

# State laws for charitable organizations

## District of Columbia



This profile is part of a set of 51 profiles, including all U.S. states and the District of Columbia, which outlines state laws, regulations, and requirements that apply to charitable organizations. It covers six areas and highlights ways in which state laws differ from federal laws governing charitable organizations.



## Formation, Elections, Operation, and Dissolution

### Nonprofit Corporations

Nonprofit Corporation Act of 2010, D.C. Code § 29-401.

### Nonprofit Unincorporated Associations

Uniform Unincorporated Nonprofit Association Act of 2010, D.C. Code § 29-1101.

### Election of Directors

Must have a board of directors comprised of individuals, however, they do not need to be residents of DC. D.C. Code §§ 29-406.01-.02.

There must be at least 3 directors on the board. D.C. Code § 29-406.03.

The directors of a membership corporation, other than any initial directors named in the articles of incorporation or elected by the incorporators, shall be elected at the first annual meeting of members, and at each annual meeting thereafter, unless the articles or bylaws provide some other time or method of election, or provide that some or all of the directors are appointed by some other person or designated in some other manner. D.C. Code § 29-406.04(a)

The directors of a nonmembership corporation, other than any initial directors named in the articles of incorporation or elected by the incorporators, shall be elected, appointed, or designated as provided in the articles or bylaws. If no method of designation or appointment is set forth in the articles or bylaws, the directors, other than any initial directors, shall be elected by the board. D.C. Code § 29-406.04(b)

### Director Term

Unless the articles or bylaws provide otherwise, a director shall hold office for one year and until his/her successor is elected, appointed, or designated and takes office. No director shall be elected for a single term longer than five years, except for directors who are appointed by persons that are not members or who are designated in a manner other than by election or appointment. D.C. Code § 29-406.05.

### Meeting and Quorum Requirements

Quorum (Members): Unless the articles of incorporation or bylaws provide otherwise, a quorum shall consist of a majority of the votes entitled to be cast on the matter. D.C. Code § 29-405.24(a).

Quorum (Directors): Unless the articles of incorporation or the bylaws provide otherwise, a quorum of the board of directors consists of a majority of the directors. The articles of incorporation or bylaws may authorize a quorum to consist of no fewer than the greater of (1) 1/3 of the number of directors in office or (2) 2 directors. D.C. Code § 29-406.24.

Annual meeting of members is required. D.C. Code § 29-405.01(a).

### Officer Requirements

The officers of a nonprofit corporation shall be the individuals who hold the offices described in its articles of incorporation or bylaws or are appointed or elected in accordance with the articles and bylaws or as authorized by the board of directors. At a minimum, a nonprofit corporation shall have 2 separate officers, one responsible for the management of the corporation (President) and another responsible for the financial affairs of the corporation (Treasurer). The articles of incorporation or bylaws must assign to one of the officers the responsibility for preparing the minutes of meetings and for maintaining and authenticating the records of the corporation. The same individual may hold more than one office. D.C. Code § 29-406.40

### Officer Term

No relevant statute found.

### Dissolution

Dissolution is governed by D.C. Code § 29-412.

## Duties, Indemnification, and Interested Transactions

### Director Duties

A director shall discharge his or her duties in good faith, in a manner the director reasonably believes to be in the best interests of the nonprofit corporation, and with the care that a person in a like

position would reasonably believe appropriate under similar circumstances. D.C. Code § 29-406.30.

## Officer Duties

Each officer has the authority and shall perform the duties set forth in the articles of incorporation or bylaws or, to the extent consistent with the articles and bylaws, the duties prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the duties of other officers. D.C. Code § 29-406.41.

## Board Independence Requirements

No relevant statute found.

## Interested Transactions

Except as otherwise restricted in the articles of incorporation or bylaws, a conflict of interest transaction is not voidable by the corporation solely because of the director's, member's or officer's interest in the transaction if any of the following is true:

(1) The material facts as to the relationship or interest and as to the contract or transaction are disclosed or are known to the board of directors and the board in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors even though the disinterested directors may be less than a quorum;

(2) The material facts as to the relationship or interest of the member, director, or officer and as to the contract or transaction are disclosed or are known to the members entitled to vote thereon, if any, and the contract or transaction is specifically approved in good faith by vote of those members; or

(3) The contract or transaction is fair as to the corporation as of the time it is authorized, approved, or ratified by the board of directors or the members. D.C. Code § 29-406.70.

## Indemnification of Directors/Officers

Permissive indemnification of directors is governed by D.C. Code § 29-406.51.

**Mandatory Indemnification of Directors:** A nonprofit corporation shall indemnify a director or officer to the extent the director or officer was successful, on the merits or otherwise, in the defense of any proceeding to which the director or officer was a party because the director or officer was a director or officer of the corporation against reasonable expenses incurred by the director or officer in connection with the proceeding. D.C. Code § 29-406.52.

Permissive and mandatory indemnification of officers is governed by D.C. Code § 29-406.56. Officers who are not directors are entitled to mandatory indemnification under D.C. Code § 29-406.52 to the same extent a director may be entitled to indemnification.

