



Guiding Principles & Best Practices for South Carolina Nonprofits

LEGAL ADDENDUM

I. Governance

Annual Requirements		Status
1.	Update the Conflict of Interest Policy, procedures & forms to be signed by board, staff, & volunteers (Sarbanes- Oxley Act of 2002; 990; S.C. Code Ann. § 33-31-831) US, SC	
Periodic Requirements		Status
1.	Have available to the public IRS Form 1023, IRS determination letter and last three years of 990s - publicly accessible for accountability purposes US	
2.	Notify SC Secretary of State if principal office has been changed within 30 days (SC Code § 33-31-505) SC	
3.	Notify SC Secretary of State if registered agent or registered office has been changed or discontinued (SC Code § 33- 31-502(a); SC Code § 33-31-503(a)) SC	
4.	File Articles of Amendment for significant errors or errors discovered after 90 days (SC Code § 33-31-1005) SC	
5.	File Articles of Dissolution and written notice to Secretary of State of intention to dissolve (SC Code § 33-31-1403, SC Code § 33-31-1404) SC	
Additional Requirements		Status
1.	South Carolina Freedom of Information Act (SC Code § 30-4-10 et seq.)	



II. Leadership & Organizational Culture (Human Resources)

Required Compliance with Employment Laws

For organizations with less than 15 employees		Status
1.	Gather 403b plan documentation US	
2.	Be familiar with Service Members Rights under USERRA US	
3.	Comply with all state and federal employment laws US, SC	
4.	Be familiar with Child Labor Regulations (SC Code Section. 41-13-20) SC	
5.	Make sure compensation paid is reasonable & substantiated (Internal Revenue Code §501(c)(3)) (990) US	
6.	Comply with Equal Employment Opportunity Act of 1972 US	
7.	Research Fair Credit Reporting Act of 2010 US	
8.	Determine eligibility and classifications as it relates to Fair Labor Standards Act of 1938 US	
9.	Follow National Labor Relations Act of 1935—(2 or more employees) US	
10.	Train employees on privacy of Health Information—HIPAA (Health Insurance Portability & Accountability Act of 1996), if necessary US	
11.	Educate employees on whistleblower protection policy US	
For Organizations with more than 15 employees ¹ <i>All of the above requirements PLUS the following:</i>		Status
1.	Follow Age Discrimination in Employment Act of 1967 (20 or more employees) US	
2.	Follow Americans with Disabilities Act of 1990 US	
3.	Determine how Nursing Mothers information applies to your organization <ul style="list-style-type: none"> • Additional Information: Break Time for Nursing Mothers under the FLMA (50 or more employees) (Patient Protection and Affordable Care Act of 2010) US • Additional Information: Nursing mothers (S.C. Code Ann. Section 63-5-40) SC 	
4.	Determine how Children’s Health Insurance Program Reauthorization Act of 2009 applies to your organization (employers with group health plans) US	
5.	Follow Civil Rights Act of 1964 US	
6.	Comply with Drug Free Workplace Act of 1988 (federal contractors & grantees) US	
7.	Follow Employee Retirement Income Security Act of 1974 (20 or more employees) US	



II. Leadership & Organizational Culture (Human Resources)

Required Compliance with Employment Laws (cont'd.)

For Organizations with more than 15 employees ¹ <i>All of the above requirements PLUS the following:</i>		Status
8.	Determine applicability of Federal WARN Act of 1988 (100 or more employees and involving facilities/ plant closings and mass layoffs) US	
9.	Deliver sexual harassment training (if required to do so by local or state law) ² US	

¹ When additional criteria should be met before requirement is triggered, those criteria are listed in parentheses next to the requirement.

² In South Carolina, this is a best practice according to the EEOC.

Additional Requirements		Status
1.	Finalize Payroll withholdings <ul style="list-style-type: none"> • Additional Information: Payroll – Federal Withholdings/Filings US • Additional Information: Payroll – State & local quarterly withholding/filings SC 	
2.	Recover overcompensation US	

Required Employment Postings <i>Post the following posters in easy-to-see locations in your office, as appropriate:</i>		Status
1.	Labor, Licensing, and Regulation Work Place Poster SC	
2.	Employee Polygraph Protection Act Poster US	
3.	E-Verify poster (Participation and Right to Work) US	
4.	Fair Labor Standards Act poster US, SC	
5.	Family Medical Leave Act poster (only if 50+ employees) US	
6.	OSHA poster US	
7.	Labor, Licensing, and Regulation OSHA Poster and OSHA Log US	
8.	Equal Opportunity is the Law US	
9.	South Carolina Human Affairs Commission poster SC	
10.	SC Department of Employment and Workforce poster SC	



II. Leadership & Organizational Culture (Human Resources)

Required Employment Postings (cont'd.) <i>Post the following posters in easy-to-see locations in your office, as appropriate:</i>		Status
11.	Uniformed Services Employment & Reemployment Rights Act poster US	
12.	South Carolina Workers' Compensation poster SC	
13.	Summary of Work-Related Injuries and Illnesses (only if more than 10 employees) SC	
14.	Whistleblower's Protection Act poster US	
15.	All - In - One poster (containing SC labor law, SC OSHA, SC Workers Compensation, SC Employment Security Commission, and SC Human Affairs Commission postings) SC	

