

Application of Charitable Solicitation Registration Statutes to Educational Institutions and Related Organizations

STATE-BY-STATE BREAKDOWN

August 2017



WHITE
PAPER



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ABOUT THIS DOCUMENT

To help members navigate the complex landscape of state charitable solicitation laws, CASE commissioned the Washington, DC-based law firm of Webster, Chamberlain and Bean in 2010 to prepare a whitepaper outlining the application of these statutes to educational institutions and their institutionally related organizations (institutionally related foundations, alumni associations, etc.). Since that time, the whitepaper has been updated to reflect changes to state charitable solicitation laws, most recently in October 2011. This updated version includes changes made to these laws over the past five years.

This whitepaper should be viewed as a guide and resource to member institutions. Decisions related to registering or not registering in particular states should be made in consultation with the institution/organization's legal counsel.

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**APPLICATION OF CHARITABLE SOLICITATION REGISTRATION STATUTES
TO TAX-EXEMPT EDUCATIONAL INSTITUTIONS AND RELATED
ORGANIZATIONS DESCRIBED IN §501(c)(3)**

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Prepared as of May 23, 2016

Introduction

Thirty-nine states and the District of Columbia require charities that are soliciting funds from their residents to register with (or obtain a “license” from) the state before doing so, and thereafter to report annually for as long as they are soliciting in the state.¹ These requirements are administered by the secretary of state, the attorney general, or a consumer protection office.² This memo describes the rules as they generally apply to educational institutions³ that are either exempt from federal income tax under §501(c)(3) of the Internal Revenue Code or are public institutions, such as state colleges and universities, and their institutionally related organizations, e.g., foundations and alumni associations, that are

¹ Local jurisdictions in many states have ordinances that nominally require registration with respect to solicitation in the jurisdiction. Few enforce these ordinances against charities not soliciting “on the ground,” e.g., door-to-door or in public areas, in the jurisdiction.

² Registration under the charitable solicitation statutes should be distinguished from (1) the requirement that a corporation incorporated in one state obtain a certificate of authority to do business in another state (as a “foreign” corporation); (2) the requirement, e.g., under the Uniform Supervision of Trustees for Charitable Purposes Act, that a charity holding property or doing intrastate business in the state register with the Attorney General, regardless of whether it is soliciting in the state; and (3) the requirement that a charity issuing gift annuities register with or notify the state insurance regulator. Each of these is a separate registration requirement, and beyond the scope of this memo.

³ “Educational institutions” may include public and private preschools, and elementary and secondary schools, as well as colleges and universities.

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soliciting contributions (including, in most states, the sales of goods or services, including tickets to events), e.g., by mail, telephone, e-mail, the Internet, radio, and television.

Unfortunately, there is no “uniform statute,” and no two statutes are alike, having variant definitions of who is required to register, who is exempt, and what forms are required to be filed and when. Only in the past few years has a “Uniform Registration Statement” (URS), now accepted by most states, been developed. See www.multistatefiling.org. In about half of the 40 jurisdictions, the Uniform Registration Statement is used only as the initial registration document, and cannot be used to renew the registration or file the annual financial reports (IRS Form 990 and/or audited financial statements) required by the states.

However, states are increasingly requiring electronic filing, and for that reason, fewer states are accepting the URS. Although the states are working toward a “one-stop” filing portal that would enable a charity to make one filing that would be distributed or available to all states requiring charities to register, the portal will not be operational until several years in the future.

Exemptions for educational institutions. 34 of the 40 states (including D.C.) have some exemption for educational institutions or their affiliates. Some states have very broad exemptions, and others narrow them with multiple qualifications, e.g., conditioning the exemption on limiting solicitations to students, faculty, alumni, and their families, so that the exemption is virtually worthless to in-state institutions that are likely to be soliciting gifts from local businesses and others outside the “permitted” groups, but may not be a problem for educational institutions whose solicitations in states other than the one in which they are located may be limited to the specified groups.

In addition, the definition of an educational institution varies, and (helpfully) many states have no statutory definition at all.

This review summarizes the states’ registration and reporting exemptions for educational institutions and their related organizations, including quotations of the relevant exemptions and any statutory definitions.

Public institutions. The statutory provisions exempting educational institutions and their related organizations do not distinguish between public and private educational institutions. However, some states do have a separate exemption for governmental units and their agencies. In addition, even in the absence of an express exemption for public institutions, it is possible that many, if not all, states would administratively recognize an exemption for in-

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state public institutions, and for the sake of comity among the states, for public institutions in other states, as well. However, there is no known written authority supporting this conclusion.

Religious schools. In most states, an educational institution that is owned or controlled by a church or association of churches, or whose educational program is pervasively religious, such as a seminary or Bible college, may qualify for exemption as a religious organization, if it can satisfy the requirements of the exemption for religious organizations in the state.

Membership organizations. Some states have exemptions for organizations that solicit only from their members. Some of these membership exemptions refer to “civic” organizations, and they are included in this listing because some states, as a matter of administrative practice, may be willing to treat, e.g., alumni associations, as civic organizations that qualify for the exemption. However, this is by no means certain. In addition, the membership exemptions are listed below only if they do not also require that the solicitations be conducted solely by volunteers.

Exemptions based on amount raised. Many state laws have registration and reporting exemptions for organizations that raise small amounts, either nationally or in the state. These exemptions vary widely, and are not addressed in this memo. Educational institutions or their related organizations that raise less than \$25,000 in any state should consult with counsel concerning the availability of a registration exemption in that state. In any event, registration and reporting is typically required within 30 days after the charity no longer qualifies for the exemption.

Confirming exemptions. In some states, an organization claiming an exemption from the registration and reporting requirements is required to specifically apply to or notify the state before the exemption will be effective. Although these requirements are rarely enforced, they should be observed whenever possible.

