

perspectives

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MY BENESCH MY TEAM

Trends and topics in not-for-profit management

Not-for-Profit Spotlight



**St. Stephen's
Community House**

Since 1965, St. Stephen's Community House has focused its service in the Greater Linden area, near Columbus, Ohio. Originally, St. Stephen's served as a settlement house, helping new immigrants to learn the language, assimilate culturally and acquire citizenship. Today, it continues to live through its mission as a hub for advancing self-sufficiency and brightening lives.

St. Stephen's Community House offers a vast number of services focused toward its five core areas: childcare, family services, senior services, youth services and neighborhood services. St. Stephen's strengthens families with purposeful civic and social service programs, empowers youth through mentoring, tutoring and entrepreneurship programs and nurtures children with quality childcare and education. This approach strives to support the physical, social and emotional needs of the Greater Linden Community.

The programs at St. Stephen's have yielded tremendous improvements and have also maximized the potential of those they continue to serve. The tutoring program has produced a 90 percent improvement in grades for the served youth, the learning centers have

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Why You Need an Employment Handbook and How to Draft One That Works

By Mark R. Waterfill



Mark R. Waterfill

As their workplace grows, most businesses find that the rules of the workplace need to be consistent and fair. As recruiting employees becomes more competitive, it is becoming clear that sophisticated employees expect a company to have an employment handbook. Unfortunately, most employers eventually find themselves involved in some employee dispute, whether it is a wage, discrimination or unemployment claim. In any of these situations, some judge, EEO investigator or tribunal will ask, "What is your company policy on that?" You know that you better have one. The question then becomes how to draft the document.

1. Survey employees as to what they would like to see in the handbook. Make this a joint effort. Ask if there are important rules that are particular to this company that should be included.
2. Review several models and see what you like. There are many handbook forms. Some allow for easy editing, some use an outline format or explanations of the purpose of each policy. Review several before deciding which format you like.
3. As you begin drafting, remember the handbook should be timeless. Don't write "If you need to request a leave, call Donna," because, of course, Donna won't be there forever. Don't include a promise of a wonderful workplace from the President/CEO, because that person won't be there forever, and more importantly, because you do not want the company President deposed every time there is any type of employment lawsuit.
4. Don't be too specific in areas that may change from year to year, such as insurance. Simply state that company benefits will be provided in separate information, and that eligibility for those benefits depends upon rules set out by the insurance companies.
5. Make sure that your EEO policy is quite prominent (at the beginning of the handbook) and the harassment policy sets out all of the necessary elements. These include defining harassment, prohibiting it, setting out a complaint procedure with at least two people to complain to, a promise of non-retaliation and a limited promise of confidentiality. There are many good policies to use as a model, and the U.S. Supreme Court cases of *Farragher* and *Ellereth* make such policies essentially mandatory.
6. Reinforce your company's employment-at-will policy with bold type and large letters. Don't contradict that policy by using Probationary Periods or stepped discipline. Instead, use an Introductory Period and inform employees that they may be fired for any reason or no reason, with or without notice.
7. Set out a clearly defined vacation and time off policy. Do not allow employees to roll over unused vacation, but instead require them to "use it or lose it." Decide whether the

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Bingo! (Ohio)

By Beth Short, Ohio Attorney General's Charitable Law Section

The bingo landscape for charitable organizations was significantly altered last month when Gov. John Kasich signed H.B. 386. The legislation, which attracted much attention for the many provisions affecting casinos and video lottery terminals at race tracks, opened the possibility of bingo as a fund development tool for thousands of charitable organizations across the state.

The legislation, which became effective immediately because of the emergency provisions included in the bill, opens up the availability of bingo licenses for all 501(c)(3) organizations meeting certain requirements, such as having been in existence for at least two years. Previously, only 14 specifically defined types of organizations qualified for bingo licenses. Other types of organizations also eligible to apply for licenses include volunteer rescue service organizations, volunteer firefighter organizations, veteran organizations and fraternal and sporting organizations exempt under the IRS 501(c)(4), (c)(7), (c)(8), (c)(10) or (c)(19).

The law change also expanded the types of organizations that can hold raffles. Although licenses are not required for raffles, the law previously limited raffles to the listing of organizations that qualified for bingo license. Now all (c)(3)s that have been in existence for two years can hold raffles, which still do not require a license.

To apply for a bingo license, organizations should file an application online through the Ohio Attorney General's web page. A range of bingo-related services and information is available under the Services tab on the agency website.

Bingo is a licensed activity, and organizations need to be aware of the various record-keeping and other requirements. The Attorney General's office provides training on these provisions throughout the state at its "Bingo Schools." Groups considering applying for bingo licenses may register for Bingo Schools through the web page.

"We expect a number of new organizations to apply for bingo licenses," said Pete Thomas, section chief of the Ohio Attorney General's Charitable Law Section, which licenses and regulates bingo. "Bingo can be a wonderful opportunity for some organizations to raise funds. But it takes a lot of work and a lot of volunteers to do things properly. And, unfortunately, many scam artists are able to take advantage of charitable organizations that do not adequately track and monitor bingo proceeds."

