

2026 Nonprofit Compliance Update: Questions and Answers

Category	Question	Answer
Board Governance / Legal Structure	Does federal law require a nonprofit to have at least three board members, or is that determined by state law?	State law actually controls the minimum.
Board Governance / Legal Structure	Can a former board member serve on a committee that acts on behalf of the board, and if they vote, are those actions valid?	If a committee is acting on behalf of the board, voting members should be current board members only. A former board member can serve in an advisory role, but not vote. If a former member has been voting, those actions should be re-approved by the full board to be safe.
Board Governance / Legal Structure	Can you give an example related to Slides 12–17?	Generally, it's how boards protect themselves. Examples show a board is being intentional, which is more important to the IRS than making the "right" decisions.
Board Governance / Legal Structure	Can a Finance Committee include non-board members if it only recommends actions and the full board makes the final decision?	Yes, as long as the committee is not acting on behalf of the board.
Tax Status / IRS	How can we determine our organization's 509 status?	Your 509 status should be listed in your IRS determination letter. You can also check the IRS Master Business File (spreadsheet).
Tax Status / IRS	If someone tries to challenge our 501(c)(3) status because of the population we support, would responding count as lobbying?	It's lobbying only if you're speaking for/against a specific piece of legislation. Simply "pushing back" on threats to your 501(c)(3) status may not be lobbying and may fall under the self-defense exception. Even if it is lobbying, you can do it—just track it and ensure it's not a substantial part of your activities.
Tax Status / IRS	If a political candidate asks to tour our facility to learn about the issues we address, do we need to offer the same opportunity to other candidates in that race?	Yes, if the person is an active political candidate, the safest course is to offer the same opportunity to all candidates in that race. If they're just a current legislator and there's no active campaign, it's more like an educational visit and that equal-access concern is lower.
Fundraising	Do state reporting requirements apply to pass-through federal funds, and are those requirements separate from the reports we already submit to the funder or state agency?	Yes, pass-through federal funds can trigger both state and federal requirements. However, the reports you already submit to the state agency (e.g., NCDHHS quarterly/annual reports) will almost always satisfy the statutory state reporting requirement, so you typically do not need an additional, separately structured report.
Fundraising	If our school holds raffles, do raffle ticket purchases or related donations need to be substantiated?	If people are simply buying raffle tickets (e.g., \$10 per ticket), those payments are not tax-deductible, so no charitable substantiation is required. If you intentionally price higher than the ticket's fair market value and treat the excess as a donation, that donation portion is deductible and does require a substantiation letter.
Fundraising	Does a donor's gift restriction require mutual agreement, especially if an unknown donor sends a check with a note restricting the gift to a specific purpose?	Yes. A restriction should be based on mutual understanding between donor and charity. You are not required to create a new restricted fund for XYZ. But if you accept the check and don't clarify with the donor, the funds become restricted to XYZ and must be treated that way.
Fundraising	If land is donated to a nonprofit from the estate of a deceased person, what filings are required and who is responsible for them?	Treat it like a lifetime non-cash gift. The executor handles any estate tax return and charitable deduction. Your role is to issue a gift receipt for the land to the "Estate of [Donor Name]" (no value listed). The charity generally has no additional special IRS filings just because the donor is deceased.

These notes are based on questions and answers captured during the 2026 Nonprofit Compliance Update session and are provided for informational purposes only. This is not legal advice.

2026 Nonprofit Compliance Update: Questions and Answers

Category	Question	Answer
Fundraising	If donated real estate is sold to a government entity within the three-year rule, does the nonprofit still need to file Form 8282?	Yes. If you dispose of donated real estate within three years, you generally must file Form 8282, regardless of who buys it, even a governmental entity like the State of NC or USFS. There isn't an exception in the IRS system that would otherwise link that sale back to the donor's 8283.
Fundraising	If a land trust nonprofit rents short-term cabins on protected property, are those rental receipts subject to North Carolina sales tax?	Likely yes, those short-term rental receipts are subject to NC sales tax, but Micah hedged. There are a number of exceptions in the sales tax rules, and he wasn't 100% sure an exclusion applies here, so this is one to confirm with NC tax guidance or your CPA.
Fundraising	How can a school PTO determine when helping individual students or families supports its exempt purpose and when it may create a private benefit concern?	It depends on the facts. Support that clearly ties to students' day-to-day learning or urgent needs (e.g., glasses a student needs to learn or socially function) fits the PTO's mission. The riskier "private benefit" cases are more luxury, selective perks (e.g., funding a special trip for a small group) not broadly tied to educational need.
Fundraising	How should a friends of the library organization receipt donations for memento bricks, is the answer affected by price, may it pay someone to install them, and can an all-volunteer organization seek sales tax exemption or a state refund?	Because donors don't keep the bricks, and they are recognition installed at the library, the bricks are not treated as quid pro quo; you can generally receipt the full amount as a donation, regardless of price. If you're a qualified NC nonprofit and the purchase furthers your mission, you can apply for semi-annual NC sales tax refunds.
Fundraising	What documentation should a nonprofit provide for in-kind gifts valued at more than \$5,000?	For in-kind gifts, you issue a standard gift receipt (no dollar value), describing the asset (e.g., "non-cash gift of [item/real estate] received on [date]"). For non-cash gifts over \$5,000 (other than publicly traded stock), the donor must obtain a qualified appraisal and prepare Form 8283; you simply sign your portion.
Fundraising	If a donor does not plan to claim a deduction for an in-kind gift, does the nonprofit still need to provide documentation?	Even if the donor says they won't claim a deduction, you should treat every in-kind gift the same: issue the appropriate gift receipt and complete your portion of any required forms. Donors can later change their mind or amend returns, and missing contemporaneous documentation can permanently jeopardize their deduction.
Fundraising	If the fair market value of a quid pro quo item is less than \$75, do we still need to subtract that value from the total gift amount?	No. The \$75 threshold is for when you must provide a quid pro quo disclosure to the donor, not for whether value is deducted. The donor's deductible amount is always the contribution minus the fair market value received, but the special written disclosure is only required when the payment exceeds \$75.
General/Governance	Is an email exchange or email agreement sufficient documentation to establish mutual consent?	Email can be legally sufficient, but Micah strongly recommends using a formal unanimous written consent document (e.g., DocuSign/Adobe Sign with the resolutions and all board signatures). That creates a much clearer single record than trying to piece together individual emails and avoids ambiguity about who agreed to what.
Lobbying	When does a social media post or newsletter asking people to contact legislators become lobbying?	It's grassroots lobbying only if you (1) refer to a specific piece of legislation and (2) include a call to action (e.g., "contact your legislator to support or oppose this bill"). General education about issues or your programs, without both elements, is not treated as lobbying.
Tax Status / IRS	Can you explain the North Carolina sales and use tax refund process, including eligible purchases and how far back an organization can file?	First, you apply online for an NC sales tax refund number, which is now an online process and can be slow. Once you have it, you file semi-annual refund claims for tax paid on purchases used in furtherance of your

