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# HOW TO START A NONPROFIT IN CANADA: EVERYTHING YOU NEED TO KNOW

BY KIRA MCDERMID &  
EMMA WOOD

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By Kira McDermid & Emma Wood

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**Carleton**  
University

Philanthropy and  
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## ABOUT THE AUTHORS

### KIRA MCDERMID

Kira has been working in the nonprofit and charitable sector for over 6 years, with experience in frontline program facilitation, community development, program management, and fundraising. She holds a Bachelor of Fine Arts in Dance from York University, and a Master of Philanthropy and Nonprofit Leadership from Carleton University. Both have been rich learning experiences that Kira draws from in her work and life.

Kira hopes this guidebook proves useful for individuals with great ideas for our communities, to help get them off the ground.

### EMMA WOOD

Emma is an MPNL Graduate and the founder of the Good Food Impact. For over 5 years, her work and research have focused on program development for various food insecurity projects. She holds an undergraduate degree in International Development Studies and Sustainable Agriculture & Food Systems from Trent University, and a postgraduate certificate in Food Security Studies from Ryerson University.

When developing the Good Food Impact, Emma wished for support to refer to, to help guide the process. She aspires for this guidebook to be a useful source for other innovators.

## CONTRIBUTORS

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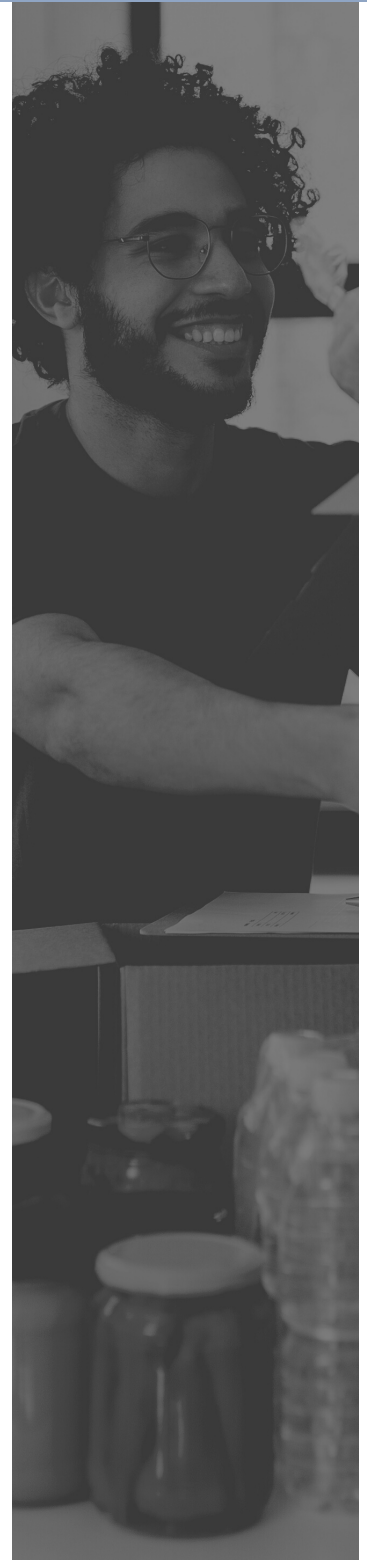
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# FOREWORD

Kira McDermid and Emma Wood are professionals working in Canada's nonprofit and charitable sector. They conducted the research and created this guidebook as a directed study as part of their Master of Philanthropy and Nonprofit Leadership program at Carleton University. The idea for the study stemmed from Emma's experience launching the Good Food Impact, a federally incorporated nonprofit. When the organization decided to incorporate, Emma started searching the internet and connecting with others who had gone through the same process to figure out how to incorporate a nonprofit in Canada. However, she found it difficult to find legitimate, well-researched information that was helpful, and when speaking with others, they voiced the same concerns. Once incorporated, the struggle continued to find more information on the next steps, like board development and financial management, and to know what tasks needed to happen in the first year.

This guidebook outlines how to start a nonprofit organization in Canada, with specifications for each province and territory and at the federal level. Additionally, this report provides newly formed organizations with the steps required during the first year of their existence. The nonprofit sector relies heavily on the work of volunteers and the ideas of good people, and this guidebook aims to help those good ideas come to fruition. Notably, there are many paths forward from an initially good idea. So this guidebook provides considerations and options for individuals to find the best way forward for their specific needs.



# METHODOLOGY

The knowledge in this guidebook comes from existing sources on the regulation of charities in Canada from government, academic and practice sources. Additionally, the authors conducted 12 interviews with four founders of nonprofits who started their respective organizations in the last five years and eight individuals with non-profit sector expertise, including experience in nonprofit law, finance, board development, and governance, or who have assisted new organizations in their first year of operations. The authors transcribed and coded the interviews to assess critical themes and best practices useful for individuals who want to start a nonprofit organization.

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# CONSIDERATIONS

## **BEFORE STARTING A NONPROFIT**

Starting a nonprofit organization is a significant undertaking. Before incorporating, there are three important considerations founders must explore. The first is to examine your motivations for embarking on this venture. Before starting a nonprofit organization, founders must self-reflect. Multiple interviewees cautioned against starting an organization for resume building or social clout. One expert advised that individuals should ask ‘why you?’ and ‘what makes you the right person for this role or to lead this organization?’

The second is to think through your business plan. With this information in mind, the third consideration is to explore the structures your organization could take, including grassroots, nonprofit, for-profit, or charitable.