Apart from any application requirement, educational institutions, especially those that engage a professional fundraising counsel or consultant to assist with fundraising, or a professional solicitor or fundraiser to actually solicit contributions, e.g., by telephone or personal visits, should work with legal counsel to confirm their exempt status in all states where solicitations will occur.⁴ The reason for this is that consultants and solicitors are also

⁴ Terminology and definitions under state laws vary, but Pennsylvania’s definitions of a “professional

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required to register in many states, and under some state laws, a consultant or solicitor may not perform services with respect to solicitations in that state for a charity that is not registered or recognized as exempt by the state. Most states will confirm the exemption in writing. Although Kansas, North Dakota, Oklahoma, and Rhode Island will not confirm an exemption, a request should be made in any event, because this puts the state on notice that the organization believes itself to be exempt, and should help avoid penalties if the state subsequently requires the organization to register.) Similarly, organizations should confirm the registration status of the consultant or solicitor, because in some states, it is also illegal for a charity to solicit based on work performed by an unregistered consultant or solicitor. (More than 25 states require professional fundraising counsel to register and/or file contracts, and more than 40 states require professional solicitors to register.)

Confirmation is usually best accomplished by a letter setting forth the relevant facts, e.g., educational purposes and activities, accredited status, relationship with an educational

fundraising counsel” and a “professional solicitor” are representative:

"Professional fundraising counsel." Any person who is retained by a charitable organization for a fixed fee or rate under a written agreement to plan, manage, advise, consult or prepare material for or with respect to the solicitation in this Commonwealth of contributions for a charitable organization, but who does not solicit contributions or employ, procure or engage any compensated person to solicit contributions and who does not have custody or control of contributions. A bona fide salaried officer or regular, nontemporary employee of a charitable organization shall not be deemed to be a professional fundraising counsel provided that the individual is not employed or engaged as professional fundraising counsel or as a professional solicitor by any other person.

"Professional solicitor." Any person who is retained for financial or other consideration by a charitable organization to solicit in this Commonwealth contributions for charitable purposes directly or in the form of payment for goods, services or admission to fundraising events, whether such solicitation is performed personally or through his agents, servants or employees or through agents, servants or employees especially employed by or for a charitable organization who are engaged in the solicitation of contributions, the sale of goods or services or the production of fundraising events under the direction of such person, or a person who plans, conducts, manages, carries on, advises, consults, whether directly or indirectly, in connection with the solicitation of contributions, sale of goods or services or the production of fundraising events for or on behalf of any charitable organization, but does not qualify as a professional fundraising counsel within the meaning of this act. A person who is otherwise a professional fundraising counsel shall be deemed a professional solicitor if his compensation is related to the amount of contributions received. A bona fide salaried officer or regular, nontemporary employee of a charitable organization shall not be deemed to be a professional solicitor provided that the individual is not employed or engaged as professional fundraising counsel or as a professional solicitor by any other person.

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institution; attaching any relevant documents, e.g., articles of incorporation, bylaws, IRS determination letter, accreditation documents; and explaining how the organization fits within the statutory exemption. Some states also require specific forms be filed. Except for Connecticut, these should be accompanied by the letter described above.

Overview of state solicitation registration laws

The following section summarizes the various ways in which states (including those that have no statute requiring registration by charities) treat educational institutions and their related organizations under their registration laws. Because there is little uniformity among state laws, the exemption language in each state should be reviewed to determine the extent to which an institution or related organization may qualify for exemption from registration and reporting in any particular state. A detailed state-by-state list of exemptions and definitions follows the summary.

1. No registration. Except as noted below, the following 11 states do not require any §501(c)(3) charities to register or report merely because they solicit in state.⁵

*Arizona	Iowa	South Dakota
Delaware	Montana	**Texas
Idaho	Nebraska	Vermont
Indiana		Wyoming

Some of these states require professional fundraising consultants and/or professional solicitors to register, and to file annual reports with respect to their clients that are charities, as defined in the law.

⁵ *Ariz. Rev. Stat §13-3722 prohibits solicitation on behalf of “American veterans unless the veterans’ organization for which the person is soliciting money or other support files a registration statement with the secretary of state.”

**Texas requires only charities soliciting for the benefit of public safety personnel and veterans to register. Texas Occupations Code, Title 11, Chapters 1803 and 1804.

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2. Registration required. The following states (and D.C.) require charities to be registered, and have no exemption specifically applicable to educational institutions or any related organizations.

Alaska	Massachusetts
Colorado	New Hampshire
District of Columbia	Washington

3. Exemption limited to alumni associations.

Nevada

4. Exemptions for educational institutions only. The following states have an exemption from registration and reporting for educational institutions only.⁶

Arkansas	Louisiana	New Jersey
California	Maryland	New York
Florida	Michigan ⁷	North Dakota
		Oregon

5. Exemptions for educational institutions and institutionally-related organizations. The following states have an exemption from registration and reporting for both educational institutions and some institutionally-related organizations (other than as a membership organization), which may include, e.g., a foundation, endowment, alumni association, or athletic booster club.

Alabama	Minnesota	Rhode Island
Connecticut	Mississippi	South Carolina
Georgia	Missouri	Tennessee

⁶ In light of the sparse history of states addressing the scope of the exemption for educational institutions, some of these states may be willing to include institutionally-related organizations in their exemptions.

⁷ Limited to institutions certified by the Michigan Board of Education. This limitation may be unconstitutional. In *Camps Newfound/Owatonna, Inc. v. Town of Harrison, Maine*, 520 U.S. 564 (1997) (“*Camps*”), the Supreme Court ruled that Maine’s property tax exemption statute violated the dormant Commerce Clause by providing an exemption that discriminated in favor of charities that served primarily residents of Maine.

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Hawaii	New Mexico	Utah
Illinois	North Carolina	Virginia
Kansas	Ohio	West Virginia
Kentucky	Oklahoma	Wisconsin
Maine	Pennsylvania	

6. Exemptions for public institutions and agencies. The following states have exemptions for public institutions and agencies that may be in addition to, or overlap with, any other exemptions provided for educational institutions and their related organizations.

Arkansas	Georgia	North Carolina
California	Maryland	Oregon
Connecticut	New Hampshire	South Carolina
Florida	New Mexico	Utah
		Wisconsin

7. Exemptions for membership organizations. The following states have exemptions for membership organizations that may be in addition to, or overlap with, any other exemptions provided for educational institutions and their related organizations.

