



Guiding Principles + Practices for Nonprofit Excellence in Maine Addendum Regarding Legal Updates Since Publication January 2018

This addendum lists legal updates and points of clarification for MANP's *Guiding Principles + Practices for Nonprofit Excellence in Maine* publications that were released in 2012, including the full Guide and the companion Basic Infrastructure Checklist.

The revisions below use the wording from the Basic Infrastructure Checklist.

- Additions are **bolded**
- Eliminations are noted by ~~striketrough~~

The page numbers for both the Checklist and the Guide have been provided, though the exact wording in the full Guide is slightly different.

Revisions by Section

Introduction (*p2 Checklist*)

- Link for US statutes has changed to <http://uscode.house.gov/>

Public Benefit + Accountability (*p3 Checklist, p9 Guide*)

- IRS Determination Letter and Forms 1023 **or 1023-EZ, as well as Form 990** (and variants) for the last three years (on file and publicly available, **990 Schedule B** redacted to maintain donor confidentiality) (US – 26 USC § 6104(d))

Strategic + Operational Planning (*p3 Checklist, p19 Guide*)

- Any material changes to organizational purpose and activities **noted on next filed** ~~to the IRS Form 990~~ (US – 26 U.S.C. § 501(c)(3))

Governance + Leadership (*p4 Checklist, p11 Guide*)

- **Proper notice of meetings sent to Board Directors and members (as applicable) for all meetings, in accordance with bylaws (ME – 13-B MRS §§ 603, 705).**

Public Policy + Advocacy (*p5 Checklist, p15 Guide*)

- **If conducted any campaigning or lobbying activities, or if made 501(h) election**, report lobbying efforts and expenditures on Schedule **C** of Form 990

Financial Management (*p7 Checklist, p23 Guide*)

- Assets used solely for charitable mission of organization, no excess benefit Transactions, **no commingling of funds with private individuals or entities** (US – 26 USC §§ 501(c)(3), 4958)
- Reasonable executive compensation **for all employees and consultants** (US – 26 USC § 4958)
- **Compliance with Unrelated Business Taxable Income law (US – 26 USC § 511)**
- If receive Federal dollars, compliance with Office of Management and Budget (OMB) ~~Circulars A-133, A-110 and A-122~~ **Uniform Guidance**. If expend more than ~~\$500,000~~ **\$750,000** in Federal funds for its operations, completion of a Single Audit.

Staff + Volunteer Management

Required if 1+ employee (*p9 Checklist, p27 Guide*)

- **Employee Polygraph Protection Act (US – 29 USC § 2001)**
- **Social Media Privacy Law (ME – 26 MRS §§ 615-619)**
- **Nursing Mothers Law (ME – 26 MRS § 604)**
- **Concealed Firearms in Vehicles Law (ME – 26 MRS § 600)**
- **Marijuana Users Nondiscrimination Law” (ME – 7 MRS § 2454(3))(effective February 2018)**
- **Maine and Federal Fair Credit Reporting Acts (US - 15 U.S.C. § 1681 / ME – 10 M.R.S. § 1311)(governs use of credit and criminal background checks in employment decisions)**
- **Civil Rights Act of 1964 (Prohibits discrimination based on race, color, religion, sex, pregnancy, or national origin --may also apply to volunteers) (US-42 USC § 2000e et seq.)**

Required if offering benefits (*p9 Checklist, p27 Guide*)

- **Health plan and benefits documentation compliance** – varies according to type of plan. (US – For 403(b) plans. See <http://www.dol.gov/ebsa/403b.html>) **For health plans and other benefits, see <https://www.dol.gov/general/topic/health-plans/erisa>.**

Required if 15+ Employees (*p10 Checklist, p27 Guide*)

- **Genetic Information Nondiscrimination Act (US – 42 USC § 2000ff)**

Fund + Resource Development (*p13 Checklist, p29 Guide*)

- Annual Maine charitable solicitations registration and Annual Fundraising Activity Report (**unless exemption applies** or Exemption Form, if applicable) (ME – 9 MRS §§5004, 5005-B, **see § 5006 for exemptions**) (Exemption filing no longer required as of 2013)
- ~~Proof of registration for each contractual fundraising~~ **Contracts with licensed professional solicitors** (ME – 9 MRS § 5005-B(3)).
- ~~Written contracts with fundraising consultants~~ **professional solicitors kept on file** (submit to state) (ME- 9 MRS § 5009). **(Loosened requirements as of 2013.)**
- ~~Commercial co-venturers licensed if over \$10,000 raised annually for a nonprofit (ME – 9 MRS § 5008).~~ **(No longer required as of 2013.)**