## BUSINESS PLAN BASICS

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At the most basic level, creating a business plan involves researching, developing a plan that includes a funding strategy, identifying how this organization will be different from others already within the same market, and identifying potential partnerships, networks and contacts (Birnbaum, 2005). Multiple interviewees we consulted reiterated the importance of completing this step before incorporating and asking practical questions such as who will control the organization and where the funding will come from. One interviewee stressed the importance of doing market research, which includes looking for gaps in related services already existing within the sector and considering if other people would want to be involved and would support this sort of venture.

Founders should use the analysis from the business plan to identify the best form for their organization. It is crucial to understand that there is no requirement to incorporate. This decision should come from a thoughtful process where the benefits, risks, costs, and time required for maintaining incorporation are carefully considered (Volunteer Manitoba, 2020). Many interviewees, both founders and sector experts, recommended exploring the option of partnering with an existing organization rather than creating a new one. Consider what it is that you'll do better, more effectively, and more efficiently than programs or organizations already out there. Does this require incorporating and being a separate organization? This is a reflective process that founders should take seriously - collaboration can be much more effective in delivering your program idea within an umbrella of a more established and well-resourced organization, and cooperation could reduce competition for funding.

If creating a separate organization is the best path forward, founders should consider their options. These forms are: grassroots or unincorporated nonprofits; incorporated nonprofits; and registered charities. One interviewee strongly supported considering a for-profit model because you have to pay taxes only if you make money, and it comes with less oversight than charities or nonprofits face. This guidebook will focus on nonprofit incorporation, but founders would do well to consider the variety of forms their organization could take.

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## DO YOU NEED TO INCORPORATE?

Since formal incorporation is not a requirement, founders must carefully consider their path forward. First, founders should consider their motivations and how their unique skills and experiences make them the right person to lead this venture.

Second, founders should create a business or strategic plan to explore the opportunities and challenges associated with this venture.

Third, founders should carefully examine the form their

organization could take that best aligns with its mission and environment. **Crucial here is that incorporating as a nonprofit may not be the best fit.**



# CREATING A BUSINESS PLAN

When creating a business plan, the first step is to consider the organization's purpose and how it will achieve it. The Australian Charities and Not-For-Profit Commission (N.D.) has several practical guiding questions for charities we have adapted for nonprofit organizations.

- What will the non-profit try to achieve?
- What will its main activities be?
- What programs or services will it provide?
- Who is its target audience?
- Who will benefit from its activities and programs?
- Why is there a need for this new non-profit?
- How long will it last? Will it be for a one-off short-term project or an ongoing long-term venture?

This phase will likely require research on the environment and other organizations doing similar work within the sector. The second step should be considering the resources required for this venture and creating a funding strategy (Birnbaum, 2005). This could involve assessing what ongoing costs will be involved, what resources are already available to you, or what your staff and volunteer needs will be. Next, consider where it will operate. For example, will it operate locally, provincially, or federally (this may assist you in deciding whether to incorporate provincially/territorially or federally)? Finally, think through how the organization will be managed at the governance and operations levels. (Australian Charities and Not-For-Profit Commission, N.D.).

# CHARITY VERSUS NONPROFIT

While both non-profits and charities operate on a nonprofit basis, they are different. This distinction is important for founders to understand, especially when formalizing their organization.

According to the Canada Revenue Agency, **“Nonprofit organizations are associations, clubs, or societies that are not charities and are organized and operated exclusively for social welfare, civic improvement, pleasure, recreation, or any other purpose except profit”** (Government of Canada, 2016, para. 4), while **“Registered charities are charitable organizations, public foundations, or private foundations that are created and resident in Canada.**



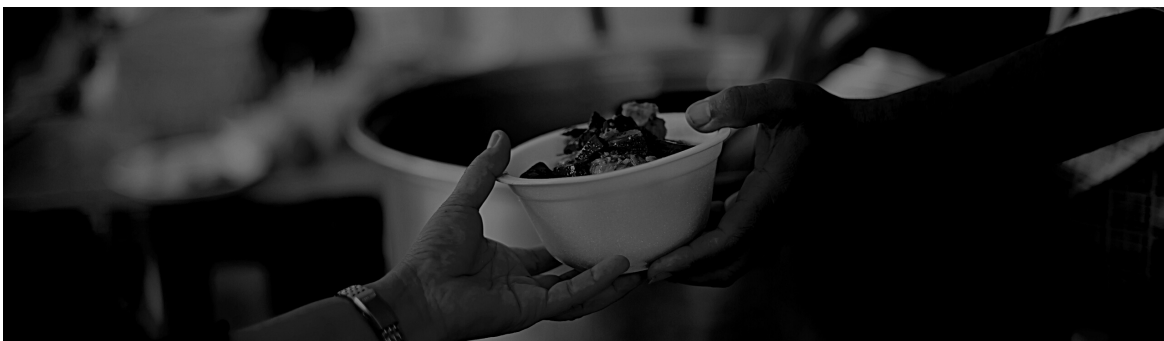
[Registered charities] must use their resources for charitable activities and have charitable purposes that fall into one or more of the following categories:

- the relief of poverty,
- the advancement of education,
- the advancement of religion,
- or other purposes that benefit the community” (para. 2).