Alabama	Maine	South Carolina
Florida	Michigan	Virginia
Illinois	Minnesota	West Virginia
Kansas	Ohio	Wisconsin
Kentucky	Rhode Island	

STATE DEFINITIONS, FORMS, AND OTHER INFORMATION

Alabama:

Exemptions: “Educational institutions and their authorized and related foundations” and “civic leagues and civic organizations which solicit contributions solely from their own membership” are exempt from registration and reporting under the law. Ala. Code §13A-9-71(f)(1), (5).

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Definition: An “educational institution” is “[a] school, college, or other institution which has a defined curriculum, student body, and faculty and which conducts classes on a regular basis.” Ala. Code §13A-9-70(6).

Form: “Charitable Organization Registration Exemption,”
<http://www.ago.state.al.us/File-Consumer-AL-Charitable-Organization-Exemption>

Arkansas

Exemptions: The registration and reporting requirements do not apply to:

(2) “Educational institutions, i.e., any parent-teacher association or educational institution, the curricula of which of which in whole or in part are registered or approved by any state or the United States either directly or by acceptance of accreditation by an accrediting body.”

(4) Governmental organizations, i.e., any department branch or other instrumentality of the federal, state, or local governments;

Arkansas Code §4-28-404

Definition: None.

Form: File “Exempt Organization Verification” with letter.
https://static.ark.org/eeuploads/ag/FormEX-01_ExemptOrganizationVerification.pdf

California

Exemptions:

The filing, registration, and reporting provisions of this article do not apply to the United States, any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or to any of their agencies or governmental subdivisions, . . . or to a charitable corporation or unincorporated association organized and operated primarily as a[n] . . . educational institution, . . .

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Cal. Govt. Code §12583.

Definition: None.

Form: None. File letter

Connecticut

Exemptions: The registration and reporting requirements do not apply to:

(2) Any parent-teacher association or educational institution, the curricula of which of which in whole or in part are registered or approved by any state or the United States either directly or by acceptance of accreditation by an accrediting body, . . .

(4) Any governmental unit or instrumentality of any state or the United States; . . .

(5) Any person who solicits solely for the benefit of organizations described in subdivisions (1) to (4), inclusive, of this section;

Conn. Gen. Stat. §21a-190d(2), (4), (5).

Definition: None.

Form: Form CPC-54 or apply online.

<http://www.ct.gov/dcp/cwp/view.asp?a=1654&q=459952>

Florida

Exemptions: “Sections 496.401-496.424 do not apply to bona fide religious institutions, educational institutions, and state agencies or other government entities or persons or organizations who solicit or act as professional fundraising consultants solely on their behalf.” Fla. Stat. §496.403.

The registration and reporting requirements do not apply to:

A charitable organization or sponsor which limits solicitation of contributions to the membership of the charitable organization or sponsor.

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For the purposes of this paragraph, the term “membership” does not include those persons who are granted a membership upon making a contribution as a result of a solicitation.

Fla. Stat. §496.406(2).

Definitions.--As used in ss. 496.401-496.424:

(8) “Educational institutions” means those institutions and organizations described in s. 212.08(7)(cc)8.a. The term includes private nonprofit organizations, the purpose of which is to raise funds for schools teaching grades kindergarten through grade 12, colleges, and universities, including any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, any educational television or radio network or system established pursuant to s. 1001.25 or s. 1001.26, and any nonprofit television or radio station that is a part of such network or system and that holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term also includes a nonprofit educational cable consortium that holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, whose primary purpose is the delivery of educational and instructional cable television programming and whose members are composed exclusively of educational organizations that hold a valid consumer certificate of exemption and that are either an educational institution as defined in this subsection or qualified as a nonprofit organization pursuant to s. 501(c)(3) of the Internal Revenue Code.

Fla. Stat. §496.404(8).

8. For purposes of the exemptions provided by this paragraph, the term:

a. "Educational institutions" includes state tax-supported, parochial, church, and nonprofit private schools, colleges, or universities that conduct regular classes and courses of study required for accreditation by or membership in the Southern Association of Colleges and Schools, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc.; nonprofit private schools that conduct regular classes and courses of study accepted for continuing

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education credit by a board of the Division of Medical Quality Assurance of the Department of Health; or nonprofit libraries, art galleries, performing arts centers that provide educational programs to school children, which programs involve performances or other educational activities at the performing arts center and serve a minimum of 50,000 school children a year, and museums open to the public.

Fla. Stat. §212.08(7)(cc)8.a.

Form: None. File letter.

Georgia

Exemptions: Organizations exempt from registration and reporting under the Act include:

“educational institutions and those organizations, foundations, associations, corporations, charities, and agencies operated, supervised, or controlled by or in connection with a nonprofit educational institution, provided that those organizations are qualified under Section 501(c) of the Internal Revenue Code of 1986, as amended.”

“A public instrumentality of a state or federal government “

O.C.G.A. §43-17-9

Definition: An “**educational institution**” is an entity organized and operated exclusively for educational purposes and which either:

- (a) Maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on; or
- (b) Is accredited by a nationally recognized, independent higher education accreditation body.

O.C.G.A. §43-17-2

Form: None. Submit letter.

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In all cases, the burden of proving entitlement to an exemption falls upon the charitable organization. An organization claiming an exemption from registration as a charitable organization is advised to carefully review the wording of the Act to insure its legal operation. O.C.G.A. § 43-17-9.

Hawaii

Exemptions: The registration and reporting requirements do not apply to:

- (2) Any parent-teacher association;
- (3) Any educational institution that is licensed or accredited by any of the following licensing or accrediting organizations:
 - (A) Hawaii Association of Independent Schools;
 - (B) Hawaii Council of Private Schools;
 - (C) Western Association of Schools and Colleges;
 - (D) Middle States Association of Colleges and Schools;
 - (E) New England Association of Schools and Colleges;
 - (F) North Central Association of Colleges and Schools;
 - (G) Northwest Association of Schools and Colleges;
 - (H) Southern Association of Colleges and Schools; or
 - (I) The National Association for the Education of Young Children;and any organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code expressly authorized by, and having an established identity with, such an educational institution; provided that the organization's solicitation of contributions is primarily directed to the students, alumni, faculty, and trustees of the institutions and their respective families;

Hawaii Rev. Code §467B-11.5(2), (3).

