Notification Requirements for California Public Benefit Corporations:

*Change of Address, Name, Mission/Specific Purpose, Scope of Activities, or Other Significant Changes to Bylaws*

A California nonprofit may wish to make changes to the organization that could have tax and legal consequences. Certain changes, such as a change in address of the principal office, are routine. Others, such as a name change, a change in the mission statement, changes to the programs or services provided, or other significant changes to the organization’s bylaws may require more thought and documentation.

The following guide explains the required legal process for these changes, as well as possible legal concerns and ramifications. Some changes, in particular changes to an exempt organization’s program services and activities, could result in a revocation of tax exemption. A nonprofit should carefully consider the impact of these changes before implementation and should be prudent in documenting the changes within the organization and in its filings with the Internal Revenue Service and state regulatory agencies.

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This publication should not be construed as legal advice. Please contact an attorney if you need legal advice about any of the topics discussed in this publication.

Public Counsel’s **Community Development Project** builds strong foundations for healthy, vibrant and economically stable communities through its comprehensive legal and capacity building services for nonprofits that assist low income neighborhoods in Los Angeles County. If your organization needs legal assistance, or to access the latest version of this document, call (213) 385-2977, extension 200 or visit [www.publiccounsel.org/practice_areas/community_development](http://www.publiccounsel.org/practice_areas/community_development).
1. Change of Address

We have moved and the principal office is now at a different location. Do we need to notify any state or federal agencies? If so, how should we go about it?

First off, your nonprofit should check its bylaws and articles of incorporation (“articles”) to see whether the principal address has been drafted into either document. If so, the nonprofit should follow procedures outlined in the articles and bylaws to amend the applicable documents. Typically, the address does not appear in either the articles or the bylaws, and the bylaws will have language that permits a change of address by simple resolution of the board. Once the nonprofit has approved an address change within the organization by resolution of the board, it should notify the California Secretary of State, Internal Revenue Service (“IRS”), Franchise Tax Board (“FTB”), and California Attorney General.

Notifying the Secretary of State

To notify the Secretary of State of the nonprofit’s address change, the organization should include the new address on its biennial Statement of Information (Form SI-100). An organization may also choose to file an updated Statement of Information with its new address before its biennial due date.

Notifying the IRS

The IRS must be notified within sixty days by filing Form 8822-B if there is a change in the mailing address or business location. An affirmation letter (a letter from the IRS reflecting a change in your name or address) will be available by request if your donors or funder require this type of documentation. For more information on how to request an affirmation letter from the IRS reflecting your address change, please visit: https://www.irs.gov/charities-non-profits/exempt-organizations-affirmation-letters. In addition, the organization must also report the change in its next annual federal tax filing (Form 990, 990-EZ or 990-N, as applicable). On the Forms 990 and 990-EZ, a change of address is reported in Item B.

Notifying the FTB

The organization must file Form 3533 to notify the FTB of any change of address or business location. In addition, the organization should report its new address or business location on its next state tax filing (Form 199 or 199N, as applicable).

Notifying the Attorney General

An address change can be reported to the Attorney General on the nonprofit’s next RRF-1 by checking the box that states “Change of Address.” Additionally, an email can be sent to Registration@doj.ca.gov notifying the Attorney General’s Registry of Charitable Trusts of the address change.
2. Name Change

Our organization is contemplating a name change. What legal issues are involved? Do we need to notify any state or federal agencies? If so, how?

A nonprofit may choose to change its name for a variety of reasons. A name change may be part of a larger re-branding strategy or may be done in order to simplify the name or differentiate from other nonprofits with similar activities. However, a name change may have other consequences. Prior to changing its name, the nonprofit should check that the alternative name is available by searching for other registered corporations in California on the Secretary of State website here. If the name is available, it may be reserved for up to sixty days. For more information on how to reserve a name, please visit: http://www.sos.ca.gov/business-programs/business-entities/name-availability/.

A name change may necessitate a thorough review of the organization’s legal documentation, recurring contracts, and payment methods to ensure consistency. Additionally, if the nonprofit has strong name recognition with a previous name, it could confuse or alienate funders or recipients of programs and services or other members of the community. For more information on name changes in the nonprofit sector or on re-branding in general, see The Role of Brand in the Nonprofit Sector in the Stanford Social Innovation Review.

Once you have addressed the strategic challenges of a name change, you should look at your organization’s bylaws for the procedures required to incorporate the new name into the articles and bylaws by amendment. Note that under California law, a board may not delegate the authority to approve an amendment to the bylaws to a board committee.1 In addition, if your organization does elect to change its legal name, you must notify the California Secretary of State, IRS, FTB, and California Attorney General.