Registered charities must apply to the Canada Revenue Agency (CRA) and be approved, can issue charitable tax receipts for income tax purposes, must meet the identified disbursement quota through spending a minimum amount on their charitable activities, or by granting funds to any individual or organization that can help further the charity's aims, and is exempt from paying income tax. Nonprofits do not have to go through a registration process for income tax purposes, cannot issue charitable tax receipts, do not have to follow a disbursement quota, and are generally exempt from paying income tax, though they may need to pay tax on property income or capital gains. Both charities and nonprofits cannot use their income to personally benefit their members (Government of Canada, 2016).

**"FOUNDERS SHOULD REVIEW THEIR BUSINESS PLAN  
TO ASSESS WHICH FORM BEST SUPPORTS THEIR  
FUNDING PLAN"**

Our interviewees brought up two primary considerations when deciding between a nonprofit or registered charity. If the organization's fundraising strategy relies on individual donors, the ability to give charitable tax receipts as a registered charity may be necessary. One interviewee explained that this ability is less critical if the funding will focus on government, corporate, or self-funded streams. Second, one founder shared that they decided to gain charitable status because they would be eligible for funding that fit their mission. Again, founders should review their business plan to assess which form best supports their funding plan.







# UNDERSTANDING THE COMMITMENT

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Maintaining a nonprofit organization is a heavy commitment that both founders and sector experts we interviewed emphasized. Many interviewees shared that there is a substantial administrative workload, often outside the founder's expertise. While many individuals want to start an organization because of a passion for a particular mission, they instead find themselves running day-to-day business operations, which may not be what they expect. In addition, starting a nonprofit is challenging and involves long days, often off the side of their desk while they work their day job, without an income at first. In fact, multiple founders we interviewed shared that it was many years before they could pay themselves. Many founders acknowledged the amount of privilege it takes to go without pay, noting: “There are probably a lot of amazing ideas out there that don't get started because that's just not feasible.” One founder shared that it was easier to get funding to hire employees than to gain funding to pay themselves. The heavy workload, administrative tasks likely outside of one's experience or skills, while often working another paid job, are all crucial considerations when deciding if starting and running a non-profit is a good fit.



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# SELF CARE

Starting and maintaining a nonprofit organization is incredibly taxing. Founders stressed the need for tools and strategies to make starting and running a non-profit sustainable and healthy. Shelly Tygielski (2021) states: “I define self-care as the practice of taking an active role in protecting one’s own well-being, pursuing joy, and having the ability, tools, and/or resources to respond to periods of stress so that they don’t result in imbalance and lead to a health crisis.”

One strategy that came up during our interview process was the recommendation to find support. Many founders shared the challenges of being a solo founder, and many would have gone back and asked for help more often. However, this is not without its challenges. One founder acknowledged the challenge of finding support economically or for free due to the small budgets available in the non-profit start-up phase.

Self-care will look different for each individual, and before starting, founders should consider what works for them and have strategies to take care of themselves and their well-being.

Below are resources for self-care to start creating and implementing a self-care plan.

- <https://nonprofitquarterly.org/the-power-of-self-care-a-bridge-to-communal-care/>
- <https://selfcare.ca/>

## FIVE QUESTIONS TO HELP PRIORITIZE SELF-CARE

Tygielski (2021) recommends considering five questions to help prioritize and develop self-care activities:

“How does the quality of my leadership diminish due to lack of my own self-care? Which habits negatively impact my self-care, and what new behaviours can I substitute for them? Do I have a self-care plan in place to ensure I follow up on new behaviours, and have I shared this plan with others who will hold me accountable? How will I track my progress along the way? How can I best support others in their self-care endeavors?”

# INCORPORATION

## WHY INCORPORATE?

For new organizations, the decision to incorporate is not one taken lightly, as there are extensive things to consider before incorporating. Incorporating can provide organizations with increased opportunities for funding, provide legal liability security to the founders and those involved, and is a reflection that the organization is a legitimate entity. When deciding whether to incorporate, founders must think about how they will fund the organization. Funders typically outline who is eligible to apply and receive funding from their organization. Typically, funders require the organization to be a registered nonprofit, if not a registered charity. Undoubtedly, incorporating as a nonprofit organization increases the availability of funding you are eligible to receive. When deciding whether to incorporate, the founders need to think about their current legal liability. As an unincorporated organization, the legal liability falls onto those involved in running the organization. By incorporating the organization it becomes a distinct legal entity, and the legal liability is removed from the individuals who comprise the organization and placed onto the organization as a whole. Further, an incorporated organization may be more appealing in the eyes of an outsider and may be considered more trustworthy than an unincorporated organization.

## DO I NEED TO INCORPORATE?

Similar to questions you need to ask yourself before starting an organization, asking yourself if you need to incorporate is an important step. Considering the 'why's' behind incorporation, founders need to evaluate their options to decide if incorporating is the best pathway forward for the organization. Rather than incorporating, the organization could:

- Remain a grassroots group
- Work with a registered charity
  - Either become tucked under the charity, with the charity acting as a trustee or an intermediary
  - Become a program of an existing charity, whose mission and values align with the values of the organization.
- Look to see who else is doing this work
  - There are numerous nonprofit and charitable organizations doing amazing work in our communities. Before deciding to incorporate, look to see who else is doing similar work and ask yourself, is an additional organization needed?

## FEDERAL VERSUS PROVINCIAL INCORPORATION

When choosing between federal and provincial incorporation, there is no right or wrong way to go. Rather it is dependent on the needs of your unique nonprofit that will debate whether federal or provincial incorporation is the best suit.

### **Federal**

- If your organization has a national scope (works across provinces) then federal incorporation is best.
- May need to apply for extra provincial registration in some provinces.
- Once you have your NUANS (see below) Federal name, you have the rights to it across the country - right to use your name across Canada

### **Provincial**

- If your organization plans to operate only in one province, then provincial incorporation is best.