Definition: None

Form: File request for exemption online at <http://ag.ehawaii.gov/charity/apply.html>.

Illinois

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Exemptions: “The following persons shall not be required to register with the Attorney General:”

1. The University of Illinois, Southern Illinois University, Eastern Illinois University, Illinois State Normal University, Northern Illinois University, Western Illinois University, all educational institutions that are recognized by the State Board of Education or that are accredited by a regional accrediting association or by an organization affiliated with the National Commission on Accrediting, any foundation having an established identity with any of the aforementioned educational institutions, any other educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families, or a library established under the laws of this State, provided that the annual financial report of such institution or library shall be filed with the State Board of Education, Governor, Illinois State Library, County Library Board or County Board, as provided by law.

2. Fraternal, patriotic, social, educational, **alumni** organizations and historical societies when solicitation of contributions is confined to their membership. This exemption shall be extended to any subsidiary of a parent or superior organization exempted by Sub-paragraph 2 of Paragraph (b) of Section 3 of this Act [225 ILCS 460/3] where such solicitation is confined to the membership of the subsidiary, parent or superior organization.

* * * *

11. Any parent-teacher organization that is controlled by teachers and parents of children attending a particular public or private school for which the organization is named and solicits contributions for the benefit of that particular school; provided that:

- (i) the school is specified by name at the time the solicitation is made;
- (ii) all of the contributions are turned over to the school, after first deducting reasonable expenses for fundraising and parent-teacher activities;
- (iii) all fundraising functions are carried on by persons who are not paid, either directly or indirectly, for their fundraising services;

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- (iv) the total contributions, less reasonable fundraising expenses, do not exceed \$50,000 in any calendar year;
- (v) the organization provides the school at least annually with a complete accounting of all contributions received; and
- (vi) the governing board of the school certifies to the Attorney General, if the Attorney General makes a request for certification, that the parent-teacher organization has provided the school with a full accounting and that the organization has provided benefits and contributions to the school.

225 ILCS §460/3(b).

Definition: None.

Form: None. File letter.

Kansas

Exemptions:

- (a) State educational institutions under the control and supervision of the state board of regents, unified school districts, educational interlocals, educational cooperatives, area vocational-technical schools, all educational institutions that are accredited by a regional accrediting association or by an organization affiliated with the national commission of accrediting, any foundation having an established identity with any of the aforementioned educational institutions, any other educational institution confining its solicitation of contributions to the student body, alumni, faculty and trustees of such institution, and their families, or a library established under the laws of this state, provided that the annual financial report of such institution or library shall be filed with the attorney general; . . .
- (b) Fraternal, patriotic, social, educational, alumni organizations and historical societies when solicitation of contributions is confined to their membership. This exemption shall be extended to any subsidiary of a parent or superior organization exempted by this subsection where such solicitation is confined to the membership of the subsidiary, parent or superior organization;

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- (t) Any charitable organization the funds of which are used to support an activity of a municipality of this state;

Kan. Stat. §17-1762.

Definition: None.

Form: None. Submit letter. Kansas will ordinarily not confirm an exemption, but sending the letter puts the state on notice that the organization is claiming an exemption, and should avoid any penalties in the unlikely event that the organization is subsequently required to register.

Kentucky

Exemptions:

The following solicitations are exempt from the provisions of KRS 367.650 to 367.670:

- (1) Solicitations by an organization of contributions from its members and their families only, if membership is not included in a solicitation to avoid the provisions of KRS 367.650 to 367.670, is not granted upon the basis of contributions alone, and is within the exception of KRS 367.650(3).

* * * *

- (3) Solicitations by a publicly-owned or nonprofit privately-endowed educational institution regulated by the Kentucky Board of Education, the Council on Postsecondary Education, or an equivalent public authority of the jurisdiction where the institution is located, from the alumni, faculty members, student body of the institution and their families, and from corporations, for the continuance of an established educational program.

- (4) Local solicitations by a student group or parent-teacher association for its campus or group connected activities with the approval of the administration of the educational institution.

K.R.S.367.660.

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Non-exempt charities that file Form 990 need only file a copy of Form 990. K.R.S. §367.657(1).

Definition: None.

Form: None.

Louisiana

Exemption: Charities are only required to register if they engage a professional solicitor to solicit on their behalf. 16 LA ADC Pt. III §515.B. However, the registration requirement does not apply to “educational institutions recognized and/or approved by the State Department of Education or the appropriate state educational board, . . .” 16 LA ADC Pt. III §515.C.

Definition: None.

Form: “Charitable Exemption Form,”

<https://www.ag.state.la.us/Shared/ViewDoc.aspx?Type=3&Doc=524>

Instructions: <https://www.ag.state.la.us/Shared/ViewDoc.aspx?Type=3&Doc=522>

Maine

Exemptions: The registration and reporting requirements do not apply to:

Organizations that solicit primarily within their membership and do not contract with a professional solicitor or professional fund-raising counsel. For purposes of this paragraph, the term "membership" does not include those persons who are granted a membership upon making a contribution as a result of a solicitation. 9 Maine Rev. Stat. §5006.1.A. (Amended 2013)

Educational institutions, the curriculums of which in whole or in part are registered or approved by the Department of Education, either directly or by acceptance of accreditation by an accrediting body recognized by the Department of Education, and organizations operated by the student bodies of such institutions. 9 Maine Rev. Stat. §5006.1.E.

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Definition: None.

Form: File “Exempt Charitable Organization Application” annually.

A charitable organization claiming to be exempt under subsection 1 must submit to the director annually on forms prescribed by the director and accompanied by the fee as set under section 5015-A a sworn statement setting forth the name and address of the organization and its principal executive personnel, the purpose of the organization and the factual basis for the exemption. The organization claiming exemption must include a copy of any financial statement, report or return filed with the federal Internal Revenue Service. The director shall issue annually an exemption to those organizations considered exempt under subsection 1.

