

FUNDAMENTALS FOR FRIENDS

The Legal Basics for Friends' Groups



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THE RESEARCH, RESOURCES AND DISCUSSION THAT ARE PART OF THIS PRESENTATION ARE FOR INFORMATIONAL PURPOSES ONLY AND NOT FOR THE PURPOSE OF PROVIDING LEGAL ADVICE.

Libraries should contact their attorneys to obtain advice with respect to any particular issue or problem

Friends are Separate from the Library they Support.

- Not a government organization.
- Funds are not public funds*.
- Not managed or operated by the library they support
- Maintain their own operations, finances, insurance, and related systems.
- **Engage their own attorney, specialized in non-profit and fundraising law.**
- **Engage their own accountant or financial specialist.**

*(if a 501(c)3, may be required to expend for “public purposes.”)

Friends Are Independent

- Library Board does not govern Friends – only the library facility, staff and operations.
- Friends are not part of the library for purposes of insurance, use of staff, facilities, etc.
- Friends are not library staff or automatic library volunteers.
- **Friends should have a written agreement with the library spelling out expectations and the use of library equipment, staff, facilities, and the expectations regarding the use of money raised.**
- Library Board Members may not be board members of the friends and vice-versa

Not a Government Organization

- Friends must legally organize to fundraise in Michigan (or have a bank account for that matter).

1982 PA 162 Non-Profit Corporations Act

Bylaws

Articles of Incorporation

Board

- The Friends' Board is a corporate board with specific legal duties and responsibilities, including a fiduciary duty to the corporation.

LARA [Filing requirements](#)

LARA [Corporations Page](#)

Online Look up

<https://www.michigan.gov/corpcentitysearch>



Charitable Solicitations Act

Governs Charitable Fundraising.

1975 PA 169, [MCL 400.271 et seq](#)
Exemptions = [MCL 400.283](#)

Administered by Attorney General's Office:

Helpful site - https://www.michigan.gov/ag/0,4534,7-359-82915_82919_80762---,00.html

Exemption – Make less than \$25K, organization run and managed by volunteers.



501(c)(3) Entities

Enables group to be “Tax Exempt” and enables donor deductions.

Enables group access to large foundation and charitable grants.

- Internal Revenue Code section 501(c)(3)
- Must be a non-profit corporation
- Has reporting requirements
- Required to comply with regulations including ones limiting political spending

Libraries as 501(c)(3) entities?

- Public libraries in Michigan, as government entities, are already tax-exempt entities under section of the IRS code and can self-fundraise.
- Public Libraries often qualify to become 501(c)(3) entities. This status largely affects grant eligibility for public libraries.
- Libraries as government entities have more restrictions on fundraising than regular non-profit 501(c)(3) entities.
- This status does not have to negatively affect the Friends' activities. **Entities should coordinate efforts to avoid duplication and avoid soliciting the same donors.**

Why this is important

If you are not formed properly, or if you do not file, you can be dissolved automatically

Establishment affects Friends' actions and what they can and cannot do.

Charitable Organizations have unique requirements.

Not knowing can waste time and money re-establishing or double filing.



Friends' Funds Are Not Public Funds Until the Library Receives the \$\$

- Can be expended in ways different from Library.
- Funds belong to Friends' Corporation – not library.
- **Once funds are transferred to library, they become public funds.**
- Understand how the library you support is funded and how their budget is prioritized.
- Knowing the library's relationship with the municipality can be useful too.
- **Have sound financial policies** compliant with Michigan Laws affecting charities, as well as the [Michigan Non-profit Corporation Act](#), The IRS (if a 501(c)(3)), and the [Financial Accounting Standards Board](#) (FASB).

Uniform Prudent Management of Institutional Funds Act

- This act sets out requirements for how charitable funds are managed and invested.

Friends Groups – particularly ones with endowments or invested funds must comply with this act along with other applicable financial laws.



Financial Accounting Standards Board (FASB)

- Organization that establishes accounting standards and practices for non-governmental entities. The U.S. “Generally Accepted Accounting Principles” (GAAP).
- Sets the bar for what is considered prudent and good accounting policies and practices.
- Necessary if group is looking to access large grants or engage large donors.



