Illinois Non-Profit Legal Requirements

Tax exemption
If your nonprofit is granted tax-exempt status under 501(c)(3) of the Tax Code, your corporation will be exempt from payment of federal corporate income taxes. A 501(c)(3) nonprofit is eligible to receive both public and private grants, and can enjoy other benefits such as lower postal rates on some bulk mailings. Individual donors can claim a federal income tax deduction of up to 50% of income for donations made to 501(c)(3) groups.

Liability
Law governing nonprofits ensures that the corporation, not its individual members, is liable for legal actions brought against it. As long as the board acts "prudently and responsibly," they will not be held liable. (Volunteer Protection Act of 1997)

Although the risk of a lawsuit against individual members is small, many nonprofits invest in Directors & Officers (D&O) liability insurance. Whether or not you have D&O insurance, there are board practices that reduce the likelihood of a lawsuit, such as preventing conflicts of interest, recording "no" votes in the minutes, and ensuring that the organization's employment policies are consistently applied.

Nonprofit corporation law requires boards to meet certain standards of conduct and attention. These are:

Duty of Care
Board members must exercise due care in all dealings with the organization and its interests. Includes careful oversight of financial matters, minutes, attention to issues that are of concern to the organization, and raising questions whenever there is something that seems unclear or questionable.

Duty of Loyalty
Personal and professional conflicts of Interest, including the appearance of conflicts of interest, must be avoided.

Duty of Obedience
Obedience to the organization's central purpose must guide all decisions.

Lobbying
Lobbying is permissible, but a 501(c)3 is prohibited from devoting "a substantial share"—more than 20% of expenditures--- to lobbying.

Whistle-Blower Protection
All organizations should develop procedures for handling employee complaints, and should establish a confidential way for employees to report any inappropriateness within the entity's financial management. The Sarbanes-Oxley Act provides a sense of protection for whistle-blowers - or those employees who risk their careers by reporting suspected illegal activities within the organization. Nonprofits must develop, adopt and disclose a formal process to deal with complaints. The a board committee such as the audit committee or exec committee should

take employee complaints seriously, investigate the situation, fix any problems or justify why corrections are not necessary.[1]

Document Destruction Policies

Under the Sarbanes-Oxley Act, it is a crime for nonprofits to:

Knowingly destroy a document with the intent to obstruct or influence the investigation or proper administration of any matter within the jurisdiction of any department agency of the United States...or in relation to or contemplation of such matter or case; and

Take action that is harmful to any person, including interference with lawful employment or livelihood for providing to a law enforcement officer any truthful information relating to the commission of any Federal offense.[2]

Reporting Requirements

1. All organizations are required to file an Illinois Form AG990-IL
2. All organizations are required to submit a copy of their Federal IRS Return or Report (IRS 990, 990EZ, 990PF or other)
3. Organizations, which used a paid professional fundraiser, are required to submit a separate campaign report form for each campaign (Form IFC -Attorney General Report of Individual Fundraising Campaign), and each must be signed by both the professional fundraiser and an officer or director of the organization.[3]

Auditing Requirements

Audited Financial Statements - are required if gross contributions exceeded $150,000 or if the organization used a paid professional fundraiser which raised contributions in excess of $25,000. Contributions include the gross sums paid by the public for merchandise, rights or services of the organization, as well as cash donations.[4]

---

[1] National Council of Nonprofit Associations, www.ncna.org,
NCNA recommends that the responsible committee be the audit committee
[2] NCNA
[3] Illinois Attorney General's Building Better Charities Website,
http://www.ag.state.il.us/charities/reg_reports.html#CharityRegistration,
accessed 10/20/05
[4] Illinois Attorney General's Building Better Charities Website