THE UNIVERSITY OF IOWA

The Larned A. Waterman Iowa Nonprofit Resource Center

Helping strengthen community organizations

eNewsletter

Volume 13, Issue 3/Summer 2017

In This Issue:

What is a Nonprofit?

by Richard Koontz, LAWINRC Director

In our Iowa communities, people want nonprofits that provide the kind of essential services that make communities not just survive, but thrive. Our schools educate us, the hospitals guide us to healthy living, and various churches congregate us in faith. For community difficulties such as homelessness, domestic violence and hunger, nonprofits are often the structures in communities that address the issues. What we find at the Larned A. Waterman Iowa Nonprofit Resource Center is that people have different senses of what constitutes a "nonprofit" organization. Confusion arises because of the various ways that term is used.

First, when community members begin to address an issue, they sometimes wonder at what point they become a nonprofit. Four people in a neighborhood, for example, may begin discussing their concerns about school funding and wonder what they can do to help. They begin to attend school board meetings and to fundraise for school endeavors. Is that enough to make them a nonprofit? Under Iowa law there is an unincorporated nonprofit association act[1] which provides that an unincorporated nonprofit association consists "of two or more members joined under an agreement that is oral, in a record, or implied from conduct, for one or more nonprofit purposes."[2] So, yes, the four people who have agreed to address school funding needs have defined a nonprofit purpose, and as they work together their association can be inferred from their conduct. If it begins to be said that their efforts are those of a nonprofit, that is not a false statement. Ideally, they will go further than this, and form a more sound, clearly-defined business entity which applies for federal tax exemption. An affiliated school foundation could be formed to address school funding needs, as has happened in many parts of Iowa.[3]

Second, while nonprofit organizations and tax exempt organizations are overlapping groups, they are not exactly the same. One way to explore this is to look at state law and any available state agency records about the business entity form of a nonprofit: is it a nonprofit corporation, an LLC, a charitable trust? Iowa's Secretary of State has a searchable database of all nonprofit corporations and LLCs.[4] (See the screen capture on next page.) There is no such data base for the unincorporated nonprofit associations (though in some instances they end up on the Secretary of State's database[5]). And, while charitable trusts are required to register and file annual reports with the Iowa Attorney General,[6] there is no online database available listing all charitable trusts in Iowa.

A business entity created to be a nonprofit does NOT automatically have tax exemption (unless it is a

Nonprofit, continued page 2

We're now on Facebook & Twitter

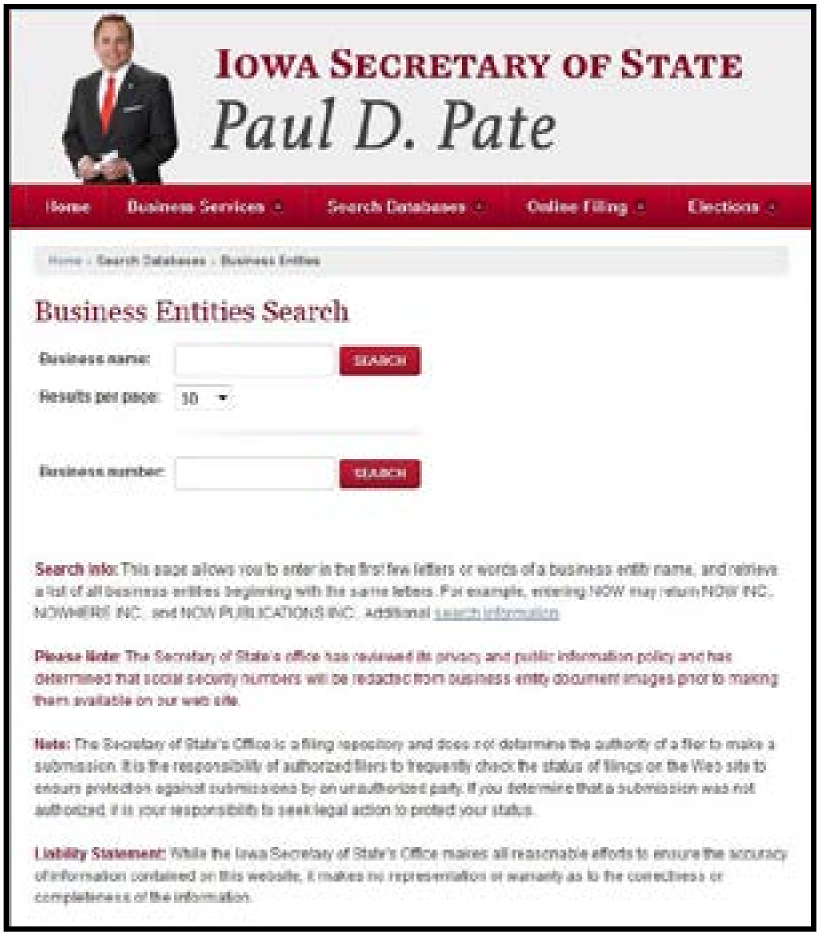
Visit us on Facebook at https://www.facebook.com/lawinrc/
Follow us on Twitter @LAWINRC

