



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

## **Registering for Charitable Solicitation**

In order to protect the public from fraud, most states have enacted laws that require organizations to register with the state before they solicit donations from individuals in that state. The goal is for the public to be able to trust that their donations are going to a legitimate nonprofit organization that will use the money for charitable purposes.

This article explains generally when an organization must register in a state, how to complete the registration process, and what an organization should do when soliciting over the internet. Because each state has its own registration requirements, nonprofit organizations should seek advice from competent attorneys to advise them on their particular situation.

### **What is Charitable Solicitation?**

Charitable solicitation is any request for money, credit, property, financial assistance, or any other thing of value to be used for a charitable purpose. Charitable solicitations can take many forms. A few examples include:

- Organizing food or clothing drives,
- Selling tickets for a fundraising gala or hosting a charity 5K run,
- Requesting donations through direct mail, over the phone, or on a website, Facebook, Twitter, or other social media, and
- Partnering with a restaurant or retail store where a percentage of proceeds or a designated amount per item are donated to nonprofit organization.

Any time a charitable organization asks for donations, it is engaging in charitable solicitation, *even if it doesn't actually receive any contributions.*

### **When to Register**

Forty-one states require charitable organizations to register for soliciting contributions. In most of these states, however, certain organizations are exempt from registration requirements. Each state's exemptions vary but common exemptions include hospitals, religious organizations, and schools. Additionally, many states have an exemption for very small organizations with very limited resources. Even still, exempted organizations may have to file paperwork in some states to claim their exemption status. The registration laws are different in every state, so organizations must pay close attention to the requirements, deadlines, fees, and exemption rules in

any state where they solicit contributions. For more information about Georgia's registration requirements, see our article on [Charitable Solicitation Registration in Georgia](#).

While some nonprofit organizations that receive donations from across the U.S. may simply register in all forty-one states, others may want to be more selective because the process can be expensive and time-consuming. Determining in which states you must register is not always easy. The key question is how much contact the organization has with the people living in a particular state. This involves several considerations: physical presence in the state, direct and indirect contact with people in the state, and the type of contacts.

If an organization does not solicit or receive any contributions from a state, it does not have to register in that state. On the other hand, if an organization reaches out directly to residents of a state requesting a donation, by phone, direct mail, or email, it will likely need to register in that state. However, how much contact is enough? Interactions through the internet, on a website or through social media may or may not create enough contact to require registration.

### **Internet Solicitation**

With the rise of the internet, more and more nonprofit organizations are soliciting contributions on websites and over social media. These internet solicitations complicate the analysis of where an organization must register because anyone in any state can access a website. In 2001, the Board of the National Association of State Charity Officials approved a set of advisory guidelines called the Charleston Principles. These principles can help nonprofit organizations determine when they should register in another state based on their internet activity. While every state has its own rules, the following guidelines are instructive.

As discussed above, a nonprofit organization must register in a state when the organization has sufficient contacts in that state. For example, an organization must register in the state that is its principal place of business, where the organization has its primary physical presence. A nonprofit organization must also register in states where it is not domiciled but where it conducts non-internet activities, including programming and telephone or direct mail solicitations. But an organization may also have to register based on its internet activities.

The Charleston Principles draw a distinction between interactive websites with "Donate Now" links and noninteractive websites that simply provide information about the organization but do not include solicitation language. However, in the years since the Principles were published, internet solicitation has grown so much that most nonprofit organizations ask and allow donors to contribute on their websites, on Facebook, or on other social media sites. Those nonprofit organizations may have to

register in a particular state either (i) if they directly target individuals who are physically in that state or (ii) if they receive regular or substantial donations from that state.

**Specifically targeting people physically located in the state:** If the nonprofit organization sends emails, electronic newsletters, or messages requesting contributions to people living in a particular state that has registration requirements, it must register in that state if the organization knows or reasonably should know that the recipient is physically located in the state. This may not be obvious because an email address or social media account does not necessarily carry any kind of geographic identifier. Therefore, nonprofit organizations should cross-reference their email lists with any records they maintain that may include the recipient's physical address such as donation records, e-newsletter registration, etc.

**Receiving repeated and ongoing or substantial contributions from the state through your website:** Repeated and ongoing contributions are contributions that occur frequently, and substantial contributions are large contributions that may not occur frequently. Unfortunately, there is no real guidance on how often contributions must be received to be "repeated and ongoing" or how large they must be to be "substantial."

The Charleston Principles are *merely guidelines*, and every state has its own laws, so it is important to understand each state's requirements. Information can be found online for each state or <http://www.multistatefiling.org> might be a good starting point, although that website has not been kept up to date since 2014. The Multistate Registration and Filing Portal, Inc., a Delaware nonprofit corporation (MRFP), working with the National Association of State Charities Officials (NASCO), and the National Association of Attorneys General (NAAG) are currently developing an online system that will allow nonprofit organizations and their professional fundraisers to comply with all states' registration and annual filing requirements through a single online portal ("The Single Portal Initiative"). If you are unsure of whether you should register in other states, consult a competent attorney.

## **How to Register**

Once you decide to register in a particular state, you should first visit that state's Secretary of State or charity bureau website where you can find the relevant rules and forms. Initial registration typically involves multiple components:

- A registration form,
- Information about the organization, including officers' names and contact information, the articles of incorporation, and bylaws,
- Certain IRS forms and documents,
- Financial statements, which may have to be independently audited depending on how much money the nonprofit organization has raised, and
- Fees based on how much money the nonprofit organization has raised.

Another registration option is the Unified Registration Statement (“URS”) found at [www.multistatefiling.org](http://www.multistatefiling.org). The URS is a single form that can be filed in multiple states. Many states that accept the URS, however, also require their own specific supplemental forms be submitted in addition to the URS.

Even after a nonprofit organization has successfully registered in a state, there are still rules with which it must comply. First, every state requires nonprofit organizations to renew their registration every year or every other year, with additional fees and forms for renewal. Second, many states also require nonprofit organizations to include disclosure statements in any solicitation materials they send out and on their websites or social media accounts. These statements often must provide contact information to potential donors and confirm that the nonprofit organization has registered with the state, further protecting the public from fraud.

Again, every state has its own rules for registration, renewal, and disclosures. Deadlines vary as do fundraising thresholds that trigger higher fees or additional paperwork. Because nonprofit organizations that fail to meet these requirements may face harsh civil and even criminal penalties, it is very important to understand the specific process in each state where you may need to register. You may consider having a [compliance company](#) complete applications on your behalf and handle yearly filings. At the very least, organizations should consult competent attorneys to make sure that they understand and comply with charitable solicitation registration requirements.