

FLORIDA PUBLIC CHARITY LEGAL COMPLIANCE CHECKLIST

➤ **FLORIDA NONPROFIT ALLIANCE**

This legal compliance checklist was created by the Florida Nonprofit Alliance. It outlines laws applicable to Florida nonprofits regarding their governance, advocacy, human resources, and fundraising. This checklist is not intended to give legal advice.

IRS CODE SECTION 501(c)(3)

In order to be classified as a public charity under IRC Section 501(c)(3), a nonprofit generally must be a:

CHURCH

HOSPITAL

MEDICAL RESEARCH

SCHOOL

COLLEGE

UNIVERSITY

MEETS ONE OF THE PUBLIC SUPPORT TESTS PROVIDED FOR UNDER THE IRC

ARTICLES OF INCORPORATION

➤ File with the Florida Department of State Division of Corporations

➤ Adopt bylaws and related governance policies at your initial board meeting.

➤ Florida public charities are required to have a minimum of three board members.

BYLAWS



Nonprofit bylaws should be reviewed at least every two years, but no less than every five years.

Significant changes to an organization's bylaws should be reported in Part VI, Line 4 of the Form 990 or Part V, Line 34 of the Form 990-EZ. Bylaw changes do not need to be reported at the state level.

Bylaws do not have to be made publicly available, but making them readily available increases your accountability and transparency and encourages your board to pay closer attention to them.

REPORTS AND FORMS TO FILE:

➤ State of Florida Annual Report

➤ IRS Form 1023 - Federal Corporate Tax Exemption

➤ IRS Form 990 or similar - "Tax return"

➤ Fictitious Name

IRS FORM 990



IRS Form 990, 990-EZ, and 990-N - Which form you are required to file will depend on your gross receipts.

Failure to file Form 990, 990-EZ or 990-N for three consecutive years will result in losing tax-exempt status.

Due 5 months after the end of your fiscal year but Form 990 or 990-EZ is required to renew Solicitation of Contributions registration.

ADOPTED POLICIES

➤ Document Retention Policy

➤ Whistle-blower Policy

➤ Conflict of Interest Policy

➤ Gift Acceptance Policy

DONOR LETTERS



If goods or services are provided to donors in exchange for contributions above \$75, you must disclose the value of the goods and services received by the donor, and only the amount contributed in excess of this value is tax-deductible to the donor.

Donors are responsible for obtaining written acknowledgement for contributions of \$250 or more, but it is considered a best practice for nonprofits to send timely gift acknowledgements to donors for all contributions.

SOLICITATION OF CONTRIBUTIONS



Prior to soliciting contributions Florida requires that the public charity register with the Florida Department of Agriculture and Consumer Services (FDACS).

A copy of this form is often needed when applying for grants.

This registration is annual and must be renewed yearly. If your public charity receives more than \$1,000,000 in contributions in a given year, your financials must be audited by a CPA.

If you fundraise across state lines you may be required to register in other states.

Any contracted fundraisers or consultants must be registered with the state.

SALES TAX EXEMPTION



Florida law grants certain public charities specific exemptions from Florida sales and use tax. In order to receive this exemption your public charity must obtain a Florida Consumer's Certificate of Exemption for the Florida Department of Revenue.

At the end of the five-year period, the Department will use available information to determine whether your nonprofit organization is still active. If so, a new Consumer's Certificate of Exemption will be issued.

EMPLOYMENT

➤ Employee vs Independent Contractor

➤ Federal employment tax payments

➤ Re-employment tax

➤ Worker's Comp Insurance

➤ Paid interns properly compensated

DOWNLOAD CHECKLIST



Additional Resources for Legal Compliance

FL Department of Agriculture and Consumer Services
IRS Charities and Nonprofits website
National Association of State Charity Officials

Sample Bylaws
Bylaws Checklist
Sample Conflict of Interest Policies
Document Retention and Destruction Policies
Sample Gift Acceptance Policies
Gift Acknowledgement Samples
FNA Advocacy 101 Trainings