

# JAN

Job Accommodation Network

Practical Solutions • Workplace Success

## Entrepreneurship Series

# Starting a Nonprofit Organization

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A service of the U.S. Department of Labor's Office of Disability Employment Policy

## Preface

The Job Accommodation Network (JAN) is a service of the Office of Disability Employment Policy of the U.S. Department of Labor. JAN makes documents available with the understanding that the information be used solely for educational purposes. The information is not intended to be legal or medical advice. If legal or medical advice is needed, appropriate legal or medical services should be contacted.

JAN does not endorse or recommend any products or services mentioned in this publication. Although every effort is made to update resources, JAN encourages contacting product manufacturers/vendors and service providers directly to ensure that they meet the intended purposes. This guarantees that the most up-to-date information is obtained.

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## INTRODUCTION

The Job Accommodation Network (JAN), an ODEP-supported service, provides individualized technical assistance, consulting, and mentoring services to individuals with disabilities, family members, and service providers. JAN consultants handle each inquiry on a case-by-case basis offering self-employment and small business development expertise and referrals regarding business planning, financing strategies, marketing research, disability-specific programs, income supports and benefits planning, e-commerce, independent contracting, home-based business options, and small business initiatives for disabled veterans.

Many people with disabilities choose to initiate and develop a non-profit organization. Developing such an organization can both serve a worthy community purpose, as well as provide a way to be employed. This publication discusses the “how to’s” of starting a non-profit business. Its “question and answer” format is designed to help those considering forming a non-profit to think through this decision step-by-step. The publication includes:

- The legal definition of a non-profit organization,
- The steps involved in developing a non-profit business,
- The forms necessary to be recognized as a non-profit by the U.S. Internal Revenue Service (IRS), and
- A list of resources for additional information and technical assistance

### 1. What are the advantages and disadvantages of starting a non-profit organization?

**Advantages:** Besides serving a social purpose and providing employment, one advantage of forming a non-profit is its tax-exempt status. Non-profits are eligible by their status to receive federal, state, and foundation funding grant monies. Foundations are required by law to donate a certain percentage of their funds to non-profit organizations or they may possibly endanger their own tax-exempt status. Non-profits may also benefit from goods and services provided to them in order for the giver to receive a tax benefit.

**Disadvantages:** The main disadvantage of forming a non-profit organization is the increased paperwork that is required. Articles of incorporation must be filed with the state, by-laws prepared, and meeting minutes kept. If a non-profit hires an employee then there are additional forms to complete and employment taxes to pay. Note: Employer tax filing requirements for non-profits are the same as those for for-profit businesses.

### 2. Where can I find funding to start and run a non-profit?

Fundraising is the life line of any non-profit. To effectively raise funds you must be able to communicate your organization’s mission and need. This mission and

need must be organized into a case for support, maximizing your fundraising capabilities.

Typically, there is no one source of funding for non-profits. Funding is put together as a patchwork from individual donations, grants, government funding, endowments, users' fees, and costs related to the provision of mission related goods and services. In order to establish which funding streams present your organization with the best opportunity, the organization's board of directors should develop a short-term and long-term fundraising plan.

Below are two resources to begin your fundraising journey:

- Non-profit grant writing guide at: <http://www.npguides.org/>
- Non-profit fundraising and grant writing at: [http://www.managementhelp.org/fndrsng/np\\_raise/np\\_raise.htm](http://www.managementhelp.org/fndrsng/np_raise/np_raise.htm)

### **3. Do I have the technical support, financial resources, and time to form a non-profit?**

As you consider whether to initiate the development of a non-profit, there are a number of things you should consider. The three primary considerations are:

1. Will the costs involved in forming a new non-profit result in the outcome I need?
2. Do I have the resources to contribute to its development?
3. Do I have the time to dedicate to its development?

Like any enterprise, developing a non-profit organization requires planning to ensure its long-term sustainability. Business planning, therefore, is one of the preliminary steps towards deciding whether or not to create a non-profit organization. With a business plan in hand, potential supporters are much more likely to provide assistance.