While most people think of bingo as a traditional board game with numbers, instant bingo is a significant activity that is also licensed. These tickets can be sold in conjunction with traditional bingo or at other locations that are approved as part of the license. The legislation made multiple changes to the instant bingo provisions, including allowing a charitable organization to reimburse owners of a Type III instant bingo location for certain expenses. For instance, a bar can seek limited expense reimbursements from a charity when it sells instant tickets on behalf of the

organization. All of this must be outlined in the application and included in reports. The Attorney General's office has created a model invoice to be used in conjunction with these expense payments, which is available on the website. The legislation also removes limitations on the number of premises where instant tickets can be sold. However, organizations are only permitted to have tickets sold on their behalf within the county where they are located.

"There has been as much as \$2 billion a year changing hands in Ohio's bingo activities. It is generally an all-cash business with constantly changing volunteers and staff. So there is a great risk that charitable funds can be compromised if there aren't sufficient controls in place. Bingo makes a significant contribution to Ohio's charitable community and we want to be certain that organizations understand that responsibility," said Thomas. He invited lawyers with questions about advising charitable clients in the bingo area to contact the section at (614) 466-3181.

Why You Need an Employment Handbook and How to Draft One That Works

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employees' anniversary date or a calendar year should be used. Make it clear whether unused, but earned, vacation is paid at termination; typically a pro rata method is used.

8. If your company has 50 or more employees within a 75 mile radius, you are subject to the Family and Medical Leave Act (FMLA) and need to have an appropriate FMLA policy. If the FMLA does not apply to your company, you should have a proper unpaid time off policy that applies equally to pregnant employees. Both policies should set out specific rules for requesting and receiving unpaid leave.
9. There are many other rules which may or may not be important depending on the state(s) where your company is located. It is vitally important that you have an attorney who specializes in employment law review the handbook before it is presented to the employees.
10. Hold group meetings with your employees and fully explain the new handbook. Your employees will appreciate having standardized rules to govern the workplace, and you will enjoy knowing that there are simple answers to employee questions—just look at the book.

For more information, please contact **Mark R. Waterfill** at mwaterfill@beneschlaw.com or 317.685.6119.

2012 Indiana Charitable Gaming Legislative Changes

By Joseph Nixon, 2012 Summer Associate, and Wendy D. Brewer

Reason for Change

Charitable gaming has become a \$500 million dollar industry in Indiana and represents a significant source of financial contribution to Indiana's charitable community. Unfortunately, given the often temporary and all-cash nature of many gaming activities, the industry is subject to scam artists who take advantage of charitable organizations that do not adequately monitor their gaming activities.

As a result, Indiana lawmakers passed legislation in 2006 bringing charity gaming under the state's control and imposing fees and licensing requirements. Those regulations were aimed at protecting charities from professional bingo operators that charged charities exorbitant fees and fleeced the charities of profits, and curbing illegal gambling schemes that were operating under the false guise of a charity. However, any regulation brings with it a risk of going too far and overly restricting the activity the regulations are designed to protect. According to some, those charitable gaming regulations put a significant burden on the organizations that do true charity gaming, like church bingos and festival raffles.

Both large and small organizations, led by the National Rifle Association, complained about the costs of fees, licensing requirements and other hoops their local affiliates had to jump through to raise money through gaming. In response, the legislature pursued a better balance: how to make it as easy as possible for charities and non-profit organizations to comply with the state's gaming rules without undermining the Indiana Gaming Commission's ability to protect both the consumer and operator from the unsavory and unscrupulous people who exploit charity gaming.

Cutting the Licensing Red Tape

The result of these efforts has been new legislation, effective as of July 1, 2012, creating a new Annual Comprehensive Gaming License, which allows national organizations and their local Indiana affiliates the ability to conduct raffle and door prize events under a single, comprehensive charity gaming license. The new comprehensive license should streamline the ability of national organizations

to utilize charitable gaming without having to deal with multiple fees and licenses for its local Indiana affiliates.

Under the annual comprehensive license, a national organization will identify its affiliates and any workers at the national level who will be listed as operators for the raffle or door prize events. National organizations will be permitted to establish committees to conduct raffle and door prize events, and the organization will complete a notification form at least 21 days prior to the event and a report upon its conclusion. National organizations and the affiliates operating under the national license are limited to no more than 10 events per week. At the end of the fiscal year, the organization will tally all of the events conducted throughout the year in a year-end report to determine the licensing fee for the following year.

To qualify as a national organization, an entity must: operate without profit to its members; be exempt from taxation under Section 501 of the Internal Revenue Code; have a national membership; and have been continuously in existence in Indiana for three (3) years (the new legislation reduced the time an organization must exist in Indiana before becoming eligible to obtain a charity gaming license from five years to three years).

