



NORTH DAKOTA SECRETARY OF STATE

MICHAEL HOWE, SECRETARY OF STATE



CHARITABLE ORGANIZATIONS & PROFESSIONAL FUNDRAISERS

HOW TO BEGIN & MAINTAIN A CHARITABLE ORGANIZATION IN NORTH DAKOTA

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NORTH DAKOTA
SECRETARY OF STATE
MICHAEL HOWE



Welcome! I am so glad that you are considering becoming a charitable organization or professional fundraiser in the great state of North Dakota.

Charitable organizations help foster our sense of community and touch the lives of our friends and neighbors. There are almost 5,000 active charitable organizations in North Dakota. These groups are created to address a social purpose and provide aid and awareness to citizens across the state. There are also over 160 professional fundraisers that help support these organizations' fundraising efforts.

This publication will help guide you through the process of building and maintaining your organization, or fundraiser status, as required by North Dakota law.

Creating a charitable organization or becoming a professional fundraiser are rewarding endeavors. The IRS defines a charitable organization as one that "is organized and operated for purposes that are beneficial to the public interest." In addition, charitable organizations are:

- Nonprofit organizations that have 501(c)(3) tax exemption.
- Typically community driven and supported, with funds raised going back into the community.
- Held in high public regard as entities who do good in the world and are well respected by those that support their cause.

We feel honored to be the state agency that educates and advocates for you as you navigate becoming a charitable organization. We are here to help in establishing your organization or obtaining your fundraiser designation. We look forward to seeing the inspiring ways you impact North Dakota!

Sincerely,

A handwritten signature in black ink that reads "Michael Howe". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael Howe
Secretary of State

CHARITABLE ORGANIZATIONS & PROFESSIONAL FUNDRAISERS

North Dakota Century Code
Chapter 50-22 allows for the
formation of charitable organizations
and professional fundraisers.



This document provides guidance for setting up a charitable organization or registering as a professional fundraiser in North Dakota.

CHARITABLE ORGANIZATIONS

A charitable organization is a type of nonprofit that operates for the benefit of the public or a specific cause and participates in solicitation for charitable purposes. **Charitable organizations** may be formed to serve public good, such as for philanthropic, religious, educational, cultural, or other public service reasons.

A CHARITABLE ORGANIZATION DOES NOT INCLUDE:

- An organization that solicits funds for an institution of higher learning, such as a college or university.
- An organization that uses unpaid volunteers to solicit funds for a political subdivision or other government entity or for a civic or community project in which the contributions received are used solely for the project and none of the contributions pass on to the benefit of any individual.
- A private or public elementary or secondary school.
- A charitable organization or person that solicits contributions for a specific person if all contributions received are transferred within a reasonable time after receipt to the person named or that person's parent, guardian, or conservator with no restriction on expenditure of the contributions and with no deduction.
- A religious society or organization that is exempt from filing a federal annual information return pursuant to Internal Revenue Code section 6033(a)(2)(A) (i) and (iii) [26 U.S.C. 6033(a)(2)(A)(i) and (iii)] or Internal Revenue Code section 6033(a)(2)(C)(i) [26 U.S.C. 6033(a)(2)(C)(i)].
- Any candidate for national, state, or local elective office or political party or other committee required to file information with the federal election commission, a state election commission, or an equivalent office or agency.



The Office of the Secretary of State registers charitable organizations through its FirstStop Portal under the **Charitable Organizations Tile** > **Register New Charitable Organization** [FirstStop.sos.nd.gov](https://sos.nd.gov). The QR code below will take you to **FirstStop Portal**.

If you have questions, you can visit the **Charitable Organizations** section of sos.nd.gov or contact us by calling 701-328-2900.



**Register a charitable
organization**

WHAT IS MEANT BY THE SOLICITATION OF CONTRIBUTIONS

SOLICITATION

Solicitation of contributions refers to any verbal or written request for contributions on the understanding that the contribution will be used in whole or in part for a charitable purpose. This may include television, radio, electronic communications (including the internet), telephone, or other advertising or communication media. It may also include other recorded or published requests such as those that are mailed, sent, delivered, circulated, distributed, or posted in a public place.