There are costs involved at each stage of non-profit development. You will need to cover these costs or find local resources that can help you to offset them. Filing for the IRS's recognition as a non-profit typically costs \$150. Hiring a lawyer to complete this process may cost between \$600-\$1500. While resources such as the Service Corps of Retired Executives (SCORE), a source of free and confidential small business advice (<http://www.score.org/>), can pair you with a mentor, there will still be costs involved with producing a quality business plan.

Creating a non-profit may take considerable time to organize. You will be required to file forms at the state and federal levels of government. These forms cannot be filed together. Instead the state requirements must be met first and then a federal filing can be completed. This may take six to eight months or more.

For more of a discussion about the merits of forming a non-profit to meet your personal goals, go to: <http://www.nscsb.org/resources/starting-nonprofit.html>

The Foundation Center's Web site offers resources specifically for non-profit business planning at:  
<http://foundationcenter.org/getstarted/faqs/html/sampleplan.html>

#### **4. What is a 501(c)(3) non-profit or not-for-profit organization?**

Non-profits are federally tax-exempt organizations under Section 501(c)(3) of the IRS code. This is why many times such organizations are simply referred to as a 501(c)(3). Non-profit recognition is granted after meeting the criteria set forth by the IRS. This criterion requires that a non-profit be formed for purposes other than generating a profit. The IRS grants tax-exempt status to such entities if the organization is organized:

1. For charitable, religious, literary, educational or similar types of social purposes, and
2. If no part of the organization's income is distributed to its directors or officers.

#### **5. What do I need to do to prepare for forming a non-profit?**

Before filing the forms necessary to establish your organization as a non-profit, you must:

1. Establish the name of your organization,
2. Establish your mission,
3. Develop a board of directors and elect board officers,
4. Develop and adopt the organization's corporate by-laws,
5. Develop and adopt your "Articles of Organization," and
6. Complete and file an application for incorporating a business in the home state of the organization.

Once the home state of the organization approves the organization as a corporation, then you are ready to file an application for non-profit status with the IRS.

NOTE: In 40 states, you will need to file with your home state to begin soliciting donations - See Question 11 for more information.

#### **6. How do I establish a name for my organization?**

It is important to remember that your name should tell potential donors and organization members what you do. This is your first opportunity to introduce the

social purpose you serve. Thus, be sure your organization's name conveys a positive message – the name is an important marketing tool.

## **7. How do I write a mission statement?**

Writing a mission statement can be as simple or complex as you and your board of directors makes it. A mission statement can be easily drafted if all are clear on the social goal. If your goal is somewhat unclear, then you may want to conduct planning sessions during which the board defines the organizational goal and establishes a mission statement. Mission statements range from one line to one page. In most cases, the mission statement should be short and focused. This will enable the public to more easily understand your purpose.

A resource for developing a mission statement can be found at:  
[http://foundationcenter.org/getstarted/faqs/html/mission\\_statements.html](http://foundationcenter.org/getstarted/faqs/html/mission_statements.html)

## **8. How do I develop a board of directors?**

The board of directors is the governing body of a corporation responsible for both fiscal and programmatic control of the organization. Financial compensation to board members is strictly forbidden by the IRS. The board is elected by members, and the board selects the organization's officers. These officers manage the daily affairs of the organization. A non-profit's officers usually consist of a president, vice-president, treasurer, and secretary.

Developing a board of directors is crucial to your success. You will want to recruit community and business leaders who share your interest and the organization's mission. It is important to recruit people for their expertise and talents. Your choices for the board of directors should reflect the many needs of the organization, keeping in mind a successful non-profit needs expertise in the area of fundraising, financial planning, marketing, and organizational development.