9 Maine Rev. Stat. §5006.3.

The “Exempt Charitable Organization Application” is online at:

<http://www.maine.gov/pfr/professionallicensing/professions/charitable/pdf/Initial%20App-Exempt%20Charitable%20Organization.pdf>.

Maryland

Exemptions: An accredited school, college, or university is exempt from registration and reporting only if it does not engage a professional solicitor and it solicits contributions only from its members. Business Regulation Article, §6-102(c)(1)(ii)3. For this purpose, a member is a student, former student, parent of a student or former student, present or former board member, and staff member of an accredited school, college, or university. Business Regulation Article, §6-102(a)(1).

In addition, a “charitable organization” does not include “an agency of the State government or of a political subdivision; . . .” Business and Regulation Article, §6-101(d)(3)(i).

Definition: None.

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Form: None. However, a charitable organization claiming exemption must submit evidence of its entitlement to an exemption upon request of the Secretary of State. Business Regulation Article, §6-102(c)(2)(i).

Michigan

Exemptions: The registration and reporting requirements do not apply to:

An organization that does not invite the general public to become a member of the organization and confines solicitation activities to solicitation drives solely among its members and the members' immediate families, if the drives are not held more frequently than quarterly. "Immediate family" means the grandparents, parents, spouse, brothers, sisters, children, and grandchildren. M.C.L. §400.283(c).

An educational institution certified by the state board of education. M.C.L. §400.283(d).

Definition: None.

Form: File "Request for Exemption." The form refers to an "organization approved as an educational institution approved by the Michigan Board of Education" and requires "appropriate documentation from the Michigan Department of Education."

Minnesota

Exemptions: The registration and reporting requirements do not apply to:

(c) Any educational institution which is under the general supervision of the commissioner of education, the Board of Trustees of the Minnesota State Colleges and Universities, or the University of Minnesota or any educational institution which is accredited by the University of Minnesota or the North Central Association of Colleges and Secondary Schools, or by any other national or regional accrediting association.

(d) A[n] educational, [or] alumni . . . society which limits solicitation of contributions to persons who have a right to vote as a member. The term

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"member" shall not include those persons who are granted a membership upon making a contribution as the result of a solicitation.

Minn. Stat. §309.515(1).

The exemption for educational or alumni societies (paragraph (d)) does not apply if the society engages a "professional fund-raiser." In Minnesota, a "professional fund-raiser" generally includes both a professional fundraising consultant or a professional solicitor, as defined in footnote 4 on page 3.

Definition: None.

Form: "Verification of Exemption from Registration under Minnesota Statutes Ch. 309," http://www.ag.state.mn.us/Charity/Forms/Char_ExemptionForm.pdf.

Mississippi

Exemption:

(1) The provisions of [Mississippi Code] Sections 79-11-501 through 79-11-529 shall not apply to the following organizations:

(a) All educational institutions that are recognized by the State Board of Education or that are accredited by a regional accrediting association or by an organization affiliated with the National Commission on Accrediting, any foundation having an established identity with any of the aforementioned educational institutions, any other educational institution which makes the solicitation of contributions solely by its student body, alumni, faculty and trustees and their families or a library established under the laws of this state.

§79-11-505(1).

Definition: None.

Form: File "Notice of Exemption."
<http://www.sos.ms.gov/FeesForms/CharityExemptionForm.pdf>

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(2) Prior to any solicitations for contributions, each charitable organization claiming to be exempt shall file a Notice of Exemption on the forms prescribed by the Secretary of State. In any proceeding under this chapter, the burden of proving an exemption, or an exception from a definition, is upon the person claiming it.

§79-11-505(2).

Missouri

Exemption: The registration and reporting requirements of the statute do not apply to “[e]ducational institutions and their authorized and related foundations,” Mo. Rev. Stat. 407.456.2(2), or to—

(6) Any organization that has obtained an exemption from the payment of federal income taxes as provided in section 501(c)(3) . . . of Title 26, United States Code, as amended, if, in fact, no part of the net earnings of the organization inure to the benefit of any private party or individual associated with such organization.

Mo. Rev. Stat. 407.456.2(6)

Definition: An “educational institution” is “a school, college or other institution which has a defined curriculum, student body and faculty, and which conducts classes on a regular basis.” Mo. Rev. Stat. §407.453(3).

Form: None. File letter.

Nevada

In 2013, and effective January 1, 2014, Nevada enacted a registration law that applied only to corporations incorporated in Nevada and corporations incorporated in another state (“foreign corporations”) and holding a certificate of authority to do business in Nevada. The law exempted certain alumni associations from registration. Assembly Bill 60, codified at N.R.S. §§82.382-82.417.

In 2015, effective October 1, 2015, having learned how limited the scope of its registration statute was, Nevada enacted substantial revisions, but maintained the exemption from

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registration for certain alumni associations. Assembly Bill 50, §5, to be codified in N.R.S. Title 7.

The law has no exemption for educational institutions, as such.

Exemption:

Sec. 15. 1. A charitable organization is not required to be registered with the Secretary of State pursuant to section 14 of this act during any year in which its only solicitations for contributions, donations, gifts or the like are:

* * * *

(e) Conducted by an alumni association of an accredited institution which solicits only persons who have an established affiliation with the institution, including, without limitation, current and former students, members of the faculty or staff, or persons who are within the third degree of consanguinity or affinity of such persons.

Note: The “third degree of consanguinity or affinity” includes, with respect to any individual and his or her spouse:

- a. Children, grandchildren, and great-grandchildren;
- b. Parents, siblings, and nephews and nieces; and
- c. Grandparents, uncles and aunts, and great-grandparents.

Source: <http://ethics.nv.gov/FORMS/Consanguinity-affinity%20chart%20043008.pdf>

2. A charitable organization that believes it is exempt from registration pursuant to this section must, before it solicits a charitable contribution in this State or has a charitable contribution solicited in this State on its behalf by another person, and annually thereafter, file a declaration of exemption on a form prescribed by the Secretary of State.

