



You Got 501(c)(3) Status: Now What?

Rachel Spears
July 19, 2012

Mission of Pro Bono Partnership of Atlanta:

To provide free legal assistance to community-based nonprofits that serve low-income or disadvantaged individuals. We match eligible organizations with volunteer lawyers from the leading corporations and law firms in Atlanta who can assist nonprofits with their business law matters.

Pro Bono Partnership of Atlanta Eligibility & Other Information

- In order to be a client of Pro Bono Partnership of Atlanta, an organization must:
 - ✓ Be a 501(c)(3) nonprofit organization.
 - ✓ Be located in or serve the greater Atlanta area.
 - ✓ Serve low-income or disadvantaged individuals.
 - ✓ Be unable to afford legal services.
- Visit us on the web at www.pbpatl.org
- Host free monthly webinars on legal topics for nonprofits
 - ✓ To view upcoming webinars or workshops, visit the [Workshops Page](#) on our website

Format of Today's Webcast

- Very high level overview of legal considerations for nonprofits
- Links take you to articles and webcasts that provide more information
- Reserve questions for the end
- Questions should be general; we cannot provide legal advice

What best practices should the board follow in governing the organization?

- Board should consist of at least 3 unrelated individuals.
- Be familiar with and follow Articles and Bylaws.
- Have regular, well-planned meetings
 - ✓ “How to Prepare for and Run a Board Meeting” webcast:
 - <http://www.pbpatl.org/resources/how-to-prepare-for-and-run-a-board-meeting>
 - ✓ Georgia’s Sunshine Laws

➤ Know and understand fiduciary duties.

✓ Duty of care

- “Getting on Board: Questions Board Members Should Ask”
webcast: <http://www.pbpatl.org/resources/corporate-governance/getting-on-board-questions-board-members-should-ask>

✓ Duty of loyalty

- ✓ “Fiduciary Duties of Georgia Nonprofit Directors” article:
 - http://www.pbpatl.org/wp-content/uploads/2011/12/Duties_and_Responsibilities_of_Nonprofit_Directors_11.pdf

➤ Keep good records

✓ Corporate minutes

- “Keep Corporate Minutes” article: <http://www.pbpatl.org/wp-content/uploads/2011/12/CorporateMinutesDCBar1.pdf>

✓ Employee records

✓ Accounting and tax records, financial statements

✓ Contracts

✓ Document retention policy

- “Document Retention Policies” article: <http://www.pbpatl.org/wp-content/uploads/2011/12/documentretention1.pdf>

- Implement internal controls over finances
 - ✓ “Good Financial Policies for Nonprofits” workshops:
 - <http://www.pbpatl.org/resources/good-financial-policies-for-nonprofits-101> and <http://www.pbpatl.org/resources/good-financial-policies-for-nonprofits-102>
- Obtain insurance
 - ✓ “Insurance for Nonprofits” webinar:
 - <http://www.pbpatl.org/resources/insurance-for-nonprofits>
 - ✓ Property and casualty insurance
 - ✓ Directors & officers insurance
 - “Do You Know D & O?” webcast:
<http://www.pbpatl.org/resources/do-you-know-d-and-o>

- For more information on corporate governance
 - ✓ “Good Corporate Governance” webinar:
 - <http://www.pbpatl.org/resources/good-corporate-governance>
 - ✓ “Practical Advice About the Legal Responsibilities of Board Members” webinar:
 - <http://www.pbpatl.org/resources/practical-advice-about-the-legal-responsibilities-of-board-members>
 - ✓ “Principles for Good Governance and Ethical Practice” article:
 - http://www.pbpatl.org/wp-content/uploads/2011/12/Principles_Guide1.pdf

How do I keep my 501(c)(3) status?

- Maintaining 501(c)(3) Exemption
 - ✓ Monitor operations for IRS compliance
 - ✓ Notify the IRS if you make changes
 - ✓ Review Form 1023
 - ✓ Review Form 990

➤ Political Activity

✓ No amount of political campaign activity is allowed

- Political Activity Guidelines: <http://www.pbpatl.org/wp-content/uploads/2011/12/PoliticalActivityGuidelinesDCBar1.pdf>

✓ Lobbying

- Cannot have a substantial amount of lobbying activity
- “Lobbying vs. Advocacy” article: <http://www.pbpatl.org/wp-content/uploads/2012/06/Advocacy-vs-Lobbying.pdf>
- “Registering as a Lobbyist in Georgia” article: http://www.pbpatl.org/wp-content/uploads/2011/11/Registering_as_a_Lobbyist_In_GA_-_Legal_Update_5-16-11_21.pdf

