



This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

What is a “Member” of a Nonprofit?

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Does your Georgia nonprofit ever boast of its members? While many nonprofits use the term member to mean supporter, donor, participant or friend, when it comes to nonprofit organizations, the term “member” actually has a technical definition under Georgia law. Deciding on whether or not your organization wants to have members as defined under Georgia law is important because that decision affects who controls the organization.

Directors and Members

A Georgia nonprofit corporation must have a board of directors, but it is not required to have members. For Georgia nonprofits that do not have members, the final authority over the organization lies with the board of directors. In general, the board of directors is responsible for the actions of the organization, including being responsible to the oversight authority of the state and federal governments. Boards in non-member organizations are typically self-perpetuating, meaning that the sitting board elects new and replacement board members.

Powers of Members

So what is a member? A member of a Georgia nonprofit is a person entitled to elect the organization’s directors. This is important because the nonprofit’s board of directors is the group that has the authority to exercise the powers of the nonprofit corporation and manage its affairs. Thus, in a membership nonprofit corporation, the members determine who will have the authority to exercise the powers of the corporation and manage its affairs.

A nonprofit corporation with members must hold an annual meeting at a time and place stated in or consistent with the bylaws. At each annual meeting, the members elect the directors, review the activities and financial condition of the organization (as presented by the president and chief financial officer) and attend to other business that may be raised, such as proposals to amend the bylaws, merge with another organization, sell substantially

Dated: 10/29/2012

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all of the organization's assets, or dissolve the corporation. Other regular meetings (meetings fixed by the bylaws) or special meetings (called by the board or people with sufficient voting power) may also occur.

Members are entitled to be given "fair and reasonable" notice of all upcoming meetings. Generally, notice is fair and reasonable if the members are provided a written reminder of the date, time and place of the meeting by first class mail no later than 10 days but no earlier than 60 days before the meeting and the notice discloses the matters that will be discussed for member approval. After notice is provided, the organization then has to make available to the members an alphabetical list of all the members entitled to be noticed along with the number of votes that a member may exercise at the meeting. The purpose of this list is to allow members to communicate with each other about the business of the meeting. Finally, for the organization to be able to effectively conduct business at the meeting, a sufficient quorum must be present or be represented by proxy. For most issues, unless otherwise stated in the bylaws, ten percent of the available votes must be represented to constitute a quorum (typically with a majority of the votes cast required for action). However, if someone seeks to raise a matter that was not previously noticed, the bar is raised: twenty percent of the voting power must be represented at the meeting.

In addition to these powers, a member of any particular nonprofit corporation, may have other rights and obligations if specifically provided by the organization's articles of incorporation or bylaws.

Choosing and Removing Members

The criteria and procedures for choosing and removing members is largely a function of the organization's articles and bylaws, but because members enjoy certain rights and responsibilities, Georgia law establishes a framework for such decisions.

Georgia law states that the organization's articles or bylaws may establish the procedure for becoming a member, except that the organization cannot make someone a member without his or her consent. The board, unless otherwise specified in the articles or bylaws, determines what a person must give the organization (if anything) to become a member. The articles or bylaws can also give some members different rights and obligations (and/or provide for delegates, with some or all of those rights and authority), but absent specific provisions in the organizational documents, all members are equal.

As for terminating membership, a member may resign from membership by delivering a written or electronically transmitted notice. And, generally speaking, the articles or bylaws may set forth how a member may be expelled or suspended from membership. Absent such provisions, the expulsion or suspension of a member must follow, in good faith, the "fair and reasonable" procedure outlined in the Georgia Nonprofit Code.

Considering Whether to Have Members

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In addition to the structures discussed above, there are additional considerations when determining whether your nonprofit should include members. There may be a belief within the organization that the nonprofit will be more accountable to the founding idea, mission or goals if the final authority rests with members. Similarly, the organization might intend to be controlled by a group of interested parties, such as the participants of a congregational church, social club or trade association. Conversely, it may be that the organization believes it will better serve the interests of the community if the final authority rests in an independent board of directors.

Practical and administrative considerations are also worth contemplating. If there are a large number of members, it may be difficult to achieve a sufficient quorum to hold a meeting or vote on an important decision. Helpfully, a corporation may provide in its articles or bylaws for representative delegates to help alleviate this issue. Related issues can also cause problems: the organization must keep its membership rolls (including names and contact information) up to date and make sure that members receive “fair and reasonable” notice about upcoming meetings. Organizations should consider the time and cost of ensuring that these procedural requirements are met.

Whatever the decision, the organization would be well served to make a deliberate decision about membership at the initial stage of its formation. While the organization can later change its membership structure by amending its articles, filing those changes with the Georgia Secretary of State and amending its bylaws, the process can be very complicated. By considering whether the organization wants members as well as establishing criteria and procedures for the issues discussed above in its original articles and bylaws, the organization will have a clear picture from its beginning of who decides who will have the authority to exercise the powers of the corporation and manage its affairs.

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