Personnel Files (for each employee) <i>Gather each of the following documents for placement in the employee's personnel file:</i>		Status
1.	Form I-9 (required), filed separately from other HR documentation (recommended practice) US	
2.	Immigration & Naturalization Services (INS) documentation US	
3.	Tax forms W-4, annual W-2 US, SC	
4.	E-Verify - Within 3 days of hire date US, SC	

III. Communications & Advocacy

Quarterly Requirements		Status
1.	Comply with lobbying reporting requirements (Lobbying Disclosure Act of 1995 guide; SC Code § 2-17-5 et seq.; 990) US, SC <ul style="list-style-type: none"> • Disclose Lobbying US • File Quarterly LD-2 Reports US 	
Periodic Requirements		Status
1.	File semi-annual LD-203 Reports for individual lobbyists (January 30 and July 30) US	
2.	Submit Disclosure Statements twice a year (prior to January 31 and June 30) SC	
3.	File a written statement with State Ethics Commission when Cease to Engage in Lobbying SC	
Additional Requirements		Status
1.	Research limitations to nonprofits supporting or opposing legislation (Internal Revenue Code §501(c)(3), §501(h); 990) US <ul style="list-style-type: none"> • Additional Information: Center for Association Leadership: Top Ten Myths about 501(c)(3) lobbying and Political Activity 	
2.	Comply with prohibition on supporting/opposing candidates or elected officials (Internal Revenue Code §501(c)(3); 990) US	
3.	Comply with prohibition on using federal funds to lobby (Office of Management & Budget Circular A-122; 990) US	

IV. Financial Management & Stewardship³

Annual Requirements		Status
1.	Complete an audit, if organization spends over \$750,000 of federal money/grants (Office of Management & Budget Circular A-133; 990) US	
2.	Comply with conditions placed upon donations (990) US	
3.	Submit IRS Form 1099-MISC, if applicable (Internal Revenue Code §501(c)(3)) US <ul style="list-style-type: none"> Houston Chronicle: Do Nonprofits Need to Issue 1099s? 	
4.	Report unrelated business income tax (UBIT) reporting, if applicable (Internal Revenue Code §501(c)(3)) US	
Quarterly Requirements		Status
1.	Finalize payroll and applicable taxes <ul style="list-style-type: none"> Prepare Withholding Tax Return, quarterly or annual (WH-1605; WH-1606) SC File Form 941 - Quarterly Payroll Taxes US Additional Information: Payroll - Federal Withholdings/Filings US Additional Information: Payroll - State & Local Quarterly Withholding/Filings SC 	
Periodic Requirements		Status
1.	Determine the need for a bulk-rate postage permit, if applicable US	
2.	Categorize donated funds into appropriate categories - unrestricted, temporarily restricted or permanently restricted (990) US	
3.	Maintain a financial records & destruction policy (Sarbanes-Oxley Act of 2002; 990) US	
4.	Store financial supporting documentation for the appropriate length of time - i.e., grant applications, sales slips paid bills, invoices, receipts, deposit slips, cancelled checks (Internal Revenue Code §501(c)(3)) US	
5.	Categorize Expended Funds US, SC <ul style="list-style-type: none"> IRS Form 990 Charity Search – information includes program expenses SC Secretary of State Angels and Scrooges List (2018 List) 	
6.	Have available to the public IRS Form 1023 & IRS determination letter for accountability purposes US	
Additional Requirements		Status
1.	Draft a whistleblower policy (Sarbanes-Oxley Act of 2002; 990) US	
2.	Develop lobbying expense policy & procedures, if applicable (Lobbying Disclosure Act of 1995; 990) US	

³A website for general information regarding tax information for nonprofits can be found here.



V. Fundraising

Annual Requirements		Status
1.	Register Professional fundraisers with the Secretary of State on an annual basis and comply with any applicable filing requirements, including notices of solicitation, contracts and joint financial reports. (S.C. Code Ann. 33-56-10, et seq.) SC	
2.	File Charitable Organization Registration Statement with Secretary of State within 4 ½ months of the end of fiscal year, if applicable. (S.C. Code Ann 33-56-30) SC	
3.	Apply for an annual registration exemption with the Secretary of State within 4 ½ months of the end of the fiscal year, if applicable. (S.C. Code Ann. 33-56-50) SC	
4.	Comply with fundraising rules & regulations (990) US, SC <ul style="list-style-type: none"> • Additional Information: Fundraising Events for Nonprofit Organizations - SC DOR Rev Rule 12-3 (sales tax, admissions tax, ADL) 	
5.	File annual financial report with the Secretary of State within 4 ½ months of the end of the fiscal year, if applicable. You may submit a written request to the Secretary of State for a 6-month filing extension for this report. (S.C. Code Ann. 33-56-50) SC	
Periodic Requirements		Status
1.	Provide appropriate acknowledgement/receipts to donors (Internal Revenue Code §170(f) (17); 990) US	
2.	Obtain bingo license: to conduct bingo in the State of South Carolina under one of six classes of licenses. SC <ul style="list-style-type: none"> • Additional Information: The Bingo Tax Act of 1996, SC Code Ann 12-21-3910 et seq. • Additional Information: Overview of SC bingo licensing and enforcement • Additional Information: IRS Publication 3079: Tax Exempt Organizations & Gaming 	
3.	Additional Information: Alcoholic Beverage Laws SC <ul style="list-style-type: none"> • Unlicensed social functions • Temporary License for sale of liquor (ABL-909) Nonprofit Private Clubs Application for biennial liquor license (ABL-901)	
4.	Obtain Amusement License (L-514) or Admission tax exemption (L-2068) SC Additional Information: Amusement/Admissions Tax Guide	
5.	Register to conduct raffles with the Secretary of State's Division of Public Charities and file an annual raffle financial report within 4 ½ months of the end of the fiscal year. (S.C. Code 33-57-100, et seq.) SC	