Larned A. Waterman
Iowa Nonprofit
Resource Center
University of Iowa
130 Grand Avenue Court
Iowa City, IA 52242
https://inrc.law.uiowa.edu/

Nonprofit, from page 1

Nonprofit and Tax-Exempt aren't necessarily the same

church). This must be done through an additional process of application for tax exemption. And there are multiple kinds of tax exemption. Many people think the word "nonprofit" means that it is a charitable exempt entity and that gifts to it are deductible. This is not at all the case. Roughly half of the nonprofit corporations created in Iowa are charitably exempt under Internal Revenue Code 501(c)(3). Other nonprofits in Iowa are exempt, but not under 501(c)(3). So chambers of commerce are nonprofits, but exempt under I.R.C. 501(c)(6). This means that the chamber's earned income is exempt from income tax but not that gifts to it are deductible.[7] It is always a mistake to assume that your gift to an entity that is a nonprofit will result in a deduction that can be itemized on your tax return. You should always make an inquiry into whether it is tax exempt under 501(c)(3).[8] Other kinds of exemptions under the tax code would include fraternities ((501(c)(8)), veterans organizations ((501(c)(19)), and labor unions ((501(c)(5)).[9]



Just to understand that this nonprofit-entity-versus-tax-exempt-entity issue is a bit more complicated, some nonprofit entities get to function as exempt entities even though they are not. Nonprofits with annual gross receipts under $5,000 may operate "as if" they were a charitable nonprofit, provided that they follow the same rules and contacted the IRS via telephone to be put into the tax-reporting system. Or a new nonprofit may be waiting to hear back from the IRS about whether they are within the parameters of a tax exempt entity; review of exemption applications by the IRS can occur in a few months or up to two years. And yet the nonprofit functions as a tax exempt entity through a fiscal sponsorship relationship with an existing tax exempt entity.[10] And there are instances when non-501(c)(3) tax exempt entities can offer deductions for contributions. A volunteer fire department is most likely a 501(c)(4) yet gifts to it ARE deductible. The same is true for some veterans' organizations.

Third, it is important to know that nonprofits that are not compliant with filing requirements can lose their classification as nonprofit or tax exempt. For instance, a nonprofit corporation needs to file a biennial report with the Iowa Secretary of State. If the nonprofit corporation does not file, it becomes "administratively dissolved."[11] Often this dissolution occurs and yet the nonprofit continues to function having given no notice to the world at large of the administrative dissolution. Looking at the Secretary of State's website, you can see on the main page for any nonprofit created by filing with the Secretary of State whether it has been dissolved.

Charities exempt from taxation are also required to file a tax return with the I.R.S. every year. When a charity fails to do this for three years in a row, it loses tax exemption.[12] Gifts to such a nonprofit are not deductible until the charity has applied for reinstatement of its tax exemption. You can check whether a charity can still receive tax deductible contributions on the

I.R.S. Select Check page.[13] The screen capture below shows you what the Select Check page looks like.

Finally, we all want to make sure the nonprofits in our communities are appreciated and supported in their efforts. The distinctions in this article are not meant in any way to suggest that many nonprofits are doing things inappropriately. But when you are a donor making a gift for which you wish to take a deduction, it makes sense to do a bit of background research first. It is also important to note that deductions are not the primary reason that donations are made to nonprofits,[14] and to understand that gifts to non-501(c)(3) entities are perfectly acceptable.

