

## Massachusetts Attorney General Releases Charity CEO Compensation Report

On December 19, the Non-Profit Organizations/Public Charities Division of the Massachusetts Office of the Attorney General released the [results](#) of a “focused review” of CEO compensation at 25 of the Commonwealth’s largest charities, primarily in the health care and higher education sectors. While the report does not recommend that specific dollar limits be placed on executive pay, it concludes that compensation is “generally high” and contains various observations, as well as a new “Schedule EC” for reporting executive compensation, that could eventually have a substantial impact on how the Attorney General’s office responds to nonprofits’ compensation policies.

The report reflects a particular interest in retirement compensation. The Division expresses the view that deferred compensation arrangements that require a charity to provide a certain level of income replacement in retirement, even if such arrangements appear reasonable in light of comparability data, can place a charity at considerable risk. Such an arrangement is commonly referred to as “supplemental executive retirement plan,” or “SERP.”

The report also comments on factors a board should consider in determining whether a compensation arrangement is reasonable. The report suggests that boards can lose perspective when their compensation decisions are based only on reviewing data for comparable positions at other organizations. In evaluating whether compensation is reasonable, the report urges boards to consider other factors, including the size of a CEO’s compensation arrangement compared to that of the charity’s own workforce.

In addition, the report expresses the view that compensation should be reported in a more detailed manner and, for certain organizations, sooner than is currently required by the IRS Form 990. The Division announced that, early in 2014, a new Schedule EC that will require detailed information about CEO compensation would be made a part of the annual Form PC that Massachusetts charities file. A copy of the proposed Schedule EC, which the charities that participated in the review were asked to complete, is attached to the report.

For more information about the report, please contact your usual Ropes & Gray attorney or:

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