



Five Ways Nonprofits and Their Legal Advisors Can Enjoy Year-End

The trees are showing their fall colors, reminding us that soon the calendar year will end, bringing holiday celebrations for many and fiscal challenges for most. Here are five legal issues that can arise near the end of the year, along with suggestions for how nonprofit organizations can manage them successfully.

1 | Dealing with Donors

Mindful that tax-deductible gifts factor into individual tax planning, many tax-exempt organizations conduct year-end fundraising campaigns. Acknowledging charitable contributions is a legal requirement for certain gifts and good donor relations for all gifts. While the Internal Revenue Service permits donors to use their own bank records to document contributions under \$250, donors must obtain a contemporaneous written acknowledgment from the charity to claim a deduction for contributions of \$250 or more. If the payment is more than \$75 and is partly a contribution and partly in exchange for goods or services, the charity is obliged to provide written documentation. To learn more about fundraising regulation, register for Lawyers Alliance for New York's **November 2 workshop**, "Raising Funds Within the Rules: The Law of the Ask," at www.lawyersalliance.org/workshops.php.

2 | Giving Gifts

Many organizations take the opportunity at year-end to thank clients and professional colleagues. While exchanging small food gifts or other tokens of appreciation can be appropriate, nonprofit managers should avoid accepting extravagant gifts from vendors and other for-profit entities that may create the appearance or reality of private inurement. Giving gifts to federal, state, and local officials should be avoided altogether, unless the government ethics rules are checked and followed. For example, New York State employees cannot accept gifts of more than nominal value if it could be reasonably inferred that the gift was intended to influence the recipient.

3 | Enhancing Employee Relations

Religious diversity is highlighted because the calendar creates a time of celebration for many religions and cultures. Employers must be sensitive to the fact that different employees may observe different holidays, and some may not celebrate any year-end holiday. Religion is a protected category under federal and state discrimination laws, and favoring one type of celebration or excluding another can be problematic. If planning a year-end office party, nonprofit managers should be as inclusive as possible, use a generic title, and ensure that

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Photo: Laura Dwight

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Law Firm Appeal

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Law Firm Appeal Continues to Climb

The 2010-2011 law firm appeal raised \$652,050, setting a new record. Lawyers Alliance thanks our two outstanding appeal co-chairs **Robert C. Sheehan** and **Thomas H. Kennedy** of Skadden, Arps, Slate, Meagher & Flom LLP for their leadership. Each year, the appeal helps to underwrite direct legal services and educational resources for more than 600 New York nonprofit organizations. Lawyers Alliance thanks the following 58 law firms for their generous support:

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Board of Directors Benefits from Additions

Lawyers Alliance for New York is pleased to announce the appointment of three new members to its Board of Directors.

Kimberly Brown Blacklow, Partner, Cleary Gottlieb Steen & Hamilton LLP

Ms. Blacklow's practice focuses on real estate and other asset-based finance transactions as well as structured finance and capital markets transactions in both the U.S. and abroad. Early in her legal career, she was a Cleary Extern at Lawyers Alliance. She currently chairs her law firm's Community Legal Assistance Committee.

Glynna K. Christian, Partner, Winston & Strawn LLP

Ms. Christian advises clients on legal and business issues relating to commercial and corporate transactions with a particular focus on technology, media, and telecommunications. She struc-

tures and negotiates outsourcing transactions, including those related to information technology and business process, and complex commercial relationships. She is an active pro bono attorney for art and youth organizations.

John R. O'Neil, Partner, Kirkland & Ellis LLP

Mr. O'Neil concentrates his practice on representing both domestic and international sponsors of leading private equity, venture capital, hedge and other private investment funds. He has represented sponsors in numerous billion dollar private equity fund formations, as well as assisted clients with a wide range of ongoing operational as well as extraordinary events involving private investment funds. He is an active volunteer in underserved communities in the United States and abroad.

Early Childhood Education Providers Plan for EarlyLearn NYC

EarlyLearn NYC will radically restructure the methods of service delivery to children and the method of payment to providers

New York City is fortunate to have a vibrant early childhood education community serving 42,000 low-income children. Funded primarily through contracts with the Administration for Children's Services ("ACS"), children are cared for in a variety of settings: center-based care, home-based care, Head Start, and Universal Pre-Kindergarten.

This summer ACS released the EarlyLearn NYC request for funding proposal ("EarlyLearn RFP") that will radically restructure the methods of service delivery to children and the method of payment to providers. Changes include shifting health care and other operating costs from ACS to the providers and combining ACS-funded day care, Head Start, and Universal Pre-K services into single, blended contracts. Early childhood education providers are considering how they can continue to serve children within the financial and program constraints of EarlyLearn. Lawyers Alliance will work with providers on a range of legal issues throughout the implementation of EarlyLearn changes.