Notes

1 Iowa Code 501B, effective July 1, 2010.
2 Iowa Code 501B.2(8)
3 For a list of school foundations in Iowa, see the list on the National School Foundation Association website at https://schoolfoundations.org/iowa
4 Iowa Secretary of State Business Entity Search at https://sos.iowa.gov/search/business/(S(ne4z0x2havwpdc45v1gw2bmg))/search.aspx
5 See Iowa Code 501B.11
6 Iowa Code 633A.5107
7 For a list of chambers of commerce in Iowa see http://www.officialusa.com/stateguides/chambers/iowa.html
8 You can also look up nonprofits on the I.R.S. website's Exempt Organizations Select Check Tool. See https://www.irs.gov/charities-non-profits/exempt-organizations-select-check. Nonprofits that do not disclose that gifts to them are not deductible may be violating I.R.C. 6113.
9 For a discussion of various kinds of tax exemption, see the I.R.S. website at https://www.irs.gov/charities-non-profits/types-of-tax-exempt-organizations
10 For the requirements of a fiscal sponsor relationship, see National Council of Nonprofits, "Fiscal Sponsorship for Nonprofits" at https://www.councilofnonprofits.org/tools-resources/fiscal-sponsorship-nonprofits
11 Iowa Code 504.1421
12 Internal Revenue Code 6033(j). See the I.R.S. website at https://www.irs.gov/charities-non-profits/automatic-revocation-of-exemption
13 I.R.S. website's Exempt Organizations Select Check Tool at https://www.irs.gov/charities-non-profits/exempt-organizations-select-check
14 "Why Do People Give?" at http://www.pitt.edu/~vester/whydopeoplegive.pdf

Connect with us on Facebook & Twitter

The Larned A. Waterman Iowa Nonprofit Resource Center is on Facebook and Twitter.
Visit us on Facebook at https://www.facebook.com/lawinrc/
Follow us on Twitter @LAWINRC

Improving Board Performance in Iowa Nonprofits

by Paul Thelen, LAWINRC Assistant Director

Introduction

To adapt a phrase by Leo Tolstoy, "All well-functioning boards are alike; each dysfunctional board is dysfunctional in its own way."

At the LAWINRC we get the opportunity to meet with hundreds of nonprofit leaders throughout the year by way of conferences, workshops, and lectures. We also meet leaders through our one-on-one services, including strategic planning, board assessment or evaluation, and leadership coaching. With this knowledge and experience, we offer the following guidance that may be helpful to the board of directors who serve your organization.

Expectations

Rather than thinking of expectations as the minimum required of directors, consider expectations as a source of empowerment that permits directors to make contributions to the best of their abilities.

If you asked your directors today to write down what is expected of them as directors, what would they write? Attend meetings? Review materials prior to meetings to be prepared? Support and review the work of the CEO/ED? Some may even identify their fiduciary duties of care, loyalty, and obedience to the organization. Do you also expect directors to engage in donor development? How about advocacy? Further, beyond being a fiduciary (oversight), do you also want directors who are strategists (foresight) and idea generators (insight)?

The stage of your nonprofit—new versus well-established, for example—may change the expectations of directors. New or very small nonprofits often have directors who actively participate in day-to-day operations. As nonprofits grow and mature, they can become increasingly professionalized to the point where directors avoid day-to-day activity and focus on policies and long-term planning for the organization. The point here is that expectations may vary based on the needs of the organization.

Who is responsible for establishing expectations? It is the responsibility of both the board chair and the CEO/ED. Ideally, the chair is in a position to understand the requirements necessary for successful board performance. Also, the chair serves as both a role model for other directors and as an enforcer of board expectations. Likewise, the CEO/ED is in position to understand what the staff requires from the board in order for them to execute the mission. Some organizations will assign the task of establishing expectations to a committee, and that is fine. The key is to make certain that there are contributions from the perspective of the board and the staff.

Creating a simple advocacy guide with relevant information is essential.