## Loans to Directors, Officers, or Employees

Nonprofit corporations cannot lend money to or guarantee the obligation of a director or officer. This does not include:

- (1) An advance to pay reimbursable expenses reasonably expected to be incurred by a director or officer;
- (2) An advance to pay premiums on life insurance if the advance is secured by the cash value of the policy;
- (3) Advances pursuant to part E (indemnification) of this subchapter;
- (4) Loans or advances pursuant to employee benefit plans;
- (5) A loan secured by the principal residence of an officer; or
- (6) A loan to pay relocation expenses of an officer.

A loan advanced in violation of this statute does not affect the liability of the obligor to the corporation.  
D.C. Code § 29-406.32.

## Notable Departures from Federal Law

### Religious/Church Exemption

Religious organizations that have been granted exemption from taxation under § 501 of the Internal Revenue Code are exempt from registration requirements for solicitations. D.C. Code § 44-1703(b).

### Healthcare "Plus Factors"

No relevant statute found.

## General

### Rebuttable Presumption of Reasonableness - Delegation to Disinterested "Others"

Directors may rely on employees, officers, or volunteers to the nonprofit if the director reasonably believes the person is reliable and competent in the functions performed or materials provided. Directors may rely on legal counsel, public accountants, and experts retained by the corporation on matters the director reasonably believes fall within that person's professional or expert competence, or on matters on which that person merits confidence. D.C. Code § 29-406.30(f)(1-2).

### Charitable Solicitation Requirements

Persons making charitable solicitations must register unless those solicitations are made solely for a church or religious corporation or corporation/unincorporated association under supervision or control of a church or religious corporation, where that church or religious corporation is tax-exempt under § 501 of the Internal Revenue Code. No registration requirement, either, for persons soliciting solely for the American Red Cross or exclusively among the soliciting agency's members. D.C. Code § 44-1703.

### State-Specific Retention Policies

Corporate record retention requirements are established by D.C. Code § 29-313.01. Non-profit corporate record retention requirements are established by D.C. Code § 29-413.01, and are largely identical to those for regular corporations and includes minutes and records of the board and members for the past 3 years and all communications to members within the past 3 years, including financial statements.

## Personal Information Collection and Protection Laws

Without board's consent, membership list (in part or in whole) (1) cannot be obtained or used by any person, and (2) shall not be used (A) to solicit money or property, unless such money or property is to be used solely to solicit votes for nonprofit election, (B) used for any commercial purpose or (C) sold to any person. D.C. Code § 29-413.07

## Whistleblower Protection

Not specific to nonprofit organizations, the D.C. Code provides enforceable protection against retaliatory actions from government contractor employers or any entity receiving government funding under D.C. Code § 2-223.03 and § 2-381.04.

## State Volunteer Liability Law

Volunteer for a corporation is generally immune from civil liability unless injury arose from willful misconduct of volunteer; a crime; a transaction that resulted in improper personal benefit of money, property or service to the volunteer; or an act or omission not in good faith and beyond the scope of authority of the corporation under the D.C. Code or the charter. This section shall apply only if the corporation maintains liability insurance with a limit of coverage of not less than \$200,000 per individual claim and \$500,000 per total claims that arise from the same occurrence. This subsection shall not apply to any corporation having annual total functional expenses, exclusive of grants and allocations, of less than \$100,000, and which is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986). This section shall not exempt the corporation from liability for the conduct of the volunteer, but the corporation shall be liable only to the extent of the applicable limit of insurance coverage it maintains. D.C. Code § 29-406.90.

## Independent Audit Requirements

No statutory requirement that financial statements be audited by an independent accountant. See generally D.C. Code § 29-413.20.

## State Filing Requirements

Biennial report must be filed with the mayor's office with entity's name and jurisdiction of formation; name and street/mailling address of entity's registered entity; street and mailing address of entity's principal office; and name of at least one director. D.C. Code § 29-102.11.

## Model Acts

### Uniform Prudent Management of Institutional Funds Act

Adopted

### Uniform Prudent Investor Act

Repealed.

## Tax Exemptions

### Income Tax

Except to the extent that non-profits have unrelated business income or other income subject to tax under Internal Revenue Code §§ 511, 527, non-profits generally exempt from income tax. D.C. Code § 47-1802.01.

### Sales and Use Taxation

Nonprofit volunteer organizations are exempt from sales tax on food and drink delivered to persons confined to their homes. D.C. Code § 47-2005(18). For the first 5 events in a calendar year, sales at a charity auction or other fundraising activity by a nonprofit teaching hospital are also exempt. D.C. Code § 47-2005(7)(A).

### Property Tax Exemption

Property owned and operated by not for profit institutions used for public charity purposes principally in DC are exempt from property taxes. D.C. Code § 47-1002(8). Relevant specifically-exempted properties include hospital buildings belonging to and operated by non-profit organizations, as well as buildings and structures reasonably necessary and usual to the operation of a hospital. D.C. Code § 47-1002(9).

Churches, including buildings and structures reasonably necessary and usual in the performance of the activities of the church and buildings belonging to religious corporations or societies primarily used for religious worship, study, training and missionary activities, are exempt from real property tax. D.C. Code § 47-1002(13-14).

Any nonprofit organization receiving a real property tax exemption or abatement is required to file an annual report with the Office of the Chief Financial Officer including a description of the community benefits provided or an update on the progress of the community benefits identified in the act granting the tax exemption or abatement. D.C. Code § 47-4702(a).

### Miscellaneous Exemptions

N/A

General Resource:

<https://beta.code.dccouncil.us/dc/council/code/titles/29/chapters/4/>

### Disclaimer

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