Two excellent on-line resources for the "how to's" of developing a board of directors and for understanding the responsibilities of a board can be found at:

1. Board Essentials – What Should All Board Members Know?  
<http://www.boardsource.org/Knowledge.asp?ID=3.1014>
2. Where Can I Find Information on Non-profit Boards?  
[http://foundationcenter.org/getstarted/faqs/html/nonprofit\\_boards.html](http://foundationcenter.org/getstarted/faqs/html/nonprofit_boards.html)

## **9. What are articles of organization or incorporation?**

Articles of incorporation are the primary legal document of a non-profit; they serve as an organization's constitution. The articles are filed with the state government to begin corporate existence. The articles contain basic information about the organization as required by state law. In completing these forms, you

will need to declare if the organization will be a corporation, a trust, or an unincorporated association. Typically, non-profits are organized as corporations.

Every state possesses a state department responsible for regulating businesses. Your state department can be located using the following site:

[http://nass.org/index.php?option=com\\_content&task=view&id=89&Itemid=223](http://nass.org/index.php?option=com_content&task=view&id=89&Itemid=223)

Sample incorporation forms can be found at:

<http://www.irs.gov/charities/article/0,,id=167760,00.html>

Information on articles of incorporation forms for each state is available at the IRS site:

<http://foundationcenter.org/getstarted/faqs/html/samplearticles.html>

## **10. What are by-laws?**

By-laws are formal documents declaring the purpose of your organization and providing the non-profit's internal operating policies and procedures. By-laws usually contain provisions relating to shareholders, directors, officers, and general corporate business. The by-laws are adopted at the organization's initial meeting.

By-laws information can be found at:

<http://foundationcenter.org/getstarted/faqs/html/samplebylaws.html>

## **11. I have developed a board of directors and adopted the by-laws, now what?**

Now you are ready to begin the official process of developing a non-profit. As stated earlier, you need to establish what department in your state government regulates new businesses. Many times this is the Department of State. Your state department can be located using the following site:

National Association of Secretaries of State

[http://nass.org/index.php?option=com\\_content&task=view&id=89&Itemid=223](http://nass.org/index.php?option=com_content&task=view&id=89&Itemid=223)

Once you have established what department within your state government is responsible for recognizing a new business, request the necessary incorporation forms from this department. Typically, you will need to submit your organization's name, mission, by-laws, and a list of board members along with a fee. The state will determine if the name you have chosen for your new non-profit has been already reserved by another organization. After successful completion of this process, your organization may now apply for an Employer Identification Number (EIN) through the IRS.

Note: Successful completion of this incorporation process DOES NOT automatically provide you with non-profit, tax-exempt status in your home state.

Every state is different in this regard. Please contact your department of state for information about being exempt from state taxes.

## **12. What is an Employer Identification Number (EIN)?**

An Employer Identification Number (EIN) is an identification number assigned by the IRS to employers, sole proprietors, corporations, partnerships, non-profit associations, trusts, estates of decedents, government agencies, certain individuals, and other business entities. The IRS uses the number to identify taxpayers who are required to file various business tax returns.

According to the IRS, “Every organization must have an Employer Identification Number, even if it will not have employees. The employer identification number is a unique number that identifies the organization to the Internal Revenue Service. Please note that the employer identification number is not your ‘tax-exempt number.’ That term generally refers to a number assigned by a state agency that identifies organizations as exempt from state sales and use taxes.”

IRS Publication 1635: Understanding Your EIN Number  
<http://www.irs.gov/pub/irs-pdf/p1635.pdf>

Banks generally require a tax identification number to open bank accounts. The federal tax identification number is also known as the EIN.

To apply for an EIN number on-line or download a SS-4 form, please go to:  
<http://www.irs.gov/businesses/small/article/0,,id=102767,00.html>

## **13. I have completed all of the preparation for starting my non-profit, now what?**

Next your organization needs to be recognized by the IRS as fulfilling a worthy social purpose. Official recognition by the IRS means that you are a non-profit. In order to receive this recognition and be granted federal tax-exempt status, you must file IRS Form 1023.

You can find an electronic copy of Form 1023 - Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code by visiting <http://www.irs.gov>. In the top right hand corner of the Website there is a search function. In the “search for” box enter “1023.” You can also request a copy of the form by calling 1-800-TAX-FORM (1-800-829-3676).

