

Nonprofit Boards & Bylaws Part II: Mission and Board Role

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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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Mind your mission. Mission is a statement of purpose, the reason why your nonprofit exists: to address a challenge, meet a need, make a difference. State law requires that an organization's Certificate of Incorporation set forth the purposes of the organization. While statements of mission and purpose are sometimes repeated in the bylaws, bylaw provisions that are inconsistent with the organization's Certificate of Incorporation are not valid or enforceable. (Your Certificate of Incorporation trumps your bylaws as a legal matter.)

Make them match. Make sure you've got your Certificate of Incorporation in front of you when you undertake a review of your bylaws. Amending your bylaws may require that you first amend your Certificate of Incorporation. There may be discrepancies or contradictory statements in the two documents – for example, the size of the board, the frequency of board meetings, or the date of your annual meeting. If you have updated your mission, make sure to update it wherever it appears, which may require an amendment to your Certificate of Incorporation or bylaws or both.

Be clear on roles. Your bylaws should reinforce the proper role of a board. Board members are "fiduciaries" of the nonprofit they serve; they owe it the duty of care and the duty of loyalty. "Care" means overseeing the organization in good faith and with reasonable diligence, guidance and skill. Board members need not be expert in every area (e.g., IT, finance, cybersecurity), but they do need to keep reasonably informed of the organization's affairs, and ensure that adequate information-sharing and reporting systems are in place; and they can't ignore red flags. "Loyalty" means undivided allegiance to the mission and best interests of the nonprofit, subordinating any individual or private interests to those of the organization.

Manage doesn't mean management. In general, the board: 1) establishes strategic vision and policy and evaluates impact; 2) hires and evaluates executive leadership; 3) listens to internal stakeholders and strengthens external relationships; and 4) provides financial oversight and

secures resources. By law, your board “manages” the overall affairs of your nonprofit. In practice, this may look different from one organization to another, depending on size and complexity. The board’s role is really oversight; the chief executive officer (or ‘executive director,’ ‘director,’ paid ‘president,’ ‘executive vice president’ ...) has management responsibility on a day-to-day basis. Boards generally delegate responsibility for day-to-day management to the professional leader they select and should then give those leaders the space to lead. In times of turbulence or scrutiny, or when weaknesses or red flags arise, board members need take a more active, hands-on role than they would in normal times.

Next: Board Membership and Terms

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Other publications in this series:

[Boards & Bylaws Part I: All About Bylaws | 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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