, members and volunteers. Finally, the client should be cautioned that the organization should only adopt policies which it is confident it can follow. It could well be worse to adopt a policy which is not followed than to have no policy at all.

Consideration should also be given to adopting and implementing a Gift Acceptance Policy. A separate discussion of Gift Acceptance Policies is included in this *Form 990 Policy Series*.

## **5. Sample Fundraising Policy**

### **Fundraising Policy**

The Board of Directors of ORGANIZATION recognizes that the organization engages in fundraising and solicitation activity from time to time. In order to comply with federal, state and local laws, as well as applicable ethical norms regarding fundraising activity, the Board has established this fundraising policy.

A. OVERSIGHT – All fundraising activity for ORGANIZATION is supervised, coordinated and directed by [OFFICE/OFFICER/STAFF]. The Board [or Committee of the Board] shall annually review all fundraising activity by ORGANIZATION.

B. USE OF FUNDRAISING PROFESSIONALS - Third parties not directly affiliated with the organization must have written permission from [OFFICER/STAFF] prior to any solicitation on behalf of ORGANIZATION. Third party fundraisers engaged by ORGANIZATION must be registered with appropriate state and local authorities, and their representation of the organization must be evidenced by a written agreement approved by ORGANIZATION.

#### C. TRUTH AND ACCURACY

1. All solicitation and fundraising materials and other communications to donors and the public shall clearly identify the ORGANIZATION and be accurate and truthful.

2. [OFFICER/STAFF] shall review fundraising or solicitation materials prior to publication for:

a. material omissions or exaggerations of fact, use of misleading photographs, or any other communication which would tend to create a false impression or misunderstanding; and

b. any statements or content that would tend to create unrealistic donor expectations of what the donor's gift will actually accomplish.

D. DONOR ACKNOWLEDGMENT - ORGANIZATION shall provide all donors with specific acknowledgments of charitable contributions, where applicable, in accordance with legal requirements for proper donor substantiation and the organization's disclosure.

#### E. SUPERVISION AND TRAINING

1. ORGANIZATION shall provide appropriate training and supervision of the people soliciting funds on its behalf, whether employees or third party

representatives, including training to attempt to avoid use of techniques that are coercive, intimidating or intended to harass potential donors.

2. ORGANIZATION shall attempt to avoid accepting a gift from or entering into a contract with a prospective donor which would knowingly place a hardship on the donor, or place the donor's future well-being in jeopardy.

F. COMPENSATION – ORGANIZATION shall pay fundraisers no more than reasonable compensation for their services. [ORGANIZATION shall not compensate internal or external fundraisers based on a commission or a percentage of the amount raised.]

G. DONOR PRIVACY POLICY - ORGANIZATION respects the privacy of donors.

1. ORGANIZATION shall not sell or otherwise make available the names and contact information of its donors, except where disclosure is required by law [without providing them an opportunity at least once a year to opt out of the use of their names and contact information].
2. [ORGANIZATION shall not send mailings on behalf of other organizations.]
3. ORGANIZATION shall provide a clear, prominent and easily accessible privacy policy on any of its websites that tells visitors:
  - i. What information, if any, is being collected about them and how this information will be used;
  - ii. How to access personal information collected and request correction;
  - iii. How to inform ORGANIZATION that the visitor does not wish his/her personal information to be shared outside the organization; and
  - iv. What security measures ORGANIZATION has in place to protect personal information.

H. COMPLIANCE WITH LAW – In addition to any other requirements of this policy, all fundraising activities for ORGANIZATION shall be conducted in accordance with applicable law.

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