The IRS provides an on-line technical process that can walk you through the process of filing for non-profit status at:  
<http://www.irs.gov/charities/article/0,,id=96210,00.html>, or you may call for technical assistance to IRS Tax-exempt and Government Entities Customer Account Services at (877) 829-5500 (toll-free number). The IRS also has

developed an entire section of its Web site dedicated to non-profits. This can be accessed at <http://www.irs.gov/charities/index.html>.

Sandy Deja, a tax consultant with over 30 years of experience with IRS Form 1023, has designed a Web site and booklet to help new non-profit organizations complete the Application for Exempt Status Under Section 501(c)(3) of the Internal Revenue Code. The site is posted as a public service (<http://www.form1023help.com>). Ms. Deja's book can be purchased through the same Website.

#### **14. Is there anything else I need to do before I begin fundraising?**

Forty states require non-profits to register as charitable organizations before they begin fundraising. These states require that you register with the appropriate state department before soliciting funds from individuals. In some instances, these states require periodic financial reports regarding this fundraising.

You will need to contact the National Association of State Charity Officials (NASCO) to determine whether or not you need to register in order to begin fundraising. NASCO provides a database of state offices whose contact information can be found at:

<http://www.nasconet.org/agencies/view?searchterm=state%20office>

Information about starting a fundraising program can be found at:  
<http://foundationcenter.org/getstarted/learnabout/foundations.html>

#### **15. What is required now that I have my IRS 501(c)(3) tax-exempt status?**

In the past, most tax-exempt organizations were required by the IRS to file an annual financial information return typically called a Form 990 or 990EZ. The primary exception to this rule pertains to organizations that typically have annual gross receipts less than \$25,000. However, even tax-exempt organizations that have gross annual receipts less than \$25,000 must now complete the new 990 e-Postcard form. For more information about these changes, please go to:

<http://www.irs.gov/charities/article/0,,id=169250,00.html>

Also note: If your non-profit earns \$1,000 or more gross income from any unrelated business, the organization must file Form 990 even if it does not have total income over \$25,000.

If you are required to file a Form 990 annually, then your organization must do so by the 15th day of the 5th month after the end of your organization's accounting period. It is important to note that an organization's Form 990 is public information that must be provided at no cost to anyone who requests such information.

If you are required to file a 990 e-Postcard, it is due every year by the 15th day of the 5th month after the close of your tax year.

## **16. What other forms and filings are required to maintain my non-profit status?**

Besides the Form 990, your organization will from time-to-time be asked to provide proof of contributions to your donors. This is called “Substantiation of Contributions.” In regard to substantiation, the IRS offers the following information:

A donor can deduct a charitable contribution of \$250 or more only if the donor has a written acknowledgment from the charitable organization. The donor must get the acknowledgement by the earlier of:

1. The date the donor files the original return for the year the contribution is made, or
2. The due date, including extensions, for filing the return.

The donor is responsible for requesting and obtaining the written acknowledgement from the donee. Please find more information including a format for substantiating donations at: <http://www.irs.gov/pub/irs-pdf/p1771.pdf>

## **17. What do I have to do if my non-profit hires employees?**

The first step in hiring any employee is to have an EIN as discussed earlier. The EIN is how you will be identified as an employer and you are required to use it on all federal, state, and local tax forms. As an employer, you must withhold certain taxes from the employees’ pay checks. Employment taxes for a non-profit business are very much like employment taxes for a for-profit business. All businesses need to withhold the following taxes:

- Federal income tax withholding (FITW),
- Social Security and Medicare taxes (FICA), and
- Federal unemployment taxes (FUTA).

For more information about how to collect, how often to collect, and where to submit these tax payments please visit:  
<http://www.irs.gov/charities/article/0,,id=128586,00.html>

## **18. Am I responsible for any other taxes?**

Unless you file for and receive a tax-exemption from the state in which the non-profit was registered, your organization will need to pay state taxes on all goods and services that your non-profit buys. At the federal level, your organization may be responsible to pay for taxes on its unrelated business income. The IRS

defines unrelated business income as “income from a trade or business, regularly carried on, that is not substantially related to the performance by the organization of its exempt purpose or function except that the organization needs the profits derived from this activity.”

