

1/18/22 Youth on Boards and the New Washington Nonprofit Corporation Act Q&A

Questions:

1. If youth are invited to boards, and we are encouraged to involve the parents/guardians in approving their youth's involvement on the board, is there suggested text for that agreement?

Ans: The language of a Board commitment form for a youth is similar to a parental model release agreement which asks for parent's permission to use a child's likeness. On a Board commitment form, it would state the purpose of the board, and general responsibilities. The youth also signs the Board commitment in addition to the parent. It is also best to think through how confidentiality plays into things. Directors will have knowledge and if the parent has liability, perhaps need to allow the parent to know information usually not shared with non-Board members. Also, youth should understand what confidentiality means.

2. What if a nonprofit doesn't file a tax return long after it's due, the directors have been put on record of this, and they ignore and continue to ignore the failure? Wouldn't they be personally liable for the willful failure to file?

Ans: If a 501c3 organization fails to file a 990 for three consecutive years, its 501c3 status will be automatically revoked. **The IRS may also fine the 501c3 and individuals may also be responsible for the fine:** "If the organization is subject to this penalty, the IRS may specify a date by which the return of correct information must be filed. If the return is not filed by that date, an individual within the organization who fails to comply may be charged a penalty of \$10 a day. The maximum penalty on all individuals for failures with respect to a return shall not exceed \$5,000." This could be evidence that the board is not meeting the duty of care and could lead to liability if the failure is willful/intentional. A board member can also be personally liable for failure to pay employment taxes to the federal or state governments (this includes misclassifying employees as independent contractors).

3. Any thoughts on stipend payment for youth on boards?

Ans: If they are a charitable class under the org's general mission, this could be considered a contribution to a charitable class and could be authorized.

4. Can youth sign a Hold Harmless agreement?

Ans: This would probably be a contract that could be voidable if youth signs; better to have someone over 18 sign.

5. Is a parent and child serving on board nepotism?

Ans: If an organization plans to apply for 501(C)(3) tax exemption, the IRS prefers at least 3 board members who are not related by blood or marriage. A parent and child serving on the board could be problematic especially in a small board.

6. Going back to the labor law slide, are we causing a problem if we have youth under age 16 attending board meetings 7-9pm?

Ans: Labor laws work hours don't apply to volunteer work for charitable orgs.

7. Should having a youth representative on a board be made a part of our bylaws? Positives or negatives?

Ans: It will likely be a board commitment if it goes in the bylaws. If it is in the bylaws and the nonprofit doesn't have actual youth representation, the organization could be breaching bylaws. It could also be done by resolution.

8. The entity filed articles in June, 2020, never applied for any 501 c status, so it would seem they, by default, are a for profit entity and owe taxes at 21% on their revenue/donations of about \$700, vs no expenses?

Ans: If an org is filing 501(C)(3) status, it is required to do so within 27 months of incorporation. When an org files, the org gets tax exempt status up until the time it files. This is a question for a CPA.

Resources:

1. CR has a general policy on harassment under the "employment" section of this page: <https://communities-rise.org/resources/nonprofit-cbo/>
2. For additional resources on policies to prevent harm within youth-serving orgs, the CDC has a long guide <https://www.cdc.gov/violenceprevention/pdf/preventingchildsexualabuse-a.pdf>
3. Resources for youth on boards:
 - a. <https://ctb.ku.edu/en/table-of-contents/structure/organizational-structure/include-youth/main>
 - b. <https://www.selpractices.org/partner/youth-on-board>
 - c. <https://fredla.org/wp-content/uploads/2016/01/YouthOnBoardOrganizationalAssessmentChecklist.pdf>
 - d. <https://www.selpractices.org/resources>
 - e. <https://nonprofitlawblog.com/youth-board-members-can-minors-serve-on-a-nonprofit-board/>
 - f. <https://fyi.extension.wisc.edu/youthadultpartnership/files/2011/07/INVOLVINGYOUTHONBOARDS.pdf>
4. IRS Form 990 Resources and Tools: <https://www.irs.gov/charities-non-profits/form-990-resources-and-tools>

5. Washington Nonprofits has some great resources available on "Liquor, Cannabis, Gambling...and Your Fundraising Event." <https://www.wanonprofitinstitute.org/liquor/>
6. Nonprofit Risk Management Center <https://nonprofitrisk.org/>