Strategic Alliances. Early childhood education providers submitted EarlyLearn RFP proposals to ACS on September 12, 2011. New contracts, once awarded in the spring, will begin next fall. Because of EarlyLearn's program and cost structure, childhood education providers are considering linkages, subcontracting, and other strategic alliances to strengthen programs, reduce operating costs, and build relationships to support their work. Most contractual arrangements between providers are contingent upon ACS contract awards, and must be finalized 90 days before the start of the new ACS contracts. Lawyers Alliance will represent providers in structuring and documenting these collaborations.

Case Example: Three Queens center-based providers decided to respond to the EarlyLearn RFP as a consortium to strengthen their submission. They seek to share unique programming, including bilingual education, an intergenerational program, and special needs services. Additionally, a consortium would be better positioned to satisfy EarlyLearn's preference for larger early childcare programs in

targeted areas. One center will contract with ACS as lead agency for slots for all three centers, and the other two will be subcontractors. Lawyers Alliance staff and volunteer attorneys from the **New York University Law School Business Law Transactions Clinic** are working with the lead center to draft a memorandum of understanding and collaboration agreements should the ACS contract be awarded.

Governance. EarlyLearn will require contractors to create a parent/caretaker body to work with the provider on program planning and decision making. Providers will be required to recruit an early childhood education professional, lawyer, and finance professional to serve on their boards. In addition, their boards will be required to conduct annual reviews of self-assessment, enrollment, and recruitment. Organizational bylaws may need to be amended to reflect these new governance requirements. Lawyers Alliance regularly assists nonprofits with bylaws amendments.

Case Example: **Lexington Children's Center** ("LCC") operates a day care center in East Harlem that encourages social and cognitive interactions among young children. Lawyers Alliance and volunteer attorneys from **O'Melveny & Myers LLP** are assisting LCC with corporate governance and an employment law issue.

Facilities. Demonstrating site control over facilities to be used for EarlyLearn will be necessary when contracts are executed in spring 2012. Many providers bid on slots in targeted neighborhoods where they have identified but not yet leased suitable space, pending a contract award. Lawyers Alliance will continue to represent providers in lease negotiations.

Case Example: **Goddard Riverside Community Center** ("Goddard") is dedicated to working for solutions to its community's toughest social problems. Goddard operates 27 programs across 21 sites, primarily in the Upper West Side and West Harlem, including child care and Head Start sites. When its lease expired in January 2011 for its Head Start program on West 95th Street, volunteer attorneys of **Skadden, Arps, Slate, Meagher & Flom LLP** represented Goddard in negotiating an extension.

For more information on Lawyers Alliance's work with early childhood education providers, please contact Staff Attorney **Nicole Cuttino** at ncuttino@lawyersalliance.org or (212) 219-1800 ext. 228.

Early childhood program participants at Goddard Riverside Community Center



Photo: Laura Dwight

Staff Profile: Neil Stevenson

Senior staff attorney **Neil Stevenson** leads Lawyers Alliance's Economic Development initiative. Working with Lawyers Alliance's volunteer attorneys, he assists nonprofit organizations with a wide variety of contracts, earned-income ventures, collaborations, corporate sponsorships and grants, corporate governance and regulation, and facilities acquisition, development and renovation, all to help strengthen nonprofit organizations so that they in turn can provide much-needed services to New York City's low-income communities.

Prior to joining Lawyers Alliance in 2004, Mr. Stevenson was a staff attorney at The Legal Aid Society and a partner at Eaton & Van Winkle. After spending more than 20 years in general commercial lending and mergers and acquisitions, representing businesses and then lenders, he decided his calling was on the nonprofit side. Mr. Stevenson feels that the generalist approach from early in his career translates into one of the most useful and enjoyable aspects of his Lawyers Alliance job, allowing him to counsel nonprofit clients in a wide range of matters.

Even when working on something as technical as new markets tax credits, Mr. Stevenson says, "I might be dealing with organizing related entities, real property development, and loan documents, but I'm always thinking about the end result, for example, the children affected and the new school they will attend."

Currently, Mr. Stevenson is working with a team of volunteers from **Stroock & Stroock & Lavan LLP** to assist **Little Sisters of the Assumption Family Health Service** in East Harlem, a certified home health agency that evolved from a religious order of nuns who came to the neighborhood to care for the sick. The agency is interested in expanding its revenue-generating activities while also furthering the mission supporting its tax-exempt status. Mr. Stevenson says, "It's gratifying to help a nonprofit find a way to leverage its assets and specialized services to improve its ability to sustain itself going forward."

And for those of you lucky enough to speak to Mr. Stevenson, that is a Scottish accent you detect. He moved to the United States for more law school and has been here ever since.



Neil Stevenson

Five Ways Nonprofits Can Enjoy Year-End

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attendance is voluntary. Alcohol, if any, should be limited to avoid hostilities, harassment claims, or potential liability for after-party accidents.

4 | Coping with Winter Weather

Global warming notwithstanding, New Yorkers can expect winter snow, which can hinder employees' and clients' ability to get to the organization's offices. Create a weather contingency plan to deliver essential services to your consumers even if public transportation is curtailed. Develop a system to inform employees about office closings and delayed openings. Under New York State Department of Labor regulations, non-exempt employees who report for work must be paid at least minimum wage for the greater of four hours or actual time worked. When there is a closing due to inclement weather, exempt employees must be paid for a full week of work even if they have used up all of their paid leave and vacation time.

