

What information must be put into corporate bylaws?

Author(s): Stephanie Paul

Bylaws are the most important legal document of any organization, whether it is a corporation, association, or partnership. Bylaws outline in writing the day-to-day rules for your organization and provide comprehensive guidelines to keep things running smoothly. If anyone wanted to see how you are organized or the exact duties your organization expects from its Board of Directors, the best bet would be to look at a copy of your bylaws.

Bylaws outline the structure of an organization and should be customized for each situation. Bylaws establish and protect the rights, and specify the duties and responsibilities of an organization's members, Board of Directors, executive committee, and others. They determine how those in charge are nominated or elected and they help settle any disputes among parties. Finally, bylaws must be formally adopted and amended as necessary.

Bylaws vs. Articles of Incorporation

Many businesspeople confuse an organization's bylaws with its Articles of Incorporation. Unlike bylaws, which cover topics such as how the Board of Directors and/or officers are elected, how meetings are conducted, and the types and duties of officers, the Articles of Incorporation state the basic outline of the company.

Articles of Incorporation generally provide information such as the name of the person organizing the corporation; the number of shares the corporation can issue, if applicable; the names of the corporation's Board of Directors; and the location of the corporation. Like bylaws, Articles of Incorporation vary between corporations, but they do not go into detail about the corporation's operations or structure, which is handled by the company's bylaws. Articles of Incorporation are filed with the state and cost money to amend; bylaws can be amended at no cost by a vote of the Board.

What is in the Bylaws?

Each set of bylaws will be specific to each organization, but the basic components of bylaws are as follows:

- An Organization's Name, Purpose and Office(s) Location
- Members
- Board of Directors
- Committees
- Officers
- Meetings
- Conflict of Interest
- Amending Bylaws

Name, Purpose and Office(s)

What is the name of your organization? This should be stated in the bylaws, as should the purpose of your organization. Ask yourself, "What is the reason for your organization's existence?" Finally, you should state specifically where your office(s) are located.

Members

This section should detail the various aspects of membership, including the different types of members, the membership selection process, members' voting rights, and the procedures for disciplining and/or removing members. If there are no members, state that in this section.

Board of Directors

The Board of Directors is the primary governing body of an organization. This section should discuss the composition of the Board, which may be a specific number of directors or a maximum or minimum amount of directors. Also, discuss how vacancies are filled, whether they are filled by the Board itself or by the membership. Finally, the bylaws should specify the qualifications for serving as a director, the duties of directors, the length of a director's term, and the possible classes in which they are elected.

Committees

Detail any special committees in this section, including their formation, how they are appointed, and their specific duties. The roles and responsibilities of the "Executive Committee," which usually makes recommendations to the Board, should also be discussed. Some common committees in an organization are an Audit Committee, Membership Committee and Nominating Committee.

Officers

Officers are members of the Board who perform specific functions on the Board (i.e., the President, Vice President, Secretary, and Treasurer). This section should discuss how officers are selected, as well as the duties, powers, and responsibilities of each officer. Also specified in the bylaws are the procedures for removing an officer and filling vacant officer positions. Usually, a Nominating Committee is outlined in this section, which recommends nominations to the Board. Officers' length of terms is also specified in this part of the bylaws.

Meetings

Any annual, regular, or special meetings need to be discussed in the bylaws. This includes the time and place of the meetings, requirements for notifying the Board, committees, and/or members, attendance stipulations and, most importantly, how many Board members are needed for a quorum (the number of directors needed to vote on issues at hand).

Conflicts of Interest

It is important that an organization has a Conflict of Interest Provision in their bylaws. This protects them from IRS penalties which may occur if the IRS finds the organization is providing unfair benefits to directors, members, or others. For example, a director should not be allowed to vote on a matter in which the director may have a direct financial interest. If a conflict may occur, the director should disclose this conflict immediately in order to be removed from voting.

Amending Bylaws

The bylaws should contain specific rules as to how they can be amended. It should also state who can recommend amendments and how these amendments will be voted upon. It is important that bylaws are current and accurately represent the organization and its membership. Therefore, bylaws should be revised every five years, in order to stay current with the most up-to-date rules and regulations.

Every member, director, and officer should be given a copy of the bylaws and they should be encouraged to read and understand them. For more information about structuring your organization's individual bylaws, consult your attorney.