

# NONPROFIT PERSPECTIVES

## Making Sure Your Bylaws Are On Point

Most of the board of directors and staff of Nonprofit X were disheartened by the track record of one of its board members. Joe Smith often missed board meetings and completed no work assignments. This situation went on for more than a year, and the organization's leaders talked privately about removing Joe from the board. But when they started exploring how the action should be handled, they were in for a surprise: Nothing in the organization's bylaws addressed the topic of removing a board member for cause.

This story is an example of why not-for-profit leaders need to regularly review their organization's bylaws. An organization's board of directors, which changes regularly, and staff need to be familiar with exactly what the bylaws contain — and what they don't. If the bylaws are incomplete or they don't reflect the organization's current mission, revising them is critical.

### What is the purpose of bylaws?

Bylaws are the rules and principles that define your governing structure. They serve as your not-for-profit's architectural framework. Although bylaws aren't required to be public documents, consider making them available to the public to boost your not-for-profit's accountability and transparency.

Your bylaws might cover such topics as the:

- Broad charitable purpose of the organization,
- Size and function of your board,
- Election, terms and duties of directors and officers, and
- Basic rules for voting, holding meetings, electing directors and appointing officers.

Without being too specific, your nonprofit's bylaws also should provide procedures for resolving internal disputes, such as the removal and replacement of a board member. If you're not familiar with the bylaws, you should get up to speed fast.

### How are bylaws changed?

Before you attempt to revise the bylaws, make sure you have the authority to do so. Most bylaws contain an amendment paragraph that defines the procedures for changing them.

Then consider creating a bylaw committee made up of a cross-section of your organization's membership or constituency. This committee will be responsible for reviewing existing bylaws and recommending revisions to your board or members for a full vote.



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It's important that your bylaw committee focus on your not-for-profit's mission, not organizational politics. A bylaw change is appropriate only if you want to change your nonprofit's governing structure. Wanting to change how you operate suggests that you may have drifted from your original purpose. In this case, you may need to reorganize your operations rather than rewrite your bylaws.

### **Do the changes mesh with your articles of incorporation?**

If your nonprofit is incorporated, you'll need to ensure that any proposed bylaw changes conform with your articles of incorporation, which spell out your nonprofit's purpose and outline its allowable activities. For example, the "purposes" clause in your bylaws must match that in your articles of incorporation. Any new provision or language changes in your bylaws contrary to the objectives and ideals included in your incorporation documents may invalidate the revisions.

Bylaw provisions that suggest you've strayed from your original mission also can jeopardize your federal tax-exempt status. Make sure your bylaw amendments are consistent with your tax-exempt purpose. And notify the IRS if they represent a "structural or operational" change by reporting the amendments on your Form 990.

Also review your state's statute that governs nonprofits, because it may contain mandatory provisions that affect your bylaws. In the absence of bylaws, when faced with issues about your governance, your state may dictate a proper course of action. If you don't coordinate your bylaws with such a statute, you may unwittingly hinder your organization's decision makers' ability to operate.

### **Specific to your organization**

Bylaws are specific to each organization. If you refer to boilerplate policies while you draft or revise your bylaws, be sure to customize them to fit your not-for-profit's specific needs.

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