

PBPA Podcast Transcript
Episode 13- Strategies to Minimize and Manage Vendor Disputes
(11:39 minutes)



Sireesha ([00:01](#)):

What options does your nonprofit have when a dispute arises with the vendor or they're not fulfilling their end of the deal? Whether you have a written contract, a handshake agreement, or neither, we will discuss your legal options with Curtis Romig and this episode of the PBPA Podcast.

Sireesha ([00:21](#)):

Hello and welcome to the PBPA Podcast. In each episode of the PBPA Podcast, we explore legal questions relevant to Georgia nonprofits. I'm your host Sireesha Ghanta, Counsel and Education Director at the Pro Bono Partnership of Atlanta. PBPA strengthens our community by engaging volunteer attorneys, to provide nonprofits with free business legal services. We provide numerous free resources via our website, including articles and webcasts specific to Georgia nonprofits and their business legal concerns. We also provide direct legal services to our clients. For more information on client eligibility requirements, to apply to be a client or to access our vast learning center, visit our website at pbpatl.org. Before we jump into this episode's topic, keep in mind that this podcast is general information, not legal counsel. Contact your attorney for guidance on your nonprofits' specific situation.

Sireesha ([01:29](#)):

Curtis Romig is a litigation partner at the law firm of Bryan Cave and their Atlanta office litigation leader. This means Curtis is incredibly knowledgeable about managing and mitigating vendor disputes. He's also a dedicated PBPA volunteer and a member of our advisory board. Thanks for joining us today, Curtis,

Curtis ([01:51](#)):

Thank you, Sireesha. Happy to be here.

Sireesha ([01:53](#)):

Today. We're going to talk about strategies to manage vendor disputes and avoid potential litigation. I have feeling that the first thing that you might say is to put everything into a contract, but what if a nonprofit already has a dispute or disagreement with the vendor and they never signed a contract with them?

Curtis ([02:15](#)):

Well, I think the first thing you should try to do is communicate with your vendor or your partner because they're there, it's a business relationship and it's something you need to take care of. And with any relationship communication is the first key to understanding, uh, what they're expecting from you and to tell them what you're expecting from them. So I would communicate with them. And then even though you might not have a written contract, if there's an invoice or some kind of purchase order in the relationship that may have terms and conditions that you need to know. So if you've been paying on an invoice basis, you might flip that invoice over and see if there are any standard terms and conditions on the back, because those might bind you.

Sireesha ([02:58](#)):

That's true. There's often those terms and conditions hiding on the back of an invoice. But sometimes those contracts that aren't on an invoice can be long and kind of hard to understand. Can a nonprofit organization rely on what their vendors says in their sales calls or emails?

Curtis ([03:19](#)):

Generally the answer is probably going to be no, but I think that again, might depend on your relationship. If you have a very good relationship with a vendor, uh, you might be able to get them to do things, uh, that they would do for a good customer, just like any good customer service relationship, but generally statements made by a business partner that you have a contract with would not bind them. It would be what was in the contract, what they had written down and what you had signed. If you have that written agreement, check that first. It's possible over time that if you develop changes in the way the relationship works and repeatedly do things that what is in the contract, that changed. But all these things are going to be based on your specific situation. So like the first thing I would recommend you do is to call the PBP of Atlanta, uh, to see if they can help you. If you, you have a serious situation. But as we mentioned in the first answer, please call the vendor and just talk with them and say, you know, "Hey, we expected you to deliver XYZ product or XYZ service and it didn't come the way we thought it would. And we wanted to talk to you about that and talk to you about our expectations in the relationship."

Sireesha ([04:31](#)):

If they have a contract, if a nonprofit organization does have a written contract, but they never got to actually negotiate the terms, like if it's a click-wrap agreement where you just checkmark boxes and accept it, how should a nonprofit approach a situation like that if they have a dispute with a vendor?

Curtis ([04:51](#)):

Well, I think again, you're going to have to read that and if you can understand what the terms are, uh, I think you, that will give you some guidance as to what you can expect or what their failure to perform, might, uh, might, what rights does failures might give to you? Um, but generally with the click-wrap agreement, as you mentioned, um, those types of agreements are non-negotiable. You know, it's like when you sign a mortgage for a house, uh, you're not going to negotiate the terms of the 50 documents you signed at the closing. Most of those are standard terms and you're not in a leveraged position where you can change those terms. So you're bound by those terms, but again, communication might help you better understand those. And if you're in a situation where the vendor's being inflexible or you think being unreasonable, then you might need to seek some legal assistance to help you understand those terms better.

