



**Sustainable
Economies
Law Center**



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Writing Nonprofit Bylaws

a guide for worker self-directed organizations

Want to see a recorded presentation of this toolkit?

Click here for a 90-minute workshop on using this toolkit to draft participatory bylaws:



https://youtu.be/MY_DiRAPgLo



Quick Disclaimer:

- The following guide is not legal advice. This is purely information for the sake of creativity and empowerment.
- The law that applies to a nonprofit's governance differs based on what state it is incorporated in. Most states' laws are very similar, but there are some important differences. **This slideshow is based on California law.**
- You'll probably want to check in with a lawyer in your state.

Using this Guide:

This guide is designed to help you facilitate conversations within your organization to create bylaws that reflect your organization's structure and culture. **Feel free to make a copy of this slideshow so you can work through it and make changes with your group.**

We will walk through 21 sections that you might include in your bylaws. Each section includes an **explanatory slide [those with green headers]** and a **sample bylaws clause [those with orange headers]**.

With your organization, you can move through this slide deck, have a conversation about each topic, and then either create a new clause or build off the sample included here. The explanatory slides include a lot more detail in the presenter notes beneath each slide. We recommend that at least one person from your organization read these in detail before engaging in a broader conversation with your organization.

And yes, your bylaws can be in a slideshow format if you want! Choose whatever format will work best for your group. [You can find all the sample clauses in one document here.](#)

DON'T FORGET THE SPEAKER NOTES!

Most slides have additional important information in the speaker notes below the slide -- don't forget to read these too!



What Are Bylaws?

Written agreements about power, decision making, and values.

Bylaws are the private law that applies within the organization. As long as they don't violate state law, they will be the rules by which the organization is governed, and they will be the rules enforced by the state in the event of a lawsuit.

Why Should I Care About Bylaws?

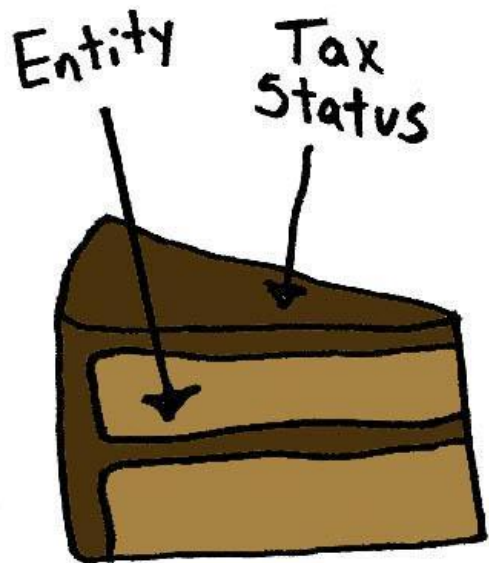
- Helps people know how to work together
- Supports clarity and transparency
- Increases (or decreases) access to power
- Allows organization to change over time
- Opportunity for popular education

Your state + the IRS

You incorporate your entity with your state. In California, most “nonprofits” are incorporated as Nonprofit Public Benefit Corporations.

Tax status comes from the Internal Revenue Service, a federal agency. Most “nonprofits” receive recognition of exemption under Section 501(c)(3) of the Internal Revenue Code.

Throughout this guide, the term “nonprofit” refers to a California Nonprofit Public Benefit Corporation organized to satisfy 501(c)(3) law.



What *needs* to be in the bylaws for nonprofit public benefit corporations?

Legally required by State (CA)	<ul style="list-style-type: none">- Number of board members- Method of director selection- Officer roles (At least: Chairperson, secretary, Treasurer)- Regularity of Board meetings
Required For Tax Exemption	<ul style="list-style-type: none">- Purpose Clause- Dissolution Clause
Practically Speaking	<ul style="list-style-type: none">- Board Function- Board decision making norms- Term length of board members
IRS 990	<ul style="list-style-type: none">- Conflict of interest- Whistleblower- Document retention and destruction- Compensation Determination

What can be in the bylaws?