Additional solicitation methods may include:

- An announcement inviting the public to attend an assembly or event, exhibition, performance, or social gathering of any kind where admission to the event is in exchange for a contribution or in which contributions will be solicited at the function.
- A sale or attempt to sell any good or service priced above fair market value or if some portion of the purchase price will be used for a charitable purpose.

CONTRIBUTION

A **contribution** is provided in response to a solicitation and includes cash or the promise, grant, or pledge of any money, credit, assistance, or property of any kind or value, including the promise to pay.

If a charitable organization offers goods and services to the public as a method for obtaining contributions, the contribution is considered the difference between the cost of the goods and services to the charitable organization and the price at which the goods or services are resold to the public.

A contribution does not include fees, dues, or assessments paid by members of an organization if:

- Membership in the organization is not in exchange for a contribution.
- The contributor's membership does not have any additional benefit other than the right to vote or otherwise participate in the organization and the right to receive literature.



HOW TO REGISTER AS A CHARITABLE ORGANIZATION

A **Charitable Organization Registration Statement** online form is available on the ***FirstStop Portal*** at FirstStop.sos.nd.gov. An applicant for a charitable organization registration must have its nonprofit organization or trade name registered with the Office of the Secretary of State before it can file a Charitable Organization Registration Statement. Additional information on how to begin and maintain a nonprofit organization or register a trade name in North Dakota can be found at FirstStop.sos.nd.gov. A charitable organization cannot operate and solicit contributions until the registration has been approved and is on file with the Office of the Secretary of State.

CHARITABLE ORGANIZATION REGISTRATION MUST CONTAIN:

1. Legally established name.
2. Name(s) under which it solicits contributions.
3. Form of organization.
4. Date and place of organization.
5. Business telephone number.
6. Street and mailing address of principal office in North Dakota, if any.
7. Name and address of the person having custody of its books and records within North Dakota.
8. Total compensation, including salaries, fees, bonuses, fringe benefits, severance payments, and deferred compensation, paid to employees by the charitable organization and all its affiliated organizations.
9. Federal and state tax-exempt status.
10. Denial at any time by any governmental agency or court of the right to solicit contributions.
11. Date on which the fiscal (accounting) year of the charitable organization ends. A charitable organization's fiscal (accounting) year is the 12-month period for which it maintains its financial records.
12. General purposes for which organized.
13. General purposes for which contributions to be solicited will be used.
14. Methods by which solicitation will be made.
15. Board, group, or individual having final discretion or authority as to the distribution and use of contributions received.
16. Amount of total contributions received during the last-ended fiscal (accounting) year.

FINANCIAL REPORT

A **financial report** detailing the organization's operation for the 12 months immediately prior to the filing of a registration statement must be included with the registration statement.

REGISTRATION

The registration statement must be executed by an officer of the charitable organization. An affiliate may file a registration statement on behalf of the parent organization if one exists, or a parent organization may file a registration on behalf of its affiliate. These registrations may be in addition to, or part of, the affiliate's or parent organization's own registration statement.

The fee for filing a charitable organization registration statement with the Office of the Secretary of State is \$25.

A charitable organization's registration does not expire, but it can be revoked. The Office of the Secretary of State may deny or suspend a charitable organization's application for registration if the organization fails to file the required annual report information or if the charitable organization violates state law. A charitable organization's registration fee will not be refunded if its registration is revoked.



ANNUAL FILING REQUIREMENTS FOR CHARITABLE ORGANIZATIONS

A charitable organization must file an annual report with the Office of the Secretary of State. A charitable organization's annual report is due on or before September 1 of each year. If an initial registration is filed by a charitable organization in July or August, the first annual report is due September 1 of the following year.

NOTE: The Charitable Organization Annual Report is different from the report required of a nonprofit corporation or nonprofit limited liability company. A charitable organization that is a nonprofit corporation or nonprofit limited liability company must file two different reports each year with the Office of the Secretary of State; one for the charitable organization and one for the nonprofit corporation or nonprofit limited liability company.

Approximately 60 days prior to the annual report deadline, the Office of the Secretary of State will send a courtesy notice that the deadline is approaching. The annual report must be completed online through the **FirstStop Portal** at [FirstStop.sos.nd.gov](https://firststop.sos.nd.gov).

The information provided in the annual report must be as of close of the business on December 31 prior to the annual report filing deadline or it may also be provided as of the close of business on the last day of the fiscal (accounting) year prior to the filing deadline of the annual report.



