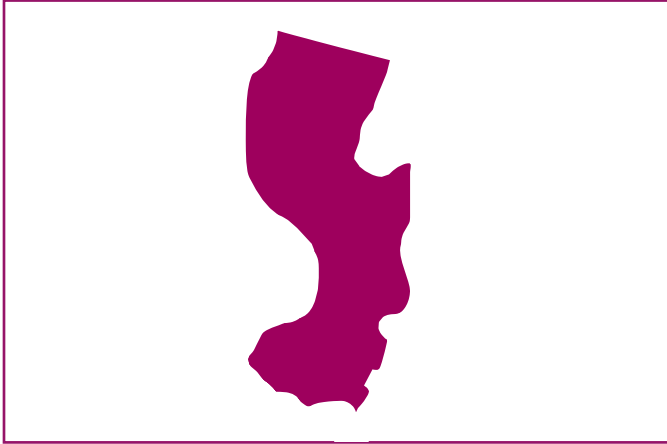


This profile is part of a set of 51 profiles, including all U.S. states and the District of Columbia, which outlines state laws, regulations, and requirements that apply to charitable organizations. It covers six areas and highlights ways in which state laws differ from federal laws governing charitable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



Formation, Elections, Operation, and Dissolution

Nonprofit Corporations

Title 15A: The New Jersey Nonprofit Corporation Act. NJ ST T. 15A.

Nonprofit Unincorporated Associations

No state-specific rule. According to the Nonprofit Law Revision Committee's notes attached to the statute, The New Jersey Nonprofit Corporation Act does not apply to unincorporated associations.

Election of Directors

Election of trustees is governed by N.J. Stat. Ann. § 15A:5-20. There shall be at least three trustees. N.J. Stat. Ann. § 15A:6-2.

Director Term

If the certificate of incorporation or the bylaws or any other applicable law provides that the trustees shall be elected by the members, the trustees named in the certificate of incorporation shall hold office until the first annual or biennial meeting of the members and until their successors are elected and qualified. If the certificate of incorporation or the bylaws or any other applicable law provides that the trustees shall be elected by the board, the trustees named in the certificate of incorporation shall hold office until the first annual or biennial meeting of the board of trustees and until their successors shall have been elected and qualified. The certificate of incorporation or the bylaws may provide that a meeting of the board to elect trustees shall be held at least once every two years. If a provision for a required meeting of the board is not set forth in the certificate of incorporation or bylaws, then the meeting shall be held annually.

N.J. Stat. Ann. § 15A:6-3.

A class of trustees shall not hold office for a term shorter than one year or longer than six years. The term of office of at least one class shall expire every two years. A classification of trustees shall not be effective prior to the first annual or biennial meeting of members or the board of trustees. N.J. Stat. Ann. § 15A:6-4.

Meeting and Quorum Requirements

Quorum (Members): Unless otherwise provided in the certificate of incorporation, the bylaws, or this act, the members entitled to cast a majority of the votes at a meeting shall constitute a quorum at the meeting. N.J. Stat. Ann. § 15A:5-9.

Quorum (Directors) A majority of the entire board, or of any committee thereof, shall constitute a quorum for the transaction of business, unless the certificate of incorporation or the bylaws shall provide that a greater or lesser number constitutes a quorum, which in no case shall be less than the greater of two persons or one-third of the entire board or committee, except that when a committee of the board consists of one trustee, then one trustee shall constitute a quorum. N.J. Stat. Ann. § 15A:6-7.

An annual or biennial meeting of the members shall be held at a time as may be provided in the bylaws, or as may be fixed by the board pursuant to authority granted in the bylaws, and, in the absence of such a provision, at noon on the first Tuesday of April. N.J. Stat. Ann. § 15A:5-2.

Officer Requirements

The officers of a corporation shall consist of a president, a secretary, a treasurer, and, if desired, a chairman of the board, an executive director, one or more vice presidents, and all other officers as may be prescribed by the bylaws. Unless otherwise provided in the bylaws, the officers shall be elected or appointed by the board. A corporation may provide alternative titles for those officers; provided that the certificate of incorporation or the bylaws specify which other officer titles correspond to the president, secretary and treasurer and that the alternative titles not be used in completing the annual report filed pursuant to § 15A:4-5. N.J. Stat. Ann. § 15A:6-15.

Officer Term

Any officer elected or appointed shall hold office for the term for which that officer is so elected or appointed and until a successor is elected or appointed and has qualified, subject to earlier termination by removal or resignation. N.J. Stat. Ann. § 15A:6-15 (West)

Dissolution

Dissolution is governed by N.J. Stat. Ann. Title 15A, Chapter 12.

A corporation may be dissolved in any one of the following ways:

- (1) by action of the incorporators or trustees pursuant to § 15A:12-2;
- (2) by action of the members pursuant to § 15A:12-3;
- (3) by action of the board and the members pursuant to § 15A:12-4;
- (4) by action of the board pursuant to § 15A:12-5;

(5) by action of the members pursuant to § 15A:12-6;
(6) by the filing of a certificate of dissolution pursuant to § 15A:12-7 upon expiration of any period of duration stated in the corporation's certificate of incorporation;
(7) by a judgment of the Superior Court in an action brought pursuant to §§ 15A:12-11, 15A:12-12, or 15A:14-2 or otherwise; or
(8) automatically by the Secretary of State revoking a certificate of incorporation as set forth in sub§ c. of § 15A:4-5.

N.J. Stat. Ann. § 15A:12-1.

Duties, Indemnification, and Interested Transactions

Director Duties

Trustees and members of any committee designated by the board shall discharge their duties in good faith and with that degree of diligence, care and skill which ordinary, prudent persons would exercise under similar circumstances in like positions. N.J. Stat. Ann. § 15A:6-14.

