

Nonprofit Boards & Bylaws Part I: All About Bylaws

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Join Carter Ledyard and management consultants [Plan A Advisors](#) on a lively exploration of nonprofit boards and bylaws. This multi-part series will help nonprofit executives and board members consider revisions and amendments to make your bylaws more congruent with the way your nonprofit actually operates, improve governance, and ensure compliance with current law.

This series is designed to offer principles of broad applicability, but laws vary by state, and what is best for your organization will depend on your unique circumstances. We encourage you to consult with an attorney who practices law in the state of your organization's incorporation. This series is not legal advice.

NOTE: Some portions of this series may not apply or may apply differently to a membership organization, meaning one with both a board of directors and a separate class or classes of voting "members." In a membership organization, the members have certain governance rights, such as the right to elect directors and officers or to amend the bylaws. If yours is a membership organization, feel free to contact us to discuss those differences.

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Bylaws are rules. Organizations must have bylaws, and those bylaws need to reflect current law. Bylaws are the primary rules which govern the operation of a nonprofit organization, institution or agency. They determine the roles and powers of a nonprofit's board of directors (or trustees) and its officers, as well as the mechanics of governance such as how to call a board meeting or hold elections. In membership organizations with voting members, bylaws serve as a kind of "contract" between the organization and its members, enumerating members' roles and powers. And bylaws reflect the requirements of the law of the state in which a nonprofit is incorporated.

Compliance matters. Bylaws create certainty, transparency, and clear expectations around the way a nonprofit is governed. They also promote compliance with law. Bylaw provisions that are inconsistent with law (or a nonprofit's Certificate of Incorporation) are not valid or enforceable. Similarly, if a nonprofit's practices (e.g., elections, meeting notices, board actions outside of a meeting) are inconsistent with its bylaws, those practices could be challenged as invalid. In times of peace, an organization might get by with old or outdated bylaws, but if ever there is a fight, your bylaws can sit in the crosshairs.

Make them known. It's the board secretary's job to keep a current copy of the bylaws accessible – ideally a "certified" copy, meaning one that ends with a certification by an officer that those bylaws have been duly adopted and remain in effect as of the date of the certification. As a matter of practice, every board member should have an up-to-date copy and every new board member and new executive hire should be asked to read them. Bylaws need not be posted publicly, but nonprofits file them with the IRS as part of their application for federal tax-exempt (e.g., 501c3) status, and are required to provide members of the public with a copy of that application upon request.

Keep them current. Bylaws should be tailored to an organization's needs and will likely need to be amended from time to time as the organization evolves or as the law changes. If you are forming a new nonprofit, or your bylaws feel archaic, you should work with a nonprofit

lawyer who can give you a model set of nonprofit bylaws, tailored to your needs. Alternatively, there are “off-the-shelf” examples you can build from – but be sure to pick a template specific to nonprofit organizations in the state in which your organization is incorporated since bylaws for for-profit organizations are very different and nonprofit law can differ markedly from state to state. Be mindful that states amend their nonprofit laws from time to time, so your bylaws need to be reviewed periodically for compliance with current law. And if your current practices are inconsistent with your bylaws – like board communications, the meeting calendar, election procedures, officers, or committee structure – it’s also time to amend your bylaws.

Next: Mission and Board Role

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Other publications in this series:

[Boards & Bylaws Part II: Mission and Board Role | Carter Ledyard & Milburn LLP \(clm.com\)](#)

[Boards & Bylaws Part III: Board Membership and Terms | Carter Ledyard & Milburn LLP \(clm.com\)](#)

[Boards & Bylaws Part IV: Board Meetings | Carter Ledyard & Milburn LLP \(clm.com\)](#)

[Boards & Bylaws Part V: Officers | Carter Ledyard & Milburn LLP \(clm.com\)](#)

[Boards & Bylaws Part VI: About Committees | Carter Ledyard & Milburn LLP \(clm.com\)](#)

[Boards & Bylaws Part VII: Core Committees | Carter Ledyard & Milburn LLP \(clm.com\)](#)

[Boards & Bylaws Part VIII: Bylaw Amendments | Carter Ledyard & Milburn LLP \(clm.com\)](#)

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