

Texas Nonprofit Compliance Guide



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About This Guide

Hello!

This Guide will give you an introductory overview of rules and regulations we are required to comply with as a nonprofit corporation and 501(c)(3) organization. Keep in mind, this is just a small review of what all is out there, and there may be other laws that apply and are not mentioned here.

Things to keep in mind as you use this Guide:

- Rules and regulations change often and quickly. If you look something up in this Guide, make sure to double check that it's still accurate. If there's been a change from what you read in this Guide, notify the Executive Director immediately so the appropriate changes can be made.
- If you have questions about a specific rule or regulation don't hesitate to reach out to your management or the Executive Director. They'll put you in touch with the appropriate person(s) to get your question(s) answered.
- Talk to your supervisor or manager before you deviate from anything outlined in the Guide. If you want to take an action that deviates from what is required in this Guide, or go in a direction that is different from what this Guide outlines, escalate your decision so the appropriate decision-maker may contact counsel if need be.

In Summary....

- ✓ Consult this Guide if you have compliance questions
- ✓ Verify information is still correct
- ✓ Notify your supervisor if you find something in the Guide is incorrect
- ✓ Talk with your supervisor before you deviate from the Guide
- ✓ Don't hesitate to ask questions

Reports to Remember

Because we accept charitable donations we are required to update the community on different aspects of our operations. We do this so government agencies, and the greater community, can hold us accountable for being a good steward of the public funds we receive.

To whom, when and what we report will differ depending on the subject being reported out on. Generally, our baseline reporting will include:



Reports to the State of Texas

Periodic Reports: Up to every 4 years the State of Texas may ask us to fill out a Periodic Report to update our contact information and let them know whether or not we are still operating.



Federal Reports

Annual 990: Every year we must submit a Federal Tax Return for the organization. The entire Board is required to review the tax return and approve the tax return every year.

Organizational Changes: If we make major changes (things like our structure or name) we are required to update the IRS. We can do this one of two ways; including the update in our 990 form or contacting the IRS directly. Generally, updates are made on the 990 form. Where big changes are made to the structure, we may need to update the IRS of those changes immediately.

As Code Park grows its programming, its reporting requirements will also change. For example, if Code Park opens a program in San Francisco there are registrations we would have to make with the State of California. Each time an agent or representative of Code Park embarks on something new (i.e. new programming, new audience, new location, etc.) it's important to check whether the organization's reporting requirements will change as a result and update a supervisor where an update is necessary.

Employment

As an employer, our obligations can change slightly or dramatically as we hire new employees. For this reason, every time there is a new hire it is important to check and make sure the increase doesn't trigger new requirements. We also want to make sure we use independent contractors with care, because their use may trigger additional requirements. With any employee or independent contractor, pay particular attention to classification issues, tax reporting to the federal or state government, and any rights the employee or independent contractor may have under labor laws (i.e. health and safety, minimum wage, etc.).



Taxes

We will be responsible for withholding taxes from our employees, and issuing a 1099 to its independent contractors.



Classifying Workers

Mis-classifying workers (putting them into the wrong category for tax purposes) is becoming a big concern with the government. It's important independent contractors be treated as independent contractors and not as employees.



Insurance Coverage

In Texas employers can choose whether or not to carry Worker's Compensation. If Code Park does not have Worker's Compensation, the State of Texas requires we report that and report any work related injuries. If we want to purchase insurance, there are a few ways to do so such as self insurance programs or additional coverage through an existing insurer. Nonprofit employers with four or more employees during a certain amount of time must pay an Unemployment Tax to the Texas Workforce Commission, as well as hang posters on employee rights in common areas.

Other labor laws we have to keep in mind are the :

- Americans with Disabilities Act
- National Labor Relations Act

Requests for Records

Where a representative or agent of our organization receives a request for our books or records, they should:

- ✓ Direct the requestor to our site for a copy of our most recent 990 if the request is for general financial and programing information.
- ✓ Notify a manager or supervisor immediately if the request is for more specific information such as a policy, donor list or copy of the bylaws.
- ✓ Take down information from the requestor, including their name, contact information, the information being requested (get them to be very specific here) and reason for the request.

All communication with the requestor should be courteous, letting them know you're taking down the request and will notify the appropriate person(s) so that someone may contact them.

Depending on the type of information being requested, there may be rules around how long we have to respond from the time the request is made. For this reason, escalate requests immediately after getting them along with the information you've collected.

