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Nonprofit Law

THE LIFE CYCLE OF A CHARITABLE ORGANIZATION

■ ELIZABETH SCHMIDT



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ASPEN ELECTIVE SERIES

NONPROFIT LAW: THE LIFE CYCLE OF A CHARITABLE ORGANIZATION

Betsy Schmidt

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NONPROFIT LAW

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To grandchildren, mine and everyone else's,
for whose future the nonprofit sector works so tirelessly

PREFACE

In faith and hope the world will disagree, but all mankind's concern is charity.

Alexander the Great

The law of charitable organizations is important. It is also complex. At some point in your legal career, you are likely to come into contact with charitable organizations. Whether you specialize in tax-exempt transactions, work or volunteer for a nonprofit, or serve on a nonprofit board, an understanding of the practical legal issues confronting these organizations will serve you (and your community) well.

This casebook covers the unique legal issues that charitable organizations face. It uses the traditional casebook format to cover abstract legal principles, but it also has a practical bent. The book is organized around the life cycle of a §501(c)(3) organization, the type of tax-exempt organization that is often called a “charitable” organization. This book will introduce you to the legal issues that arise when the organization is formed, when it raises funds, while it is operational, and when it either winds down its affairs or transforms into a different organization.

You will be asked to apply the legal principles you learn in a practical setting. Most of the hypothetical questions will put you in the position of an attorney, a judge, or an executive director of a §501(c)(3) organization. The book is also designed so that, if the instructor chooses, students can create, operate, and dissolve a virtual §501(c)(3) charitable organization over the course of the semester. Additionally, this practical approach offers a helpful perspective for clinical courses.

The book is organized into four units. The first, Starting the Nonprofit Organization, introduces the course, explains state law requirements for starting a nonprofit corporation, explores the fiduciary duties for boards of directors, and examines the requirements for obtaining recognition as a §501(c)(3) organization. The second unit focuses on legal issues that arise when the §501(c)(3) organization raises money: charitable contributions, charitable solicitations, foundations and alternatives to foundations, and the law relating to

nonprofits' commercial activity. The third unit, dealing with topics that arise once the organization is fully functional, presents the subjects of inurement and intermediate sanctions, joint ventures and subsidiaries, lobbying and political activity, and accountability. The final unit covers the topics of merger, conversion to for-profit status, and dissolution. Real-world legal issues do not always appear in this order, of course, but this organization offers a cohesive approach to understanding the legal issues. By the time you complete the four units, you should have a solid foundation to understand, reconcile, and act upon the complex issues that will confront you as you work with any of the hundreds of thousands of nonprofit organizations that inhabit our vibrant civil society.

Betsy Schmidt
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