✓ Upcoming webcast

- “Lobbying and Political Activity for Nonprofits”: August 16, 2012
10:00-11:00 AM

➤ Unrelated Business Income

- ✓ Income from a regularly carried on trade or business that's not substantially related to the organization's exempt purpose
- ✓ Exceptions
- ✓ "Unrelated Business Income" webcast:
 - <http://www.pbpatl.org/resources/unrelated-business-income>
- ✓ "UBIT: Four Letters Your Nonprofit Needs to Know" article:
 - <http://www.pbpatl.org/wp-content/uploads/2011/12/ubit1.pdf>
- ✓ "Alternative Fundraising" article:
 - <http://www.pbpatl.org/wp-content/uploads/2011/12/AlternativeFundraising1.pdf>

➤ Public disclosure requirements

- ✓ Form 990
- ✓ Form 1023
- ✓ IRS determination letter
- ✓ “Nonprofit Transparency” article:
 - <http://www.pbpatl.org/wp-content/uploads/2011/12/publicdisclosure2.pdf>

➤ Donor contributions and acknowledgment

✓ “Charitable Contributions: Substantiation and Disclosure Requirements” article:

- <http://www.pbpatl.org/wp-content/uploads/2011/12/CharitableContributions21.pdf>

✓ Written acknowledgment

- “Guide to Sending Acknowledgments for Donations” article:
http://www.pbpatl.org/wp-content/uploads/2011/12/Acknowledgement_Guide_Revised12_2_11_21.pdf

✓ Quid pro quo contribution

✓ Services

✓ Goods or property

- “Vehicle Donations” article: <http://www.pbpatl.org/wp-content/uploads/2011/12/VehicleDonations1.pdf>

➤ Private benefit and private inurement

- ✓ Insiders

- ✓ “Private Inurement” article:

- <http://www.pbpatl.org/wp-content/uploads/2011/12/PrivateInurement1.pdf>

➤ Executive compensation

- ✓ “How to Avoid Excess Benefit Transactions When Compensating Insiders” article:

- http://www.pbpatl.org/wp-content/uploads/2011/12/Excess_BenTran11.pdf

- ✓ “Nonprofit Executive Compensation” article:

- <http://www.pbpatl.org/wp-content/uploads/2011/12/ExecutiveCompensationAlert1.pdf>

➤ Conflicts of Interest

✓ Conflict of interest policy

- “Conflict of Interest Policies: Disclosure, Monitoring, and Enforcement” article: <http://www.pbpatl.org/wp-content/uploads/2011/12/conflictinterest1.pdf>

✓ “Competing Professional or Personal Interests: When Somebody's Gain is Your Organization's Loss” webcast:

- <http://www.pbpatl.org/workshops-and-webcasts/competing-professional-or-personal-interests-when-somebodys-gain-is-your-organizations-loss>

- For more information on compliance
 - ✓ “Compliance Guide for 501(c)(3) Charities”:
 - http://www.pbpatl.org/wp-content/uploads/2011/12/compliance_guide2.pdf

We don't have to worry about taxes since we're tax exempt, right?

- 501(c)(3) tax exemption relates to federal income tax
- Exception for Unrelated Business Income
- Annual Filings
 - ✓ Form 990
 - ✓ Form 990-EZ
 - ✓ Form 990-N (e-Postcard)
 - ✓ Form 990-T (if UBIT)
 - ✓ IRS Form 990 FAQ:
 - <http://www.pbpatl.org/wp-content/uploads/2011/11/FAQs+about+Form+9901.pdf>

➤ Georgia Filing Requirements

✓ Tax exemption

- “Georgia State Income Tax Exemption for 501(c)(3) Organizations”
article: <http://www.pbpatl.org/wp-content/uploads/2012/05/State-Exemptions.pdf>

✓ Form 990, 990-EZ or 990-N and Form 600-T

➤ Payroll taxes

- Medicare and Social Security
- Georgia payroll taxes
- Unemployment
- Payroll service providers

✓ Sales and Use Tax

- Few exemptions for nonprofits
- “Sales Tax” webinar: <http://www.pbpatl.org/resources/sales-tax>
- “Sales and Use Tax in Georgia” article:
http://www.pbpatl.org/wp-content/uploads/2011/12/salesandusetaxmemo_21.pdf

✓ Real Property

- “Georgia’s Property Tax System and General Tax Law Information for Nonprofits” webcast:
<http://www.pbpatl.org/resources/georgias-property-tax-system-and-general-tax-law-information-for-nonprofits>

✓ Personal Property

➤ For more information on taxes

✓ “Taxes for Tax-Exempt Organizations” article:

- <http://www.pbpatl.org/wp-content/uploads/2011/12/Taxesfortaxexemptarticleandchart11.pdf>

Does my organization have to file anything else with the state?