Notifying the Secretary of State

A name change must be reported as a Certificate of Amendment to the Secretary of State. Instructions on the format and necessary language of the Certificate and a sample are available here. The Certificate must be dated, signed and verified by the President and Secretary and must include the person’s name and title typed directly below their respective signature.

The Certificate may be mailed or delivered in person with a $30 application fee (as well as a $15 special handling fee for in-person drop-offs) to:

Secretary of State, Document Filing Support Unit
1500 11th Street, 3rd Floor
Sacramento, CA 95814

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Upon filing, the Secretary of State will return one uncertified copy as well as an additional certified copy for an additional $5 fee.

**Notifying the IRS**

A name change is considered a significant amendment to the articles and bylaws and should be reported in the organization’s next annual tax filing. A nonprofit filing the Form 990 should report the name change by checking “Yes” to Part VI, Line 4. Nonprofits filing Form 990-EZ should report the name change by checking the appropriate box in Item B and checking “Yes” to Part V, Line 34. All tax-exempt organizations must attach a description of the name change in Schedule O and unlike for other amendments, the organization may also attach copies of the amendments to the articles and bylaws reflecting the name change. An organization that normally files the Form 990-N should report any name changes in writing to the Exempt Organizations Determination office in Cincinnati (follow same procedure stated below for affirmation letter request).

An organization should not report the change in a request for an EO Determination letter (a letter from the IRS regarding the tax consequences of a past transaction). However, an organization may submit a request to the IRS for an affirmation letter reflecting the name change. To submit an affirmation letter request or to inform the IRS of a name change for a nonprofit that normally files the Form 990-N, the organization should include a copy of the amendment to the articles, proof of filing with the California Secretary of State, and a letter that includes the full name of the organization (both the prior name and the new name), the EIN, and an authorized signature from an officer or trustee of the organization (the individual signing the letter must state the capacity in which he or she is signing). This documentation may be transmitted by mail or fax to:

Internal Revenue Service  
Exempt Organizations Determinations  
Room 4024  
P.O. Box 2508  
Cincinnati, OH 45201  
Fax: (855) 204-6184

**Notifying the FTB**

A nonprofit filing the Form 199 may report the name change on its next state tax filing. On the Form 199, the name change can be reported by checking “Yes” for item I and attaching an explanation of the name change as well as the amended articles and bylaws. A nonprofit filing the Form 199N may report the name change to the FTB by sending a certified copy of the Certificate of Amendment filed with the Secretary of State and a cover letter that includes the full name of the organization (both the prior name and the new name), the EIN, and an authorized signature from an officer or trustee of the organization (the individual signing the letter must state the capacity in which he or she is signing).

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new name), the EIN, and an authorized signature from an officer or trustee of the organization to:

Exempt Organizations Unit MS F120  
Franchise Tax Board  
P.O. Box 1286  
Rancho Cordova, CA 95741-1286

**Notifying the Attorney General**

For California nonprofit corporations, the name change should be reported to the Attorney General on the organization’s next RRF-1. The organization can also attach its amended bylaws reflecting the name change to the RRF-1 or send them to the Attorney General separately at the below address as long as there is an accompanying cover letter indicating the corporation’s number and EIN number. Please note that for California charities the Secretary of State will transmit a copy of the Certificate of Amendment reflecting the name change to the Attorney General per California Corporations Code Section 5817.

Registry of Charitable Trusts  
P.O. Box 903447  
Sacramento, CA 94203-4470

**“Doing Business As”**

Instead of a legal name change, a nonprofit may choose to operate under a fictitious business name, also known as “doing business as” or “DBA.” In California, a nonprofit is not required to file a Fictitious Business Name Statement. However, the nonprofit is required to report all DBA designations to the IRS and FTB if filing the state tax return 199N. The DBAs should be reported in Item C on the Form 990, or if all DBAs will not fit in the space provided, should be attached in Schedule O.

However, your nonprofit should not contract using the fictitious name (and should instead use the legal name as it appears in the articles). For more information on considerations when using a DBA in California, please see **Be Judicious if Your Name is Fictitious: Tips for Nonprofits Using DBAs**.

