

Nonprofit Law Section

State Bar of Montana

GUIDE FOR NONPROFIT ORGANIZATIONS

Internet Fundraising Guidelines for Nonprofit Organizations: The Charleston Principles

Online fundraising is fast becoming an indispensable part of the typical nonprofit organization's fund development strategy. It can be easy, efficient, and have the potential to engage a wide range of prospective donors. A well-managed e-newsletter or Facebook page can generate valuable interest and support for your organization; however, it is important to recognize that internet fundraising is not exempt from charitable fundraising laws, and your organization may need to register in other states to solicit contributions if it engages in online fundraising.

Montana is one of a small handful of U.S. states that do not require charities to register with the state Attorney General's office prior to soliciting charitable contributions within their borders. Online fundraising across state borders often triggers these registration requirements, and as requirements differ from state to state, it can be difficult for nonprofits to ensure their online fundraising activities are conducted lawfully.¹ The National Association of State Charity Officials (NASCO) helpfully addressed this issue by developing what are known as the "Charleston Principles"², a set of general guidelines for both states and charities to follow when addressing issues of solicitation of contributions through e-mail and on organizations' websites.

Your organization has the duty to register in a state with registration requirements if it has its principal place of business in the state and solicits contributions using the internet, or if it is domiciled elsewhere but its non-internet based solicitation activity is already sufficient to require registration. More complex situations involve organizations fundraising using the internet in states other than the state in which the organization's principal place of business is located. So when will email marketing, adding that "Donate Now!" button to your website, or even listing your organization's contact information online, trigger the need to register your organization in another state?

- Your organization solicits donations through an "interactive" website (a site allowing visitors to make a contribution or purchase a product electronically, even if doing so involves redirecting to another site), AND your organization EITHER:
 - Specifically targets people located in the state for solicitation; OR
 - Receives contributions from the state, either on a repeated and ongoing basis, or a substantial basis (of a significant amount), through the website.
- Your organization solicits donations through a non-interactive website, through either specifically inviting further activity to complete a contribution, or making other

¹ For more information on filing requirements and a form accepted by the majority of states, see The Multi-State Filer Project., available at <http://www.multistatefiling.org/>.

² The full text of the Charleston Principles is available at <http://www.afpnet.org/ResourceCenter/ArticleDetail.cfm?ItemNumber=3309.>, and contains definitions for many of the terms above.

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contacts with the subject state (such as email communications that promote the website), and either specifically targets people in the state for solicitation, or receives contributions on a repeated and ongoing or substantial basis.

- Your organization solicits contributions using e-mail from residents of the state. Email solicitations are generally treated the same as solicitations made via telephone or direct mail.
- Your organization solicits the sale of a product or service to residents of the state, while representing that some portion of the price will be given to a charitable organization or used for a charitable purpose.

Websites that provide program information or services, but do not solicit contributions, do not generally trigger a registration requirement even if unsolicited donations are received as a result of the website.

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NOTICE: THIS GUIDE IS NOT LEGAL ADVICE

This guide has been prepared as a public service and for general information purposes only. The information in this guide is not legal advice. Legal advice is dependent upon the specific facts and circumstances of each situation. Furthermore, the information contained in this guide is not guaranteed to be up to date. This guide should not be used as a substitute for obtaining legal advice from an attorney licensed or authorized to practice in your jurisdiction. You should always consult a suitably qualified attorney regarding any specific legal problem or matter.