Forms: Forms for registration and exemption are available at <https://nvsos.gov/Modules/ShowDocument.aspx?documentid=2912>. Although the new law’s effective date was October 1, 2015, registration and exemption forms for charities not doing business in Nevada were not posted until early 2016. As of this writing, the forms for charities not incorporated or doing business in Nevada may be subject to further revision. The Secretary of State’s office has not posted any deadline for initial registration or exemption filings.

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New Hampshire

Exemption: “However, this subdivision does not apply to the United States; any state, territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico or to any of their agencies or governmental subdivisions, . . .” R.S. §7:19(I)

Form: None. File letter.

New Jersey

Exemption:

The registration requirements of this act shall not apply to any educational institution, the curriculums of which in whole or in part are registered or approved by the State Department of Education or the State Department of Higher Education, either directly or by acceptance of accreditation by an accredited body recognized by these departments; an educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families; or a library registered by the State Department of Education, provided that the annual financial report of that institution or library shall be filed with the State Department of Education where it shall be open for public inspection.

N.J.S.A. §45:17a-26(b).

Definition: None.

Form: None. File letter.

New Mexico

Exemption: Educational institutions and organizations defined in Section 6-5A-1 NMSA 1978 are exempt from the registration and reporting requirements of the Charitable Solicitations Act. N.M. Stat. §57-22-4.B(1).

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Definitions:

“Educational institution” means' (1) an entity organized and operated primarily as a school, college or other instructional institution with a defined curriculum, student body and faculty, conducting classes on a regular basis; and (2) auxiliary entities, including parent-teacher organizations, booster and support clubs that support, encourage or promote a school, college or other instructional institution and its defined curriculum, student body, faculty, facilities or activities;

N.M. Stat. §57-22-3.D

Organizations “defined in Section 6-5A-1 NMSA 1978” include:

(1) “agency” means any state agency, department or board, any public institution of higher education or public post-secondary educational institution and any county, municipality or public school district;

(2) “organization” means an organization that has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c) of the Internal Revenue Code of 1986, as amended or renumbered, and whose principal and authorized purpose is to complement, contribute to and support, aid the function of or forward the purposes of a single agency through financial support, the contribution of services, goods, data or information that help or aid the agency in carrying out its statutory purpose and goals, including, but not limited to, the provision of scholarships to students of educational institutions and the provision of grants to supplement ongoing research or to provide funds for research and programs being carried out by an agency;

(3) “post-secondary educational institution” means an educational institution designated in Article 12, Section 11 of the constitution of New Mexico, and any post-secondary educational institution, which term includes, but is not limited to, an academic, vocational, technical, business, professional or other school, college or university or other organization or person offering or purporting to offer courses, instruction, training or education through correspondence or in person, to any individual within this state over the compulsory school attendance age, if

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that post-secondary educational institution is directly supported in whole or in part by state or local taxation;

Form: None. File letter.

New York

Exemptions: The following organizations are exempt from registration and reporting:

An educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families; . . .

An educational institution which files annual financial reports with the regents of the university of the state of New York as required by the education law or with an agency having similar jurisdiction in another state or a library which files annual financial reports as required by the state education department.

Exec. Law, Article 7-A, §172-a2(a), (g).

Definition: None.

Form: File Form CHAR-410 and Schedule E.
<https://www.charitiesnys.com/pdfs/char410.pdf>
<https://www.charitiesnys.com/pdfs/char410SchE.pdf>

North Carolina

Exemptions.

The following are exempt from the provisions of this Chapter:

* * * *

(2) Solicitation of charitable contributions by the federal, State, or local government, or any of their agencies.

* * * *

(4) Any educational institution, the curriculum of which, in whole or in part, is registered, approved, or accredited by the Southern Association

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of Colleges and Schools or an equivalent regional accrediting body, and any educational institution in compliance with Article 39 of Chapter 115C of the General Statutes, and any foundation or department having an established identity with any of these educational institutions.

N.C.G.S. § 131F-3(2), (4).

Definition: None.

Form: None. File letter.

North Dakota:

Exemption: The term "charitable organization" does not include "an organization that solicits funds for an institution of higher learning," or "a public or private elementary school." N.D.C.C. §50-22-01(2)(b)(1), (3).

Definition: None.

Form: None. Submit letter.

Ohio:

Exemptions: Pursuant to Ohio Rev. Code §1716.03, the following organizations are not required to register under the Charitable Solicitations Act:

(C) Any educational institution, when solicitation of contributions is confined to alumni, faculty, trustees, or the student membership and their families;

(D) Every person other than an individual, when solicitation of contributions for a charitable purpose or on behalf of a charitable organization is confined to its existing membership, present or former employees, or present or former trustees;

(E) Any public primary or secondary school, when solicitation of contributions is confined to alumni, faculty, or the general population of the local school district; [and]

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(F) Any booster club that is organized and operated in conjunction with and for the benefit of students of public primary or secondary schools;

Definition: None.

Form: Apply online at <http://www.ohioattorneygeneral.gov/Business-and-Non-Profits/Charity/Charitable-Registration.aspx>.

Oklahoma

Exemption: “Educational institutions that have a faculty, regularly enrolled students and offer course of study leading to recognized degrees when solicitations of contributions are primarily confined to its student body and their families, alumni, faculty, and trustees and any 501(c)(3) organization authorized by and having an established identity with such institutions” are not required to register or file annual reports. Okla. Stat. §18-552.4(2).

Definition: None.

Form: None. File letter.

Oregon

Exemption: The Charitable Trust and Corporation Act does “not apply to the United States, any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or to any of their agencies or governmental subdivisions.” O.R.S. §128.640(1).

Section 137-010-0005(2)(c) of the Oregon Administrative Rules provides that a charitable organization is not required to register if “[t]he organization is an educational institution which does not hold property in [Oregon] and solicitations of individuals residing in [Oregon] are confined to alumni of the institution.”

Form: None. Submit letter.

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Pennsylvania

Exemptions:

(a) **General rule.**—The following charitable organizations shall be exempt from the registration requirements of this act:

(1) Educational institutions, the curricula of which in whole or in part are registered with or approved by the Department of Education, either directly or by acceptance of accreditation by an accrediting body recognized by the Department of Education, and any auxiliary associations, foundations and support groups which are directly responsible to educational institutions.