3. **Editorial Change in Mission Statement or Specific Purpose**

*My organization’s mission statement is outdated and wordy. We’d like to modify the mission statement for better readability and to better reflect our activities. Do we need to notify any state or federal agencies? If so, how?*

A nonprofit should exercise caution in amending the organization’s mission or exempt purpose. While it is unlikely that a change in mission statement that is made simply to improve the language or to better communicate existing activities will have an adverse
effect, certain changes could impact the nonprofit’s tax-exempt status. For significant changes made to reflect a change in a nonprofit’s activities, programs, or operations, please see Section 4: Change in Mission that Reflects a Substantial Change in the Nonprofit’s Scope of Activities for more information.

A nonprofit’s mission statement is generally contained in the organization’s articles and bylaws as its “specific purpose.” As a result, changes to an organization’s specific purpose require an amendment to the articles and bylaws. Check your organization’s bylaws for board procedures necessary for amendments. Note again that under California law, the board may not delegate the authority to approve an amendment to the bylaws to a board committee.³

**Notifying the Secretary of State**

An amendment to the articles that reflects a change in the nonprofit’s mission or specific purpose requires notification to the Secretary of State as a Certificate of Amendment. A sample and instructions may be found here. The Certificate must be dated, signed and verified by the president and secretary of the corporation and include the person’s name and title typed directly below their respective signature. Upon filing, the Secretary of State will return one uncertified copy as well as an additional certified copy for an additional $5 fee. The Certificate may be mailed or delivered in person with a $30 application fee (as well as a $15 special handling fee for in-person drop-offs) to:

Secretary of State, Document Filing Support Unit  
1500 11th Street, 3rd Floor  
Sacramento, CA 95814

**Notifying the IRS**

An organization’s mission is normally reported in Part I, Line 1 and Part III, Line 1 of the Form 990. Changes to the organization’s mission statement should be reported in Part VI, Line 4 of the Form 990 or Part V, Line 34 of the Form 990-EZ. The changes should also be described in Schedule O. Copies of the amendments reflecting the changes in mission statement should not be attached and the organization should not recite the entire amended document verbatim. Also, the organization should not submit these changes in a request for an EO Determination Letter.

An organization that normally files the Form 990-N should report any changes to its mission/purpose in writing to the Exempt Organizations Determination office in Cincinnati. The organization should include a certified copy of the Certificate of Amendment filed with the Secretary of State and the signed amended bylaws reflecting the mission/purpose changes along with a letter that includes a description of the changes, the full name of the organization, the EIN, and an authorized signature from an officer or trustee of the organization (the individual signing the letter must state the capacity in which he or she is signing). This letter may be transmitted by mail or fax to:

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Internal Revenue Service  
Exempt Organizations Determinations  
Room 4024  
P.O. Box 2508  
Cincinnati, OH 45201  
Fax: (855) 204-6184  

**Notifying the FTB**

A nonprofit filing the Form 199 may report the changes to its mission or specific purpose on its next state tax filing. On the Form 199, the changes can be reported by checking “Yes” for item I and attaching an explanation of the changes as well as the amended articles and bylaws.

A nonprofit filing the Form 199N may report the changes to its mission or specific purpose to the FTB by sending the amended bylaws and a certified copy of the Certificate of Amendment filed with the Secretary of State as well as a cover letter that includes the full name of the organization, the EIN, an explanation of the changes, and an authorized signature from an officer or trustee of the organization to:

Exempt Organizations Unit MS F120  
Franchise Tax Board  
P.O. Box 1286  
Rancho Cordova, CA 95741-1286

**Notifying the Attorney General**

If the nonprofit decides to make an editorial change to its mission or specific purpose, it should send the amended bylaws reflecting the change to the Attorney General at the below address with an accompanying cover letter indicating the corporation’s number and EIN number. Please note that for California charities the Secretary of State will transmit a copy of the Certificate of Amendment reflecting the change in mission/specific purpose or other changes to the Attorney General per California Corporations Code Section 5817.

Registry of Charitable Trusts  
P.O. Box 903447  
Sacramento, CA 94203-4470

4. **Change in Mission that Reflects a Substantial Change in the Nonprofit’s Scope of Activities**

*My organization is contemplating a change in activities that wouldn’t fall under the umbrella of our existing mission statement. Can we accomplish these activities under our existing tax exemption? If so, how do we report these changes?*
A nonprofit should exercise caution when a change in its mission statement is made to reflect additional or changed activities. Under the charitable trust doctrine explained in further detail below, a nonprofit must use its assets only for the purposes outlined in its articles. Further, under federal law, an organization may only rely upon a prior determination of tax exemption “so long as there are no substantial changes in the organization’s character, purposes or methods of operation.”