There are several helpful best practices. A well-written job description is a good start. The description should be detailed enough to accurately inform prospective members what they will be tasked to do. Do you expect directors to fundraise? If so, that should be in the description. A second helpful tool is an official orientation for new members. The orientation can expand on the job description by adding valuable context to the work directors do. Thirdly, matching new members with a mentor will help with their maturation as a director. Mentors may be experienced directors currently serving on the board or even retired directors. Training potential mentors is also a best practice.

Resources

Organizations often think of the resources necessary to carry out their mission-related services, but they do not always consider the resources directors need to meet expectations. Providing proper tools and training are two ways an organization might prepare directors for success.

For instance, directors are expected to be ambassadors for their organization. What makes a good ambassador? Most basically, a good ambassador will actively and accurately represent your organization to others by meaningfully promoting your mission, vision, and values. Being a good ambassador is essential to successful advocacy and donor development. While many directors understand the concept, it can be difficult for some to put into practice.

It's difficult to act as an ambassador if a director is uncertain what to say, when to say it, and to whom it should be said. Directors themselves are often community leaders, and they are regularly in position to communicate directly with local and state leaders. Creating a simple advocacy guide with relevant, memorable information is essential. Further, it can be worth the time to rehearse these interactions with a brief training exercise. Role-playing is an excellent way to build confidence and learn from others. Finally, having directors share stories from their real-world attempts at advocacy is a great learning tool, as well.

A common best practice is to establish and build a library of useful resources. Items may be adapted as your organization matures. Your local community foundation may offer trainings on a variety of topics relevant to board development. Conferences like the Iowa Nonprofit Summit and the Southeast Iowa Nonprofit Summit are also great sources of information. For more on board advocacy specifically, you can also visit Stand for Your Mission, a campaign led by several national nonprofits.

Time

A common question we receive is how best to use time—especially in the context of board meetings. We respond with one simple question: are you doing work in the meeting that could be done by directors individually? Many nonprofits will send items—such as reports—to directors for review prior to a meeting, and that is a good practice. But how much of your meeting is spent on passing non-controversial items? One helpful tool in this regard is a consent agenda. A consent agenda includes procedural, routine, non-controversial items that can be sent to directors prior to the meeting and then briefly presented and passed with a single motion at the meeting. If a director wishes to move an item off the consent agenda for further consideration, that should be permitted.

Presentations at meetings also consume a great deal of time. These, too, might be sent to directors beforehand. With today's technology, it is relatively simple to create and send directors a voice recording paired with presentation slides using such ubiquitous software as PowerPoint. If you prefer, there are also several video options, such as a private YouTube channel, Vimeo, or Present.Me, among others. The purpose here is to maximize the precious time directors have together to actively consider the valuable information in the presentation and to avoid passive activity that could be accomplished outside of a meeting.

> ...are you doing work in the meeting that could be done by directors individually?

The other simple question is this: what work is ideally done when directors are together? Of course, any potential oversight issues should be jointly discussed. Beyond oversight activity, to maximize the available talent in the room you might consider time for directors to engage with each other on strategic issues. This is especially important for when internal or external conditions suddenly shift. If your directors have already practiced engaging in strategic thought at board meetings, then they'll be better prepared for when new opportunities and threats arise. One tool you might use is presenting a potential scenario to your board for them to consider as if it were true. The scenario should be detailed enough to require a thoughtful response. These scenarios may help directors learn which questions to ask and how to prioritize their decision-making. It also may help them learn more about how their fellow directors perform in such situations.

Assessment/Evaluation

Reviewing the performances of individual directors or the performance of the board as a whole is a best practice that has been adopted by an increasing number of organizations. One reason is that it is difficult to improve director performance without some form of measurement. Some organizations may be hesitant

Boards, continued next page

Review tools used properly will deliver results that are valued

Boards, continued from page 5.

to conduct a review, because they fear a poor result may unsettle their volunteer directors. If presented correctly, we believe a proper review will be valued by the organization and the directors themselves.

There are two types of review that are distinct but each may be useful: assessment and evaluation. See the table below for key distinctions. Most basically, an assessment allows for insight to be used to improve an ongoing performance within the organization; an evaluation indicates whether a completed performance was or was not successful based on external standards.