A federally exempt non-profit organization that has \$1,000 or more gross income from any unrelated business must file Form 990 even if it does not have total income over \$25,000.

The IRS in Part 7, Chapter 27, Section 5, 7.27.5.1 (02-23-1999) provides three criteria for an activity in order to be classified as unrelated business. These are:

- A. The activity must be a trade or business;
- B. The trade or business must be regularly carried on; and
- C. The trade or business must not be substantially related to exempt purposes.

More information about unrelated business activities and income can be found at: <http://www.irs.gov/irm/part7/ch12s03.html>

In addition, the IRS reports that:

the following activities are specifically excluded from the definition of unrelated trade or business:

- Volunteer Labor - Any trade or business is excluded in which substantially all the work is performed for the organization without compensation. Some fund-raising activities, such as volunteer operated bake sales, may meet this exception.
- Convenience of Members - Any trade or business is excluded that is carried on by an organization described in section 501(c)(3) or by a governmental college or university primarily for the convenience of its members, students, patients, officers, or employees. A typical example of this is a school cafeteria.
- Selling Donated Merchandise - Any trade or business is excluded that consists of selling merchandise, substantially all of which the organization received as gifts or contributions. Many thrift shop operations of exempt organizations would meet this exception.

See:

<http://www.irs.gov/charities/charitable/article/0,,id=123415,00.html>

## **19. What are the rules for people or businesses donating to a non-profit?**

The IRS reports that “charitable organizations described in section 501(c)(3), other than testing for public safety organizations, are eligible to receive tax-deductible contributions.”

## Charitable Contributions - Quid Pro Quo Contributions

<http://www.irs.gov/charities/charitable/article/0,,id=123201,00.html>

“A charitable organization must provide a written disclosure statement to donors of a quid pro quo contribution in excess of \$75. A quid pro quo contribution is a payment made to a charity by a donor partly as a contribution and partly for goods or services provided to the donor by the charity. For example, if a donor gives a charity \$100 and receives a concert ticket valued at \$40, the donor has made a quid pro quo contribution. In this example, the charitable contribution portion of the payment is \$60. Even though the part of the payment available for deduction does not exceed \$75, a disclosure statement must be filed because the donor's payment (quid pro quo contribution) exceeds \$75. The required written disclosure statement must:

1. Inform the donor that the amount of the contribution that is deductible for federal income tax purposes is limited to the excess of any money (and the value of any property other than money) contributed by the donor over the value of goods or services provided by the charity, and
2. Provide the donor with a good faith estimate of the value of the goods or services that the donor received.”

Donor disclosures as discussed above can be complex but it is important for any non-profit to understand its obligations under the law. For more information about disclosure, see IRS Publication 1771, *Charitable Contributions: Substantiation and Disclosure Requirements*. The publication is available at:  
<http://www.irs.gov/pub/irs-pdf/p1771.pdf>

## **20. Where can I find information about how my disability or the disabilities of my potential employees or clients can be accommodated in the non-profit organization's office space?**

If you need technical assistance to ensure that your non-profit's office and Website are accessible to people with disabilities, or you need information about developing an ergonomic workstation for yourself, contact the Job Accommodation Network (JAN) at (800) 526-7234 (V); (877) 781-9403 (TTY). JAN is a free consulting service designed to increase the employability of people with disabilities by:

1. Providing individualized worksite accommodations solutions,
2. Providing technical assistance regarding the ADA and other disability related legislation, and
3. Educating callers about self-employment and non-profit development options.

Another resource is the Searchable Online Accommodation Resource (SOAR). SOAR is designed to let users explore various accommodation options for people with disabilities in work and educational settings as well as the products used in these accommodations. SOAR can be accessed at:  
<http://www.jan.wvu.edu/soar>

## **21. How will starting a non-profit affect the Social Security income supports I am receiving?**

If you are receiving Social Security income supports or are participating in other governmental assistance programs, it is always prudent to initiate a benefits planning process in conjunction with the business (or non-profit) planning process. This step involves contacting your Work Incentive Planning and Assistance (WIPA) program and discussing the supports you are receiving, the work goal you are pursuing, and reviewing how hours worked and income earned could impact the programs you are participating in (including SSI, SSDI, food stamps, medical coverage, and housing assistance). WIPA organizations can also advise you as to whether work incentives available through Social Security may be used to support the development of your non-profit.