Previous rulings or determination letters (including the initial exemption determination) “may not be relied upon if there is a material change inconsistent with exemption in the character, the purpose, or the method of operation of the organization.” Similarly, a tax exemption granted in California may be relied upon only so long as there are “no substantial changes in the law or the organization's charter, purposes or method of operation.”

An organization’s FTB exempt status may be revoked if it does not “[c]onfine its activities to those permitted by the section under which the exemption was granted.” A California nonprofit should carefully consider making any major changes to its mission in order to avoid any adverse tax or corporate consequences.

**Charitable Trust and Pre-clearance from the Attorney General**

Under the charitable trust doctrine, assets of a nonprofit corporation may only be used for the specific charitable purposes set forth in the corporation’s articles of incorporation. A charity’s acceptance of assets “establishes a charitable trust for the declared corporate purposes…as though the assets had been accepted from a donor” who has expressly limited their use. If a nonprofit changes its purposes such that its new programs and activities are outside the scope of the purposes outlined in its articles, the nonprofit should only use funds acquired after the articles have been amended to fund the new programs and activities.

If, however, a nonprofit wishes to use assets acquired before the amendment to the articles to fund the new programs and activities and is unsure about whether these new activities fall within the scope of its original articles, the nonprofit may elect to seek pre-clearance from the Attorney General for a determination as to whether the proposed action is consistent with the requirements of a charitable trust. Such a ruling may be sought by writing a letter signed on behalf of the corporation by any officer or director of the corporation setting forth a detailed description of the proposed article amendment and all material facts concerning the article amendment. Material facts must include the reasons for the article amendment, the benefit such amendment will confer upon the corporation, whether the board of directors has approved the amendment, and the criteria used by the board of directors to evaluate and approve the amendment. The nonprofit

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4 Treas. Reg. § 1.501(a)-1T(a)(2).
5 Treas. Reg. § 601.201(n)(3)(ii).
7 Cal. Rev. and Tax. Code § 23777(c).
9 *In Re L.A. County Pioneer Society*, 40 Cal.2d 840, 852 (1953).
should also attach the following to the letter (except to the extent already on file with the Registry of Charitable Trusts): a copy of the corporation’s current financial statement as of a date within ninety days preceding the filing of the notice or request, a copy of the articles and any amendments to the articles, a copy of the bylaws and any amendments to the bylaws, and copies of all minutes of the meetings of the board of directors or committees of the board of directors which reflect any discussions or evaluations of the article amendment. The organization may provide a self-addressed pre-stamped envelope for the Attorney General to return to the organization with an acknowledgement of receipt.

Pre-clearance may be sought by submitting the above in writing to the Attorney General office which is located nearest to the principal office of the corporation on whose behalf the notice or request is submitted. The Attorney General will issue a response within sixty days of receipt of the request notifying the organization of approval or disapproval. All responses will be maintained in a “Public File” at the Registry of Charitable Trusts office in Sacramento.

**Notifying the IRS**

If an organization provided any new significant program services during an applicable tax year, then the organization is required to report these services in its next annual filing. If filing the Form 990, the organization should report changes in program services in Part III, Lines 2-4. If the organization ceased conducting or made any significant changes to the way it conducts a certain program or service, the change should be noted in Line 3 and an explanation should be provided in Schedule O. If the new or changed program or service was one of the organization’s three largest program services, this should be reported in Line 4, with detailed descriptions in Lines 4a-4c. If filing the Form 990-EZ, the organization should report changes to program services in Part V, Line 33. If the new or changed program or service was one of the organization’s three largest program services, this should be reported in Part III, Lines 28-30. To notify the IRS of a nonprofit’s change in mission, please follow the instructions provided in Section 3: Editorial Change in Mission Statement or Specific Purpose. In general, changes in program services should only be reported on the Form 990 or Form 990-EZ and should not be submitted to the EO Determinations office. The office no longer issues letters confirming the tax-exempt status of organizations with new services or significant changes to services.

An organization that normally files the Form 990-N should follow the instructions provided in Section 3: Editorial Change in Mission Statement or Specific Purpose to notify the IRS of changes to its mission and/or program services.