Go to FirstStop to start your
charitable organization's
annual report

A charitable organization's annual report must include a **financial statement** that covers the 12-month period immediately prior to the end of its previous fiscal (accounting) year.

FINANCIAL STATEMENT MUST:

1. Include a balance sheet, statement of income and expenses, and a statement of functional expenses.
2. Be signed by an officer of the charitable organization.
3. Be prepared in accordance with generally accepted accounting principles and make full disclosure of the following, including necessary allocations between each item and the basis of the allocations:
 - a. Total receipts and total income from all sources;
 - b. Cost of management and general;
 - c. Program services;
 - d. Cost of fundraising;
 - e. Cost of public education;
 - f. Funds or properties transferred out of state with explanation as to recipient and purpose, unless the information is not reasonably available, in which case the charitable organization may, with the approval of the Office of the Secretary of State, provide a reasonable estimate of the amounts transferred;
 - g. Total net amount disbursed or dedicated within North Dakota, broken down into total amounts disbursed or dedicated for each major purpose, charitable or otherwise, unless the information is not reasonably available, in which case the charitable organization, with the approval of the Office of the Secretary of State, may provide a reasonable estimate of the required information;
 - h. Names of professional fundraisers used during the fiscal (accounting) year and the financial compensation and profit resulting to each professional fundraiser; and
 - i. Total compensation, including salaries, fees, bonuses, fringe benefits, severance payments, and deferred compensation, paid to employees by the charitable organization and all its affiliates.

The filing fee for the annual report is \$10. Fees and penalties apply for late filings or failing to file.

FILING EXTENSION

In the event a charitable organization needs a filing extension for its annual report, the charitable organization must submit an extension request to the Office of the Secretary of State through the **FirstStop Portal** at FirstStop.sos.nd.gov. The application for extension must be received by the Office of the Secretary of State prior to the filing deadline.

An extension may be granted for one single year or it may be granted permanently for subsequent years, which is known as a standing extension. A **standing extension** may only be granted to a charitable organization that has a fiscal (accounting) year that ends within three months prior to the filing deadline. The filing deadline may not be extended past December 1.

PROVIDED UPON REQUEST

If requested by the Office of the Secretary of State or the Office of Attorney General, the charitable organization must promptly provide a copy of all tax or information returns, including all schedules and amendments, submitted by the charitable organization to the Internal Revenue Service for the annual report period. The charitable organization does not need to provide any schedules of contributors to the organization.

The Office of the Secretary of State or the Office of Attorney General may examine the accounts of any charitable organization conducting solicitation for funds within North Dakota. Every charitable organization must maintain a full and true record of its accounts in a form that will enable the charitable organization to accurately provide the necessary information to the Office of the Secretary of State.



PROFESSIONAL FUNDRAISER

A professional fundraiser (also known as a professional solicitor) receives compensation from a charitable organization to assist with its fundraising activities. This can include managing fundraising campaigns, seeking sponsorships, or reaching out to prospective donors on behalf of the organization.

A professional fundraiser solicits the contributions personally or employs, acquires, or involves another person to solicit the contributions. A professional fundraiser may not solicit contributions for a charitable organization that is not registered with the Office of the Secretary of State.

Individuals who provide services to the charitable organization who **may not** be considered a professional fundraiser are:

- A full-time salaried officer or employee of a charitable organization with permanent establishment in North Dakota.
- An attorney, investment counselor, or banker who advises a person to make a contribution to a charitable organization.



HOW TO REGISTER AS A PROFESSIONAL FUNDRAISER

A professional fundraiser must complete and file a [Professional Fundraiser Registration \(SFN 11303\)](#) form with the Office of the Secretary of State.

Registration information for professional fundraisers is considered public record.



[Register as a professional fundraiser](#)



PROFESSIONAL FUNDRAISER REGISTRATION MUST CONTAIN:

1. Name of the professional fundraiser.
2. Street and mailing address of the professional fundraiser.
3. Telephone number of the professional fundraiser.
4. Type of fundraising to be conducted in North Dakota.
5. Name of the auditor, accountant, employee, agent, or other person who maintains or possesses the professional fundraiser's records.
6. List of all officers, agents, or employees that will work under the professional fundraiser's direction.
7. List of all licensed charitable organizations that the professional fundraiser has contracts with in North Dakota. A copy of any contract between the professional fundraiser and any charitable organization must be submitted with the registration. The contract must:
 - a. Be in writing.
 - b. Contain information that will enable the Office of the Secretary of State to identify the services the professional fundraiser will be providing, including whether the professional fundraiser will have custody of contributions at any time.
 - c. Be submitted within ten days of the date of execution of the contract.

