

PBPA Podcast Transcript
Charitable Solicitation: Who Should Register and How
(15:35 minutes)



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

Charitable solicitation refers to the act of requesting donations or contributions from individuals, corporations, or foundations for charitable causes and endeavors. It is the lifeblood of a 501(c)3 nonprofit organization. And in most jurisdictions, it's also a legal requirement to register with the state before soliciting donations. But registering for charitable solicitation can get confusing, especially if you have donors in multiple states. In my conversation today, Justine Cowan will help guide us through the ins and outs of charitable solicitation. Join us as she walks us through the how, where, and why of charitable solicitation compliance.

Sireesha ([00:58](#)):

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 ([02:08](#)):

Justine Cowan is Senior Corporate Counsel with the Pro Bono Partnership of Atlanta. She has practiced law in both Florida and Georgia, served as executive director of an Atlanta area nonprofit and has tons of experience and insight to share about the intricacies of charitable solicitation compliance. Thanks for being here, Justine.

Justine ([02:31](#)):

Nice to be here.

Sireesha ([02:32](#)):

So in my intro, I did a brief description of charitable solicitation, but can you provide more details? What does it mean to solicit for a charitable purpose?

Justine ([02:47](#)):

Sure. Well, if you are running a nonprofit organization, chances are that you are soliciting donations of some sort. Every state has a slightly different definition, but here in Georgia, a "charitable solicitation" is any request or acceptance indirectly or directly of money, credit, property, financial assistance, really anything of value to be used for a charitable purpose. Um, that's a really broad definition, and it could include organizing food drives, clothing drives, selling tickets for fundraising, galas, doing a 5K, requesting donations through direct mail, partnering with a restaurant. I think you get my idea that it's really just about anything. Um, and anytime a charitable organization asks for a donation, it is engaging in a charitable solicitation, even if you don't actually receive any contributions. And on the flip side, it

also applies if you're receiving donations even though you didn't ask for them. So pretty much anytime you're getting any donations or asking for anything, then you're falling under the charitable solicitation laws.

Sireesha (04:02):

Yes, that is very broad. Uh, what is covered under charitable solicitation. What types of organizations are required to register for charitable solicitation and, and why?

Justine (04:15):

I know it can be frustrating to navigate charitable registration, and often you think of "Why do I have to go through all of this paperwork?" Unfortunately, there are some bad actors out there and that they use the nonprofit structure for their own personal gain. And there have been some really high publicity examples of that. Um, and because of that, states want to protect consumers and unfortunately, really great nonprofit organizations that don't have a lot of resources and time and all of that to spare, have to go through all of this process, um, because of those bad actors.

Justine (04:57):

In Georgia, you start with, um, the premise that all nonprofit organizations need to register unless they fall under an exemption. Um, so for example, um, one exception is small is for small nonprofit organizations. If you raise less than \$25,000 in the preceding and current calendar year, um, and you don't use a professional solicitor, which we'll talk about, um, in a minute, um, you don't have to register. If you are part of a multi-level organization, you're the chapter or an affiliate of a multi-level organization, that means one of these big national organizations, um, and that they're registered. If they file a consolidated report, then you might not have to register yourself, volunteer and fire rescue, certain political organizations, religious or educational organizations. There are a number of exceptions, but it's really care, it's really important that you take a look at those exceptions carefully to make sure that you fit in there. For example, just because you are providing some sort of religious services does not mean that you are exempt under the religious exemption. So think of a church, um, they're exempt. And just because you provide educational services doesn't mean you're exempt under the educational exception. And again, think Emory University or Georgia Tech, that sort of thing.

Sireesha (06:16):

Okay. So what if I'm new to, in my role as executive director of a nonprofit. How can I know if my nonprofit is registered for charitable solicitation or not?

Justine (06:28):

What you can do is you can go to this Georgia Secretary of State's website and do a search, and it can be a little bit confusing, but look for the search for a professional license feature on the Secretary of State's website, and then choose the option for charities. And once you do that, make sure that you're searching under the company search provision instead of for an individual. And then you just look up the name of the organization and that should let you know whether or not you're registered. And if you're not registered, don't panic, just get registered.

Sireesha (07:05):

Oh, okay, I won't panic. Um, but if I'm the executive director and I realize I'm not registered, what are the steps involved? How do I get my organization registered?