So, you've decided to incorporate and have chosen if you are incorporating provincially or federally. Now what? Let's review a few more steps and considerations before pulling the trigger on incorporation.

Nearly every single interviewee urged engaging a non-profit lawyer to walk you through the incorporation process. While it is not necessary to engage a lawyer, it can be quite helpful especially if this is your first time going through the process. When incorporating, you are legally creating a corporation, and unless you are an expert in non-profit law, hiring a lawyer to walk you through the documents and explain your options is well worth the money. A non-profit lawyer can help you decide if provincial or federal incorporation is best, draft bylaws that fit your organization's needs, and walk you through the associated documents to ensure you (and your board) understand them.

When beginning the incorporation process, you will need to list the founding directors on your incorporation documents, thus needing to have already considered who will be on the board of directors. There are many benefits to establishing your board of directors before incorporating. The board of directors can assist with the incorporation process, splitting up the work and engaging in the process. Through this, the board will understand the inner structure of the organization and you will know their commitment to governing and growing the organization.

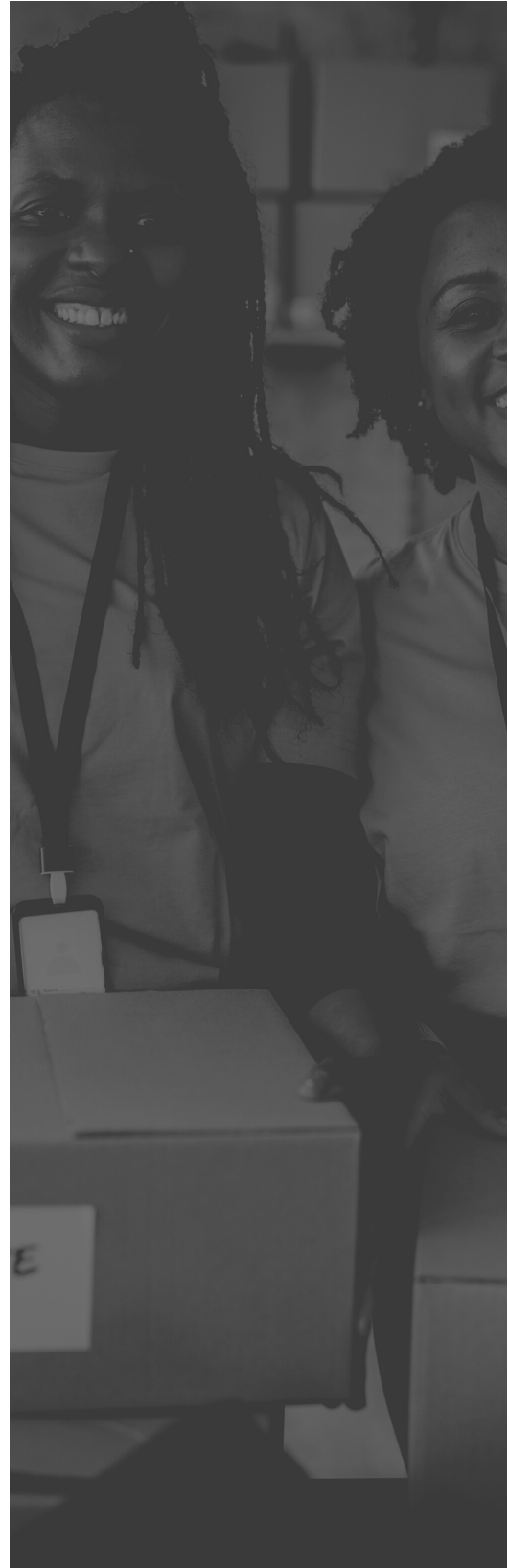
When you're incorporating a nonprofit, you need to consider if the organization will ever go for charitable registration in the future. It is vital to make this determination because you will need to ensure the nonprofit's purposes align with the requirements for charitable purposes. To become a registered charity, the purposes of the organization must be exclusively charitable and fit within one of four categories (Charities Directorate, 2013):

1. Relief of Poverty
2. Advancement of Education
3. Advancement of Religion
4. Other purposes beneficial to the community in a way the law regards as charitable

Canadian law requires that charitable purposes identify three elements (Charities Directorate, 2013):

1. The charitable purpose category
2. The means of providing the charitable benefit
3. The eligible beneficiary group

It is important to note the distinction between purposes and activities. Charitable purposes fall under one of the four categories (relief of poverty, advancement of education, advancement of religion, or other purposes beneficial to the community in a way the law regards as charitable). Activities refer to how the organization will further their purpose.



