

# An Overview of Forming a 501c3 Booster Club or Education Foundation

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After a few experiences wading through the maze-like world of forming tax-exempt public charities meant to support the activities of local school districts and music programs, it occurred to me that it might be helpful to jot down a few notes to help those who need a quick overview of the process. This paper is those notes in a more evolved and readable form.

Bear in mind that I am not an attorney (Sorry about that, Mom and Dad.), not a CPA (Nor should I be, according to every math teacher I have ever had.), but am just a guy whose path non-profits have occasionally crossed over the years. Therefore, nothing that follows should be considered legal or professional advice. It is simply a very general plan to help you organize your thoughts about whether and how to get a schoolchildren-supporting 501c3 up and running. This quick paper should be the proverbial tip of the iceberg in your quest in founding a non-profit organization. And I cannot emphasize how important Step Three below is in getting things done the right way.

**Step One: Do you really want / need to do this?** In other words, do you need to form a tax-exempt non-profit to get whatever job done that you want done? If you are interested in founding a group whose purpose is the financial and otherwise support of educational / musical activities for schoolchildren, then you are probably on the right track. Or if you are wanting to transform an already existing group of that type to one with legal tax-exempt status, you are again on the right track. Or if you are being told by bosses that an existing group can no longer operate under the auspices of the school's tax-exempt status, you really don't have a choice.

Also, are there other folks who are like-minded? Get them involved from the beginning. Not sure what to discuss as you are thinking about what to do next? Then, all of you should do...

**Step Two: Do your homework.** Specifically, you should read through IRS form i1023 (Instructions for Form 1023). Form 1023 is the one that is used to apply to the IRS for tax-exemption as a charitable organization under the rules of section 501c3 of the tax code. The instructions are pretty involved, but they are invaluable as a crash course in what you are about to do. Make sure you understand every section of the instructions, especially those dealing with your group's purposes, organizing documents, financial information, compensation requirements, and which schedules you will need to complete and how. Toward the end of the document are an example Conflict of Interest policy that should be part of your organizing documents (see Step Five below) and a very useful glossary that you will probably refer to often as you study the i1023.

After making sure you understand the i1023, also take a look at the instructions for the Form 1023-EZ. Make sure to fill out the Eligibility Worksheet that is about halfway through the instructions. If you answer No to each question, you are eligible to fill out the EZ form and that will save you mucho time and money.

While you are doing all this homework, also check out the IRS webpage devoted to helping Exempt Organizations with their formation and continued exempt status. There is truly no such thing as too much knowledge and understanding when it comes to forming and running a charitable organization.

**Step Three: Make friends with an attorney and an accountant.** Best if they are somehow connected with your cause (i.e. they are alums of the school or band), giving them a reason to donate time and expertise to the organization as it is created and develops. If you are thinking ahead to Step Seven, try to find professionals in these areas who are interested enough to become part of your non-profit's board of directors. At the very least, use these folks to rubber stamp your activities along the way as you traipse along the road to non-profithood. They are more likely to catch problems and potential pitfalls and can help with the highly technical parts (like the financials and such) of the application process.

**Step Four: Incorporate.** In Missouri, this is as simple as getting online with the Secretary of State's office, filling out an automated form, paying the required fee, and clicking the Submit button. By doing this, you will have created Articles of Incorporation that you will need to print out and keep somewhere safe. Check with your attorney or tax friend to make sure whether to form a corporation or a limited liability company. And make absolutely certain to apply all that homework you did in Step Two when stating your purpose – it needs to be sufficiently limited to the purposes of a 501c3 and the way to do that is brilliantly explained in the i1023 you just spent a month studying. It might be a good idea to have that attorney friend looking over your shoulder as you do this step.

**Step Five: Write your bylaws.** My favorite way to write a good set of bylaws is to not reinvent the wheel. Find an organization that operates as closely to the way you envision yours operating as possible and then adapt their bylaws to your situation. Be sure to include that Conflict of Interest policy and a reasonable way to amend the bylaws. And make sure your attorney checks them for any flaws or omissions. The IRS will hold you to the wording of your Articles and bylaws, so these two steps need to be done seriously and with a very long view of what your organization will be doing.

**Step Six: Get an Employer Identification Number.** EINs are like Social Security numbers for organizations when dealing with the IRS. Getting one is terribly simple. Just search for the application page by Googling "IRS EIN" and go fill out the online form. Print and keep the confirmation form somewhere safe. (You might want to get a binder and start putting all these docs in it for safekeeping – and create a backed up folder on your computer with all the digital copies of everything, too.) You will need the EIN to complete Step Eight and for any other transactions with the federal government.

**Step Seven: Begin forming a board of directors.** By now, you probably have a little band of committed souls who have each played some part in getting things done. Even if you are simply formalizing an existing group, now is the time to have an organizational meeting. At the meeting, make sure everyone has a copy of the Articles of Incorporation, the bylaws, and any other pertinent information. Using proper parliamentary procedure and having someone take really good minutes (which will join the other documents in your binder and digital folder, once approved at the next meeting), elect officers, adopt the bylaws, and conduct any other business necessary to get the ball rolling (i.e. passing a resolution to open bank accounts in the name of the organization (so someone can take it to the bank to get things going financially), discuss initial planning for projects, etc.). Also, begin educating everyone about the next step and how much you will all need to be involved in making it happen.

Take the recruitment, training, and cultivation of your board very seriously. A credible and hard-working board is often the crucial factor in whether a charitable group succeeds or not. Often, the seed money for opening accounts and paying fees for state and federal filings comes from this core founding clique. While donating some start-up cash should be at least a consideration for the original board (it gives each board member credibility as they begin community-wide fundraising efforts), be careful not to make this

a turn-off for any potential board members. A gentle suggestion to the gathered board might be better received than some kind of required dues or fee for membership.

**Step Eight: Complete and file IRS Form 1023 or 1023-EZ.** Make one person the project leader on this, but the entire group will need to participate in gathering information, offering insight, and providing feedback as the process of filling out the form progresses. As the document develops, keep the entire board in the loop via email or snail mail.

Some tips to insure maximum success: be consistent in your answers throughout the entire form and as they relate to the Articles and bylaws, answer the questions EXACTLY as they are stipulated, be detailed but succinct, focus on realistic projections rather than fantasy, let the board members who know the most about an area fill that section out (e.g. the accountant friend should do the financials), follow all instructions to the letter, include everything required (including proper payment) in the packet you send to the IRS. When everyone has checked and double-checked the document, send it in and cross your fingers for a determination letter on your first try. If your app is rejected at first, follow the advice you are given by the reviewing IRS agent, make the changes, and resend until you succeed.

**Step Nine: Start raising funds and supporting your cause.** Make sure anyone who donates money, items, or services to you is aware of whether or not you have received tax-exempt status, yet. Once you receive the letter – could take months – any donations received after your official date of determination can be given retroactive tax-exempt status. Just communicate with everyone very clearly.

Also, make sure you are paying very close attention to every project and activity the organization embarks on to make sure it does not endanger your exempt status. There is always plenty of studying to do, so do it. File your Form 990 (or whichever variation your group is required to file) on time and accurately. The 990 is the exempt organization's annual tax return, like the 1040s we all file individually in April.

**Step Ten. When your determination letter comes, CELEBRATE!** And send copies to any past and potential donors as well as the Secretary of State.

I hope this helps make the process a little less confusing and a little more manageable. Good luck as you take these steps to provide more and better opportunities for the students you serve.