VI. Operations & Evaluation

Annual Requirements		Status
1.	Obtain and review all necessary/appropriate insurance (i.e., D&O, general liability, etc.) US, SC	
2.	Additional Resources: Workers' Compensation Insurance SC <ul style="list-style-type: none"> • SC law expressly exempts certain employment (SC Code § 42-1-360) • File proof of financial responsibility and evidence of compliance with Workers' Compensation Commission (SC Code Regs 67-405) 	
3.	File Employer Status Report (Form UCE-151) with SC Employment Security Commission	
Quarterly Requirements		Status
1.	SC Employment Security Commission (SC Code § 41-27-230) SC <ul style="list-style-type: none"> • File Contribution Reports (due April 30th, July 31st, October 31st and January 31st) – Form UCE-101 • File Quarterly Wage Reports (due with Contribution Reports) – Form UCE-120 • Additional Resources: Non-profit Opt Out Method – in lieu of contributions – Form UCE-155 (SC Code § 41-31-620) • Additional Resources: Bonding Requirement (SC Code § 41-31-640) 	
Periodic Requirements		Status
1.	Nonprofit Postage Rates (USPS Publication 417) SC <ul style="list-style-type: none"> • Apply to Mail at Nonprofit Standard Mail Rates (Postal Service Form 3624), submitted to post office from which the organization intends to mail • Determine Standard Mail Nonprofit Eligibility (Publication 417) • Additional Resources: Nonprofit Postage Rates (Quick Service Guide 703) 	
2.	Develop document retention & destruction policy (Sarbanes-Oxley Act of 2002; 990) US	



VII. Checklist for Nonprofit Startups

1.	Determine whether the proposed organization could qualify as a “public charity” under Public Support Test” or “Facts & Circumstances Test” (Revenue Code §170(b)(1)(A)(VI), §509(a)(1); 990) US
2.	Determine the organization’s name, recruit initial directors SC
3.	Draft and file Articles of Incorporation with the South Carolina Secretary of State (S.C. Code 33-31-202) SC
4.	Attach the 501(c)(3) Attachment to Articles of Incorporation SC
5.	Include provisions in the Articles of Incorporation that are not inconsistent with law for how assets will be distributed in case of corporate dissolution (SC Code § 33-31-202(a)(6)) SC
6.	Continuously maintain a registered office and registered agent (SC Code § 33-31-501) SC
7.	File a CL-1 form with articles of incorporation if organization is a Political Association SC
8.	Hold an organizational meeting after incorporation to elect directors (if not named in the articles) appoint officers, adopt bylaws and carry on other business (SC Code § 33-31-205(a)) SC
9.	Install a minimum of three board members (SC Code § 33-31-803) SC
10.	Elect required officers - president, secretary and treasurer, or as otherwise indicated in the articles or bylaws (SC Code Ann § 33-31-840) SC
12.	Adopt Policies and Procedures, including a Conflict of Interest policy, at a minimum US
13.	Write a personal use of assets/funds policy (Internal Revenue Code §501(c)(3), §4958) US
14.	Obtain Employer Identification Number (EIN) from the IRS US
15.	Obtain liability insurance
16.	Apply for Tax Exemption (IRS Form 1023, IRS Form 1023-EZ) US
17.	Develop the mission statement (990) US

VII. Checklist for Nonprofit Startups (cont'd.)

18.	Annual Considerations: <ul style="list-style-type: none">• Submit the applicable IRS 990 Form US• Additional Resources: IRS Form 990 and variants US• Determine whether to register in order to solicit charitable funds from donors (SC Code. § 33-56-30) SC• Consider filing documents confirming exempt status, or if exempt, consider applying for SC property, sales, admission tax exemptions, if eligible (SC Code. § 12-37-220) SC
19.	Determine use of Municipal Business License Tax, if applicable SC
20.	Elect your organization to have a 501(h) status, if conducting any lobbying (Internal Revenue Code §501(c)(3), §501(h)) US
21.	Register as a charitable organization with the Secretary of State's Division of Public Charities prior to soliciting contributions SC



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