



Employment Contract Considerations

Q: I'm about to negotiate my first employment contract. What are some of the things I should consider?

A: Good for you. Having a written employment agreement, in general, is a real benefit. Properly drafted, employment agreements can and should provide appropriate protection for both the employee and the employer. Given the inherent challenges facing the chief staff officer of a nonprofit — constantly changing bosses, multiple bosses (often with competing or unclear agendas), demanding members (many of whom may want your job; most of whom think they can do it better), public disclosure of your compensation — it is wise to have some protection through a written employment agreement.

There are lots of other things to include in a contract and some of the “protections” that a contract can provide are obvious. For example, a written employment agreement should address salary, vacation, insurance, deferred compensation, bonus, incentives and other such benefits. I also recommend that the contract set forth a process and methodology for conducting an annual review. As Socrates said, “The unexamined life is not worth living.” Perhaps he wasn’t referring to an annual evaluation process, but it is important that volunteer leaders know they are expected to provide feedback to their employees, and

that they have a contractual obligation to do so. Likewise, an annual review allows the employee to know how she is doing, provides her an opportunity to make any needed “corrections,” and allows her to document that her reviews have been positive if a negative issue later comes up out of the blue.

but continue until terminated according to the contract. Fixed-term contracts (with a specified end date) are OK, but, in my view, don’t provide as much protection. The problem is that the employee doesn’t always recognize what can happen when the fixed term ends. Often, the whole relationship comes to a crash-

ferent without-cause and for-cause provisions (with-cause being carefully defined). For without-cause termination, the contract should provide an appropriate severance amount, sufficient to protect the employee from an arbitrary dismissal. If the contract has a fixed term, it is prudent to have the without-cause severance provision apply in the event of non-renewal as well as termination. Similarly, the without-cause severance provision should take effect if the employee’s duties are reduced or if her duties are taken away (e.g., a merger with another association). For with-cause/for-cause termination, the contract should require that the other party be provided notice of, and an opportunity to cure, the alleged wrong.

There’s plenty more ground that can be covered in an employment contract (indemnification, rights to intellectual property, confidentiality and non-compete provisions, etc.). The main thing is to make sure an employment agreement, whether your first or your last, covers the issues that are important to you. **■**

The answers provided here should not be construed as legal advice or a legal opinion. Consult a lawyer concerning your specific situation or legal questions.

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I also strongly recommend that the agreement spell out the chief staff officer’s duties and responsibilities, including whom they report to and take direction from and their right to hire and fire the balance of the staff. In addition, the contract should establish a start date, but not necessarily an end date. I am a fan of “evergreen” contracts — they do not have a fixed end date,

ing halt. Even if the original intent was to extend the contract after the initial term expired, an expiration date can trigger the employer’s consideration of whether they now should be looking to make a change.

Of course, fixed-term or evergreen, a good contract will set forth the provisions under which it can be terminated by either party. Typically, that includes dif-