Not all information has to be disclosed, especially if the request is abusive. Or, there may be exceptions where information doesn't have to be disclosed. However, the determination not to disclose should be made by the Board or Executive Director and no other staff or organization should communicate the decision before consulting either.

Information to Keep

To comply with requests for information and reporting, we have to keep certain types of information for specific periods of time.

For more information on the time frames for different document types please check our Document Retention and Destruction Policy.

Information with sensitive information on it should be kept as outlined in the "**Internal Controls**" Section later in this Guide.

Finances

Finances are a pretty important part of what we do and a direct reflection of our organization's health.

For this reason, we want to make sure we're tracking the different aspects of our financial performance and reporting out to the appropriate stakeholders regularly. Doing so also ensures we're maximizing the dollars we receive and can detect whether or not problems may present themselves before they hit.

The financial reports the Treasurer (and anyone assigned to work with the Treasurer) should generate are:

- An annual budget
- A profit and loss statement
- A balance sheet

Board members should get a copy of these reports every meeting, along with an update of actual spending compared to the amount budgeted.

Financial statements should be printed and kept in a binder that is held at our principal business office, along with copies of any audits performed.

Internal Controls

As a community organizer and convener we're given access to some pretty sensitive information. This includes information on the people we work with, those we receive funding from, as well as our own policies and procedures. It's important that we do everything we can to protect this information. We also have legal obligations to ensure this information isn't disclosed to someone who isn't using it appropriately. A breach of these obligations can have pretty serious consequences.

As you handle information day to day:

- Protect electronic data with passwords that are hard to guess. Lock computer screens whenever you get up.
- Lock file cabinets with sensitive information.
- Don't leave information out on the desk for others to see.
- Only share information with those who have a need to know.
- Take care with any USB's or other mobile devices. If these get lost, notify your supervisor or manager immediately.

Fundraising and Gaming

Generally, Texas does not have many requirements on how organizations can raise funds. However, there may be times where we want to raise funds using games of chance. A brief run-through of these is below. As always, please consult your supervisor or manager before organizing an event involving one, as the law may have changed.



Bingo

Bingo is defined as, "a specific game of chance, commonly known as bingo or lotto, in which prizes are awarded on the basis of designated numbers or symbols conforming to randomly selected numbers or symbols." In order to run a bingo game, we must apply for a license, have been in existence for at least three years, obtain a bond, and pay the appropriate license fee. Licenses can be obtained for regular games or for single occasions. Before we can conduct the game, there is also training we must undergo. All proceeds from the game must go to a charitable purpose, and where aspects of the license change (for example, the location) a new license must be applied for. There are limitations on the amounts that can be awarded per game (\$750 dollars) and there are limitations on how many bingo games can take place within a certain time period.



Raffle

A raffle is defined as, "the award of one or more prizes by chance at a single occasion among a single pool or group of persons who have paid or promised a thing of value for a ticket that represents a chance to win a prize." These may only be run where we've existed for three years, where the proceeds are going to a charitable purpose, for prizes not to exceed \$50,000, and where specific requirements are printed on the ticket. There are also limitations on how many raffles may take place per year.



Poker

There are no exceptions to the gambling laws for nonprofits. Where we plan to organize a "casino night" the Board will need to be consulted.

Other Fundraising Considerations

Even though Texas does not have many laws regulating how we raise money, there are other aspects of fundraising we'll want to keep in mind. These are:



Contribution Receipts

If a donor makes a donation that exceeds \$250 dollars we're required to give them a contribution receipt for the donation. This is important for the donor, because this documents the donation so they can take advantage of the charitable deduction. We must take care to get this out to the donor as soon after the donation as possible. Where the donor receives something in exchange for the donation (for example, a seat at an event) there are special calculations we have to adhere to so the receipt is accurate.



Gift Restrictions

To make sure we comply with federal law on donations, it's important we limit the number of restrictions a donor places on their donation. Limiting a donation to a specific program will probably be okay, but limiting to a specific person might be problematic. Donations conditioned on a certain event might also be problematic. We are not allowed to return donations once we've received them.

State Exemption

Texas gives organizations such as ours tax breaks on certain items we purchase to further our mission. In order to take advantage of this benefit, we will have an "Exemption Certificate" that we must keep track of. We must present this certificate at the time of purchase. Keep in mind, this exemption doesn't exempt us from having to *collect* taxes for the services and products we offer; only from having to pay specific taxes on certain purchases.



Conclusion

That's it for this Guide! Again, this is just an introduction and there may be other questions, reports or nuances that weren't discussed here. If you're not sure about something, or have questions, always reach out to your appropriate supervisor or manager.