For more information on these services, contact a WIPA coordinator who can assist you in understanding more specifically how your Social Security benefits will be affected. For more information about these services, see:  
<http://www.socialsecurity.gov/work/WIPA.html>

For a directory of WIPA programs in your state, see:  
<https://secure.ssa.gov/apps10/oesp/providers.nsf/bystate>

For more information on work incentives available through Social Security, see:  
<http://www.socialsecurity.gov/disabilityresearch/wi/generalinfo.htm>

## RESOURCES

### **Job Accommodation Network**

West Virginia University  
PO Box 6080  
Morgantown, WV 26506-6080  
Toll Free: (800)526-7234  
TTY: (877)781-9403  
Fax: (304)293-5407  
jan@askjan.org  
<http://askjan.org>

The Job Accommodation Network (JAN) is a free consulting service that provides information about job accommodations, the Americans with Disabilities Act (ADA), and the employability of people with disabilities.

### **Office of Disability Employment Policy**

200 Constitution Avenue, NW, Room S-1303  
Washington, DC 20210  
Direct: (202)693-7880  
TTY: (877)889-5627  
Fax: (202)693-7888  
infoODEP@dol.gov  
<http://www.dol.gov/odep/>

The Office of Disability Employment Policy (ODEP) is an agency within the U. S. Department of Labor. ODEP provides national leadership to increase employment opportunities for adults and youth with disabilities while striving to eliminate barriers to employment.

### **National Council of Nonprofits**

1101 Vermont Avenue, NW  
Suite 1002  
Washington, DC 20005  
Phone: (202) 962-0322  
Fax: (202) 962-0321  
Web: <http://www.councilofnonprofits.org/>

The National Council of Nonprofits advances the vital role and capacity of the nonprofit sector in civil society and supports and gives voice to state and regional associations of nonprofit organizations.

**The Foundation Center**

79 Fifth Avenue/16th Street

New York, NY 10003-3076

Phone: (212) 620-4230 or (800) 424-9836

FAX: (212) 807-3677

Web: <http://fdncenter.org/>

The Foundation Center's mission is to strengthen the nonprofit sector by advancing knowledge about U.S. philanthropy. Founded in 1956, the Center is the nation's leading authority on philanthropy and is dedicated to serving grantseekers, grantmakers, researchers, policymakers, the media, and the general public. Resources specifically geared towards people with disabilities can be found at:

<http://fdncenter.org/accessweb/?jsessionid=HXSMPCIRSHI2P5QALTCGX5AAAACI2F>

**Other Resources:**

BoardnetUSA at: <http://www.Boardnetusa.org/public/home.asp>

Chronicle of Philanthropy at: <http://philanthropy.com/>

Federal Register at: <http://www.gpoaccess.gov/fr/>

Foundation Center's - FAQ's How do I establish a non-profit organization? at:  
[http://foundationcenter.org/getstarted/faqs/html/starting\\_nonprofit.html](http://foundationcenter.org/getstarted/faqs/html/starting_nonprofit.html)

Grants.gov at: <http://www.grants.gov/>

Grants and Related Resources - Non-profit Virtual Library (Michigan State University Libraries) at: <http://www.lib.msu.edu/harris23/grants/znonprof.htm>

Guidestar at: <http://www.guidestar.org/>

Idealist.org at: <http://www.idealist.org/>

Independent Sector at: <http://www.independentsector.org/>

Michigan Non-profit Association - "How to Start a 501(c)3 Non-Profit" at:  
<http://www.mnaonline.org/starting.asp>

Minnesota Council of Non-Profits, "How to Start a Non-Profit" at:  
[http://www.mncn.org/INFO\\_START.HTM](http://www.mncn.org/INFO_START.HTM)

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