

Who's Calling, Please?



Q: How should my staff respond to telephone callers requesting association records or information about a member?

A: As a general rule, an association's records are not open to the public, and an association staff member is not obligated to provide callers with information requested over the telephone or otherwise. Just what should or must be provided, however, and under what circumstances, is often counterintuitive to how association staff are trained — to be as helpful as possible. Thus, every association should adopt policies addressing how staff members should respond to individuals making telephone requests for records or other information.

First, staff should recognize that no caller (except, possibly, a member) is entitled to an immediate response to a request for information. Some not-for-profits do have an obligation to make certain records available for inspection and copying. For example, those exempt from taxation under the Internal Revenue Code must make their exemption application and annual information returns available to interested members of the public. Similarly, certain state laws require not-for-profits to make their corporate minutes and financial records available to voting members under narrow circumstances. In neither case, however, are organizations required to provide (or agree to forward) such information in response to telephone inquiries.

Second, staff should exercise caution

whenever communicating with a caller requesting information, whether or not the individual is known to the association. For example, someone may call to ask whether Mr. X or Company Y is an association member. That question sometimes is followed by additional inquiries, such as whether the member is in good standing, who (in the case of a corporate member) the member's principal(s) are, and whether the association has ever taken disciplinary action against the member. The caller also may ask whether the association has a code of ethics and, if so, whether he or she may have a copy. Another caller may inquire as to whether Company Z, a nonmember, has registered as an exhibitor at the association's upcoming annual meeting. That caller's next question may relate to the products to be shown by that exhibitor or the location of the exhibitor's booth in the exhibit hall.

The problem is that while some requests are benign, others are not, and it may be difficult to distinguish between the two, especially after an initial, seemingly innocuous inquiry. In the first example above, the caller may be involved in litigation against the member about whom the inquiry is being made, and he or she may be looking for information to support a particular claim in that litigation. In the second example, the caller may be a competitor of the exhibitor, who, for one reason or another, is seeking information to use to its advantage. By the time it becomes clear that the caller is asking for more information than the association may wish to disclose, too many questions already will have been answered, and it may be too late to assert a policy that "information is not provided over the phone."

The better practice for the organization is to follow a policy under which staff members are directed and trained to

This Law Review was written by Susan Feingold Carlson and edited by Jed Mandel. Both practice association law at Chicago Law Partners, LLC and serve as the Association Forum's legal counsel.



respond to every (nonmember) telephone inquiry by politely declining to provide the information requested and explaining that all such requests must be made in writing. Such a policy not only promotes consistency in communications with the public, but it also allows the organization to formulate reasoned responses to the inquiries it receives. Some requests may be for information the association routinely makes available and may be answered in the ordinary course. Other requests may involve more sensitive information. Under those circumstances, member inquiries should be treated with the same level of scrutiny as inquiries from the general public. The organization should consider who is making the request and for what reason. Regardless of the response to be given, asking the caller to put his or her request in writing provides the organization with a much better opportunity to respond thoughtfully and appropriately.

Of course, every rule has exceptions. When an association maintains a publicly-available list of members that provide services in specific geographic areas, staff typically is allowed to provide callers with a name or names from that list. To the extent such lists are available on the association's Web site, however, the better response may be to provide the caller with the appropriate link.

As your organization considers a policy regarding communications between staff and the general public, it also should consider related matters, such as its policies on record retention and who has authority to speak for the association. Those policies, too, are all part of an overall scheme that is critical to minimizing the organization's potential risks. ■

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.

Every association should adopt policies addressing how staff members should respond to individuals making telephone requests for records.