





# 501(c)(3) Nonprofits and Dartmouth Organizations

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# Overview





# 501(c)(3) Nonprofit Corporation

- State Law
  - Governed by individual state codes
  - Organization must be “organized” under its state’s code as a nonprofit corporation
- Federal Law
  - Organization must be qualified as a “Tax-Exempt” organization under the Internal Revenue Code
- **Key Reminder:** Organization must operate in compliance with both state nonprofit and federal tax-exempt law



# Governing Documents





# Articles of Incorporation

- Must be organized for the benefit of society
- Purpose statement = mission
  - This statement needs to match across corporate documents, website, marketing materials, etc.
- Review state law to determine if any specific provisions can/should be included



# Bylaws

- Roadmap for the Board of Directors and Officers
- Should reflect actual board activities and organization's mission
- Organization should follow bylaws, including:
  - Mission
  - Director structure
  - Committee structure
  - Officers
  - Delegation of duties



# Best Practices





# Board Policies & Procedures

- Conflicts of Interest Policy
  - Recusals and written disclosures
  - Board members independent from one another and officers
- Ethics and Business Conduct Codes of Conduct
- Sarbanes Oxley
  - Whistleblower protections
  - Record Retention
- Financial & Internal Control Policies
  - Authorized signers (who may bind the Organization)
- Executive Compensation Policy (Larger organizations)



# Corporate Recordkeeping, Filing and Transparency

- Provide Articles, Bylaws and Form 990 to Board of Directors
- Keep permanent records (Board minutes & accounting records)
- State Filings
  - Annual Filings – generally with the Secretary of State
    - Update officers and registered agent
  - Fundraising Filings – if conducting raffles, door prizes or games of chance, may need to apply for a specific license
  - Lobbying Filings – if lobbying at the state level, may need to register as a lobbyist under the state’s ethics code (or other statute)
- Sunshine Law
  - Organizations that receive a third or more of their funding through direct allocation in a government budget or state law



# Financial Management

- Never co-mingle funds
- Create a financial committee and or audit committee
- Adopt clear financial policies
  - Whether and how a board member or an employee's travel expenses will be reimbursed
  - Board's role in review any compensation
  - How the organization's assets are being invested
  - System allowing individuals to report financial misconduct (whistleblower policy)
  - Restrictions on personal use of organization's funds (no private inurement or excess benefit)
- Keep clear records of donated funds (and any restrictions)



# Lobbying Efforts

- Under federal law, nonprofits are allowed to do some lobbying, but it cannot be a “substantial part” of the organization’s activities.
  - Two tests: facts and circumstances and expenditure
- Permitted Lobbying Activities:
  - Conducting public education and training sessions about the political process
  - Sponsoring a debate among **all** candidates
  - Meeting with policymakers about legislation
- Lobbying Activities Not Permitted:
  - Raising funds for candidates
  - Making campaign contributions
  - Publicly support or oppose candidates
  - During an election, comparing organization’s issue position with that of a candidate



# Questions?



**Thank you**