

**PBPA Podcast Transcript**  
**Episode: 2021 Legal Outlook for Georgia Nonprofits**  
**(12:59 minutes)**



**Sireesha 0:00**

Hello and welcome to the PBPA Podcast. I'm your host Sireesha Ghanta. It's a new year and today, our guest will be answering questions about the legal outlook for nonprofits in 2021. Before I introduce today's guest, I'd like to tell you, our audience, a bit about the Pro Bono Partnership of Atlanta. PBPA strengthens our community by engaging volunteer attorneys to provide nonprofits with free business legal services. For more information on who is eligible to be a client, or to apply for consideration, visit our website at [pbpatl.org](http://pbpatl.org). Our website also has tons of resources, including articles and webcasts and previous podcasts that are specific to Georgia nonprofits and their business legal concerns. Please keep in mind that this podcast is general information. It is not legal counsel, contact your attorney for guidance on your nonprofit's specific situation.

And now to share her insight on the legal landscape for nonprofits in 2021 is attorney and executive director of PBPA, Rachel Spears. Hey, Rachel, thanks for joining me today.

**Rachel 1:18**

Thanks Sireesha. Happy to be here.

**Sireesha 1:20**

So, 2020 was intense. It was a year full of many major events with COVID-19 at the forefront. For nonprofits that created concerns around COVID-related liability, layoffs, PPP loan application and forgiveness, just to name a few. What should nonprofits be keeping in mind as they enter 2021 and as COVID starts to hopefully come under control?

**Rachel 1:47**

Well, I think one of the big things in the news right now is the COVID vaccine. And a question we're starting to get from our nonprofit clients is whether employers can require their employees to get vaccinated before coming back to work. And we have [an article](#) on this. I'm gonna refer a lot to the resources that we have available for more information. But generally speaking, employers can require their employees to get vaccinated before coming back to work. There are a few exceptions, if an employee has some sort of a religious objection, or a medical reason they say they can't get vaccinated. There are some considerations about that I really encourage you to reach out for legal advice in that situation. But generally speaking, you can require vaccinations, if that's part of your reopening plan.

I think a lot of our nonprofits will continue to stay virtual, at least in part, and there are some considerations with that as well. I think a lot of our clients have realized that they don't need as much space as they once did. So they've reached out to us for help renegotiating leases, or seeking to sublease their space. And I encourage you to reach out for legal help on that, it's going to come down to what's in your lease and in some cases, how willing your landlord is to work with you. One thing to keep in mind, if you are renting out space is there may be some tax implications with that revenue. And it may be

actually taxable to organizations. So you'll just need to get [some advice](#) on that as you consider whether or not to do it.

You may also have employees who are working remotely from other states, we actually at Pro Bono Partnership have this situation. And if you do, I encourage you to check out [the article](#) we have on the topic. Because there are legal and tax implications of that. That employee is actually subject to that state's employment laws, which are likely different from Georgia. And you may even need to register to do business in that state, if you have an employee working for there. Every state is different. So I encourage you to check out [that article](#).

Finally, for organizations that are still working virtually a bigger issue that has come up in the past year has been cybersecurity. It's always been [an issue](#). But being virtual just raises different challenges. You have employees who are working from home, maybe on their own personal computers. And you might not have the data protection that you do when you're all in the office. So you want to look into ways you can beef up that protection through multi factor authentication. One other thing I really encourage is training your employees to avoid phishing emails. You can actually sign up for programs like that to help prevent those really dangerous phishing emails from getting through.

#### **Sireesha 4:49**

We do have as you mentioned, a lot of additional resources that go into more detail on all these and to our listeners, we will drop a link to these resources in our Transcript and on the webpage for this episode. Rachel, what about COVID related liability? Is that still something nonprofits should continue to be concerned about in 2021?

#### **Rachel 5:14**

Definitely, we always are concerned about liability for our clients. We strongly encourage our clients to have liability releases both for the participants in their programs and for their volunteers. And in the past year, we've been helping our clients by adding language to those liability releases that specifically addresses COVID. So that if someone comes into your facility and claims to have been exposed to COVID, that liability release will add additional protection for your organization. But another really important development last summer the Georgia legislature passed a law providing protection from liability to businesses for exactly that reason, someone claiming, coming into your business and claiming they were exposed to COVID. That law does require that the business or in this case, nonprofit, post a sign, notifying everybody coming into their facility that they are claiming that protection and the law has very specific requirements for the size of the sign even the size of the font. So, you want to make sure you are taking advantage of that protection. We have a [sample sign on our website](#) that you can reference.