Justine ([07:16](#)):

Well, the first thing is that we have some excellent resources to help you. Um, we have two articles, um, one that deals just with Georgia, and it's called Charitable Solicitation Registration in Georgia. And then we have another one, another article that is called Registering for Charitable Solicitation. And that deals with other states as well. Um, and so what you should do is take a look at those resources and that will help you and then go to the Secretary of State's website. And you're going to need to fill out a form called a C100, and it's going to ask you for various bits of information about your organization and your board members, and you're going to have to identify what we call a control person, which is defined as a person who directly or indirectly has the power to direct or cause the direction or management and policies of the applicant. So, for example, that might be the executive director. Um, and this is the part that I hear the most about because the control person actually has to put in a 10 work year, uh, a 10 year work history, and it can be a little bit, uh, a little bit of paperwork the first time that you register. But the renewal will be easier and it's just better to get the paperwork done on the front end, um, and get your organization registered. And the cost isn't that much the first time it's \$35. And then after that, um, it's about \$20 for two years, and you'll get a renewal notice 45 days beforehand. But as I always say, make sure that you calendar any renewals to make sure that it doesn't lapse.

Sireesha ([08:53](#)):

Okay, so this seems pretty straightforward for organizations that are getting donations only in Georgia, but let's talk about multi-state registration. How is a nonprofit supposed to know whether it should register in other states?

Justine ([09:10](#)):

It can be a little bit more challenging because the laws vary from state to state. And it would be great if all of the laws were same in every single state, but they're not. Um, about 40 states require registration, and there's some general principles that are helpful to apply. For example, if you are targeting people in another state for donations, if you're receiving repeated or substantial donations from another state, that's something to take a look at. And that can happen when you have a donate button on your website and you're starting to get donations from another state. Um, the these are general principles and each state is different. So what I recommend is that each year you run a list of donations from other states, you get your Excel spreadsheet and you review it and sort it by state and then took it.

Justine ([10:03](#)):

Take a look at each state where you have donations and then determine whether or not that state requires registration. And then also take a look at those donations. For example, if your mother sends you \$20 once a year from Florida, do you register? Uh, that's a difficult question to answer hypothetically, but it's something to consider, um, in terms of whether or not it's, um, worth it to register in that particular state. And the best place to figure out how to register is to go to the Secretary of State or Charity Bureau for each state. Just to add to the confusion, each state has a, a different agency that deals with charitable registration. And I used to practice in Florida, and it's actually under the Department of Agriculture is where you have to look to see whether or not to register. And the reason is because the consumer division is in the Department of Agriculture, so it can be a bit confusing there.

Justine ([10:59](#)):

Um, there's also a unified registration statement that many states will take. Um, it's a form that you can fill out and it can be submitted to other states. The one problem with that is that a lot of states have an extra form that you have to submit at the same time, so it may or may not save time. Um, and then there's also companies that will help you with your registrations for fee. And I recommend this when you're really starting to get into a lot of different states 'cause it can be a lot to keep up with. And you really have to do that kind of cost benefit analysis and how much staff time you're spending, um, doing charitable registrations. And so it's, it's really often better to go ahead and hire someone to do it for you.

Sireesha ([11:47](#)):

And I will mention briefly that PBPA has a comparison of charitable solicitation compliance companies for any listeners that are interested. And I will drop a link to that resource on the episode page for, um, today's episode. Justine, my next question is about what if a nonprofit isn't doing the fundraising themselves, what if they are working with a third party to help them with their fundraising activities?

Justine ([12:17](#)):

Um, sure. So let's talk about two categories of people, um, or sometimes companies that might assist your nonprofit with fundraising. Um, we have solicitors and consultants. And so a solicitor is someone who would actually ask for money on your behalf. So for example, they might call you and probably during dinner and ask you for donation. Um, or they, it might be in writing or electronic, whatever it may be, but they're actually doing the request on your behalf. And then there's consultants. And consultant gives you advice on how to ask for money. So they might help develop your fundraising program, that sort of thing. Now, in Georgia, if you have a solicitor, two things will happen. If they're soliciting, then you will have to register with the state. Even if your revenue is under \$25,000, um, a year. We talked about that exception earlier. But if you do have someone who's raising professionally for you, and this is not a staff member that we're talking about, but raising professionally, then you'll need to register. Um, and the second is, is that solicitor will also need to be registered and you need to confirm that that person's registered. And an important note here is that this is the law in Georgia.

Justine ([13:35](#)):

Just to add to the confusion, different states have different laws on soliciting and, um, consultants that assist you with fundraising. So for example, in Florida, um, there's a registration requirement for both solicitors and consultants. Um, but either way, if you're hiring someone to help you with fundraising, that is not a member of your staff, be sure to get a written contract that outlines the expectations. I mean, we have another podcast where Isha and I have a conversation about fundraising consultants and grant writers and take a look at that. Um, it's called Legal Considerations for Working with Third Party Fundraisers.

Sireesha ([14:14](#)):

Yeah, that's right Justine. I'll include a link for that resource as well as all the other great ones you mentioned. on the episode page on our website. This is all a lot of great information you have shared today, Justine, I do want to make a shout out to one other resource that covers charitable solicitation in further detail. And so I will include a link to that as well for any listeners who are interested. Thank you, Justine, so much for sharing your time and expertise with us today.

Justine ([14:50](#)):

It was great to be here.

Sireesha ([14:53](#)):

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.