

Law and Nonprofit Organizations

SOC5390 / POEC7376

Syllabus

Spring 2005
Thursdays 7:00-9:45
CB1.118

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Office hours by arrangement

Nonprofit managers often lack a basic understanding of the law affecting their organizations. Such ignorance can both inhibit success and promote failure. This course provides a basic overview of federal, state, and local law regulating nonprofits. Federal law regulating organizations exempt from income tax under section 501 of the Internal Revenue Code will be a major focus. Specific topics include acquiring and maintaining tax-exempt status, reporting and disclosure requirements, charitable giving and fundraising, governance principles, and liability and risk management. Of particular interest will be the First Amendment implications of both limitations imposed on nonprofits involved in public policy advocacy and recent efforts to increase government funding of faith-based nonprofit organizations. This course will also examine current efforts to increase public oversight and regulation of nonprofits.

Course requirements include class attendance and participation (25%), an in-class mid-term examination (35%), and an in-class final examination (40%). Students are asked to attend class prepared to brief assigned judicial opinions and discuss other readings. Students may also have the opportunity to present brief mock oral arguments. Guest speakers will be invited to discuss several course topics.

Required readings include web-accessible judicial opinions, statutes, regulations, and other material, as well as three required texts (which have been ordered at both the University bookstore and Off Campus Books). Reading assignments will be made monthly in class and posted to the course WebCT page.

Bruce R. Hopkins, *Starting and Managing a Nonprofit Organization: A Legal Guide* (4th Edition). John Wiley & Sons, 2004.

Glen A. Yale, *Am I Liable? Responsibilities and Liabilities in Texas Nonprofit Organizations*. Nonprofit Resource Center of Texas, 2003.

Being a Player: A Guide to the IRS Lobbying Regulations for Advocacy Charities. Alliance for Justice, 1995.

Students should also obtain the following free publications by the fourth week of class from the U.S. Internal Revenue Service at <http://www.irs.gov/>:

Publication 557, *Tax-Exempt Status for Your Organization*
Form 1023, *Application for Recognition of Exemption* (Rev. Oct. 2004) - and instructions
Publication 4220, *Applying for 501(c)(3) Tax-Exempt Status*
Form 990, *Return of Organization Exempt from Income Tax* - and instructions

Legal Resources on the Web:

Key free web legal reference resources include the Legal Information Institute (LII) of Cornell University Law School (<http://www.law.cornell.edu>) and FindLaw for Legal Professionals (<http://lp.findlaw.com/>). U.S. Supreme Court and U.S. Tax Court opinions are also available from their respective websites: <http://www.supremecourtus.gov/index.html> and <http://www.ustaxcourt.gov/>. Opinions of the U.S. Court of Appeals for the 5th Circuit can be found at <http://www.ca5.uscourts.gov>.

Additional links to both Federal and state law resources are available at the Law Library of Congress website: <http://www.loc.gov/law/public/law.html>. The United States Code (U.S.C.) is also available through the Office of the Law Revision Counsel, U.S. House of Representatives: <http://uscode.house.gov>. The Code of Federal Regulations (CFR) is also available through the U.S. Government Printing Office: <http://www.access.gpo.gov>.

The *Texas Tax Code* (Texas Statutes) and the *Texas Administrative Code* are directly available through the Texas Legislature On-line website (<http://www.capitol.state.tx.us/>).

Students are encouraged to review the web resources available for nonprofit and charitable organizations through the U.S. Internal Revenue Service (<http://www.irs.gov/>), the Texas Comptroller of Public Accounts (<http://www.window.state.tx.us/>), the Texas Secretary of State (<http://www.sos.state.tx.us/>), and the Texas Attorney General's Office (<http://www.oag.state.tx.us/>).

Student may also want to examine material of the websites of the National Council of Nonprofit Associations (<http://www.ncna.org>), the Texas Association of Nonprofit Organizations (<http://www.tano.org>), and the Center for Community-Based and Nonprofit Organizations (<http://www.austincc.edu/npo>).

Note on briefing judicial opinions ("cases"):

There is no one correct way to "brief" a case. For the purposes of this course, a case brief is intended to facilitate class discussion by allowing students easy recall of key elements. The basics of a case brief will be discussed in the first class.

Recommendations on briefing technique is available free on-line at numerous websites, including LawNerds.com (<http://www.lawnerds.com>).

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Course Reading Assignments for January

January 13 – Introduction

January 20 – Overview of Federal Tax Exemption

Hopkins, pp. 41-57 (chapter 4)
26 U.S.C. section 501 (a) – (c)(8)
26 CFR 1.501©(3)-1
Bob Jones University v. United States, 461 U.S. 574 (1983).
Bob Jones University Museum and Gallery, Inc. v. IRS, T.C. Memo. 1996-247 (1996).
Nationalist Movement v. Commissioner, 37 F.3rd 216 (5th Cir.1994).
The Nationalist Foundation v. Commissioner, T.C. Memo. 2000-318 (2000).
Peoples Prize v. Commissioner, T.C. Memo. 2004-12 (2004).

January 27 – State and Local Tax Exemption

Texas Tax Code, Chapter 11, Section 11.18.
Walz v. Tax Comm’n of the City of New York, 397 U.S. 664 (1970).
Texas Monthly, Inc. v. Bullock, 489 U.S. 1 (1989).
Camps Newfound/Owatonna, Inc v. Town of Harrison, 520 U.S. 564 (1997).
Strayhorn v. Ethical Society of Austin, Texas Court of Appeals, Third District (March 6, 2003).