#### **Sireesha 6:21**

And what about the Paycheck Protection Program, we are in round two or three of the program, depending on how you define a "round." What might nonprofits see in future rounds of the PPP.

#### **Rachel 6:34**

So I think it was just before the holidays that Congress passed two more laws that are, [one more law](#) that impacted the Paycheck Protection Program, and added more opportunities for businesses,

including nonprofits to take advantage of it. One important development for our clients is if you've got a PPP loan last year, under \$150,000, then the application process for the loan forgiveness is going to be a lot simpler, I think it's a two-page form now. So if you got a PPP loan last year, under \$150,000, like we did, we were definitely holding off on applying for forgiveness in hopes that they would simplify that process. And indeed they have. So now's a good time to reach out to your lender about taking advantage of that.

Also, for some organizations, they are going to be able to apply for additional funding. There's an opportunity if you got a PPP loan last year, but for whatever reason did not take advantage of the full amount for which you were approved, you can go back and now seek out that full amount. Some businesses also have the opportunity to get what's called a second draw or second chance loan, where even though you got a PPP loan last year and took advantage of the full amount, you can get a second loan. It's limited to businesses that can show a further decline in revenue above and beyond what's called for with the PPP loan. So you want to see if you're eligible for that.

And then finally, one other thing I would mention on the PPP topic is we do have clients who are reaching out to us about merging, you know, combining with another nonprofit at this time. And if either of you have a PPP loan, you want to make sure that the attorneys helping you with that merger are aware of that because they will need to take into some considerations on how to handle that those loans. I'll just add one more thing. We have a ton of [resources on our website](#). When it comes to PPP, this continues to evolve. It seems like every week they're coming out with more regulations and Robin Miller on our team is having to update us on what's going on. So keep an eye out for the resources on our website along with those legal alerts that we send out.

**Sireesha 9:03**

And what about the new employee retention credit that was covered in the Consolidated Appropriations Act?

**Rachel 9:11**

Oh, that employee retention credit, or the ERC, actually came out last year and we put [some information](#) out about it but we really weren't encouraging our clients to go for it for a number of reasons. An important reason was because if you got the PPP loan that you were not eligible to take advantage of the ERC credit and PPP was just a much better option. But now you can. That has is changed and you can take advantage of the employee retention credit even if you have a PPP loan. Also they made it a little bit easier to qualify to get the ERC whereas before you had to show a 50% reduction in gross receipts now it's only 20%. So if you are looking for additional ways to get some help, in this case a tax credit, then I encourage you to check out our [resources](#) on the ERC and see if they are available.

**Sireesha 10:10**

Finally, Rachel, let's talk about what's going to be coming up ahead in other federal and state legislation. Do you have an outlook on items that are relevant to Georgia nonprofits?

**Rachel 10:21**

Yeah. When it comes to federal legislation like everybody else, you know, we've been watching what would happen in the US Congress. And now we have the answer to that. And with Democrats controlling both the White House and Congress, it's a little more clear. It seems like the priority is going to be another round of COVID relief, very early on. But from what I've heard, that's going to focus more on support for individuals, like unemployment. And so I wouldn't expect to see more programs that can potentially benefit nonprofits, like the ERC and PPP. And we may sort of be set where we are on that. One other thing that might come out of the Congress is, there still are people pushing to increase the deduction for charitable donations. And this could of course, impact nonprofits. So ever since they made it much more common for people to take the standard deduction, you've sort of done away with that benefit of the charitable deduction. And they're looking to change that some more to encourage people to make charitable donations by giving them [tax] deductions, even if they take the standard deduction.

And then on the state side, I would definitely look for the Georgia legislature to potentially extend the law that provides protection from COVID liability for businesses, including nonprofits, right now that's set to expire in July of this year. And I wouldn't be surprised if they extended that. So one more reason to take advantage of that. Set up you sign. And then last, as you probably know, the state legislature in the midst of the COVID crisis had to pass a balanced budget, and it just had enormous cuts to state funding. So for nonprofits that rely on state funding, that was a huge hit. As the economy hopefully rebounds, they're going to look to reinstate some of that funding for state agencies, so keep an eye out for how that might impact your organization.

#### **Sireesha 12:26**

Thank you, Rachel, for this information and for sharing this great insight with us. Overall, I think and hope that 2021 will be a year with more normalcy than 2020.

And to our audience, we will include the links to all these resources that Rachel mentioned, on our transcript and our webpage. So check that out. Thanks for tuning in, and for all the good work that you do and continue to do in our community. Thank you.