- Annual Corporate Registration
- Registration as a Foreign Corporation
- “Doing Business As” or trade names
 - ✓ “How to Submit a ‘Doing Business As’ (DBA) or Trade Name in Georgia” article:
 - <http://www.pbpatl.org/wp-content/uploads/2011/12/DoingBusinessAs1.pdf>
- Business licenses
 - ✓ “Does Your Nonprofit Need a Business License?” article:
 - <http://www.pbpatl.org/wp-content/uploads/2011/12/Businesslicensetips1.pdf>

➤ Charitable Solicitation Registration

✓ GA Form C-100

- “Charitable Registration in Georgia” article:

<http://www.pbpatl.org/wp-content/uploads/2011/12/CharitableRegistrationinGeorgia1.pdf>

✓ Registration in other states

- www.multistatefiling.org

✓ “Charitable Solicitation” webinar:

- <http://www.pbpatl.org/resources/charitable-solicitation>

➤ Raffle licenses

✓ “Conducting Raffles” article:

- <http://www.pbpatl.org/wp-content/uploads/2011/12/Raffles1.pdf>

➤ For more information on required filings

✓ “Required Filings for Nonprofit Organizations” guide:

- http://www.pbpatl.org/wp-content/uploads/2011/11/Article_-_Filing_Requirements_for_Nonprofit_Organizations1.pdf

What do we need to do when we hire our first employees?

➤ Hiring and firing

✓ “Hiring and Firing: Playing Within the Legal Boundaries”
webcast:

- <http://www.pbpatl.org/workshops-and-webcasts/hiring-firing-playing-within-the-legal-boundaries>

➤ Background screenings

✓ “Background Screening for Employees and Volunteers” article:

- http://www.pbpatl.org/wp-content/uploads/2011/12/Background_Screening_for_Volunteers_and_Employees_12-10-10_6_1.pdf

✓ “Background Screening for Nonprofits” article:

- <http://www.pbpatl.org/wp-content/uploads/2011/12/BackgroundScreeningUpdated1.pdf>

✓ “Waivers and Background Checks” webinar:

- <http://www.pbpatl.org/resources/waivers-background-checks-webinar>

➤ “Immigration Business Law Update” webcast:

- ✓ <http://www.pbpatl.org/workshops-and-webcasts/immigration-business-law-update>

➤ Classifying workers

- ✓ “Classifying Workers as Employees or Independent Contractors” article:
 - http://www.pbpatl.org/wp-content/uploads/2011/11/Worker_Classification1.pdf
- ✓ “Employment Law 101: Classifying Workers” webcast:
 - <http://www.pbpatl.org/resources/employment-law-101-classifying-workers>
- ✓ “Wage and Hour Law for the Nonprofit Organization” article:
 - <http://www.pbpatl.org/wp-content/uploads/2011/12/FLSA1.pdf>

➤ Paying Employees

- ✓ “Employment Law 102: Employees & the Fair Labor Standards Act” webcast:

- <http://www.pbpatl.org/resources/employment-law-102-employees-the-fair-labor-standards-act>

- ✓ “The Nuts and Bolts of Paying Employees” article

- <http://www.pbpatl.org/wp-content/uploads/2012/06/Nuts-and-Bolts-of-Paying-Employees-in-Georgia.pdf>

➤ Employee evaluations

- ✓ “Employee Evaluations-Legal Issues to Consider” webcast:

- <http://www.pbpatl.org/workshops-and-webcasts/employee-evaluations-legal-issues-to-consider>

➤ Worker's compensation

✓ “Georgia Worker's Compensation Basics” article:

- http://www.pbpatl.org/wp-content/uploads/2011/11/PBPA_WC_Guidelines1.pdf

➤ Other Employment Laws

✓ Employment Discrimination Laws:

- <http://www.pbpatl.org/wp-content/uploads/2012/06/Employment-discrimination-laws-1.pdf>

✓ Employment law table:

- <http://www.pbpatl.org/wp-content/uploads/2011/12/EmploymentLawTable1.pdf>

✓ “Employer Posting Requirements” article:

- <http://www.pbpatl.org/wp-content/uploads/2012/05/Employer-Posting-Requirements- 2 .pdf>

Do we have to provide benefits to employees?