A national foundation may also conduct events under the comprehensive license if the

foundation operates without profit to its members, is exempt, is related to a national organization, and has annually provided grants exceeding \$50,000 in each of the prior three (3) calendar years.

Another Part of the Deal

The new legislation also changes the rules regarding card games at charity game nights. Previously, patrons could only deal in Euchre; now, patrons may deal in Texas Hold'em and Omaha (but a patron may not play in a hand in which the patron deals the cards, and patrons shall not deal at the final table of a tournament).

Smoking Ban Applies

Separate from the new charitable gaming legislation, the new Indiana statewide smoking ban applies to charitable gaming events. Earlier versions of the bill contained an exception for charitable gaming, but that exception was removed from the final bill. A limited exception for fraternal clubs was retained, and it is important to note that local governments may pass even more restrictive smoking bans than the statewide ban.

Answers to questions or additional information may be obtained from the Charity Gaming Division of the Indiana Gaming Commission at 317.232.4646.

For more information, please contact **Wendy Brewer** at wbrewer@beneschlaw.com or 317.685.6160.

Not-for-Profit Spotlight: St. Stephen's Community House

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improved skills in reading and mathematics, the senior services program reported that 97 percent of seniors maintained independent living status after receiving advocacy and transportation services, and the neighborhood service program has assisted over 4,000 people with health and wellness services.

The thread of the agency's history runs through generations, as great-grandparents of children in the after-school program recall their own days at the agency. This same thread also runs through and around numerous smaller communities, weaving the larger community tightly together in the common purpose of taking care of the neighborhood. St. Stephen's has helped keep the Greater Linden area thriving by strengthening the community to care for its neighbors.

For more information about St. Stephen's Community House, volunteering opportunities and ways to donate, please contact President and CEO Michelle Mills at (614) 294-6347 x105 or visit www.saintstephensch.org.

Events

Tuesday, August 14

Association of Fundraising Professionals (AFP) Presents Free Summer Education Program for Non-profits on Several Giving Strategy Topics

The upcoming AFP Summer Brown Bag program will emphasize Giving Strategies, and table hosts will lead discussions on numerous giving strategy areas. Topics covered will include innovative giving strategies, giving societies, donor recognition, annual giving and communicating with your donors.

Location: Grange Insurance Audubon Center, 505 West Whittier Street, Columbus, OH 43215

Time: 11:30 A.M.—Noon . . . Registration and Networking
Noon—1:15 P.M. . . . Luncheon Program

Please note: The Grange Insurance Audubon Center requests no plastic bottled water in its facility. Pitchers of water and glasses will be available.

Cost: Free for all members and guests, but RSVPs are required (bring your own lunch).

RSVP: Please RSVP by either email to centralohioafp@cs.com or phone to (614) 572-0955 by noon on Friday, August 10th.

Wednesday, August 15

Association of Fundraising Professionals (AFP) and Richmond Group Present “Small Shop Planned Giving: Big Ideas for a Small Budget”

This interactive program will offer helpful ideas to successfully promote planned giving on a limited budget. Which planned gifts to promote—and how to market them—will be explained. Identifying planned giving prospects, the role of your board of directors and key policies and procedures will be emphasized.

Location: IU East, Community Room—Whitewater Hall, 2325 Chester Blvd., Richmond, IN 47374

Time: 11:30 A.M.—Noon (Lunch); Noon—1:00 P.M. (Program)

Presenter: Phil Purcell, CFRE, VP for Planned Giving and Endowment Stewardship, Ball State University Foundation

To Register: Please contact Brindy Roosa at broosa@iue.edu.

Wednesday, August 22

Benesch's 2012 Columbus Breakfast Seminar Series

Understanding Your Responsibilities as a Not-for-Profit Board Member

Wondering what to ask before you agree to join a non-profit board? Wondering what your obligations and legal exposures are once you join a board? Join us for a discussion of the legal responsibilities and pitfalls of serving on a non-profit board.

Location: The Capital Club, Le Bistro Room, 41 S. High Street, Columbus, OH 43215

Time: 7:30—8:00 A.M. . . . Breakfast
8:00—9:00 A.M. . . . Presentation

RSVP: Please RSVP to Tracy Hughey at thughey@beneschlaw.com or (614) 223-9322.



Joint Annual Nonprofit Conference And Excellence Awards Luncheon

Breakout Sessions include: Cultivating the Young Donor, Anatomy of a Nonprofit Scam, Social Enterprise: Just As Important as Fundraising; Daring to Lead: Implications & Practices; In Creativity & Collaboration; & more!

Speakers include: Marla Cornelius, CompassPoint (Daring to Lead); Artie Isaac; Allen Proctor, Proctor's Linking Mission to Money; Russ Hodge, The Hodge Group; Benesch; Ohio Attorney General's Charitable Law Section

September 6 & 7
Columbus Renaissance

Visit www.oano.org
for details
& to register.

Rates:

Early Bird:
OANO Members - \$55
Nonmembers - \$75
(Price ends July 31!)



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