

Ready to Start a Nonprofit Exempt Organization? 5 Steps to Legal Success

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You have a purpose, a vision, and a plan to make it all happen — and now it's time to legally establish your nonprofit organization.

Generally speaking, as long as your organization exists for religious, charitable, scientific, literary, or educational purposes, it qualifies as a nonprofit that is eligible for state and federal tax exemption under Section 501(c)(3). Other exemptions exist, too, for social welfare organizations, labor unions and business leagues under other 501(c) designations.

In the state of California, as well as many other states, you first need to form a nonprofit corporation. You will then apply to be recognized as a 501(c) organization with tax-exempt status. That's how it works in a nutshell, but let's take a look at some of the steps you'll need to take along the way.

1) Start with the basics

First things first: your nonprofit needs a name, at least one director (but best practice – and what the IRS expects – is three independent directors), and a structure. The name can't be too similar or identical to an existing nonprofit name on record, it can't be misleading to the public, and it can't infringe on anyone else's trademark rights.

Then you will decide on one of the four possible nonprofit corporate structures:

- A religious corporation.
- A public benefit corporation (for charitable purposes).
- A mutual benefit corporation (not for a public, charitable, or religious purpose – and many times a 501(c)(4) or (c)(6))
- A mutual benefit common interest development (CID) corporation (for a common interest development such as a homeowner's association).

2) File your nonprofit articles of incorporation

Make your nonprofit entity official by filing articles of incorporation with the California Secretary of

State. The articles will contain information like the name of your entity, street and mailing addresses, and a statement that identifies your corporation as a nonprofit. For tax-exempt status, you will also need to include a few other specific statements, like your nonprofit's purpose and an acknowledgment that it will not engage in prohibited activity.

3) Draft bylaws for your nonprofit

Your nonprofit needs bylaws to dictate the rules and procedures you'll need to manage the corporation's affairs. They must comply with California law, and they'll need to be filed with the California Attorney General's Registry of Charitable Trusts.

Your bylaws might include guidelines for the following, to name a few:

- How you will hold and conduct meetings;
- How you will elect officers and directors;
- What the duties and responsibilities of the officers will be.

4) Hold a board of directors meeting

You will adopt your bylaws, approve initial transactions, appoint officers, and take other preliminary actions in your nonprofit's first board meeting. Make sure to record accurate meeting minutes and keep copies in a safe place.

5) Apply for your income tax exemption

Your established nonprofit corporation can now apply for federal and state tax exemptions. File Form 1023 or 1023-EZ (for smaller nonprofits) with the IRS for federal tax-exempt status. Then, for tax exemption with the state of California, you will file either Form 3500 or 3500A with the Franchise Tax Board.

... and a final step for California Nonprofit Public Benefit Corporations

Don't forget to register with the California Attorney General's Registry of Charitable Trusts. For this registration, you would complete the CT-1 and attach all of your formation and exemption documents (along with a fee). Check with an attorney to make sure you don't forget about any other state reporting or registration requirements that might apply to your particular nonprofit.

Ready to get started? Remember that a qualified tax and business lawyer can help you avoid costly mistakes on your forms, create effective bylaws, and stay compliant with laws and regulations. For Purpose Law Group has the knowledge and experience to guide you through the process step by step. To start your nonprofit exempt organization off on the right foot, give us a call.