# CHECKLIST

## REQUIRED DOCUMENTS TO INCORPORATE

**BEFORE YOU FILE FOR INCORPORATION, YOU NEED TO MAKE SURE YOU HAVE THE PROPER DOCUMENTS PREPARED. BELOW IS A LIST OF THE REQUIRED DOCUMENTS TO INCORPORATE FEDERALLY AND PROVINCIALLY:**



- **Articles of Incorporation**
- **Initial Registered Office Address**
  - Please note, this address will be publicly listed. If your organization does not have an address exclusive to it, you will need to use the address of one of the incorporators. A PO box will not be accepted as an address in some jurisdictions (QuickBooks, 2017).
- **Minimum number of first Board of Directors, varies by jurisdiction.**
- **NUANS Name Search**
  - NUANS name searches are done to identify if there is an existing organization with an identical name or a similar name to the one you have chosen. Having a distinctive name is key to ensuring people do not mix up your organization with another. If a nonprofit with a similar name to yours feels that the names are too similar, they can file an objection possibly forcing your organization to have to change its name. A NUANS report can be done online and is relatively quick. Once you have submitted a NUANS report for your name, it will reserve that name for 90 days.
- **Incorporation Fee**

**Please note, documents required change per province/territory.**

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# FEDERAL INCORPORATION

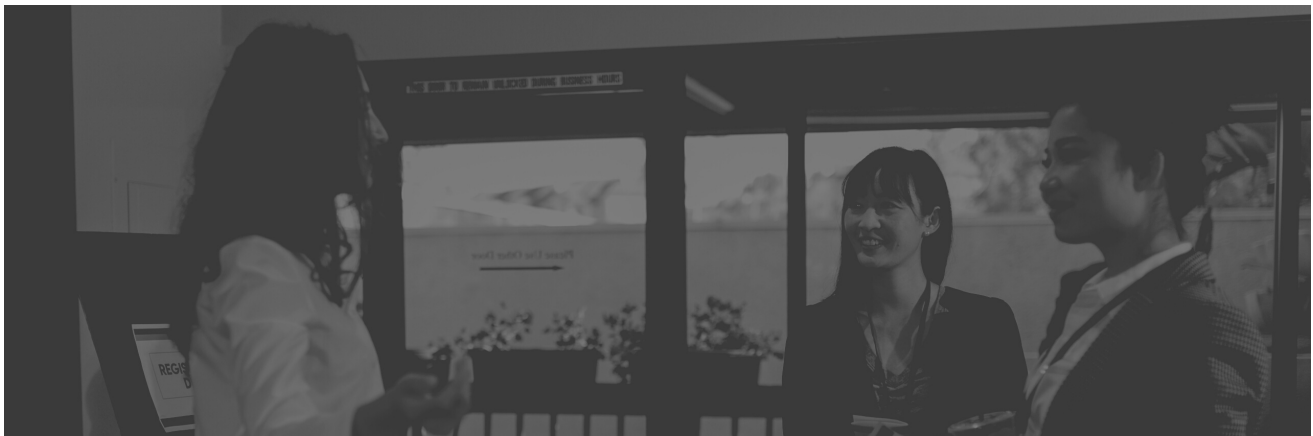
Once you have your documents prepared, the actual process of incorporating federally is quite simple. To incorporate federally, you will need:

- Articles of Incorporation
- List three directors, with their names and addresses
- Names and addresses of your incorporators
- Pay a \$200 fee
- You can file your federal incorporation documents: online, by email, or by mail

Bylaws do not need to be filed with the incorporation application. The nonprofit organization has 12 months to file the bylaws.

If you choose to incorporate federally, you may need to register to operate within certain provinces (Innovation, Science and Economic Development Canada, 2022). The provinces that require extra-provincial registration include:

- Ontario
- Must register within 60 days of federal incorporation
- New Brunswick
- Newfoundland and Labrador
- Nova Scotia
- Prince Edward Island
- Alberta
- British Columbia
  - Must register within two months of starting activities





# PROVINCIAL AND TERRITORIAL INCORPORATION

To incorporate a nonprofit provincially or territorially, you will need to consult each website for an up-to-date process. At the time of this publication, almost all provinces and territories required similar processes, with a few exceptions.

Steps to incorporate provincially/territorially:

**1. Get a NUANS Report**

- a. A NUANS report will inform you if your proposed name is already taken and identify close name matches within your province/territory. NUANS report can be obtained online and usually provide a quick turnaround.

**2. Find/Assign your Directors**

- a. To incorporate, most provinces/territories ask for you to list your Directors. The minimum number of Directors required to incorporate varies by province/territory.

**3. File your Articles of Association/Incorporation**

- a. Articles define a nonprofit purpose. Once defined and incorporated, you are required to work within the purpose outlined in your articles. Take your time during this process, to ensure you adequately define what activities the organization intends to do.

**4. Submit your Application and Pay an Incorporation Fee**

- a. Once you submit your complete application, online or by mail depending on the province, you will then have to pay an incorporation fee. The fee varies by province/territory.

**5. Prepare your Bylaws**

- a. Once you are incorporated, you will need to prepare and submit your bylaws. Each province/territory has a different timeline to when this piece must be submitted by.

Additional steps are required, depending on which province/territory you are incorporating in. It is best to consult each provincial/territorial government website to review the necessary steps and documents before preparing your application to incorporate. Some relevant resources can be found in the references section of this guidebook.

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# AFTER INCORPORATING



## BYLAWS

A nonprofit's bylaws are its governing rules. The nonprofit must live by these rules once implemented, and while they can be changed, it is not an easy process. The bylaws outline what the organization can do, the level of authority the board of directors holds, and how organizational decisions are made.

When writing your nonprofit bylaws, there is no one-size-fits-all option. Bylaws are as unique as the organizations they govern. When drafting your bylaws, it is equally as important to consider the future needs of the organization, as well as its current ones. You always want to ensure your bylaws are not too loose, nor too tight. Your bylaws should provide a level playing field for the organization to operate in. Considering each set of bylaws is unique to its organization. Rather than explaining how to write your bylaws, in this section we review the advice and insights given by nonprofit experts in creating your organization's bylaws.

