

Starting a 501(c)(3) Organization

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Register your group's name with the Ohio Secretary of State's office

You can do this two ways:

1. For permanent registration (renewable every five years): Fill out Form 534, pay the \$50 filing fee and mail your completed form to Secretary of State, PO Box 670, Columbus, Ohio 43216.
2. For temporary registration (180 days): Fill out Form 544, pay the \$50 filing fee and mail your completed form to Secretary of State, PO Box 70, Columbus, Ohio 43216. (For forms: www.state.oh.us/sos, or 877-767-3453).

This gives your group sole rights to its name. The name cannot be used by any other organization; therefore, it is protected until your group decides whether or not to incorporate.

Obtain a Federal Employer Identification Number (EIN)

You can do this one of two ways:

1. Fill out Form SS-4 from the Internal Revenue Service and mail it to: Internal Revenue Service, Attn: Brookhaven Account Management Campus (BAMC); 1040 Waverly Avenue; Holtsville, NY 11742. Fax: 631-447-8960
2. For an immediate response: Call (800) 829-4933. This would allow your group to open a bank account. In the future, this would put your group one step closer to applying for 501(c)(3) status. If your group would like to have employees, an EIN is required.

After your group has become more established, you may want to:

Develop by-laws (see the OEC's Guide to Writing Bylaws)

In general, it is a good idea to have a structure to the group to guide decision making and to define roles and voting privileges. If your group decides to apply for 501(c)(3) status in the future, it will make the process easier.

For Questions & Answers from the IRS:

www.irs.gov/exempt/charitable

To obtain forms from the State of Ohio:

www.state.oh.us/sos, or 877-767-3453

Become a corporation

Fill out Form 532, pay the \$125 filing fee and mail your completed form to Secretary of State, PO Box 670, Columbus, Ohio 43216. If this is done at the same time as registering the group name, the \$50 filing fee (for registering your group name) is waived.

Purchase insurance

Your organization may want to obtain Directors and Officers (D&O) insurance as well as General Liability.

D & O coverage. Under a traditional D & O insurance policy, the insurance company agrees to indemnify, or to pay on behalf of, the individual directors or officers for all "loss" those individuals become legally obligated to pay arising out of a "wrongful act" committed in their capacity as an officer and director.

D & O Liability Insurance is designed to help protect both the assets of the company and the personal assets of these individuals. D & O Liability Insurance helps protect the Directors and Officers of the Company against claims alleging:

- employee discrimination or unfair employment practices
- wrongful termination
- disposal of corporate assets, without regard to the firm's ability to pay for or secure the Company's debts
- wrongful denial or termination of credit to any customer or client
- violation of the anti-trust laws or unfair methods of competition
- violation of a loan covenant
- exorbitant dividend payments or profit sharing contributions which were made by the Company
- improper loans made to directors or officers

General Liability covers two elements in that it includes office loss from theft and an event part. The event area varies depending on what type of outreach your group plans on covering. A group hosting many canoe trips will have a higher insurance cost than a group who outreaches through classroom teaching.

In other words, the individuals who control the corporation are not responsible, except in unusual situations, for the legal and financial obligations of the organization. This gives your group continuity. The corporation will exist until legal dissolution. It firmly establishes a uniform set of rules. Those involved with corporations know how they should operate and what is expected of them. Establishing a corporation with the state of Ohio will make it easier to apply for tax exemption or 501(c)(3) status at the federal level.



Apply for 501(c)(3) status (federal recognition of exemption)

To apply for 501(c)(3) status your group:

- Should have incorporated in the state of Ohio.
- Should have previously applied and received an EIN either by phone or mail.
- Must complete Form 1023 (Parts I through IV for a standard non-profit corporation).

There are several things to keep in mind when filing for 501(c)(3) status:

1. Your application must describe your organization's specific activities. Your group must decide what the group's purpose is and whether or not you want to lobby elected officials on issues/legislation.
2. If you wish to engage in lobbying you have the following options:
 - The "no substantial part" test is to prevent a (c)(3) from lobbying. The guidance is vague as to exactly what activities are considered lobbying under this rule or just how much a "substantial part" is. It may be five percent of expenditures and time, or less. But, if a (c)(3) violates this test at any point in the year, its tax exemption can be revoked.
 - The "lobbying expenditures" test or "electing to lobby" provides an alternative limit on lobbying. This alternative applies ONLY if a group chooses it by completing Form 5768. This then allows the organization to spend up to 20% of their budget. A group may spend 25% of its total permitted lobbying amount on grassroots lobbying (see below). The permitted lobbying amount is calculated on a sliding scale. (If your group expects to carry on any lobbying activities, it should probably choose this alternative.)

The "lobbying expenditures" test limits spending for two kinds of attempts to influence legislation:
Direct Lobbying: An attempt to influence legislation by spending money to communicate directly with a government official or employee who participates in enacting legislation. The communication must: (1) refer to a specific legislative proposal and (2) reflect a view on legislation.

Activities that are not considered lobbying under the "lobbying expenditures" test include:

- volunteer activities
 - nonpartisan research
 - examining general problems
 - testifying at legislative hearings
 - self-defense
- "Grassroots lobbying" is an attempt to influence legislation by communicating with any segment of the general public. The attempt (1) refers to a specific legislative proposal, (2) reflects a view on the legislation, and (3) encourages the recipient to take

action on the legislation. Remember, your group may only spend 25% of its total permitted lobbying amount on grassroots lobbying.

In your group's application make sure you include a conformed copy of the "complete organizing instrument" more commonly known as your group's Articles of Incorporation and Bylaws.

The application must include required Financial Data (Part IV of Form 1023):

- current year data (must include period up to within 60 days of the date the application is filed and three preceding years).
- detailed breakdown of revenue and expenses

If the organization has been in existence less than one year, you must also submit proposed budgets for two years showing the amounts and types of receipts and expenditures anticipated.

Make sure that you attach Form 8718 with the appropriate fee for your organization. If your group anticipates that its gross receipts will not be more than \$10,000 during its first four years. The fee is \$150. If your group anticipates that its gross receipts will be more than \$10,000 during its first four years; the fee is \$500. You may also want to complete Form 2848 (Power of Attorney & Declaration of Representative) – it may be helpful to have one person in the organization in charge of filings, etc.

A 501(c)(3) group:

- Is exempt from paying federal income tax, except on unrelated business income, and in connection with certain political expenditures.
- Is able to receive tax deductible contributions.
- Is organized and operated exclusively for a charitable, education, scientific or other tax-exempt purpose.
- Is limited in carrying out activities to influence legislation.
- Is prohibited from using their earnings to benefit individuals (this does not prohibit hiring staff).
- Is strictly prohibited from supporting or opposing candidates for political office.

Some other things to keep in mind:

- Groups with gross receipts less than \$5,000 annually are not required to apply to the IRS for recognition of their (c)(3) status but contributions to the group are not tax deductible.
- If your group plans on doing more lobbying than the "lobbying expenditures" test allows, you may want to look into becoming a 501(c)(4) instead. 501(c)(4) groups can lobby to an unlimited extent.

To obtain forms from the Internal Revenue

Service: www.irs.gov/pub, or 800-829-3676

River Network is a great source of additional information:

<http://www.rivernetnetwork.org>, or 503-241-3506/ 800-423-6747