Officer Duties

All officers of the corporation, as between themselves and the corporation, shall have the authority and perform the duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board not inconsistent with the bylaws. N.J. Stat. Ann. § 15A:6-15 (West).

Board Independence Requirements

No relevant statute found.

Interested Transactions

N.J. Stat. Ann. § 15A:6-8 forbids interested transactions from being void or voidable solely by reason of common interest or trusteeship, if the contract or other transaction is fair and reasonable as to the corporation at the time it is authorized, approved or ratified and either: (1) the fact of the common trusteeship or interest is disclosed or known to the board or committee and the board or committee authorizes, approves, or ratifies the contract or transaction by unanimous written consent, provided at least one trustee so consenting is disinterested, or by affirmative vote of a majority of the disinterested trustees, even though the disinterested trustees be less than a quorum; or (2) the fact of the common trusteeship or interest is disclosed or known to the members, if any, and they authorize, approve or ratify the contract or transaction. N.J. Stat. Ann. § 15A:6-8 (West).

Indemnification of Directors/Officers

Indemnification is governed by N.J. Stat. Ann. § 15A:3-4.

Loans to Directors, Officers, or Employees

A corporation may lend money to, or guarantee any obligation of, or otherwise assist, any officer or other employee of the corporation or of any subsidiary. Loans are not permitted to officers or employees who are also trustees unless the loan, guarantee or assistance is authorized by the certificate of incorporation or bylaws and at least

two-thirds of the entire board, with the vote of the interested trustee not counted. N.J. Stat. Ann. § 15A:6-11.

Notable Departures from Federal Law

Religious/Church Exemption

Every non-profit corporation must file an annual report with the Secretary of State. N.J. Stat. Ann. § 15A:4-5.

See tax sections below.

Healthcare "Plus Factors"

No relevant statute found.

General

Rebuttable Presumption of Reasonableness - Delegation to Disinterested "Others"

The designation of any committee and the delegation thereto of authority shall not operate to relieve the board, or any member thereof, of any responsibility imposed by law. N.J. Stat. Ann. § 15A:6-9.

Charitable Solicitation Requirements

Charitable organizations that solicit funds within New Jersey must register with the Division of Consumer Affairs Charities Registration section unless specifically exempted under the Charitable Registration and Investigation Act, N. J. Stat. Ann. § 45:17A-18 et seq.

State-Specific Retention Policies

Each corporation shall keep books and records of account and minutes of the proceedings of its members and board and executive committee, if any. Unless otherwise provided in the bylaws, the books, records and minutes may be kept outside this State. The corporation shall make available for inspection at its registered office, in this State, or at its principal office if it is in this State, records containing the names and addresses of all members, the number, class and series of memberships held by each and the dates when they respectively became members of record thereof, within 10 days after demand by a member entitled to inspect them, as defined in subsection c. of this section. The foregoing books, minutes or records may be in written form or in any other form capable of being converted into written form within a reasonable time. A corporation shall convert into written form without charge any records not in that form, upon the written request of any person entitled to inspect them. N.J. Stat. Ann. § 15A:5-24.

Personal Information Collection and Protection Laws

No relevant statute found.

Whistleblower Protection

Whistleblower protection is provided by the Conscientious Employee Protection Act, N.J. Stat. Ann. § 34:19-1 et seq.

State Volunteer Liability Law

Certain criminal records may disqualify individuals from serving as an employee or volunteer of a nonprofit youth serving organization. N.J. Stat. Ann § 15A:3A-3.

No person who provides volunteer service or assistance for any nonprofit corporation, society or association as provided in P.L.1959, c. 90 (C.2A:53A-7 to 2A:53A-11), or nonprofit federation council or affiliated group composed of these organizations or a voluntary association as provided by P.L.1979, c. 172 (C.18A:11-3) or to a conference under the jurisdiction of such a voluntary association shall be liable in any action for damages as a result of his acts of commission or omission arising out of and in the course of his rendering the volunteer service or assistance. Nothing in this sub§ shall be deemed to grant immunity to any person causing damage by his willful, wanton or grossly negligent act of commission or omission.

Nothing in this subsection shall be deemed to grant immunity to any person causing damage as the result of his negligent operation of a motor vehicle. N.J. Stat. Ann. § 2A:53A-7.1(b), (d)(2).

Independent Audit Requirements

No relevant statute found.

State Filing Requirements

Every domestic corporation and every foreign corporation authorized to conduct activities in New Jersey shall file in the office of the Secretary of State, within the time prescribed by § 15A:4-5, an annual report. N.J. Stat. Ann. § 15A:4-5 (West)

Model Acts

Uniform Prudent Management of Institutional Funds Act

Adopted

Uniform Prudent Investor Act

Adopted

Tax Exemptions

Income Tax

Nonprofits are exempt from state income tax. N.J. Stat. Ann. § 54:10A-3(e).

Sales and Use Taxation

Corporations exclusively organized for charitable purposes are exempt from state sales and use tax. N.J. Stat. Ann. § 54:32B-9(b).

Property Tax Exemption

The New Jersey Constitution exempts from state property tax real and personal property owned by nonprofit corporations used exclusively for charitable purposes. N.J. Const. art. VIII, § 1, Paragraph 2.

Miscellaneous Exemptions

N/A.

General Resource:

<http://law.justia.com/codes/new-jersey/2013/title-15a>

Disclaimer

This manual is intended to be used as a practical and informative guide only, and is not a substitute for the advice of legal counsel. It is not to be considered comprehensive or to be used as legal authority for any purpose. Please note that the information provided within may not be accurate for many reasons, including but not limited to changes in applicable legal authority and the applicability of such authority in any particular circumstance is highly fact-specific and open to multiple interpretations. The information presented here is accurate as of 10/26/2016.