**THE PROCESS OF WRITING YOUR BYLAWS IS ALSO AN OPPORTUNITY TO CREATE THE CULTURE OF YOUR ORGANIZATION, TO SEE HOW THE BOARD OF DIRECTORS WORKS TOGETHER, AND TO IDENTIFY WHAT THE SHARED VISION FOR THE ORGANIZATION IS.**

# BYLAWS - ADVICE AND INSIGHT

## 1. GET LEGAL HELP

While you can write your bylaws on your own, or use an online bylaw builder, most of our interviewees stated that it is well worth the investment to hire a lawyer to draft and review your bylaws. Why? Because nonprofit lawyers understand the rules bylaws put in place and can gear bylaws to benefit your organization and its operations. If you choose to hire a lawyer to draft or review your bylaws, you must be aware that this is a service you will need to pay for. While there is a general idea that accredited individuals, like lawyers and accountants, will provide their services without charge to nonprofit organizations because they are charitable, this is not the case. For nonprofit lawyers, this is their job, and you will need a lawyer that is experienced in nonprofit law to be able to effectively advise you properly on your bylaws. Further, nonprofit lawyers will be able to explain the documents to your organization, to ensure the governing team understands how the organization is set up to operate, and in doing this, will mitigate the organization not operating within its requirements.

## 2. BYLAWS ARE A THREE WAY BALANCE

For bylaws to be effective and useful, they need to be a balance of three things: where the organization is currently at, where the organization wants to be, and the practical reality of getting there. When writing your bylaws, these three items need to be considered throughout the process to set the organization up for governing success. Current restrictions may benefit the organization today, but will they provide the same benefit tomorrow or be a barrier? Considering the future needs of your organization is crucial, to set the foundation of the organization up for success.

### **3. BYLAWS ARE A TOOL, NOT A TEXT**

Yes, the bylaws are a written text - but they are a tool for your organization to use. Write your bylaws to be useful for the organization in the face of opportunities, barriers, and threats. Ideally, you want your bylaws to be written in a way that the least experienced person on your team will still understand and be able to use them.

### **4. OPPORTUNITY FOR TEAMWORK/COLLABORATION**

Writing your bylaws is the first big project your organization's governing team will be taking on. The bylaws are a chance for the board of directors to come together to figure out what will work best for the organization. The process of writing your bylaws is also an opportunity to create the culture of your organization, to see how the board of directors works together, and to identify what the shared vision for the organization is. Further, if you choose to hire a non-profit lawyer, involving the board of directors in writing the bylaws allows for the directors to ask questions and understand the rules governing the organization.

### **5. BYLAW BUILDERS, HELPFUL OR NOT?**

To assist in writing your bylaws, organizations can use online bylaw builders as a guide. Most of these resources have been developed by a team of professionals, to ensure non-profit organizations are getting the most out of the bylaws produced with the builder. This tool is useful in many ways. For a new organization, going through the online bylaw builder is an opportunity to see the many possibilities and pathways. However, we raise the caution that in using online bylaw builders, your organization may not fully understand the bylaws in which they are operating under and thus may still require the assistance of a lawyer to explain the document. If using an online bylaw builder, it is important to check that it is a Canadian product and to check the specific requirements within your incorporating legislation.

# MEMBERS

What are nonprofit members? Nonprofit members are somewhat equivalent to for profit shareholders (New Business Now, n.d). While nonprofit members do not own a share, the organization is held accountable and answerable to its members. Members are distinct from the board of directors. While they can comprise the same people, it is important to not lose sight of their distinct roles. Nonprofits can hold more than one type of member, what is referred to as member class or type of membership (Nonprofit Law Ontario, n.d). The bylaws will list the type of members, the rights as members, the conditions as members, and the voting rights of members. Members will either have or not have voting rights as listed in the bylaws of the nonprofit, and each member, if given the right to vote, is entitled to one vote (Innovation, Science and Economic Development Canada, 2012). Ultimately, a nonprofit is answerable to its members.

Membership structures or categories refer to the ways in which members differ amongst nonprofits. Membership categories are outlined in Table 1 (Nonprofit Law Ontario, n.d.).



TABLE 1

Membership	Description	Pro's	Con's
Open Membership	Anyone can become a voting member	More revenue through membership fees, more volunteers, and possibly more diverse viewpoints	More chance for conflict, more chance for change of direction/purposes, and more work to keep track of all members
Semi-Open Membership	To become a member, you must meet the conditions of membership outlined in the bylaws	Similar pro's to an open membership, that are dependent on the number of individuals	Similar cons to an open membership, that are dependent on the number of individuals
Self-Perpetuating Membership	Directors are the only members as outlined in the bylaws	Board decisions are less likely to be challenged, do not need to keep track of members	Stakeholders cannot legally hold directors accountable, less transparency.
Single Member	The founder or organization is the only member	The member holds all the accountability to ensure the nonprofit acts in its best interests	Less transparency, less stakeholder participation
Hybrid Membership	The directors are the voting members, and non-voting members are open.	More stakeholder participation	Less board accountability
Representative Membership	The directors are one class of voting members, plus additional voting classes of members who are elected to represent key stakeholders .	Increased flexibility, transparency and accountability. Less change of members changing the nonprofit direction	Additional work to set up the membership and elect representatives

# DEVELOPING THE BOARD OF DIRECTORS

To incorporate a nonprofit, you typically need will need a minimum number of Board Members to start. In your bylaws, you will choose the minimum and maximum, or fixed number of directors who can sit on the board, their term lengths, how individuals get on the board, and the specific roles needed for the board.