The filing fee for a professional fundraiser registration is \$100. A parent organization that files on behalf of one or more chapters, branches, or affiliates or any federated fundraising organization that files on behalf of its member agencies is only required to pay a single annual registration fee of \$100. The registration fee includes the parent organization or federated fundraising organization and the chapters, branches, affiliates, or member agencies included in the registration statement.

REGISTRATION EXPIRATION

Each registration expires September 1 unless the professional fundraiser files a new registration statement and pays an additional \$100 filing fee.

BOND REQUIREMENT

In addition to the registration form, the professional fundraiser must file with the Office of the Secretary of State a bond in the amount of \$20,000 with the professional fundraiser listed as the principal obligor. A professional fundraiser may use more than one bond as long as the surety amounts total at least \$20,000. The bond must remain in full effect for the entire term of the registration for the professional fundraiser to maintain registration.

The bond must apply to the state and to any person who may have a claim against the professional fundraiser for any liabilities resulting from the professional fundraiser's conduct of any activities. In addition to filing a new registration statement each year, a professional fundraiser must also submit a continuance certificate from the surety each year to maintain registration.



PENALTIES FOR SOLICITATION VIOLATIONS

Any solicitation violation or failure to properly complete and promptly file any report, tax return, or other information as required by state law of charitable organizations or professional fundraisers is considered a class A misdemeanor.

Conducting a solicitation after a registration is revoked is a class C felony. Penalties for these violations include civil penalties in an amount up to \$5,000 per violation and the denial of registration for a period of up to five years.

Information regarding enforcement authority, including investigation and prosecutorial authority related to charitable solicitations can be obtained by contacting the Office of Attorney General's Consumer Protection and Antitrust Division (CPAT) at:



Office of Attorney General
Consumer Protection and Antitrust Division
Burlington Drive, Suite C
Bismarck, ND 58504-7736
Phone: 701-328-3404
Fax: 701-328-5568
Email: cpat@nd.gov
Website: attorneygeneral.nd.gov

FORMS

CHARITABLE ORGANIZATIONS

Forms for a charitable organization are available on the **FirstStop Portal** at FirstStop.sos.nd.gov.

They may be:

- Submitted online and paid with a credit card.
- Printed and mailed, and paid with a check, cashier's check, or money order payable to "Secretary of State."

PROFESSIONAL FUNDRAISERS

Forms for a professional fundraiser are available in the **Professional Fundraisers section** of the Office of the Secretary of State's website at sos.nd.gov. They may be printed and mailed along with payment. Accepted payment methods include credit card, check, cashier's check, or money order payable to "Secretary of State."

CONTACT US

The Office of the Secretary of State website provides additional information about charitable organization or professional fundraiser registration.

- Information for charitable organizations can be found in the ***FirstStop Portal Charitable Organization section*** at FirstStop.sos.nd.gov or the ***Charitable Organizations section under Nonprofit Services*** at sos.nd.gov.
- Information for professional fundraisers can be found in the ***Professional Fundraisers section*** at sos.nd.gov.



Charitable
Organizations



Professional
Fundraiser

FILING AND MAILING INSTRUCTIONS

Send signed documents and payment to:

NORTH DAKOTA
SECRETARY OF STATE

North Dakota Secretary of State
600 East Boulevard Avenue, Dept. 108
Bismarck, ND 58505-0500

RESOURCES & ASSISTANCE

It is recommended to consult an attorney for specific questions before registering as a charitable organization or professional fundraiser. The resources below may be helpful as you get started.

NONPROFIT ORGANIZATION RESOURCE GUIDE • SOS.ND.GOV

Guidance for beginning and maintaining a nonprofit organization

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL • ATTORNEYGENERAL.ND.GOV

Telephone Solicitations, Unlawful Advertising and Sales



NORTH DAKOTA
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