
MEMORANDUM

TO: DYANA MASON AND FRIEND
FROM: STACEY RAY ROTH
SUBJECT: FOSTER CARE SERVICE & ADVOCACY: CONSIDERING INCORPORATION
DATE: 10/11/2015
CC:

FOSTER CARE SERVICE & ADVOCACY

There is demand in Oregon, as in most states, for reliable foster care. In the United States, foster care functions primarily on the local level with organizations providing services that help fill the gaps that the state cannot or the issues that it is unable to effectively address. This is due especially to the fact that foster care requires much hard work on the part of administrators in partnership with social workers, parents and the children. Regulation comes from the state's social services division but county social services departments and independent non-profit organizations do a large amount of the work, receiving government funds, but also relying on donations. (Harris, 2015)

Especially in Oregon, there is high demand for foster parents who can care for groups of siblings, helping to keep families together, as well as a high demand for families that enjoy working with teens and have the ability to help guide them in their future (Oregon.gov, 2015). Another important issue is helping native kids build a strong connection to their heritage through pairing these children with families who can share cultures and cultural traditions. There is a need to facilitate this type of work as well as provide special training and support to families who are willing to take on this type of role.

In consideration for how to provide and advocate for foster care services, it is important to consider these needs, both in general and specific to our state, as well as the various pros and cons of non-profit incorporation.

Non-Profit Incorporation

Traditionally, non-profit foster care organizations play an integral role in providing services, so it makes sense that this would be an appropriate organizational format. In our society in general, non-profits are a "visible and compelling force" for social action and change (Frumkin, 2002). Incorporating as a non-profit provides many benefits, but only after verifying an essential need that can be addressed, gaps in service to fill, and establishing a well thought out mission and objectives. As a non-profit, a new foster care organization would be held to several stipulations ensuring a strict focus on its mission. Non-profits are held to a non-distribution constraint, ensuring that profits go directly back into the organization (Frumkin, 2002). Board governance also helps keep the organization rooted in the community and avoids centralized ownership, furthering the mission-

focused aspect of the organization. Unlike for-profit boards, the fact that non-profit board members are volunteers is important to maintaining leadership that is passionate and dedicated to the mission.

Another benefit of incorporating as a non-profit is that these organizations do not coerce participation (Frumkin, 2002). Community members and other organizations intrinsically trust non-profit organizations because they are removed from the pressures of the market, encouraging participation and support in regards to the mission, but not in a coercive manner. This trust is integral to establishing strong relationships with stakeholders in the community. One of the major benefits to incorporating as a nonprofit is the ease of establishing these trustworthy relationships, simply due to the nature of the organization and its separation from the market.

As with any corporation, incorporating as a non-profit would provide legal status and protection, with the corporation taking on legal liability. An obvious benefit would be tax-exempt status, equating to an increase in usable income and the ability for donors to write-off their donations, giving incentive to the community to invest in the organization's efforts, but also increasing the effectiveness of the organization.

Non-profit organizations are also without clear lines of ownership and accountability (Frumkin, 2002). This can be a strength in that it keeps there from being too much responsibility and accountability from falling on the shoulders of only a few leaders. It distributes stewardship across a much broader group of stakeholders and beyond into the community, cultivating greater ownership amongst those who care about the mission, and keeping the organization accountable to constituents and the community. Unfortunately, this also creates challenging hurdles for strategic planning, succession and general management of the organization.

Due to the fact that there is no market for foster care services, the need will not generate a profit, and the fact that the government is not able to entirely subsidize these services, means that there are gaps that the independent sector is suited to fill. The combination of both market failure and government failure make room for a "third" sector to help fulfill the services that cannot properly be provided by the for-profit and government sectors. The other type of theoretical failure, contract failure, indicates that the public will trust getting services from a nonprofit versus a for-profit because of the non-distribution constraint and focus on quality of service and mission. The combination of these three theories makes organizing as a non-profit a beneficial decision for an organization focusing on foster care. (Frumkin, 2002)

Unfortunately, there are some negatives to incorporating as a non-profit. Voluntary failure means that non-profits cannot fill all of the gaps to serve the entire problem. Due to reliance on charitable giving, an expectation to keep operating costs at a minimum, and lack of stable and continuous resources, the effectiveness of a non-profit may be severely limited. Some non-profits, especially those in social services, rely on government funding, which can also be limiting, as well as influence public trust, as organizations that are heavily funded by government may appear more like government. Non-profits must also bring together a mix of funds in order to provide sustainable and consistent services. This can be a constant source of pressure. They may even fall victim to mission-affecting stipulations associated with specific funding sources, such as government sponsored grants. Public perceptions of non-profits can also be a limiting factor. In the public mind, a non-profit is not supposed to appear to be similar to a for-profit corporation, yet many successful non-profit organizations do generate income and have greater overhead expenses (Berman, 2010).

Non-profits and Advocacy

Non-profit organizations can successfully cultivate engagement and advocacy around a specific issue. They intrinsically build trust or “social capital” and community through voluntary participation and support while ensuring that resources and profits are funneled back into the organization to contribute to a specific cause. Their connection to the community allows these organizations to organize and educate at a grassroots level. They are also able to engage in direct lobbying around a specific issue, helping to not only encourage action from within the community, but also at a legislative level. Non-profits serve as an outlet of our first amendment, allowing for action, education and freedom of expression central to our democratic society. Today many non-profits play essential roles influencing political action and advocating for a diverse range of issues. (Frumkin, 2002)

Alternative Forms

It is a possibility to form an organization or association but to remain informal, not formally filing as a non-profit but instead remaining unincorporated. The unincorporated association may be a good solution at the very onset of organizing, but it is very limiting. Only very small associations may operate informally without being required to incorporate, and the organizers or owners do retain some personal liability, but it does allow the association to treat donations as if they are tax-exempt while not having to incorporate as a non-profit. Another option is to operate under a fiscal sponsor, or under another incorporated organization’s fiscal oversight and responsibility. On one hand, this allows the unincorporated group to retain some of the benefits of the incorporated organization, which might include benefiting from physical space, legal support, resources, and even having the ability to apply for grant funding through the fiscal sponsor. On the other hand, all assets fall under ownership and liability of the fiscal sponsor, and the unincorporated organization may have difficulty maintaining an independent identity. It will certainly be limited by what activities can be agreed through the fiscal sponsor.

There are options other than non-profit incorporation at the onset of organizing, but for protection, trust, legitimization, sustainability, funding, advocacy, influence and growth, it is a good idea to consider filing for status as a non-profit. Operating informally may be an option while the organization is developing a strong mission and strategic plan, but once organized it would most likely be of the highest benefit to file for non-profit status.

References

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