* * * *

(6) Bona fide parent/teacher associations or parent/teacher organizations as recognized in a notarized letter from the school district in which they are located.

10 P.S. §162.6(a)(1), (6).

Definition: None.

Form: None. Submit letter.

Rhode Island

Exemptions:

(a) The following persons shall not be required to file a registration statement with the department:

(1) Educational institutions, including parent-teacher associations, the curricula of which in whole or in part are registered or approved by a governmental agency as well as all other educational institutions within this state who are recognized or certified as educational institutions by a generally recognized and accepted regional or national educational accrediting organization.

* * * *

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(4) Organizations which solicit only from their own membership. The term "membership" shall not include those persons who are granted a membership upon making a contribution as the result of a solicitation.

* * * *

(6) Foundations or associations exclusively for the benefit of religious organizations, education institutions, non-profit or charitable hospitals and public libraries.

Rhode Isl. Gen. Laws §5-53.1-3(a).

Definition: None.

Form: None. File letter on CD-ROM (only). Rhode Island will respond with an e-mailed acknowledgement, but refuses to confirm that an organization seeking confirmation of exemption is exempt. Following is a typical response:

This Department is in receipt your letter asking if the above referenced charitable organization is exempt from registration as a charitable organization. Rhode Island General Law §5-53.1-3 Solicitation by Charitable Organizations delineates the exemptions from the registration. Please be aware that this Department does not grant exemptions. These exemptions are self-executing. If the organization comes under one of the exemptions, then they are exempt. However pursuant to Rhode Island General Laws §5-53.1-3(b), the director may in the future request that the organization provide information regarding its activities and qualification for exemption. Those organizations that are exempt from registration in this state must comply with all applicable provisions of the Rhode Island Charitable Organization Statute. You may access our statute at www.dbr.state.ri.us.

South Carolina

Exemptions:

(A) The following are not required to file registration statements with the Secretary of State **if their fundraising activities are not conducted by**

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professional solicitors, professional fundraising counsel, or commercial co-venturers:

(1) an educational institution which solicits contributions from only its students and their families, alumni, faculty, friends, and other constituencies, trustees, corporations, foundations, and individuals who are interested in and supportive of the programs of the institution;

* * * *

(4) an organization which solicits exclusively from its membership, including a utility cooperative;

* * * *

(6) the State, its political subdivisions, and an agency or a department of the State which are subject to the disclosure provisions of the Freedom of Information Act.

S. Car. Code of Laws, §33-56-50(A)(1), (4)(emphasis added).

Definition:

5) "Educational institution" means an organization organized and operated exclusively for educational purposes, which usually maintains a regular faculty and curriculum and usually has a regularly enrolled body of pupils or students in attendance at the place where educational activities are regularly conducted. The term "educational institution" also includes the following persons, entities, or institutions **if their fundraising activities are not conducted by professional solicitors** as defined by this chapter:

(a) an educational institution that is an eleemosynary junior or senior college in South Carolina whose major campus and headquarters are located within this State and which is accredited by the Southern Association of Colleges and Secondary Schools; and

(b) a person or an entity performing sanctioned fundraising activities on behalf of the educational institutions referenced in subitem (a) above, its foundations, or related or affiliated funds.

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S. Car. Code of Laws, §33-56-20 (emphasis added).

Form: File “Annual Application for Exemption from Registration,” <http://www.sos.sc.gov/forms/Charities/CharitiesExemptionForm.pdf>, annually, not later than 4-1/2 months after the end of the institution’s fiscal year.

(C) A charitable organization claiming to be exempt from the registration provisions of this chapter and which solicits charitable contributions must submit annually to the Secretary of State, on forms prescribed by the Secretary of State, the name, address, and purpose of the organization and a statement setting forth the reason for the claim for exemption. If appropriate, the Secretary of State or his appropriate division shall issue a letter of exemption that may be exhibited to the public. A filing fee is not required of an exempt organization.

S. Car. Code of Laws, §33-56-50(C).

Tennessee:

Exemptions: The registration requirements of the statute do not apply to educational institutions. Tenn. Code §48-101-502(a)(1).

Reciprocal exemption: The Act also requires the Secretary of State to exempt from registration charitable organizations “organized under the laws of another state, having their principal place of business outside the state, whose funds are derived principally from sources outside the state, and which have been granted exemption from the filing of registration statements by the state under whose laws they are organized, if such state has a statute similar in substance to the provisions of [the Tennessee Charitable Solicitations Act].” Tenn. Code Ann. §48-101-510(b). This exemption should generally apply to an educational organization or affiliated organization that is not located in Tennessee, and that is exempt from registration in the state where it is incorporated.

Definition:

“Educational institution,” for the purposes of this section, means an organization organized and operated exclusively for educational purposes and which normally maintains a regular faculty and curriculum and

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normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, and which is accredited by a recognized accrediting agency. Included in such definition are organizations composed of parents of students and other persons connected with the institution, which are organized and operated for the purpose of conducting activities in support of the operations or extracurricular activities of such institutions. "Educational institution" also includes private foundations soliciting contributions exclusively for such organizations.

Tenn. Code §48-101-502(b).

Form: The Secretary of State's office has not provided a form for requesting exemption as an educational institution or under the reciprocity rule. Submit a letter.

Utah:

Exemptions: The registration and reporting requirements do not apply to:

(c) a solicitation by a broadcast media owned or operated by an educational institution or governmental entity, or any entity organized solely for the support of that broadcast media;

* * * *

(g) any school accredited by the state, any accredited institution of higher learning, or club or parent, teacher, or student organization within and authorized by the school in support of the operations or extracurricular activities of the school; . . .

(h) a public or higher education foundation established under Title 53A or 53B [relating to the Utah systems of public and higher education];

* * * *

(k) any governmental unit of any state or the United States;

Utah Code Ann. §13-22-8(1).

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Definition: None.