These notes are based on questions and answers captured during the 2026 Nonprofit Compliance Update session and are provided for informational purposes only. This is not legal advice.

2026 Nonprofit Compliance Update: Questions and Answers

Category	Question	Answer
		mission. There's generally a three-year look-back period for eligible refunds.
Tax Status / IRS	If our animal rescue files the 990-N postcard because we are under \$50,000 a year, do we still need to worry about these other detailed compliance rules?	From an IRS filing standpoint, no. If you're consistently under \$50,000 in gross receipts, you can keep filing the 990-N postcard and don't need to complete the full 990. The broader compliance or "itemized" rules still apply generally, but your annual federal filing burden remains minimal at that size.
Fundraising	Where can an organization apply for a charitable solicitation license in North Carolina?	North Carolina Secretary of State Charities Division: https://www.sosnc.gov/divisions/charities
Tax Status / IRS	Are thrift store sales by a 501(c)(3) exempt from North Carolina sales tax?	The key provision is N.C. Gen. Stat. § 105-164.13(33), which exempts sales of tangible personal property by a 501(c)(3) when the items were donated to the organization and net proceeds go to its exempt purpose. The exemption does not apply to goods the nonprofit purchases for resale. There is also a separate occasional-sale exemption under § 105-164.13(32) with its own frequency and dollar limitations.
Employee Classification	How should nonprofits evaluate whether a worker is an independent contractor or an employee under current federal and North Carolina rules?	<p>On the federal side, the DOL published a proposed rule on February 27, 2026, that would rescind the Biden administration's six-factor totality-of-the-circumstances test and replace it with a five-factor economic realities test. Two core factors carry greater weight: (1) the nature and degree of control over the work, and (2) the worker's opportunity for profit or loss based on initiative or investment. If both core factors point the same direction, that is likely the correct classification. The remaining factors — skill required, permanence, and integration into the business — are treated as less probative. The proposed rule makes clear that actual working practices, not contract labels, drive the analysis. It also clarifies that compliance with legal obligations, health and safety standards, insurance requirements, and contractual deadlines does not constitute the type of control that would make someone an employee. The comment period closes April 28, 2026. It remains unclear how much weight courts will give the final rule.</p> <p>On the North Carolina side, organizations need to still be aware that multiple state-level tests apply independently of whatever the federal rule says:</p> <ul style="list-style-type: none"> - The Hayes eight-factor common law test (Hayes v. Bd. of Trustees of Elon College, 224 N.C. 11 (1944)) remains the foundational framework. It examines whether the worker is engaged in an independent business, controls their own schedule and methods, uses special skills independently, works at a fixed price, can employ and control assistants, and similar indicia. The degree of supervision is generally the most important factor, but all are considered. - The NC Wage and Hour Act (G.S. §§ 95-25.1 to 95-25.25) mirrors the FLSA and applies the economic reality test. The NC Department of Labor administers this in tandem with federal law. - The Employee Fair Classification Act (G.S. Chapter 143, Article 83), enacted in 2017, created the Employee Classification Section within the Industrial Commission. The EFCA defines misclassification as avoiding tax liabilities and obligations under Chapters 95, 96, 97, 105, or 143 by misclassifying an employee as an independent contractor. The Section receives and investigates complaints and coordinates with the Department

These notes are based on questions and answers captured during the 2026 Nonprofit Compliance Update session and are provided for informational purposes only. This is not legal advice.

2026 Nonprofit Compliance Update: Questions and Answers

Category	Question	Answer
		<p>of Revenue, Department of Labor, Division of Employment Security, and Industrial Commission — all of which are required to share misclassification information.</p> <ul style="list-style-type: none">- There is no safe harbor under NC law for employers who unintentionally misclassify workers. <p>One additional note for nonprofits specifically: NC DOL guidance recognizes that individuals may volunteer for religious, public service, and nonprofit organizations without contemplation of pay and not be considered employees. However, a person who is already an employee cannot "volunteer" to perform the same type of service they perform as an employee.</p> <p>The practical takeaway is that even if the new federal proposed rule makes contractor classification somewhat easier at the DOL level, the NC common-law test, EFCA enforcement apparatus, and workers' compensation and employment security tests all apply independently. Organizations should evaluate contractor relationships against both the federal and state frameworks.</p>