



This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

You've Been Served: What to Do When Your Nonprofit Receives Legal Papers

Your nonprofit follows the rules; you try to operate legally and in compliance with every state and federal regulation that applies to you. Nevertheless, the day comes when you receive legal papers. Perhaps it's a subpoena or a summons. Maybe it's a request for information from a government agency, like the EEOC. No matter what form it comes in, you have been notified of a legal obligation that you have to fulfill. You've been served. And ignoring it won't make it go away.

If you have been formally served with legal papers, you probably received a subpoena, a summons, or a writ.

A **subpoena** is a command to appear and give testimony at a deposition or trial or an order to produce documents. Pay special attention to the dates – when you might have to appear, the deadline for producing documents, and the date by which you must object. Also determine the type and amount of information you may have to disclose; it could be sensitive and breach confidentiality or could be time consuming and expensive to produce. Consult with your legal counsel about how to respond. You may be able to arrange to get more time or limit the scope of requested documents.

A **summons** is a command to respond to a complaint in which the plaintiff seeks monetary damages, equitable relief, or both. You're being sued. You will not have much time to respond and failure to respond in a timely fashion can be devastating. Record the date, time and way you were given or received these papers. You should immediately notify your legal counsel, your board and your insurance broker. Don't try to avoid service, and don't contact the plaintiff or the plaintiff's attorney.

Writs execute court orders and judgments. This includes garnishments, which are court orders for a third party to deliver property or money it holds on behalf of another to a court for a debt owed. You may be served with a writ of garnishment even if you have nothing to do with the debt. For example, if one of your employees owes money, you may be required to pay the debt out of the employee's wages. **If you do not comply or respond to the writ, you will become financially responsible for the debt.** If you are not familiar with garnishments, immediately consult legal counsel for assistance and watch our webcast at <http://www.pbpatl.org/workshops-and-webcasts/garnishment-in-georgia>.

Even if you aren't formally served, there are other notices that your nonprofit should not ignore. For instance, you might be notified that a government agency, such as the IRS or the Department

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of Labor, is requesting information from your organization. Or a government agency may send an agent to your premises to meet you and examine your operations. This could be an indication that your organization is under government scrutiny. Immediately notify your legal counsel for advice on how to respond. You usually do not have to start providing information to the agent immediately. You can contact your attorney first.

In closing, don't bury your head in the sand when you receive a legal notice. Being served isn't a guarantee that something negative will happen to your organization. *Ignoring* service is.

Remember, Pro Bono Partnership of Atlanta clients can contact us for assistance in these situations.

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