

Educational Institutions Are Not Totally Exempt From State Charitable Solicitation Registration Requirements

An organization that solicits charitable contributions nationally must typically register in 39 states and the District of Columbia before it starts to solicit unless it is a type that is specifically excluded or exempt under a state's charitable solicitation registration statute. Educational institutions and their related foundations are exempt from registration under many state laws. But they are not exempt from all.

Educational institutions are required to register in about a dozen states and are required to formally apply for exemption in approximately 10 others in order to legally solicit contributions in those states. Educational institution foundations are required to register in approximately 18 states and formally apply for exemption in about 8 others. Because states are increasing their enforcement efforts to ensure that organizations are complying with their initial and annual registration requirements, it is important for educational institutions, their related foundations, and other charitable organizations to ensure that they are in compliance with these statutes ----- especially since noncompliance can result in the imposition of significant fines and penalties.

Registering usually involves submitting an annual registration statement, audited financial statements, a copy of the organization's IRS Form 990, and, in most cases, a registration fee. For an initial registration, an organization is also typically required to submit copies of its articles of incorporation, by-laws, IRS determination letter, and other documents. In addition, the for-profit professional fundraisers that charitable organizations often hire to assist them with their fundraising efforts are also required to register and file their contracts and other documentation with many states. Some states have refused to allow an organization to solicit contributions if its professional fundraiser has failed to register, and have gone after unregistered organizations when their fundraisers register.

Most individual state registration requirements, in and of themselves, are not overly complicated. However, cumulatively, the various requirements, with their frequently inconsistent due dates and state-specific variations, unquestionably require significant amounts of time, money, and attention to comply ----- whether an organization

handles the process in-house or hires a law firm or other entity to file all the required paperwork and forms within the required timeframes.

Montgomery, McCracken has developed an efficient, cost-effective system to prepare and file the voluminous paperwork and forms that must be filed by educational institutions, their related foundations, and other charitable organizations each year. Organizations that are currently handling this burdensome function in-house, or who are paying more than Montgomery, McCracken's flat fee charge for these services, should contact Karl Emerson, former Director of the Pennsylvania Bureau of Charitable Organizations and former President of the National Association of State Charity Officials, at (215) 772-7314 or at kemerson@mmwr.com to discuss how Montgomery, McCracken can help them more cost-effectively comply with these often complicated and confusing statutes. Those organizations that have been, or are, soliciting contributions in violation of these state solicitation statutes should contact Karl to discuss the most appropriate strategy for getting the organizations into compliance with these statutes as soon as possible.



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