## **WHO IS THE BOARD OF DIRECTORS?**

The Board of Directors is the governing body of a nonprofit organization (McRay, 2014). The Board of Directors meets frequently (once a month, every two months, once a quarter) to discuss the activities of the organization, and vote on decisions and upcoming affairs. Ultimately, the board of directors guides the organization, weighing decisions based on financial capacity, accountability, and strategy. The Board of Directors primarily follows three legal duties, to inform their role, responsibility, and accountability to the non-profit. The three legal duties are (Board Source, n.d):

- Duty of Care
  - To take care of the organization, by participating in decision-making on behalf of the organization, and to exercise best judgment.
- Duty of Loyalty
  - The interest of the organization is put first.
- Duty of Obedience
  - The Directors are legally responsible for ensuring the organization complies with the law.

## **HOW DO YOU CHOOSE/FIND DIRECTORS?**

Technically, it is easy to find individuals to sit on your board of directors. The challenge is to find individuals who are uniquely knowledgeable in a topic that will be relevant to the governing of your organization. Before searching for individuals to join your board of directors, you need to identify what the governing needs are for the organization and what strengths you want your board to have.

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## **THINGS TO CONSIDER WHEN BUILDING YOUR BOARD OF DIRECTORS:**

### **1. PASSION & DEDICATION**

Typically when you are starting a nonprofit, people who are passionate about the same cause will flock to you, to get involved and help grow the organization. These people are crucial, and highly helpful, to getting the operations of the program started. However, passionate and dedicated people do not necessarily equal good directors - there is a difference between a service delivery volunteer role and a governance volunteer role. When you are searching for people to join the board, note the difference between passionate and dedicated versus strategic, high-level, expertise. Further, increasingly boards are looking to have directors with lived experience on their board. Those with lived experience bring an insider viewpoint to the conversation, bringing forth ideas, insights, and knowledge that are unique to their experience.

### **2. Start Together**

Once you have individuals on your board of directors, the next step is to start together and set expectations, guidelines, and a roadmap for the governing team to follow. Starting together is important for a number of reasons, and if done right, will create the grounds for the board of directors to operate smoothly and effectively. When starting, the first step is to ensure all directors are given the same information about the organization, the board structure, and their role on the board. Directors need to be properly informed to begin their role. A useful tool is to develop an onboarding document for directors to have before they start. This document does not need to be lengthy, rather it needs to contain the critical information (organization's mission, bylaws, financial position, etc) to inform about the organization. Now that all the directors are on the same page, the next step is to ensure the directors understand the equal decision-making structure. Typically, the founder recruits the directors and has taken on the process of incorporating, and the founder will either see the board of directors as their advisors or the board of directors will refer to the founder to make the big decisions. What the founder and the directors need to realize is that each of their opinions matters and they each get an equal voice when making decisions for the organization.

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### 3. START STRONG & STAY CONSISTENT

When you are first building your board of directors, it is easy to be relaxed about meeting frequency, meeting attendance, following an agenda, and getting assigned tasks completed. At the first meeting with all of the directors, take time to create a standardized meeting agenda, decide how frequently you will be meeting, and create committees so each director knows what tasks they are required to complete. Setting expectations at the first meeting sets the stage for the meetings to come, setting the grounds for the governing structure to be strongly rooted.

- **Tip:** Have financial statements present at every board meeting. Board members must be aware of the financial position of the organization, to make informed decisions for the organization.

### 4. CELEBRATE SUCCESS

In the nonprofit world, we tend to speed over success to begin the next project. When the organization has successes, take time to pause and celebrate with the board of directors. The directors are donating their time to govern the organization, and when their decisions pay off, stopping to celebrate will bring enthusiasm and recognition to the team.

### 5. BOARD TERMS

Board terms are the specific length of time a director is allowed to serve on the board. Terms are outlined in the bylaws to state how many years a director can hold a position, and if/how a director can be re-elected on the board of directors. Board terms are beneficial because they outline a limit to a person's ability to sit on the board, and can help the board of directors plan for when to recruit new members for the board. A few tips for board terms include:

- Make sure you do not have all your board members retiring at once. In your bylaws, outline that  $\frac{1}{3}$  of your board members retire one year,  $\frac{1}{3}$  the next, and so on. This allows for overlap between new and existing members, to maintain momentum, share insights, and ensure continuation.



- Board limits can be both beneficial and unfortunate. Board limits are beneficial when you have a nonperformer since the years limit is an easy offboarding means. Board limits are unfortunate when you have a good director, who has to leave the board but was a key individual for the governance team. Setting up your board terms in a way that allows for renewal if re-elected is one way to keep good board members, while still having board limits in place to get rid of nonperformers. An example of this is to have a 3 year term, with a provision that the director must be off the board for 1 year before being re-elected to rejoin the board of directors.

## **6. THE BOARD IS YOUR BIGGEST CRITIC, NOT YOUR FAN CLUB**

The board of directors, as the governing body for a non-profit organization will praise success, but more importantly will raise critical questions in decision-making processes. Ultimately, the board of directors needs to challenge and support the executive director, while keeping in mind their legal duties. As the founder and presumably executive director, you have a vision that you are drawn to, and while this vision led you to where you are, it might not be the best continued path forward for the organization. Trust that your directors will challenge you, with the best interests of the organization in mind.

