



Give Generously, Keep It Legally

Insights

1.02.13

About a month ago, one of the school's families that owns a popular restaurant and bar held a special fundraising event whereby 20% of the proceeds from every meal served were donated to the school. The school sent out email advertisements to its families, and kids put up posters around town. The event was a huge success, netting \$3,000 to the school. Today, the school received a complaint from the Department of Agriculture asking for details about the event, citing a potential violation of the Solicitation of Funds statute.

Schools and other non-profit organizations regularly hold various types of fundraising activities. Most states have some type of fundraising or solicitation statute that governs who can solicit funds and how it must be done. These statutes are designed to protect the public from fraud and deceptive practices.

In some states, including Florida, as long as the entity is a 501(c)(3), it is exempt from registration under the Solicitation of Funds statute as long as the fundraising activities are for the entity's sole behalf. In other words, those annual fund drives, capital campaigns, or other solicitations that benefit only the school are not required to be registered.

But in a situation in which someone other than the school will also benefit, or if the school hires someone else to handle the fundraising, the solicitation must be registered and approved by the state before it can occur. Schools need to think broadly about these situations before moving forward with what may seem to be simple fundraising activities.

For example, those fundraising drives in which the school sells magazines, candy, wrapping paper, and other goods require registration and approval by the state before the solicitation can begin.

Similarly, any activity that involves a commercial co-venturer (which is essentially anyone engaged in trade or commerce) requires registration, where the purchase or use of the goods or service offered are to benefit the school. Failure to register can result in administrative fines and penalties, loss of the exemption from registration under the statute, and possible civil penalties or claims.

For further information, contact the author at SBogdan@fisherphillips.com or 954.525.4800.

Related People



Suzanne K. Bogdan

Partner

954.847.4705

[Email](#)