5 | Don't Forget About Charities Filings

Nonprofit organizations whose fiscal year ends on June 30 generally must file their completed Form 990 or Form 990-EZ with the IRS no later than November 15, unless an extension has been requested by filing Form 8868 on or before the due date. Three-month extensions are granted automatically, and extension requests can be filed electronically. These federal filings are necessary to maintain tax-exempt status. In addition, nonprofit organizations registered or required to register with the Charities Bureau of the New York Attorney General's Office must file their annual financial report, with form CHAR 500, within 4½ months of the close of the fiscal year, with similar rules about extensions.

While this list is not exhaustive, it is a start for thinking about how to minimize risk and last-minute angst at a busy time of year. For general information about other legal issues affecting nonprofits, visit www.lawyersalliance.org/news_legal_alerts.php.

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Alum Profile: S. Anita Sinha

Since 2006, **Anita Sinha** has been an associate in the Intellectual Property and Technology Group of Skadden, Arps, Slate, Meagher & Flom LLP. She was a Skadden Extern at Lawyers Alliance from July to December 2010. Since returning to the firm, she has continued to volunteer and acts as a "Lawyers Alliance liaison" on pro bono questions. Anita was instrumental in the formation of Lawyers Alliance's new Associates Advisory Board, and she serves as its first president. Prior to law school, Anita completed her master's and bachelor's degrees in chemical engineering.

Q – Anita, how did you learn about Lawyers Alliance for New York?

Initially I took on intellectual property pro bono assignments for nonprofit organizations. I also attended a Lawyers Alliance informational session at Skadden, which sparked my interest in participating in the externship program.

Q – What are the most valuable things you learned during your externship?

I felt fortunate to help nonprofit clients serving low-income communities with their questions and teach them about legal issues that impacted their work and mission. It was valuable to learn ways to analyze nonprofit legal issues and share my exper-

tise in intellectual property with Lawyers Alliance staff and clients. I also enjoyed being involved in a major project that helped low income credit unions access funds through the Troubled Asset Relief Program ("TARP"). This work broadened and enhanced my client relations and corporate transactions skills.

Q – How did the Associates Advisory Board come to be?

During my externship, I learned that Lawyers Alliance was founded as a membership organization called the Council of New York Law Associates. Having recently celebrated its 40th Anniversary, Lawyers Alliance was exploring ways to increase associate involvement in the organization. In collaboration with fellow externs Irini Kalamakis of Weil and Kevin Jones of Cleary, the ideas we discussed took shape and resulted in the Associates Advisory Board. We have since recruited other Board members who share our enthusiasm for Lawyers Alliance. I am very proud to be a part of this initiative.

Help us build our archive and alumni database. Send your experiences with the Council of New York Law Associates or Lawyers Alliance for New York to Development Director Erika Byrnes at ebyrnes@lawyersalliance.org.

Lawyers Alliance Staff

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Asaf Yeshaya <i>Cleary Extern Staff Attorney</i>

Lawyers Alliance Launches an Associates Advisory Board

In 2011, Lawyers Alliance and a group of dedicated law firm associates and in-house counsel launched the Associates Advisory Board.

It is comprised of former Cornerstone awardees, externs, and other exceptional volunteers who enthusiastically seek to raise support and visibility for Lawyers Alliance within their respective firms.



Current members (pictured, left to right): **Nia M. Brown**, DLA Piper LLP (US); **Vijaya Palaniswamy**, Linklaters LLP; **Samantha Y. Warshauer**, Katten Muchin Rosenman LLP; **Mara Byrne**, Citigroup; **Jason E. Burritt**, Seyfarth Shaw LLP; **S. Anita Sinha**, (President, Associates Advisory Board), Skadden, Arps, Slate, Meagher & Flom LLP; **Irini Kalamakis**, Weil, Gotshal & Manges LLP

Two Attorneys Join Lawyers Alliance Staff

Nicole Cuttino, *Staff Attorney*, leads the Children and Youth Services program area, representing child care providers, afterschool programs, charter schools, and programs serving older or at risk youth. She advises Lawyers Alliance's substantial client base about business and transactional law issues and co-counsels legal matters with pro bono counsel. Prior to joining Lawyers Alliance, Ms. Cuttino was an associate at Cadwalader, Wickersham & Taft LLP.

Irum Taqi, *Senior Policy Counsel*, spearheads Lawyers Alliance's advocacy efforts. She provides legal assistance to organizations active in the legislative and public policy arenas and advocates for public policy that benefits community-based and resource-constrained nonprofit organizations. Ms. Taqi joins Lawyers Alliance with substantial advocacy experience, most recently as Deputy General Counsel at the New York City Public Advocate's Office.



Nicole Cuttino, left, and Irum Taqi

► SAVE THE DATE ◀

Tuesday, November 15, 2011
6:00 p.m. – 8:00 p.m.
Hosted by Credit Suisse

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