

I'm on a Nonprofit Board - **Now What?**

The Legal Governance Lowdown for Nonprofit Board Members and Leaders



Rules to Live By: Your Bylaws (aka Code of Regulations)

This article presents general guidelines for Ohio nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

Your **code of regulations**, or as many people call them, **bylaws**, are the operating manual for your board. Bylaws are a key to good governance. This internal set of rules and procedures guides your board in governing and decision-making.

When they are consistent and flexible, bylaws also:

- Create well-defined roles and responsibilities for directors and officers;
- Provide a logical framework for sound decision-making;
- Encourage support from donors and funders;
- Reduce the risk of noncompliance and liability both for your organization and personally for board members; and
- Allow your board to carry on your mission when governance issues arise.

What Your Bylaws Should Cover

Certain provisions are commonly included in nonprofit bylaws. If your bylaws do not cover a particular item, Ohio law often fills in with minimum requirements and default provisions.

These items should be included in your bylaws:

Board composition. Bylaws should state the number, term, and any term limits for board members. In Ohio, you must have at least 3 board members.

"Term" refers to the number of years a board member serves. "Term limits" refers to the number of terms a board member can serve. An example would be board members that serve 3-year terms, and may serve up to 2 consecutive terms, for a total of six years. Term limits are not required under Ohio law.

Your bylaws should also state how your board members are elected and removed, and how they will be replaced if there are resignations or vacancies.

What if a board member is not fulfilling their duties or, worse, is acting against the best interest of the organization? Bylaws should clearly instruct how a board member can be removed and how the vacancy can be filled so the board can continue its business without being stopped by one member's disruptive behavior.

Officers. Ohio law requires nonprofits to have 3 officers: a president or chair, a treasurer, and a secretary. Your bylaws may require more officers, such as a vice-president.

Meetings. Your bylaws can require that your board meet more often, but Ohio law mandates that your board meet **at least** one time per year.

Other common provisions regarding board meetings include:

- How board members must be notified of meetings, including special meetings.
- What constitutes **quorum**, meaning the minimum number of board members that need to be present for a board to take action in a meeting. Without a quorum, the board cannot vote or lawfully conduct business.
- Whether board members can attend meetings virtually or by phone. Under Ohio law, virtual attendance is allowed unless the bylaws prohibit it.
- Can board members vote outside of a meeting? Unless your bylaws state differently, yes, board members can vote outside of a meeting, but the vote **must** be **unanimous** and agreed to **in writing** by every single board member.

For more information about board meetings, see the article in this series entitled "[Call to Order: How to Prepare for and Run a Board Meeting](#)"

Committees: Your bylaws can provide for the creation of committees. Committees allow for the delegation of part of the board's work to a smaller group. Some common committees include executive, finance, and governance. Standing committees continue in perpetuity. Ad hoc committees may exist for a limited time or purpose, such as planning a one-time event.

Indemnification. Your organization can reimburse board members if they are sued in their capacity as board members. Make sure to coordinate with your insurance agency so that indemnification is limited to what is covered by your Directors and Officers insurance policy.

Amendments. Finally, bylaws should include a mechanism to amend them when updates are needed.

Common Pitfalls in Bylaws

1. Requirements that are too specific.

Your bylaws should be flexible. For example, if your bylaws require 7 board members, you will not be able to lawfully conduct business if one resigns leaving only 6. It is better to require a range, such as 5-15 board members.

2. Inconsistencies between bylaws and actual practices.

When it comes to bylaws, here is the golden rule: You must do what your bylaws say or change them to reflect what you do. Board members can be held liable for noncompliance. If you are not following your own internal rules, change your practices or amend the bylaws.

3. Including programmatic information.

Bylaws should only deal with how the board operates and should not include information about programs or events. You do not want to have to amend your bylaws every time a program changes.

4. Burdensome procedures for amending bylaws.

Strive for flexible bylaws that do not require constant updates, but, when needed, can be amended by a simple majority vote of the board.

Conclusion

Nonprofits grow, adjust, and change over time. We recommend reviewing your bylaws every few years. It is much easier to amend your bylaws when everything is running smoothly rather than trying to make changes after problems arise.

Additional Resources

This article is part of the series [I'm On a Nonprofit Board - Now What? The Legal Governance Lowdown for Nonprofit Board Members and Leaders So You Can Come to the Table Ready to Lead](#). Published by Pro Bono Partnership of Ohio, this series includes a 6-part webinar series and corresponding articles on important topics that will help you confidently take your seat at the board table and continue to make a positive impact in our community.

Need Legal Advice?

Pro Bono Partnership of Ohio is here to help. We regularly draft, review, and revise bylaws. We also provide advice on governance and board actions.

If you are a PBPO client and have questions regarding the content of this article or need legal assistance, please contact us at info@pbpohio.org or (513) 977-0304.

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