**ULTIMATELY, THE BOARD OF DIRECTORS NEEDS TO CHALLENGE AND SUPPORT THE EXECUTIVE DIRECTOR, WHILE KEEPING IN MIND THEIR LEGAL DUTIES.**



# FINANCIAL OBLIGATIONS

Once you are a legally incorporated nonprofit organization, you have financial obligations to abide by. The financial obligations associated with a nonprofit are held accountable to the management of the nonprofit, the board of directors, and the selected auditor. The management of the nonprofit is responsible to keep accurate receipts and prepare financial reports. The board of directors is responsible for overseeing the financial reporting to ensure it is accurate and appropriate. The auditor is responsible for their independent assessment of the financial statements of the organization.

There are two statements which a nonprofit will use: a statement of operations, and a statement of financial position. The statement of operations will provide an overview of the internal financial statement, intended for the board of directors and management to review to make informed financial decisions for the nonprofit. The statement of financial position, also known as the balance sheet, provides a snapshot of the financial position at a given point in time.

Annually, a federal nonprofit organization must file their:

- Annual Return
  - Provides updated information about the nonprofit and is made public.
  - Must be filed annually, within 60 days of the corporation's anniversary date
  - Along with the annual return, you will need to provide the date of the last annual meeting of members (Innovation, Science and Economic Development Canada, 2022).
- Financial Statements and Public Accountants Report
  - For soliciting nonprofit organizations, which are those who have received public donations and/or government grants over \$10,000 in a financial year, you are required to file a financial statement and public accountants report (Innovation, Science and Economic Development Canada, 2022). This must be filed 21 days before the annual meeting of members.

# LEGAL OBLIGATIONS

Outside of the incorporation and reporting process, there are some legal considerations non-profit organizations must review. The first consideration will be to look at any sector-specific legal obligations. Often, a nonprofit's legal obligations will be because they are in a regulated sector, like childcare, healthcare or long-term care. If an organization falls into a regulated sector, founders should conduct further research to ensure compliance. The second area applies if you have employees or volunteers in your organization. There are employment acts and regulations that, as an employer, nonprofits would need to comply with. A fantastic resource to utilize is Imagine Canada's HR Intervals resource which provides information on HR legislation, employment standards legislation, human rights legislation, and health and safety legislation. This resource can be found:

- <https://guide.hrintervals-intervallesrh.ca/hc/en-ca>

The final legal consideration is for founders to consider obtaining legal advice. Multiple founders we interviewed shared that they wished they would have hired a lawyer earlier despite the cost, especially during the bylaw-building and the incorporating process.

# ANNUAL GENERAL MEETING

Incorporated nonprofit organizations must hold an annual general meeting at regular intervals depending under which statute it is incorporated under. The purpose of this meeting is for an organization's members to elect their board of directors, select an auditor, vote on any changes to its bylaws, as well as review its financial statements (Nonprofit Law Ontario, N.D.). One resource recommended that a nonprofit's bylaws allow the AGM to occur as long as four months after the end of the fiscal year, because it often takes that long to prepare the financial statements (Muttart Foundation, 2008). The AGM is important because it allows members to make governance decisions from current information, increases transparency, and gives members confidence in the nonprofit organization.



# FOUNDERS' SYNDROME

One definition of founder's syndrome is "the influential powers and privileges that the founder exercises or that others attribute to the founder" (English and Peters, 2011, p. 160). Researchers have found that founders can affect leadership, succession planning, organizational growth, and block egalitarian decision-making practices. This is undoubtedly something for founders to contemplate, especially when looking at the health and success of an organization. Often, founders will build a board of directors who may think like them, or agree with their vision or plans forward. This is an area of concern, because ultimately, it is the role of the board, not the founder, for setting the guidelines and direction of the organization, and going along with the founder's wishes without proper due diligence is rarely in the best interest for an organization long term (BoardSource, 2016). One sector expert we interviewed shared that some founders won't stay in the CEO seat because their strengths lie in the mission or a programs and services role. In some cases, the founder can keep the organization from growing or succeeding because the founder is focused on the cause and not on running the business. Multiple founders we interviewed had moved on already from the organizations they created and had some relevant advice. One founder shared their experience of not wanting to leave too early before the organization has its feet under it and the flip side of staying on way too long and allowing things to stagnate. Another also recommended that founders move on completely because their 'shadow is too influential' and will prevent the organizations from finding growth or a new path.

# CHECKLIST

## AM I READY TO START A NONPROFIT?

### CHECKLIST:



I have considered why I am choosing to start a nonprofit



I have considered why I am choosing to start a nonprofit



I have consulted with others, to identify if a new nonprofit is needed to serve its specific purpose



I have researched and prepared a business and/or strategic plan, to effectively and informatively start a nonprofit



I understand the commitment I am making and am prepared to take on the workload to start a nonprofit



I have consulted with a lawyer, to decide if federal or provincial incorporation is best suited for the nonprofit



I have consulted with a lawyer, to review the documents required to incorporate



I have prepared the required documents for incorporation



# IN CONCLUSION

This guidebook is meant to walk you through the steps of starting a nonprofit in Canada. It is meant to be used as a tool, to introduce you to the information and requirements you will need to know when starting your nonprofit. Importantly, there is substantial information that exists that can assist you when starting your nonprofit and we encourage you to continue your research, to gain a full understanding of the processes, liability, and commitment you are undertaking.

This guidebook was produced as a Directed Study Research project, by Kira McDermid and Emma Wood, during their Masters in Philanthropy and Nonprofit Leadership at Carleton University. Both Kira and Emma have extended their assistance to those who are considering or in the process of starting a nonprofit in Canada, and can be reached at:

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