



CHARITABILITY, SECTION 1981, AND COMPLIANCE TOOLS AND OPPORTUNITIES

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1



CHARITABILITY

2

Charity Limitations

- Charities must be organized and operated exclusively (primarily) for “exempt purposes” under 501(c)(3) and accompanying regulations
- Will not meet these tests unless charity serves a public rather than a private interest – sometimes this means ensuring it supports a “charitable class”
- All other laws still apply, even if an activity is charitable under tax law (employment, civil rights, etc); illegality is basis for denial/revocation

3

3

What is an “exempt purpose”?

Exempt purposes

Charitable

Religious

Scientific

Testing for public safety

Literary

Educational purposes

Foster amateur sports competition

Prevention of cruelty to children or animals

Charitable – used in its generally accepted legal sense and includes

Relief of the poor and distressed or of the under privileged

Advancement of education

Promotion of social welfare by organizations designed to:

- Lessen the neighborhood tensions
- Eliminate prejudice and discrimination
- Defend human and civil rights secured by law
- Combat community deterioration and juvenile delinquency

Prevention of cruelty to children or animals

4

4

What is a charitable class?

- A group of individuals that may properly receive assistance from a charitable organization
- Must be either large enough that the potential beneficiaries cannot be individually identified, or sufficiently indefinite that the community as a whole, rather than a pre-selected group of people, benefits when a charity provides assistance
- If the group of eligible beneficiaries is more limited, the group of individuals eligible for the class must be indefinite, meaning the total number of potential members making up the charitable class cannot be counted or identified (otherwise, the charitable class would consist of a pre-selected group of people, which is prohibited)
- To benefit an indefinite charitable class, the assistance must be open-ended

5

5

How Does Race Play a Role?

- IRS issued several rulings in the late 60s and 70s that specifically address race (often “minority” groups), gender, and immigration status as factors in assessing a charitable purpose/charitable class
- Many focus on a nonprofit’s efforts to educate the public about discrimination and means of correcting it
- Organizations that construct or maintain public works or provide public recreational facilities cannot restrict access to facilities on the basis of race or some other classification that violates public policy
- Economic development organizations are able to use race, and proxies for race (urban, low-income), to determine charitable activities

6

6

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Title search: MASTER CLASS: DEI Programing: Charitability, Section 1981, and Compliance Tools and Opportunities

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"MASTER CLASS: DEI Programing: Charitability, Section 1981, and Compliance Tools and Opportunities"