Collaboration Agreements	Gratuitous Detail	Legal Formality
<p>These describe how we work together. They address topics such as:</p> <ul style="list-style-type: none">● Values● Decisionmaking bodies● Voting● Membership● Boards of directors● Power distribution	<p>Many bylaws contain detailed specifications for how to act in unlikely scenarios such as:</p> <ul style="list-style-type: none">● Distributing assets upon dissolution● Making loans to directors● When improper notice of a Board meeting is given <p>*Gratuitous detail can be important. Often if you don't specify what happens, then State law will control.</p>	<p>Bylaws also often contain statements that pretty much mean “we will comply with this particular law.” It is good to put them in there so that board knows what the law is, and there is record they they knew about it.</p> <p>Some examples are:</p> <ul style="list-style-type: none">● Dedication of assets to purpose● Duty of Loyalty● Statement of prohibited activities

The Process of Writing Bylaws

- Start with basics and build them out as necessary
- Enable participation
- The process matters as much as the product

If the journey to your bylaws includes real conversation between real people about things that they really do need to clarify, then the written document becomes the output of a very important process of alignment building.

If the journey to bylaws involves paying a lawyer to create a 30 page document that you will have to pay another lawyer to interpret for you, then the bylaws will likely just gather dust somewhere.

What happens if we don't write bylaws?

- It won't matter, until it does
- Boards won't have guidance or guardrails
- State law will control
- Lack of clarity and transparency

Will we be sued if we mess up?

- **Probably not.** There isn't an agency that is looking for orgs to sue for their bylaws. It will really only become relevant if your breach fiduciary duties, encounter deep conflict with your board, or have fracture with staff.
- **Lawsuits are about more than the law.** They are about fractured relationships.
- **You can't really "mess up."** There are very few strict requirements for your bylaws, and most of the creative governance solutions are within the bounds of the law.

Bylaws, Incorporation, and Tax-Exempt Application

- You do not need fully developed, values aligned bylaws ready before applying for tax exemption.
- Getting your bylaws and governance structure where you really want it can be a long process.
- In many cases, it can be wise to use simple preliminary bylaws to get yourself going and to include on your application for tax exemption, then take the time to change them over time.

Starter Bylaws

Check out these [starter bylaws](#) for a short and simple document that could be adopted while your organization develops a more democratic organizational structure.

Starter Nonprofit Bylaws

to be used alongside this guide to creating more participatory and democratic bylaws

BUILD-A-BYLAW

SECTIONS OF BYLAWS

1. [Purpose Clause](#)
2. [Mission Statement](#)
3. [Values](#)
4. [Management Principles](#)
5. [Power-holding Groups](#)
6. [Accountability](#)
7. [Strategy Process](#)
8. [Role of the Board of Directors](#)
9. [Board Meetings and Notice](#)
10. [Board Decision Making Norms](#)
11. [What decisions require board approval?](#)
12. [Board Member Roles](#)
13. [Selecting the Board](#)
14. [Board Qualifications](#)
15. [Employee Compensation](#)
16. [Binding the Organization](#)
17. [Conflict of Interest](#)
18. [Whistleblower Policy](#)
19. [Amending these Bylaws](#)
20. [Document Retention](#)
21. [Dissolution](#)

Purpose Clause

What tax-exempt purposes does your organization serve?

Sample: Purpose Clause

“The organization is organized exclusively for charitable, religious, educational, and scientific purposes under section 501(c)(3) of the Internal Revenue Code, or corresponding sections of any future federal tax code.”

“The organization is organized to provide relief of the poor through direct services to increase access to housing.”

Mission Statement

What is the purpose of your organization?

How does it contribute to the world you want to see?

How does it relate to other groups working toward similar goals?

Sample: Mission Statement

Sustainable Economies Law Center cultivates a new legal landscape that supports community resilience and grassroots economic empowerment. We provide essential legal tools - education, research, advice, and advocacy - so communities everywhere can develop their own sustainable sources of food, housing, energy, jobs, and other vital aspects of a thriving community.

Values

What values will anchor your organization's activities?

How do you want to relate to each other and behave inside your organization?

Are their values or principles you want to guide your programs or activities as an organization?

