

Starting a Nonprofit Organization in California

Gene Takagi
May 31, 2006

You see a need, and you'd like to mobilize and direct appropriate resources to address that need. Starting a nonprofit organization may be a viable option, but you aren't very familiar with what that involves. Where do you start?

RESEARCH

The first step is to do some homework. Of course, you should research the need you are hoping to address. However, you should also research other applicable organizational issues and considerations, such as:

- Who will lead the formation of the Organization?
- Who will lead the operations of the Organization?
- Where will the Organization operate? Where will its principal office be located?
- Who will be served? How will they be served?
- Are there other organizations already addressing the need and/or serving your target service group? If there are, does it still make sense to form the Organization or would it be more effective and efficient to work within such an existing organization?
- How will the Organization differentiate itself from the existing organizations? What needs will it address that are not being and cannot be addressed by the existing organizations?
- Who will provide support to the Organization? Why?
- When will the Organization be established?
- When will the Organization receive its initial funding? Does the Organization have a viable plan to secure adequate funding to further its mission?

This memorandum is intended to provide accurate information with respect to its subject matter. It does not constitute legal or professional advice, and it is not an invitation for an attorney-client relationship. If specific legal advice is sought, the reader is advised to retain the services of a competent professional.

- When will the Organization carry out its activities? How is the Organization's funding tied to the expansion of its activities?
- Under what organizational form should the Organization operate?
 - Nonprofit or for-profit?
 - Corporation or unincorporated association?
 - Public benefit, mutual benefit or religious nonprofit corporation?
 - Membership or non-membership?
 - Tax-exempt under IRC 501(c)(3), 501(c)(4), 501(c)(6), other?
 - Fiscally sponsored?
 - If exempt under IRC 501(c)(3), public charity or private foundation?

RESOURCES:

California Attorney General's Guide for Charities:

http://ag.ca.gov/charities/publications/guide_for_charities.pdf

Exempt Organizations – “Nonprofit doesn't mean tax-exempt” – Franchise Tax Board:

<http://www.ftb.ca.gov/forms/misc/927.pdf>

Life Cycle of a Public Charity – IRS:

<http://www.irs.gov/charities/charitable/article/0,,id=122670,00.html>

IRS Publication 557 – Tax Exempt Status for Your Organization:

<http://www.irs.gov/pub/irs-pdf/p557.pdf>

Get Ready Get Set – California Management Assistance Partnership (C-MAP):

<http://www.cnmsocal.org/Services/GetReadyGetSet.pdf>

Starting a Nonprofit Organization by Carter McNamara:

http://www.managementhelp.org/strt_org/strt_np/strt_np.htm

Mancuso, Anthony. *How to Form a Nonprofit Corporation in California*, 11th ed. Nolo Press, 2005.

Not a Nonprofit? When to Use a Fiscal Sponsor – Community Resource Center:

http://www.crcamerica.org/resources/organizational_resources/sponsor.htm

Colvin, Gregory L. *Fiscal Sponsorship – 6 Ways to Do It Right*, 2nd ed. Study Center Press, 2005.

12 KEY STEPS FOR FORMING A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION EXEMPT UNDER IRC 501(c)(3) AS A PUBLIC CHARITY

1. **Define the mission and develop the organizational plan.**
 - Basics of Developing Mission, Vision and Values Statements by Carter McNamara: http://www.managementhelp.org/plan_dec/str_plan/stmnts.htm
2. **Recruit and educate a qualified board.**
 - BoardSource: <http://www.boardsource.org/>
Select from Q&As “Recruitment and Orientation” and “Roles and Responsibilities”
 - Four Cool Ideas for Recruiting New Board Members, Board Café:
<http://www.compasspoint.org/boardcafe/details.php?id=84>
3. **Refine the mission and the plan.**
 - What Should Our Mission Statement Say?
<http://www.idealists.org/if/idealists/en/FAQ/QuestionViewer/default?section=03&item=21>
4. **Draft and file the Articles of Incorporation.**
 - Organization of California Nonprofit, Nonstock Corporations, California Secretary of State:
http://www.ss.ca.gov/business/corp/pdf/articles/corp_artsnp.pdf
5. **Apply and obtain an Employer Identification Number.**
 - IRS Form SS-4: <http://www.irs.gov/pub/irs-pdf/fss4.pdf>
 - Instructions for Form SS-4: <http://www.irs.gov/pub/irs-pdf/iss4.pdf>
6. **Draft the Bylaws.**
 - Establishing a Nonprofit Organization, Establish bylaws and board policies, Foundation Center:
<http://foundationcenter.org/getstarted/tutorials/establish/bylaws.html>
7. **Draft the Conflict of Interest Policy*.**
 - * While not formally required, adopting a conflict of interest policy is a strongly recommended best practice.*
 - See Instructions for Form 1023, Appendix A: <http://www.irs.gov/pub/irs-pdf/i1023.pdf>

8. **Hold the first meeting of the board – elect the officers, adopt the bylaws and conflict of interest policy, establish the tax year, and take other appropriate board actions.**
 - What Takes Place at Our First Board Meeting, Connecticut Nonprofit Information Network:
<http://www.ctnonprofits.org/Pages/NonProfitResources/five.asp>
9. **Register with the California Attorney General’s Registry of Charitable Trusts.**
 - Initial Registration Checklist:
http://caag.state.ca.us/charities/forms/charitable/reg_form_checklist_05.pdf
 - Office of the Attorney General, FAQs: <http://caag.state.ca.us/charities/faq.htm>
10. **Prepare and file IRS Form 1023.**
 - IRS Form 1023: <http://www.irs.gov/pub/irs-pdf/f1023.pdf>
 - Instructions for Form 1023: <http://www.irs.gov/pub/irs-pdf/i1023.pdf>
 - form1023help: <http://www.form1023help.com/>
 - Blazek, Jody. *IRS Form 1023 Tax Preparation Guide*. John Wiley & Sons, 2005.
11. **Prepare and file FTB Form 3500.**
 - FTB Form 3500 & Instructions (2005):
http://www.ftb.ca.gov/forms/05_forms/05_3500bk.pdf
12. **File the Statement of Information with the Secretary of State.**
 - Statement of Information (Domestic Nonprofit Corporation), Form SI-100 & Instructions: http://www.ss.ca.gov/business/corp/pdf/so/corp_so100.pdf

Please visit www.nonprofitlawblog.com for additional information.

The author does not intend the resources referenced herein to be referrals or endorsements.