



# WASHINGTON NONPROFIT CORPORATION ACT

UPDATED: December 1, 2021

## WHAT NONPROFIT LEADERS NEED TO KNOW

In 2021 the Washington State Legislature approved the new law, which will go into effect on January 1, 2022. Nonprofits are automatically subject to the new law. There may be changes to governing documents like bylaws that nonprofits may want to consider and obtain legal advice.\*

### Prior to 2022 (Ch 24.03 RCW)

### WNCA\*\* (Ch 24.03A RCW)

#### MODERNIZATION

Postal mail was required for official notifications such as announcement of special board meetings unless burdensome consent procedures are followed.

Did not allow for nonprofits to move from one state to another or convert from one entity form to another.

**Email notifications are acceptable** and expected as the default (automatic) method of delivering required notifications to members and directors. Consent is no longer required.

**Clearer and updated electronic meeting rules** that permit telephone or videoconference meetings and use of assistive technology for people with disabilities.

Provides for new **“fundamental transactions” that are becoming standard nationwide: domestication and conversion** (see below for additional info).

#### PROTECTION OF CHARITABLE ASSETS

The requirements to protect charitable assets and restrict their use to the required charitable purposes were scattered in state laws and unclear in their enforcement.

Sets out **new requirements to protect charitable assets and restrict their use to the required charitable purposes.**

- Adds a clear definition of “property held for charitable purposes”
- Provides more clarity and flexibility to distribute assets to another charitable organization in the event of dissolution.
- Provides rules for the treatment of charitable assets in the event of other major transactions.
- Aligns with the Uniform Prudent Management of Institutional Funds Act, a law that covers management of funds donated to charitable institutions. This law has been adopted in 49 states and the District of Columbia.
- Clarifies treatment of restricted gifts and allows modification of restrictions.
- Defines the Attorney General's authority to enforce the new rules, including limiting the Attorney General's power with respect to religious organizations to preserve the constitutional separation of church and state.

**\* This document is intended for educational purposes only. Legal information is NOT the same as legal advice. This document is not intended to create an attorney-client relationship. All situations are unique, so please consult with an attorney to obtain advice about how the law applies to your specific question.**

**\*\*The WNCA provides for flexibility. For most of these provisions, the standard applies “unless otherwise provided in the organization’s articles or bylaws.” Each organization can still set a higher standard for themselves.**



## Nonprofit Association of Washington

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WNCA\*\* (Ch 24.03A RCW)

## PROTECTION OF CHARITABLE ASSETS

\$10 annual registration fee.

**Increased annual registration fee** to provide resources for both educating nonprofits regarding their legal obligations and enforcement by the Attorney General's office. \$20 for nonprofits with revenues less than \$500K/year; \$60 for those with revenues more than \$500K/year.

## MEMBERSHIP

Unclear, incomplete guidance for corporations with voting membership.

**Clearer definition of a membership corporation with a more comprehensive set of rules for such corporations.** These provisions apply to corporations that provide in their articles or bylaws for members who elect the board of directors or vote on one or more fundamental transactions of the corporation, including

- Rules for admission and termination of members.
- Requirement for at least one member meeting per fiscal year.
- Default quorum and voting rules.

## GOVERNANCE

**Clearer provisions and updated language related to board governance.**

- Distinguishes between directors of a nonprofit corporation and trustees of a trust.
- Clearly states requirements for board size, officers.
- Provides default terms of one-year, default quorum and voting rules, and provisions for removal of directors and officers.
- Allows for use of remote communication methods.
- Defines a board committee as a board-created committee with board-delegated power, and limits voting members to board members. Other committees created by the Board that include non-board members are permitted and technically advisory.
- Provides rules to resolve a conflict of interest.

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WASHINGTON  
Secretary of State  
Corporations & Charities Division

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## GOVERNANCE

Did not address the issue of minor board members.

**Allows for youth (under 18 years old) to serve as board members.** No more than three or 1/3 of the directors, whichever is fewer.

## FUNDAMENTAL TRANSACTIONS

Unclear procedures for amending governing documents, mergers, and ceasing operations.

**Clearer, more detailed procedures for amending governing documents, merging with another organization, and ceasing operations.**

- Requires certain corporations to notify the Attorney General of intent to merge, domesticate, convert or dispose of assets.
- Provides clear rules for closing a nonprofit through voluntary dissolution, administrative dissolution or judicial dissolution.

Did not address the issue of domestication.

**Addition of domestication:** procedures by which a nonprofit incorporated in another state may become a Washington nonprofit corporation or a Washington nonprofit corporation may move to another state.

Did not address the issue of conversions.

**Addition of conversion:** procedures by which a nonprofit corporation may become another type of entity or another entity may become a nonprofit corporation. Charitable nonprofits may not convert to a for-profit entity.

## RECORD KEEPING

**More specific guidance regarding recordkeeping** and rights to inspection.

New limitations on the sharing of membership lists for commercial or solicitation purposes.

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