Sample: Values

Participatory Governance:

People involved in and touched by our organization deserve to be a part of the decisions that impact them. Power and decision making structures that involve people with direct experience of issues are not only more supportive of personal sovereignty, but also more effective in achieving goals.

Radical Inclusivity:

We are creating a space where all people can belong, regardless of nationality, religion, race, class, gender, sexual orientation, ability, or any other dimension of their experience. We acknowledge that we live within and have been conditioned by a system that centers some dimensions of humanity at the expense of others. In order to create a radically inclusive space we must take proactive steps to elevate the people, identities, cultures, energies, and characteristics that our dominant system marginalizes.

Power With, Not Power Over:

We are creating a space where all people can step fully into their power. We support each other to exercise our power in ways that support the power, visions, and development of one another. We interrogate and transform relationships where one person's empowerment relies on the disempowerment, control, or coercion of another.

Accountable Solidarity:

Our work and our liberation is deeply bound together with many communities. We foster relationships and understandings that will allow us to do our work in a way that uplifts all people. We recognize that this requires taking proactive steps to ensure our activities do not unintentionally reproduce the oppression of the dominant system by excluding the needs of women, people of color, indigenous people, disabled people, or any other group that is often denied voice in the decisions that impact them. We engage in the ongoing practice of solidarity, and remain open to feedback from all communities we touch.

Management Principles

How will you coordinate activities inside your organization?

How will you make decisions, delegate, and be accountable to each other and your work?

Sample: Management Principles

The organization is managed through participatory processes designed and stewarded by the staff. These processes include input from external stakeholders when appropriate. The processes are expected to emerge over time in response to the activities of the organization. Staff is responsible for maintaining a self-management handbook that details the practices they are using to coordinate their activities. The Board monitors and supports staff self-direction.

The following four rules are general guidelines to inform the creation of participatory management structures.

1. People with the most direct experience of issues have the most insight into what action is best.
2. People who are affected by decisions should have the power to influence those decisions.
3. Professional and technical expertise should be leveraged to support, not overpower, the voice and needs of those directly connected to the issue.
4. People and teams that are not directly connected to impacted communities can be useful to help coordinate collective action, support logistics, and hold long term concerns (like financial planning), but can also run the risk of mistakenly consolidating power and breaching principles one through three.

Power-holding Groups

What groups make decisions? What decisions do they make? Who is in these groups?

Is there a board? A management team? A strategy team? A policy team? Others? What is the role and power of each?

Sample: Power Holding Groups

General Circle:

The General Circle is comprised of all staff members. This body sets policies for the organization, makes high-level decisions about strategy implementations, delegates decisions and activities to appropriate program circles, and approves creation of program circles.

Program and Admin Circles:

Program circles are comprised of staff and, when appropriate, external partners. These circles are responsible for fulfilling the purposes that have been defined for them by the General Circle. The exact number, configuration, and membership of these circles will change over time. Members of these circles have the power to make decisions and execute their purpose in accordance with their best judgement. If their activities will impact another circle or the organization as a whole, they must seek advice/input from other affected people.

Board of Directors:

The Board does not direct the on-the-ground work of the organization. Rather, the Board primarily directs

the processes of governance that enable staff to accomplish the on-the-ground work. For more information on the role of the board, see the “Board Role,” “Board Approval,” and “Board Member Roles” sections below.

Financial Management Team:

The financial management team is comprised of staff members and one board representative (the Financial Owl, more info below). This team is responsible for ensuring responsible banking, accounting practices, and financial transaction practices. They are also responsible for stewarding a participatory budgeting process, and ensuring the final product of that process is financially feasible.

Strategic Alignment Team:

The Strategic Alignment Team is comprised of representatives from the staff, representatives from impacted communities, representatives from partner organizations, and one board member (the “Mission Owl” defined below). This team helps staff reflect on their priorities and their impact on issues and people.

Accountability

Who outside your organization do you want to be accountable to?

What mechanisms exist to make this accountability real?

Sample: Accountability Statement (additional detail in notes)

There are three levels of accountability in the organization: Interpersonal, Intra-organizational, and Community.

Interpersonal: We foster a culture of direct and compassionate communication, personal growth, and acceptance. We encourage and welcome loving feedback about the impacts of our behavior on the work and our community.