Form: None. File letter. The statute and regulations govern requests for exemptions:

- (2) Any organization claiming an exemption under this section bears the burden of proving its eligibility for, or the applicability of, the exemption claimed.
- (3) Each organization exempt from registration pursuant to this section that makes a material change in its legal status, officers, address, or similar changes shall file a report informing the division of its current legal status, business address, business phone, officers, and primary contact person within 30 days of the change.
- (4) The division may by rule:
 - (a) require organizations exempt from registration pursuant to this section to file a notice of claim of exemption;
 - (b) prescribe the contents of the notice of claim; and
 - (c) require a filing fee for the notice, as determined under Section 63J-1-504.

Utah Code Ann. §13-22-8(2)-(4).

R152-22-5. Notice of Claim of Exemption

- (1) A charitable organization or individual claiming exemption from registration under Section 13-22-8 shall file a notice of claim of exemption with the division, prior to conducting any solicitation.
- (2) A notice of claim of exemption shall contain:
 - (a) A detailed description of the claimant and its charitable purposes;
 - (b) A citation to the exemption within Section 13-22-8 being claimed, and a detailed explanation of why the exemption applies;
 - (c) Any documents supporting the notice of claim of exemption;
 - (d) A notarized statement from the organization's chief executive officer or the individual certifying that the statements made in the notice of claim of exemption are true to the best of his knowledge; and
 - (e) Such other information as the division deems necessary to support such claim of exemption.

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(3) This rule does not relieve any exempt organization or individual of other applicable reporting requirements under the Act.

(4) The division shall charge a reasonable fee to cover the expense of processing the notices of claim of exemption received pursuant to this rule.

Comment: In processing requests for exemption from numerous religious organizations (which are also exempt under §13-22-8), the Consumer Protection Division has not required either the notarized statement or any fee.

Virginia

Exemptions:

A. The following persons shall be exempt from the registration requirements of § 57-49, but shall otherwise be subject to the provisions of this chapter:

1. Educational institutions that are accredited by the Board of Education, by a regional accrediting association or by an organization affiliated with the National Commission on Accrediting, the Association Montessori Internationale, the American Montessori Society, the Virginia Independent Schools Association, or the Virginia Association of Independent Schools, any foundation having an established identity with any of the aforementioned educational institutions, and any other educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families.

4. Organizations that solicit only within the membership of the organization by the members thereof.

Va. Code §57-60.A.

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Definition:

“Foundation,” as referenced in Subdivision A 1 of Section 57-60 of the Code of Virginia (Exemptions), means a secondary organization established to provide financial or program support for a primary organization with which it has an established identity.

Form:

C. No charitable or civic organization shall be exempt under this section unless it submits to the Commissioner, who in his discretion may extend such filing deadline prospectively or retrospectively for good cause shown, on forms to be prescribed by him, the name, address and purpose of the organization and a statement setting forth the reason for the claim for exemption. Parent organizations may file consolidated applications for exemptions for any chapters, branches, or affiliates that they believe to be exempt from the registration provisions of this chapter. If the organization is exempted, the Commissioner shall issue a letter of exemption, which may be exhibited to the public. A registration fee of \$10 shall be required of every organization requesting an exemption after June 30, 1984. The letter of exemption shall remain in effect as long as the organization continues to solicit in accordance with its claim for exemption.

Va. Code §57-60.C.

File Form OCA-100, <http://www.vdacs.virginia.gov/pdf/oca100exemption.pdf>.

West Virginia

Exemptions:

(a) The following charitable organizations shall not be required to file an annual registration statement with the secretary of state:

(1) Educational institutions, the curriculums of which, in whole or in part, are registered or approved by the state board of education, either directly or by acceptance of accreditation by an accrediting body recognized by the state board of education; and any auxiliary associations, foundations and

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support groups which are directly responsible to any such educational institutions;

* * * *

(4) Organizations which solicit only within the membership of the organization by the members thereof: *Provided*, That the term "membership" does not include those persons who are granted a membership upon making a contribution as the result of solicitation. For the purpose of this section, "member" means a person having membership in a nonprofit corporation, or other organization, in accordance with the provisions of its articles of incorporation, bylaws or other instruments creating its form and organization; and having bona fide rights and privileges in the organization, such as the right to vote, to elect officers, directors and issues, to hold office or otherwise as ordinarily conferred on members of such organizations;

W.Va. Code §29-19-6(a).

Definition: None.

Form: None. File letter

Wisconsin

Exemption:

(a) The following are not required to register under sub. (1):

3m. A fraternal, civic, benevolent, patriotic or social organization that solicits contributions solely from its membership.

5. A nonprofit, postsecondary educational institution accredited by a regional accrediting agency or association approved under 20 USC 1099b, or an educational institution and its authorized charitable foundations that solicit contributions only from its students and their families, alumni, faculty, trustees, corporations, foundations, and patients.

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7. A state agency, as defined in s. 20.001(1), or a local governmental unit, as defined in s. 605.01(1).

8. A private school, as defined in s. 118.165.

Wisc. Code §202.12(5)(a) (re-enacted in 2013).

Definitions:

“State agency” means any office, department or independent agency in the executive branch of Wisconsin state government, the legislature and the courts.

Wisc. Code §20.001(1)

“Local governmental unit” means any local governmental association, authority, board, commission, department, independent agency, institution, office, society or other body, including any city, county, town or village board or common council, school or library board, or board of control of a cooperative educational service agency.

Wisc. Code §605.01(1).

An institution is a **private school** if its educational program meets all of the following criteria:

(a) The primary purpose of the program is to provide private or religious-based education.

(b) The program is privately controlled.

(c) The program provides at least 875 hours of instruction each school year.

(d) The program provides a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science and health. This subsection does not require the program to include in its curriculum any concept, topic or practice in conflict with the program’s religious doctrines or to exclude from its curriculum any

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concept, topic or practice consistent with the program's religious doctrines.

(e) The program is not operated or instituted for the purpose of avoiding or circumventing the compulsory school attendance requirement under s. 118.15(1)(a) and (am).

(f) The pupils in the institution's educational program, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than 2 months of summer vacation, or the institution is licensed as a child welfare agency under s. 48.60(1).

Form: None. Submit letter. However, Wisconsin has indicated that it will not respond to requests to confirm exemption.