



Badger Leaders Conference 2019: Legal Issues



Agenda

- Legal advice from WAA
- Raffles
- Registration and waivers
- Code of Ethics
- Financial and Legal Issues Quick Guide
- Common questions



Legal advice from WAA

- WAA chapters cover more than 75 cities worldwide
- WAA's ability to provide legal advice is limited
 - Legal limitations
 - Practical and administrative limitations
- Chapter leaders encouraged to work with outside attorneys when they feel it is appropriate
 - Especially for incorporated and/or 501(c)(3) chapters
 - WAA does not cover legal expenses
- That said, can provide some general guidance



Raffles

- Do not assume you can legally conduct a raffle
- States often require a raffle license and impose recordkeeping requirements
- If you do not charge for tickets, it may not be a raffle under state law
- Check laws of your state beforehand
- Equally applies to auctions, merchandise sales, etc.



Registration and waivers

- If a WAA-approved event, chapter may use WAA's registration system
- As part of WAA's registration system, registrants must acknowledge event participation waiver
- If not using WAA's registration system, no liability waiver is completed
- Use common sense in planning



Code of Ethics

- To date, WAA has not had a Code of Ethics for chapters, but many schools do
- Purpose is to clarify expectations and responsibilities of chapter participants
- Will be requiring Code of Ethics be signed annually with our confidentiality agreement
- To help streamline, will be using DocuSign for these in the future



Code of Ethics Topics

- Role as a WAA and UW-Madison ambassador
- Alcohol policy
 - No overserving or serving of those under drinking age
 - No alcohol at chapter event targeted at attendees under drinking age (e.g., sendoff events), unless third party responsible for checking IDs
- Transportation policy
 - Assume personal liability for safety of passengers
 - WAA provides no insurance coverage
- Policy on minors at chapter events
 - Must be accompanied by parent or guardian
- Applicable laws
 - Agree not to violate federal, state, or local laws



Code of Ethics Topics (cont'd)

- Non-discrimination
 - WAA does not permit discrimination or condone any form of harassment prohibited by law
 - If you receive a report of, or believe you have observed or been subjected to discrimination or harassment, should immediately report to WAA
- Conflict of interest policy
 - Must disclose personal or business financial interest in chapter transactions and abstain from decision



Code of Conduct Topics (cont'd)

- Stewardship of donor gifts
 - Ensure gift money is properly receipted and deposited into right account
- Chapter finances
 - Operate accounts consistent with mission
 - No commingling of chapter and personal money
- Data Disclosure and Confidentiality Agreement
 - Chapter leaders that receive information required to sign annually
 - Chapters may only use WAA-provided information for legitimate purposes consistent with mission to serve UW-Madison and alumni
- Incident reporting
 - Report violations of Code of Ethics to WAA via email or your chapter rep



Financial and Legal Issues Quick Guide

- Updated guidance on
 - Chapter finances
 - Federal tax-exempt status
 - State sales tax
 - Incorporation
 - Potential conflicts of interest
 - Limiting liability through careful planning and insurance





Common questions

Question

What legal structure should our chapter have? I see that some are incorporated and are separate 501(c)(3)s and others are not.



Response

- WAA's preference is for chapters to not incorporate or become a separate 501(c)(3)
- WAA cannot assist chapters or pay costs to pursue incorporation or 501(c)(3) status
- Incorporation
 - Requirements depends on individual state
 - Pros: allows for own insurance coverage and puts chapter on path to 501(c)(3) status
 - Cons: state may impose reporting and other requirements to maintain status; typically requires more formal board structure, articles of incorporation, bylaws, etc.



Response (cont'd)

- 501(c)(3) status
 - Requirements set by federal law
 - Pros: allows chapter to receipt own gifts; can obtain exemption from state sales tax
 - Cons: limits legal, administrative, and logistical support WAA can provide; must carry own insurance, maintain financial records, receipt donors, report UBIT, and file annual tax returns; professional assistance to apply for and maintain likely required
- Recommend engaging and consulting with own attorneys and tax professionals, if interested



Question

We're asked each year as a part of the annual report if we have an EIN. Should we have an EIN?



Response

- Financial and Legal Issues Quick Guide will direct you to guidance on IRS website on how to obtain one



Question

Based on your experience working with chapters across the country, what are some best practices in protecting against the most common and/or significant risks?



Response

- Take care in event planning
 - Ensure vendors and establishments have adequate insurance coverage
 - Use professional caterers or vendors when serving food or alcohol
 - Don't sell alcohol
 - Request vendors provide a Certificate of Insurance with at least \$1M in coverage per occurrence
 - Chapter and WAA should be listed as additional insured on Certificate



Response (cont'd)

- Liability coverage for chapter leaders
 - Ask you insurance agent about coverage for your involvement
 - Consider general liability, directors and officers (D&O), hired auto, and host liquor coverage



Question

Does the chapter have any legal liability if an officer, board member, or alum makes remarks in poor judgment on one of our social media sites?



Response

- Potentially, depending on what was said, by who, etc.
- Best practice is for social media to limited to who, what, where, when, etc. and recapping events



Question

We use city buses to transport alums to/from our game watch. Do we have any liability if someone gets hurt in transit or at the game watch location?



Response

- Typically the city/bus company and game watch venue's insurance would cover any liability
- Is possible WAA/WFAA insurance may apply, but not certain depending on what happened
-Which is why care in planning is important



Question

We serve alcoholic beverages, soda, coffee, and food at board meetings, which take place at board members' homes. If an accident happens at the home or the drive back home, who can be held liable? The individual, homeowner, chapter, or WAA?



Response

- Potentially all of the above
- Largely depends on particular state's law and what happened
- Don't sell alcohol
- Code of Ethics will address alcohol at chapter events
 - No overserving
 - Absolutely no serving of those under legal age



Question

We are very careful who handles funds for our chapter and have checks and balances. If someone flew under the radar and stole chapter funds, is there any legal recourse for the chapter?



Response

- Lead recourse likely through local law enforcement authorities
- Other avenues to recover funds would depend on particular state's law
- Potential for litigation against that individual



Other questions?