We engage in a bi-annual self and peer review which gives us an opportunity to reflect on our own activities and get supportive reflections from each other.

Intra-Organizational: Decision-making bodies within the organization are accountable to one another. If a program circle makes a decision that might impact another program circle, they are required to get that other circle's consent. If a program circle makes a decision that impacts the organization as a whole, they are required to get the consent of the General Circle.

Community: Every member of our organization is expected to actively build relationships with people outside our organization that are impacted by our work. Our strategy is developed by the Strategic Alignment Team which includes representatives from those communities.

Sample: Accountability Group

Vision Protectors

Parts of the Bylaws are intentionally difficult to change, in order to prevent powerful stakeholders from steering the Organization away from its vision or pressuring the Organization to sell off assets intended for permanent community benefit. Any page of the Bylaws with a footnote that says “Amendment of this slide requires approval of Vision Protectors,” may not be changed without the approval of 2/3 of the below individuals (the “Vision Protectors”), if living.

A proposal to amend such a page must be sent to the below individuals by email with a request for written approval or disapproval and a deadline to respond within 50 days. Organization shall maintain records of all such communications. A Vision Protector will be presumed to have approved the change if, after Organization sends them two reminder emails spaced a week apart, they fail to respond with approval or nonapproval within 50 days of the first email.

The following Vision Protectors were approved with unanimous consent by the Board and Staff:

Strategy Process

How is your long term strategy created?

Who is involved in creating it?

How do you hold yourself in integrity with it?

How do you balance the benefit of planning in advance with the benefit of responding to emerging needs?

Sample: Strategy Statement

Strategy emerges from a worker-directed process that incorporates the input of community partners, impacted communities, and the board of directors. The board of directors helps the staff reflect on the efficacy of the process.

Role of Board of Directors

Generally speaking, what is the mandate of the board?

How do they relate to bodies such as staff or volunteers?

Sample: The Role of the Board

The Board does not direct the on-the-ground work of the organization. Rather, the Board primarily directs the processes of governance that enable staff to accomplish the on-the-ground work.

The role of the Board shall always be to fulfill its duty of care by:

- Closely monitoring the activities of the Organization,
- Regularly reviewing financials and budgets,
- Ensuring compliance with the law,
- Reviewing internal policies adopted by staff and ensuring that the staff is engaging in a participatory governance process that meets the standards described in these Bylaws,
- Intervening to change or make a decision when the Board reasonably believes that staff have made a decision, are contemplating an action, or have taken an action that is overly risky, illegal, threatening to the Organizations tax exempt status, or contrary to the mission of the Organization; any such intervention shall be temporary in nature until the Board is satisfied that the system of Staff Trustee governance can carry on, uninterrupted, to carefully govern and advance the mission of the Organization.

Board Meetings and Notice

How often should the board meet?

How can those meetings take place?

How are meetings called?

Sample: Board Meetings and Notice

The Board will meet at least **twice** per year, with at least **15** days notice. Any **2** Directors may call additional Board meetings with at least 2 days notice, and meetings may be virtual.

Organization may provide notice by mail, text message, email, or an electronic platform accessible to Directors.

Board Decision-Making Norms

When the board gathers, how will it make decisions?

What constitutes quorum?

Consensus? Gradients of Agreement? Vote?

How are meetings facilitated?

Sample: Board Decision-Making Norms

Quorum is considered **two-thirds** of voting board members.

All decisions are made through a consent-based process. When deciding, all board members can ask clarifying questions and voice reactions to the proposal. After questions are answered and reactions either responded to or incorporated as changes to the proposal, the meeting facilitator will ask if there are objections.

Any board member can object to a decision on the grounds it violates a fiduciary duty, does irreparable harm to the organization, or sets the organization backward in its mission.

A decision is adopted if there are no objections.

The board may make decisions outside of a meeting if all directors unanimously consent to the decision in writing. For the purposes of this Section only, “all directors” shall not include any “interested director” as defined in [Section 5233 of the California Nonprofit Public Benefit Corporation Law](#) and the Conflict of Interest Policy of these bylaws.

What Decisions Require Board Approval?