There are key uses for each type of review. If your organization wants a review to compare its performance with its peers, then an evaluation is in order. If your organization wants a review to diagnose areas for improvement within an organization, then an assessment is the right tool.

Board Source has been a leader in board and CEO/ED assessment. Likewise, the National Council of Nonprofits also offers a variety of review options. Finally, the LAWINRC also provides assessment and evaluation services.

The boards of directors who serve thousands of Iowa nonprofit organizations are vital to advancing the charitable missions that sustain our communities and help them to thrive. Improving board performance is one way to strengthen your organization and increase its positive impact where you live.

ASSESSMENT VERSUS EVALUATION	
ASSESSMENT	EVALUATION
The goal is to be formative for the purpose of improving future performance.	The goal is to be summative for the purpose of gauging the performance as completed.
The focus is on the current process.	The focus is on the end product.
Assessors consider internal criteria/goals.	Evaluators consider external standards.
Assessors provide insight and identify areas for improvement.	Evaluators provide oversight and identify a final score or grade.
Assessee uses feedback to improve future performance.	Evaluee uses judgement to identify as either a failure or a success.

For More Information:

Board Source. https://boardsource.org/resources-solutions/assessing-performance/
National Council of Nonprofits. https://www.councilofnonprofits.org/tools-resources/self-assessments-nonprofit-boards
Stand for Your Mission. http://standforyourmission.org/
Upcoming Conferences. Visit https://inrc.law.uowa.edu for registration information:
Southeast Iowa Nonprofit Summit | September 19, 2017 | Bridge View Center | Ottumwa, IA
Iowa Nonprofit Summit | October 24 & 25, 2017 | Prairies Meadows | Altoona, IA

Is Your Information Current?

If your organization is listed in one of our databases (Nonprofit Organizations, Register of Accountability, or Iowa Grants Guide) make sure your informatio is current. Email your updates to us at law-nonprofit@uiowa.edu

Training Opportunities (turn the page for more.)

Community Foundation of Greater Des Moines

Register for these and other events at https://www.desmoinesfoundation.org/ From the top menu choose *News & Events* then *Calendar of Events*.

DonorConnect: When Band-Aids Won't Heal–Our Community's Mental Health Crisis for Children
Date: Thursday, June 22
Time: 11:30 am - 1 pm; lunch provided
Location: Orchard Place Child Guidance Center, 808 5th Avenue, Des Moines
Cost: No charge

Navigating Through Times of Disruption: A Discussion for Executive Directors and Board Leadership
Date: Thursday, July 11
Time: 11 am – 1:30 pm
Location: Wakonda Club, 3915 Fleur Drive, Des Moines
Cost: No charge

Board Launch – On Board: The Basics of Being an Effective Board Member
Date: Monday, September 18
Time: 3 - 5 pm
Location: Junior Achievement of Central Iowa, 6100 Grand Avenue, Des Moines
Cost: $20

The 2017 Iowa Nonprofit Summit is October 24-25 in Altoona. Registration opens soon. In the meantime, watch for details at www.regonline.com/ianpsummit2017

Nonprofit Association of the Midlands

Registration details at www.nonprofitam.org. Choose *Learning* then *Training Calendar*.

Webinar: Nonprofit Data for Beginners
Meets: 12:00 - 1:30 pm on three Wednesdays:
June 28, Asking the Right Questions
July 12, Hunting Down the Data
July 19, Making Use of Your Data
Cost: NAM members $95; Standard $120
Registration: https://org.salsalabs.com/o/957/p/salsa/event/common/public/?event_KEY=99776

Guidelines & Principles for Nonprofit Excellence Overview in Nebraska and Iowa
Date: Thursday, June 29
Time: 9 - 10:30 am
Location: NAM Training Room, 11205 Wright Circle, Ste. 210, Omaha, NE
Cost: No charge
Contact: Dan Walsh at 402-557-5800 ext. 4 or email Daniel@nonprofitam.org

Grant Writing Palooza 2017
Date: Tuesday, July 18
Time: 8 am – 4 pm
Location: UNO Mammel Hall, Coll. of Bus. Admin., 6708 Pine St. (Aksarben Campus), Rm. 117, Omaha, NE
Cost: NAM members $99; Standard $199
Contact: 402-557-5800 ext. 4 or email Daniel@nonprofitam.org