- “Employee Benefits: Frequently Asked Questions”:
 - ✓ <http://www.pbpatl.org/wp-content/uploads/2012/04/Benefits-Overview.pdf>
- Employer Tax Benefit
 - ✓ For providing health insurance to employees:
 - <http://www.pbpatl.org/nonprofit-legal-alerts/update-on-tax-credit-for-providing-health-insurance-to-employees>

➤ Continuation of Health Insurance

✓ “Confused about COBRA? Understanding Federal & State Continuation of Health Insurance Coverage” article:

- http://www.pbpatl.org/wp-content/uploads/2012/05/pbp_cobra_articlerevised1.pdf

What if we need to let an employee go?

➤ Disciplining and terminating employees

- ✓ “Best Practices for Disciplining or Terminating the Nonprofit Employee” article:

- <http://www.pbpatl.org/wp-content/uploads/2011/12/EmployeeDisciplineandTerminationRevised11.pdf>

- ✓ Social media article:

- <http://www.pbpatl.org/wp-content/uploads/2012/06/Social-Media-4-.pdf>

➤ Unemployment insurance

✓ “Does Your Nonprofit Employ Four or More? Know Your Unemployment Obligations” article:

- <http://www.pbpatl.org/wp-content/uploads/2012/03/Does-Your-Nonprofit-Employ-Four-or-More.pdf>

✓ “Unemployment Insurance for Nonprofit Organizations” article:

- http://www.pbpatl.org/wp-content/uploads/2011/11/Unemployment_Insurance_for_Nonprofits1.pdf

✓ “Georgia Unemployment Insurance” webcast:

- <http://www.pbpatl.org/resources/georgia-unemployment-insurance>

Are there any risks with having volunteers?

- “Securing Waivers of Liability from Volunteers” article:
 - ✓ http://www.pbpatl.org/wp-content/uploads/2011/12/DCBar_Alert-Waivers_of_Liability_for_Volunteers11.pdf
- “Addressing the Risks of Working with Volunteers” article:
 - ✓ <http://www.pbpatl.org/wp-content/uploads/2011/12/RisksofVolunteers1.pdf>
- “Legal Issues in Managing Volunteers” workshop
 - ✓ <http://www.pbpatl.org/resources/legal-issues-in-managing-volunteers>

How do I protect my organization's logo, publications, and other intellectual property?

➤ Trademark

✓ “Trademarks” article:

- <http://www.pbpatl.org/wp-content/uploads/2011/12/Trademark1.pdf>

➤ Copyright

➤ Patent

- For more information on intellectual property
 - ✓ “Truths & Myths about Trademarks & Copyrights” webcast
 - <http://www.pbpatl.org/resources/truths-myths-about-trademarks-copyrights>
 - ✓ “What Nonprofits Should Know about Intellectual Property” article:
 - <http://www.pbpatl.org/wp-content/uploads/2011/12/IPforNonprofitsDCBar1.pdf>
 - ✓ Intellectual property and the organization’s website
 - “Website Legal Audit” article: http://www.pbpatl.org/wp-content/uploads/2011/12/Website_Legal_Audit1.pdf
 - “Best Practices for a Legally Compliant Website” webinar: <http://www.pbpatl.org/resources/best-practices-for-a-legally-compliant-website>

Other Helpful Links

- Staying Legal: General Guidelines for Operating a 501(c)(3) in Georgia:
 - ✓ <http://www.pbpatl.org/wp-content/uploads/2011/12/ProBonoSinglePages1.pdf>
- Nonprofit Risk Management Center
 - ✓ www.nonprofitrisk.org

➤ Foundation Center

- ✓ www.foundationcenter.org

➤ Georgia Secretary of State

- ✓ First Stop Business Information Center

www.sos.state.ga.us/firststop/default/htm

- ✓ FAQs for Corporations

www.sos.state.ga.us/corporations/faq/htm

- ✓ Charitable Solicitation Registration

www.sos.state.ga.us/securities/charities_paid_solicitors.htm

➤ Internal Revenue Service

- ✓ www.irs.gov/charities
- ✓ www.stayexempt.org

➤ Department of Labor

- ✓ www.dol.gov/compliance (U.S.)
- ✓ www.dol.state.ga.us/em (Georgia)

For More Information:

If you would like more information about the services of Pro Bono Partnership of Atlanta, contact us at:

Phone: 404-407-5088

Fax: 404-853-8806

Info@pbpatl.org

www.pbpatl.org