What are the specific decisions that will require board approval?

When does this happen via a proposal generated by staff or another body that is then brought to the board?

When does this happen via a board led process to generate the proposal?

Sample: Board Decision Matrix

Board Notice (but not approval)	Board Notice & Vote	Board Exclusive Authority
Annual Budget (Board can veto within 30 days)	Hiring and Firing Decisions	Amending bylaws or articles
Exceeding 80% of adopted healthcare budget	Change to Mission Statement	Adding or removing board members
Any staff decision made after considering a conflict of interest	Staff Compensation and Benefits	
	Asset purchase >\$50,000	

Board Member Roles

Are there specific roles held by individual board members?

How do these support the functioning of the board and organization?

Sample: Board Member Roles

The Organization shall have between 6 and 12 directors and collectively they shall be known as the board of directors. The number of directors at any given time shall be determined by the board. The minimum and maximum number may be changed by amendment of this bylaw. Board members shall serve 2 year terms.

Directors may remove a Director for any reason with approval of 2/3 of Directors and appoint someone to replace them.

The following roles and offices shall exist:

President - The President coordinates board logistics, facilitates board meetings, and sets board meeting agendas

Financial Owl (Treasurer) - The Financial Owl ensures the organization is using responsible financial management and accounting practices. They sit on the Financial Circle.

Legal Owl (Secretary) - The Legal Owl keeps board notes and ensures the organization has systems to remain compliant with relevant laws.

Governance Owl - The Governance Owl supports the creation of a staff self-management system through monitoring, reflection, and advice.

Mission Owl - The Mission Owl helps the organization reflect on whether its programs, strategy, mission, and vision are aligned.

Solidarity Owl - The Solidarity Owl helps the organization reflect on how well it is acting in concert with related organizations and impacted communities.

Selecting the Board

How will you select who is on your board?

By vote by existing board members? Applications? Membership vote?
Staff vote? Some combination?

Sample: Selecting the Board

Board candidates can be nominated by members of the staff or the board. Candidates are nominated for a particular role.

Any member of staff or board can object to a nominee on the grounds that they would (1) interfere with their ability to do their job in a way they cannot accept, (2) contradicts the values of the organization, (3) sets the organization back in its mission, (4) makes it so they can no longer participate in the group with integrity.

After any objections to nominees have been processed, board members are chosen using a majority vote of existing board members and staff.

If there are more than one nominee for a position, the vote is between the multiple nominees.

If there is only one nominee for the position, the vote is between that nominee and continuing the search process to find a better fit.

Board Qualifications

Who do you want on the board?

What identities and backgrounds do you want represented?

What specific skills do you want them to have?

Sample: Board Qualifications

The following are characteristics all board members should have:

- Compassionate communication
- Support of staff-directed participatory governance
- Familiarity with the issues the organization seeks to affect
- Demonstrated commitment to solidarity
- Awareness and ownership of their social identities
- We particularly value identities that are commonly marginalized

Additionally, board members must have the skills necessary to fulfill their roles (MORE DETAIL IN NOTES)

Employee Compensation Policy

How do you determine how much people are paid?

Are you making sure that you are not over-paying people and thus violating the restrictions on private benefit?

How will you make sure your practice is fair, just, and equitable?

What parts of your policy do you actually want in your bylaws?

Sample: Employee Compensation Policy

Employees shall be **fairly** compensated.

Either of the following two methods of determining compensation shall be presumed to be fair, though other methods of determining fairness may be applied:

- 1) The employees collectively chose and all voluntarily agree to their rates of compensation, and the Board approves it; or
- 2) Employees receive, at minimum, the amount considered by the MIT Living Wage Index to be a living wage for 1 Adult and 1 Child living in the County they reside in.

Employees shall be **equitably** compensated.

Either of the following methods of pay calculation shall be presumed to be equitable, though other methods of determining equitability may be applied:

- 1) All employees are paid at the same rate, or
- 2) The ratio of highest to lowest paid employee shall not exceed 2:1 and the exact rate of pay for employees is determined with substantial input from all employees.

Binding the Organization

Who can sign contracts and make binding commitments on behalf of the organization?