Webinar: Tour of Grant Station Website
Date: Tuesday, July 25
Time: 1 -2 p.m.
Cost: No charge
Register: https://cc.readytalk.com/registration/#/?meeting=mr8fbqnxkbjx&campaign=hzz8dhoepq2d

Lunch & Learn: Bad Buyer Mistakes
Date: Tuesday, August 29
Time: 12:15-1:15 pm
Location: Nam Training Room, 11205 Wright Circle, Ste 210, Omaha, NE 68144.
Contact: 402-557-5800 or email abby@nonprofitam.org

LAWINRC staff:
Richard Koontz
LAWINRC Director
Paul Thelen
Assistant Director
Brenda Steinmetz
Admin. Svcs. Coordinator
Diane DeBok
Editor & Content Manager
Sue Troyer
Secretary

The Larned A. Waterman
Iowa Nonprofit Resource Center
130 Grand Avenue Court
Iowa City, IA 52242
1.866.500.8980

Training Opportunities

Lee County Extension: Nonprofit Management Academy

Courses lead to certificate in nonprofit management and meet 9 am - 4 pm at the Baymont Inn and Suites, 325 Main St., Keokuk, Iowa.
Cost per course: $60; CEUs add'l $25.
Register at least five working days prior to class meeting.
Information/Registration/Special Needs Contact: Alex Merk at 319-835-5116 or alexmerk@iastate.edu or Shelley Oltmans at 319-524-5055 or shelleyo@iastate.edu

Board Development
Date: July 12
Presenters: Lois Riggs, J.D., Hannibal-LaGrange University; John Gulick, University of Missouri Extension

Advocacy
Date: August 9
Presenters: Lois Riggs, J.D., Hannibal-LaGrange University

Marketing: Social Media and Digital Strategies
Date: September 13
Presenters: Sally Poole, CEO, Poole Communications

Southeast Iowa Nonprofit Summit

Speakers, breakout sessions, networking.
Date: Tuesday, September 19
Location: Bridge View Center, Ottumwa
Cost: No charge
Register: https://www.eventbrite.com/e/3rd-annual-southeast-iowa-nonprofit-summit-tickets-32819965400

Linn/Johnson Co. Extension: Nonprofit Management Academy

Courses lead to a certificate in nonprofit management. All courses meet from 9 am to 4 pm at ISU Extension & Outreach, 383 Collins Rd., Ste 201, Cedar Rapids. Cost per course is $75; CEUs additional $25. Some sessions limited to 40 attendees. Register at http://www.extension.iastate.edu/registration/events/conferences/nonprofit/ If questions, contact Shelley O'Neal at 319-377-9839 or via email at soneal@iastate.edu

Reality-Based Rules of the Workplace: Ditch the Drama
Date: June 29
Presenters: Dr. Carol Heaverlo, Jessica Stolee, Kaela Black, Iowa State University Extension and Outreach
Course fee: $120

Creating an Integrated Fundraising Program
Date: August 17
Presenters: Jody Ruff Pellerin
Course fee: $75

Inclusion-Cultural Competence
Date: September 7
Presenters: Dr. Kathleen O'Neill, Assoc. Professor & Director, Master of Strategic Leadership Program, Mount Mercy University
Course fee: $75

Non-Profit Board Engagement
Date: September 21
Presenters: Leslie Wright, United Way of East Central Iowa
Course fee: $75

About Our Organization

The Larned A. Waterman Iowa Nonprofit Resource Center is a University of Iowa interdisciplinary collaboration created to make more accessible educational and service programs focused on strengthening the operational capacity of Iowa nonprofit organizations.

The LAWINRC works collaboratively with government agencies, nonprofit organizations and educational institutions to impart new knowledge through activities and provide information and training resources to help nonprofit organizations and interested persons throughout Iowa. We seek to build the capacity and develop the effectiveness of community-based organizations and enhance the overall effectiveness of local organizations in building communities.

The LAWINRC also introduces students to the nonprofit sector and develops their sense of public and community service.