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11 Cal. Code Regs., tit. 11, § 999.2(d).
12 Attorney General, Charitable Trusts Section 455 Golden Gate Avenue, Suite 11000 San Francisco, California 94102; Attorney General, Charitable Trusts Section 300 South Spring Street Los Angeles, California 90013; Attorney General, Charitable Trusts Section 1300 I. Street P.O. Box 944255 Sacramento, California 94244-2550
If an organization is unsure about whether a proposed change in its mission/purpose or activities is consistent with its status as an exempt organization or as a public charity, it may want to request a private letter ruling from the IRS. However, for many nonprofits obtaining a private letter ruling is impractical given the high filing fees associated with such a request. For more information on requesting a private letter ruling, please visit: https://www.irs.gov/charities-non-profits/charitable-organizations/exempt-organizations-private-letter-rulings-and-determination-letters.

**Notifying the Secretary of State and the FTB**

To amend the articles to reflect the nonprofit’s change in mission, the nonprofit should notify the Secretary of State through the procedure outlined in Section 3: *Editorial Change in Mission Statement or Specific Purpose*. To notify the FTB of the nonprofit’s change in mission or program services, please follow the procedure outlined in Section 3: *Editorial Changes in Mission Statement or Specific Purpose*.

5. **Other Significant Changes to Bylaws**

*We’d like to update our bylaws to amend the duties of key officers, voting rights of board members, and conflict of interest procedures. Do we need to notify any state or federal agencies? If so, how?*

When a nonprofit makes significant changes to its articles or bylaws these changes must be reported to the relevant state and federal agencies. Per the IRS Form 990 and 990-EZ instructions, examples of significant changes include changes to the organization’s name (see Section 2: *Name Change*); the organization’s exempt purposes or mission (see Sections 3 and 4); the number, composition, qualifications, authority, or duties of directors, officers, or key employees; the role of the organization’s members in governance; the distribution of assets upon dissolution; provisions to amend the articles of incorporation or bylaws; the quorum, voting rights, or voting approval requirements of directors or members; the policies or procedures contained within the bylaws regarding compensation of officers, directors, trustees, or key employees, conflicts of interest, whistleblowers, or document retention or destruction; and the composition or procedures of an audit committee contained within the bylaws.\(^{13}\)

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\(^{13}\) Examples of insignificant changes made to articles or bylaws that are not required to be reported to the IRS include changes to the organization’s registered agent with the state and to the required or permitted number or frequency of governing body or member meetings. Do not report changes to policies described or established outside of the articles or bylaws (or similar documents), such as adoption of, or change to, a policy adopted by resolution of the board of directors.
Notifying the Secretary of State

To amend the articles to reflect any significant changes, the nonprofit should notify the Secretary of State through the procedure outlined in Section 3: Editorial Change in Mission Statement or Specific Purpose.

Notifying the IRS

Significant changes to an organization’s bylaws should be reported in Part VI, Line 4 of the Form 990 or Part V, Line 34 of the Form 990-EZ. The changes should also be described in Schedule O. Other than for a name change, copies of the amendments reflecting the changes should not be attached and the organization should not recite the entire amended document verbatim. Also, the organization should not submit these changes in a request for an EO Determination Letter.

An organization that normally files the Form 990-N should report significant changes to its bylaws in writing to the Exempt Organizations Determination office in Cincinnati. The organization should include a certified copy of the Certificate of Amendment filed with the Secretary of State (if amendments were also made to the articles) and the signed amended bylaws reflecting significant structural/operational changes along with a letter that includes a description of the changes, the full name of the organization, the EIN, and an authorized signature from an officer or trustee of the organization (the individual signing the letter must state the capacity in which he or she is signing). This letter may be transmitted by mail or fax to:

Internal Revenue Service
Exempt Organizations Determinations
Room 4024
P.O. Box 2508
Cincinnati, OH 45201
Fax: (855) 204-6184

Notifying the FTB

A nonprofit filing the Form 199 may report significant changes in its governing instrument, articles of incorporation, or bylaws on its next state tax filing. On the Form 199, the changes can be reported by checking “Yes” for item I and attaching an explanation of the changes as well as the amended articles and bylaws.

A nonprofit filing the Form 199N may report significant changes in its governing instrument, articles of incorporation, or bylaws to the FTB by sending the amended bylaws and a certified copy of the Certificate of Amendment filed with the Secretary of State (if amendments were made to the articles) as well as a cover letter that includes the full name of the organization, the EIN, an explanation of the changes, and an authorized signature from an officer or trustee of the organization to:

Exempt Organizations Unit MS F120
Franchise Tax Board
P.O. Box 1286
Rancho Cordova, CA 95741-1286

Notifying the Attorney General

Please follow the procedure outlined in Section 3: Editorial Change in Mission Statement or Specific Purpose.