Sample: Binding the Organization

Any Officer may sign a document or make a binding commitment on behalf of Organization, and the Board may designate other people, such as certain Directors or staff, to do the same.

Conflict of Interest Policy

How will you make sure that decisions are made in the interests of the nonprofit and its mission, and not in the interests of the individuals making the decisions?

How will you identify when there is a risk of a decisionmaker choosing a direction that benefits themselves unfairly?

What checks and balances will you create to navigate that moment?

Sample: Conflict of Interest Policy

When the Board is thinking about entering into a transaction that might benefit the financial interest of a Director, the Board shall use the following process to vet the transaction.

Key definitions:

- **Interested Person:** A person who – personally or through a member of their household or family – has a direct or indirect financial interest, defined as:
- **Financial Interest:** Direct financial benefit from the transaction or an actual or potential ownership interest, investment, compensation interest, or governance role in an entity that the Cooperative is transacting with.

Investigating alternatives:

The deciding body may appoint a committee or another disinterested person to investigate alternatives to the proposed transaction.

Better Option is Available:

Using due diligence, the Board determines a more advantageous arrangement is possible without a conflict of interest.

Vote not to approve proposed transaction. ❌

No Better Option Exists:

The Board (not including the interested person) determines it's not reasonably possible under the circumstances to find a more advantageous arrangement without creating a conflict of interest.

The Board shall keep a written record of its decision process

May vote to approve the proposed transaction. ✅

START

Does someone deciding on the proposed transaction have an actual or potential financial interest?

Duty to Disclose:

The interested person should let the Board know. This could be through a presentation of facts given in writing or at a meeting.

Does a conflict of interest exist?

After a presentation and conversation with the interested person, the Board (not including the interested person) may discuss and vote on whether a conflict of interest exists.



If conflict of interest exists



If no conflict of interest exists

Whistleblower Policy

If someone notices that your nonprofit is engaging in illegal or unethical financial/accounting practices, how will you make sure they are encouraged to say something, and protected if they do?

Who should such practices be reported to?

Do you want to welcome “blowing the whistle” on other forms of unethical or misaligned behaviors?

Sample: Whistleblower Policy

Two Examples:

<https://blueavocado.org/hr-and-employment-issues/sample-whistleblower-policy/>

<https://www.councilofnonprofits.org/sites/default/files/Sample%20WhistleblowerPolicy%202.2010.pdf>

Amending the Bylaws

What process creates the proposed change?

How do you decide whether the change is accepted?

Sample: Amending these Bylaws

All changes to the bylaws must be approved by a two thirds vote of board members, and must receive consent from the staff via the collective decision making process defined in the staff handbook at the time of the bylaw change.

Document Retention and Destruction Policy

Where will you keep your original tax exempt application?

Where will you keep your yearly 990s?

Where will you keep other documents that could help the organization prove for itself what it has been doing? (i.e. employee records, contracts, insurance)

Sample: Document Retention and Destruction Policy

The Board will maintain meeting agendas, minutes, and financial statements.

Dissolution Clause

What will happen to your organization's assets in the event that you close your nonprofit?

Sample: Dissolution Clause

“Upon the dissolution of this organization, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.”

“Upon dissolution of this organization, all assets shall be distributed to [insert name of partner organization] in furtherance of their tax exempt purpose within the meaning of section 501(c)(3) of the Internal Revenue Code.”

Voila... you have bylaws!

Here's a recap of some helpful resources to see how it can all come together:

- Here's the full [template bylaws in document form](#)
- Here are more conventional "[starter](#)" [bylaws](#) for just getting started
- And here's another [sample set of bylaws from The Center for Dynamic Community Governance](#)

Where to Get More Hands On Support

Harmonize offers:

- Bylaw process facilitation and drafting
- Consultation to create other parts of collaborative organizational structures
- Strategic planning, conflict engagement, and culture building
- Blog about participatory organizations at [Writings](#)

Sustainable Economies Law Center offers:

- One time consultations for your organization
- On-the-spot legal advice at our [Resilient Communities Legal Cafe](#)
- Workshops, webinars, sample documents, and more at www.theselc.org/wsdn