

Website Video Script: How to Register a Charity Draft

Nina Karalis and David Koonce

Nina: Hello, David. My name is Nina Karalis. I'm so glad you agreed to meet with me. I am interested in setting up a charity in New Hampshire. Can you help me with that?

David: No problem Nina. I can tell you how to register your organization as a charity in New Hampshire, how to obtain federal tax exempt-status and what you will need to file with state and federal agencies.

Nina: OK, great. My first question is, do I have to file with the Department of Justice? I want to set up an organization to raise money for kids who want to go to law school. Do I have to register my organization as a charity?

David: Good Question, Nina. Under the Internal Revenue Code, all charities are non-profits, but not all non-profits are charities. There are about 20,000 non-profit organizations in New Hampshire, but of those, only the charitable non-profits have to register with our office. Basically, if your organization has been recognized as a 501(c)(3) organization by the IRS or if your organization solicits money for a charitable purpose in New Hampshire, you need to register with our office.

Nina: I am planning on getting money by making calls to homes and also sending out flyers asking for donations. Are those a form of solicitation?

David: Yes, as long as you are calling or mailing to homes in New Hampshire, asking for money for the charitable purpose of education, you have to register with our office.

Nina: So what are the organizations that don't need to file?

David: If your organization is a non-profit, but does not solicit money for a charitable purpose, like a chamber of commerce or a homeowner's association, then you don't have to register with the Attorney General.

Nina: Ok. So, assuming that I have a charity to register with your office, can you show me what paperwork I need to fill out?

David: Yes, this is a NHCT-1, the application for registration form which is available on our website. I will include instructions for accessing these and other forms at the close of the video. For now, lets just take a look at the application.

INSERT SHOT OF NHCT-1

David: This is the NH-CT1, or an application for registration. It must be completed and mailed to the attorney general's office with the required attachments and a \$25 check payable to the State of New Hampshire. Just a warning, if the form is incomplete, it will be rejected and will be sent back to you. The first step is filling out basic information, such as the name of the organization, as well as your organization's contact information.

If the organization is incorporated, please use the exact same information that is listed on your Articles of Incorporation.

Nina: I see that you need a Federal Employer I.D. Number. What is that and how do I get one?

David: A federal employer I.D. Number, or EIN, is like a social security number for a corporation. You can obtain a number from the IRS by completing a Form SS4.

Nina: I see that the Form asks for the type of organization. Which box should I check?

David: Oftentimes, people are confused as to their type of organization. If the organization was incorporated, then it is a charitable corporation. But, if your organization was not created by a trust agreement or is not incorporated, the form of organization is "other". Just because your organization is named as an association or organization, does not mean that it is not incorporated. Check with the Secretary of State if you filed Articles of Organization to see if you are a corporation. Most charitable organizations are incorporated.

Nina: Who can I choose to serve as my trustees or directors?

David: Almost anyone can serve on the board. The Department of Justice recommends that the board members be diverse, and that some are disinterested parties to prevent

fraud. Generally, the law requires that there are five, un-related members who seek to further the charitable mission. Un-related means that they are not of the same immediate family or related by blood or marriage. As long as you have five unrelated members, you can have additional members who are related to one another.

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David: This is the statute regarding board selection in New Hampshire. As you can see, you must have

1. Five Voting Members
2. Not of the same immediate family or related by blood or marriage
3. Who is not an employee of the charitable non-profit corporation

Nina: So if two of the members are married, what happens?

David: A married couple may serve on a board, as long as there are at least four other trustees or directors that are unrelated to the couple. Even though a married couple is on the board, it is acceptable as long as there are five unrelated members.

Nina: Are there any other restrictions, like age or a criminal record?

David: No, a criminal record or a minor can still serve on a board. As long as the member is genuinely interested in furthering the charitable mission, he or she can be a trustee or director.

Nina: Do I have to have a conflict of interest policy? I've never heard of that before.

David: Since 1996, each entity is required by law to adopt a Conflict of Interest Policy in its articles of incorporation. If you are confused about where and how to include this policy, please see our website and our Guidebook. We have included sample language that you are free to use in your documents.

INSERT GUIDEBOOK

Nina: Where can I obtain a copy of the guidebook? Is it available online?

David: Yes, it can be accessed on our website, or we can provide a copy at our office. It has a lot of information regarding charities, including a frequently asked questions section there are questions that you have about anything not covered here.

Nina: Great, thanks. Back to the form, can you just tell me what a Dissolution Provision is?

David: A dissolution provision details what entity or entities can receive assets when a charity decides to dissolve. It is required by the attorney general and the IRS. Our website also includes sample language for a dissolution provision that you can use in your documents.

Nina: What about this last portion here? **SHOW SHOT OF NHCT-1 AND HIGHLIGHT THE FORM 1023 PROVISION.** Do I need to file a Form 1023 with the IRS?

David: Maybe, all charitable organizations with an annual income of over \$5,000 must qualify for tax-exempt status with the IRS by completing and filing the Form 1023. This form, as well as the instructions, can be found on the IRS website, <http://www.irs.gov>. If the form is approved, the IRS will send you a letter of determination and will grant your organization 501(c)(3) status under IRS Code.

Nina: So after I fill this out, and send this in with my check, am I done?

David: If your form is accepted then you are officially registered with our office. However, you still have to file an annual financial report with our office. The annual report, Form NHCT-2A, can be accessed on our website, along with instructions for filing.

INSERT NHCT-2

Nina: When is it due?

David: The report is due no later than four and ½ months following the close of the fiscal or calendar year. So, for example, if December 31st is the fiscal year, then the filing is due by May 15th. Information regarding filing times can be found on the website.

Nina: Can you show me exactly where I can find the forms on our website?

David: Yes, of course. You should access the department of justice website at

www.doj.nh.gov.

SHOW OUR HOME PAGE

David: From there, use the cursor to choose the Charitable Trust section of the menu bar, and click on Forms.

SHOW THE CURSOR MOVING TO FORMS

David: From here, you will be able to see PDF versions of our NH-CT1, the application for registration, as well as the NH-CT2 annual report form.

SHOW THE MOUSE HIGHLIGHTING THE NHCT-1 and 2.

Nina: Thanks, David.

David: You're welcome. Now you never have an excuse to be uncharitable again!