

This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

Key Policies for Georgia Nonprofits

As a nonprofit executive, there is no shortage of responsibilities that demand your immediate attention. While it may be difficult to put aside pressing tasks, good planning today can lead to greater efficiency tomorrow. Well-drafted policies help your nonprofit improve board and staff performance by setting clearly defined roles and responsibilities, provide sustainable structures for inevitable board and staff turnover, and avoid legal problems that can drain your organization's limited resources. These policies will need to conform to your bylaws, so a good first step is to revisit them to ensure that they reflect your organization's actual practices.

Although nonprofits can differ widely in size and structure, the following policies are universally recommended:

1. **Conflict of Interest Policy:** Tax-exempt organizations are governed by rules that limit, and sometimes prohibit, insiders (including board members, officers and some employees) from engaging in certain transactions with their nonprofit. The Internal Revenue Service (IRS) has long held that one of the best ways for an organization to ensure that it is complying with these rules is to adopt a conflict of interest policy and regularly monitor compliance with the policy.¹ A conflict of interest policy outlines when and how insiders must disclose actual or potential conflicts of interest, as well as how those potential conflicts will be managed. Board members, officers and covered employees should sign an annual certification of compliance with the policy.

¹ The IRS asks on the Form 990 whether a nonprofit has adopted policies addressing conflicts of interest, record retention, whistleblowers and executive compensation. While the adoption of these policies is not required by law, it is considered a "best practice" for exempt organizations to adopt and abide by these policies.

2. **Record Retention Policy:** State and federal laws require that certain organizational documents be maintained for a given period and sometimes even permanently, and under the Sarbanes-Oxley Act, nonprofits that destroy records with the intent to obstruct a federal investigation face criminal liability. A [record retention policy](#) outlines how long different types of documents should be retained by your nonprofit. In addition, the policy should contain a provision that restricts employees, officers, and directors of the organization from destroying documents in anticipation of litigation or with the intent to obstruct a federal investigation. It is also good practice to include in the policy how to store confidential and sensitive information such as personnel records and credit card information.
3. **Whistleblower Policy:** A [whistleblower policy](#) provides guidance on how employees should report potential misconduct and assures employees that they will not be retaliated against if they report misconduct (as is prohibited by the Sarbanes-Oxley Act). An effective policy can allow problems within an organization to come to light quickly so that they can be addressed before they damage the organization.
4. **Financial Policies:** Nonprofits have a [duty](#) to the public to properly manage and protect funds from fraud and abuse. One way to ensure prudent financial management is to adopt financial policies and procedures. These policies should cover key aspects of financial management including reimbursements and credit card use, tracking donations, cash management, and banking and audit practices. At a minimum, financial policies should set forth internal controls defining who is responsible for what functions in order to reduce the risk of misappropriation of funds/assets. Establishing financial policies may require some uncomfortable or difficult conversations within your organization, but it is essential for protecting your organization as well as donors' funds and trust.

Related policies to consider, particularly for larger organizations, include:

- **Gift Acceptance Policy:** A [gift acceptance policy](#) guides a nonprofit on the types of gifts it can accept (do you really want that boat?) and also addresses how certain gifts such as real estate, life insurance policies, and stock will be handled. A carefully thought-out policy also addresses how gifts will be recognized and tracked.

- **Executive Compensation Policy:** There is increased scrutiny on [executive compensation](#) and all nonprofits should consider having a compensation policy that at a minimum includes an annual impartial board review of compensation compared to industry standards.
 - **Investment Policy:** The board of directors of a nonprofit has a fiduciary responsibility to protect the assets of the nonprofit and to use the assets in ways that further the nonprofit's mission. That fiduciary responsibility may allow for the investment of assets, but before taking that step, the board of directors should adopt an investment policy. The policy should address the nonprofit's investment objectives and risk tolerance as well as who is responsible for managing investments.
5. **Employee Handbook:** An [employee handbook](#) can serve as a guide for what employees can expect from their employer and what the employer expects from its employee. An employee handbook can also protect your organization from potential lawsuits. An employee handbook may include the following information: paid time off and other benefits, code of ethics, social media use, and confidentiality.²
 6. **Volunteer Handbook:** If your nonprofit has a significant [volunteer program](#), consider a volunteer handbook with information relevant to their participation, including training expectations, dress codes, or specific requirements related to your organization's unique work.³

Additional policies may be needed depending on the nature of your organization's work. For example, if your organization works with children or vulnerable populations, you may need [background check](#) and [mandatory reporting](#) policies. If your organization operates abroad, there are specific policies to help you stay compliant with federal law, such as the Foreign Corrupt Practices Act and Office of Foreign Asset Control, which should be considered.

² *Legal Tip:* While you are updating your employment policies, don't forget to review how your organization [classifies its workers](#) (Are they eligible for overtime? Are they independent contractors or employees?). If PBPA has not recently assisted your organization with this issue, contact your PBPA attorney.

³ *Legal Tip:* Talk to your PBPA attorney about whether your organization needs a volunteer liability release or media release.

Your organization should have a central location for its policies and procedures that includes documentation of when each policy was adopted and last updated. Designate a member of the staff to be responsible for locating and tracking policies and procedures (and include this responsibility in that person's job description).

For additional information and guidance on what policies your organization should implement, please reach out to your PBPA attorney.