Why is this important?

- If fundraising, it is helpful to know how the Library is funded- where income comes from and how it is affected by outside factors. Certain Library monies are restricted from certain types of spending. This helps friends better communicate with potential donors.
- Donors want to know their donations will be well-stewarded and used for what the donor intends. Good financial policies inspire trust.
- Maintaining good financial policies helps the friends keep their non-profit, 501(c)(3) status.
- It can mitigate liability if/when mistakes are made, or a problem occurs (such as embezzlement, data breach, etc.)



Fundraising Event Laws

- Gambling and raffles
- Alcohol
- Be careful about using Library facility for fundraiser.
- Be clear on responsibilities of friends vs. library or venue.
- Be wary of using library staff (on library time).



Millage Campaigns

- Friends CAN:
 - Set up a Ballot Question Committee (A “Yes” Committee).
 - Donate funds towards the campaign (but must observe MI Campaign financing and IRS 501(c)(3) requirements- if a 501(c)(3)).
 - Advocate for library millage



BUT

- Library Board Members should not be officers on Ballot committee (Yes” committee).
- Friends members who are library staff or board members may only campaign on “personal” or “non-work” time.
- Library may not support efforts with any asset, people, or money.



Campaign Finance Act

1976 PA 388. MCL 169.201, et seq.

[MCL 169.254 \(4\)](#) (can make contribution, but not solicit more than \$500 without filing reports.)

[Ballot Question Manual](#)



Be a Friend

- Plan
- Communicate – ASK & LISTEN
- Comply
- Support
- Collaborate
- Respect

The Friends' and the library are allies for the same cause. Neither organization supersedes the other with respect to mutual projects.

Friends are Friends

- Understand Library's strategic plan and goals in order to sync donations with needs.
- Only the library can determine its needs and its plans- the friends and library board and director should communicate regularly to ensure that expectations of each are met.
- Stay current with issues in the library world in order to be conversant with and able to plan for resources the library may need.
- USE the library in order to be familiar with its operations and services so that the friends can be a cheerleader for the library with donors and can gather stories of how friends donations have made a difference.

Resources

- [Friends of Michigan Libraries](#)
- [United for Libraries](#) (Click “Statewide Access” button, then find “Michigan,” then “register”).
 - Board Source
- [Attorney General Charities Resources](#)
- [Michigan Nonprofit Association](#)
- IRS [“Stay Exempt” Page](#)
- [Ballotpedia Nonprofit Regulation in Michigan](#)
- [National Council of Nonprofits](#)
 - [Fundraising Page](#)
- IRS [“Fundraising Guidelines for Charities”](#)
- IRS [“Election Year Issues”](#)
- IRS [“Political Campaigns and Charities: The Ban on Political Campaign Intervention”](#) This is a mini course offered by the IRS
- [Financial Accounting Standards Board \(FASB\)](#)

Laws

- [Michigan Nonprofit Corporations Act](#)
- [Uniform Prudent Management of Institutional Funds Act](#)
- [Charitable Organizations and Solicitation Act](#)
- [Attorney General's Charities page](#)
- [MI Charitable Gaming page \(Michigan Lottery\)](#)
- [Alcohol Licensing page \(MI Liquor Control Commission\)](#)
- [26 USC 501\(c\)\(3\)](#)
- [IRS Charities and Nonprofits Page](#)
- [IRS Charitable Solicitations – State Requirements](#)
- [IRS Tax Exempt Entity Look-Up](#) (Check status of 501(c)(3) and reporting)
- [LARA MI Corporation Look-Up](#) (Check Nonprofit Corp status and reporting – including copies of corporations' articles of incorporations, etc.)

Fundraising

- [Online Fundraising Compliance](#)
- [Webjunction Fundraising Courses & Webinars](#)
- [Library Strategies' "7 Unconventional Library Fundraisers That Worked \(and May Work for You\). \(pre-pandemic\)](#)
- [NY Library Association-Basic Fundraising Strategies for Libraries](#)

Thank You for Helping Your Library and Your Community!