Curtis ([05:44](#)):

And also you need to figure out whether the problems that you're encountering in the relationship matter? Are they material to the performance that you're expected to receive? Or is it something minor that you can probably, you know, let go or try to just get some sort of have that address slightly by, by the vendor. You know, your expectations in those relationships might vary depending upon the vendor. Some vendors are better than others. Some provide better customer service and unfortunately trial and error in this situations can sometimes be the only way to learn. But you have to decide whether the dispute is worth your time and your money to fight. It might just be a situation where you need to cancel the contract and move on and find a different vendor. If it's a \$50 problem, uh, it may not be your

organization's time to deal with it. Uh, if it's, uh, you know, several thousand dollar problem, that's a different situation. Um, and that may be something we need some help with, which we know, the PBP would be happy to provide.

Sireesha (06:45):

And what about if it's a situation where it's, we had talked about DocuSign and if it's where some, a vendor sent you over a DocuSign agreement, um, is there room for change in those?

Curtis (06:56):

I think you just have to ask, frankly, I mean, the tendency with those DocuSign, I mean, I have done them before personal in personal situations that sometimes you just want to click through and get it over as quickly as possible, because it's not about that. It's not your priority for the day signing this agreement, but would benefit you to just take some time and read the agreement. And if you have questions before you sign it, uh, don't just go ahead and sign it, make sure you can either email or call the company that you're about to do business with and say, "I read your, your DocuSign. And I had a question about this term and what you think it means or what it means for the relationship". Um, again, you're starting with communication and it's, asking questions is never, never the wrong answer in my opinion. So if you're unsure about what something means or what it might be binding your organization to do, ask the question, if the vendor's answer, doesn't satisfy you, then that might be another situation where you just make a quick call, PBP, Atlanta and see if they can find a volunteer to help you.

Sireesha (08:00):

And, um, sometimes in those initial stages, that's where a vendor might be more open to making, uh, accommodations, before they've signed the agreement. After that point, they may not be as open to changes.

Curtis (08:13):

Right? I mean, I think find out whether it's their form contract or whether there are certain things they might be able to change, or you could say, you know, we don't need this part of your services. So can we take this part out of the contract, but that's your time to ask questions. Like you said, they want your business presumably, or they want to help you because your a nonprofit that matters to them. Uh, so ask the question and see what the answer is, and that can also let you know what kind of business partner they might be going forward.

Sireesha (08:42):

True. And then after the contract is signed, do you have any tips for what a nonprofit can do to prevent a dispute from becoming a lawsuit, if theres problems that arise?

Curtis (08:56):

Sure. I don't want to sound like a broken record, but communication is so key to these, uh, situations to preventing a minor disagreement from becoming something where, uh, folks have gotten their feelings hurt, or they feel like the other side to being unreasonable. And next thing you know, you're marching down a path that you never intended. So I think open communication, uh, both verbal and written. Um, if you have some clear questions you want to ask an email might be the best way to send that so that you can get them to respond to you in writing. Uh, if you have a, it's a vendor you've been doing business with for a long time and just, you know, a problem has come up that hadn't come up before, I

would give them a call first and give them the courtesy of saying, "Hey, we would love you guys. You know we have a great relationship, but the last, uh, last time you guys provide services or products, these problems came up, we hadn't had this before and I wanted to give you a chance to address it." So I think, you know, you want to communicate and see what their response is to that. And if it's, if it's a material dispute, it may be important for you to begin putting those communications in writing so that, uh, your memory of what the conversation was, is not tested. It's often better to have an email, even if it's more formal, uh, that just allows you to clearly remember what was said in the communication. Sometimes a phone call, uh, can be hard to recall.

Sireesha ([10:21](#)):

So, when a problem does arise, a nonprofit should communicate [those concerns] with its vendor and create a paper trail to document those communications. These tips are all incredibly helpful, Curtis, um, and they can help nonprofits manage their vendor disputes. Thank you so much for sharing this with us today.

Curtis ([10:42](#)):

No problem. Hopefully with communication and good relationships, you can keep these things to matter minor disputes and only call us when it's a material or a real problem for your organization.

Sireesha ([10:55](#)):

We hope that you found this episode of the PBPA Podcast to be informative and helpful. We add new episodes every month with short conversations about general, yet important legal information for Georgia nonprofits. Remember that this is not legal counsel. Talk to your attorney about your organization's specific concerns. Thanks for tuning into the PBPA podcast and to all nonprofits listening out there, thank you for all the good work you continue to do in our community.