

NONPROFIT ASSESSMENT TOOL DRAFT NOVEMBER 2019 FOR INITIAL REVIEW BY E.D. AND BOARD CHAIR

TOPIC	Line number	<u>SELF-ASSESSMENT</u>	<u>ORGANIZATION NOTES</u>	<u>STANDARD / PRELIMINARY RESOURCES</u> <i>[provided upon engagement]</i>
		<p><u>Disclaimer:</u> This is a tool for nonprofit senior leadership and board members to assess many facets of their functioning. It is broad but should not be considered to cover all possible issues necessary for a particular organization. Not all items are of equal importance.</p>	<p>X Not relevant for us. ✓ We're good here! ○ Oh no, help! ? Don't understand this. + Need more info. → Will ask [name]</p>	<p><u>Disclaimer:</u> This column provides basic or preliminary information on the topics or links to helpful resources. The basic review refers to Colorado law but can be adapted for other states. This tool is not intended as legal advice and is not a substitute for consulting legal, accounting, employment, insurance, tax, or other experts and advisors.</p>
1. Foundational Documents	01	What are your foundational documents?		<p>This assessment tool is not intended as a guide for determining whether or how to form a nonprofit corporation. It is a tool for those running one. Because a nonprofit is formed (after 1968) by filing articles of incorporation with the secretary of state, C.R.S. 7-122-101 and 7-122-103(1)(A), which you presumably have done, the assessment begins there:</p> <p>7-122-102. Articles of incorporation. (1) The articles of incorporation shall state: (a) The domestic entity name for the nonprofit corporation, which domestic entity name shall comply with part 6 of article 90 of this title; (b) The registered agent name and registered agent address of the nonprofit corporation's initial registered agent; (c) The principal office address of the nonprofit corporation's initial principal office; (d) The true name and mailing address of each incorporator; (e) Whether or not the nonprofit corporation will have voting members; and (f) Repealed. (g) Provisions not inconsistent with law regarding the distribution of assets on dissolution.</p> <p>7-122-102(2) provides additional provisions that the Articles "may but need not state."</p>
	02	• Articles of Incorporation (see		
	03	https://www.sos.state.co.us/pubs/business/		
	04	/helpFiles/ARTINC_NPC_HELP.html).		
	05	• Do you also have Bylaws? 7-122-105 and		
	06	106 refer to them as optional provisions to		
	07	manage the affairs of the nonprofit.		
	08	Was your nonprofit formed before 1968?		
	09	• CRS 7-40-101 and following may specify		
	10	that different contents of a certificate of		
	11	incorporation are appropriate.		
	12	• C.R.S. 7-50-101 provided a specific method		
	13	for churches to incorporate before 1968.		
	14	Are you following your foundational documents?		
	15	• Do you need a review? Revision? Title 7		
	16	Article 130 addresses amendments.		
	17	• Do you need to align practice with the		
	18	documents?		
	19	Do your documents cover required and other key		
	20	issues:		
	21	• Number and term of officers?		
	22	• How to transfer property?		
	23	• What happens to the assets if the		
	24	organization ceases to exist?		
	25	• Who makes final decisions (see below)		
	26			

NONPROFIT ASSESSMENT TOOL DRAFT NOVEMBER 2019 FOR INITIAL REVIEW BY E.D. AND BOARD CHAIR

TOPIC	Line number	<u>SELF-ASSESSMENT</u>	<u>ORGANIZATION NOTES</u>	<u>STANDARD / PRELIMINARY RESOURCES</u> <i>[provided upon engagement]</i>
		<p><u>Disclaimer:</u> This is a tool for nonprofit senior leadership and board members to assess many facets of their functioning. It is broad but should not be considered to cover all possible issues necessary for a particular organization. Not all items are of equal importance.</p>	<p>X Not relevant for us. ✓ We're good here! ○ Oh no, help! ? Don't understand this. + Need more info. → Will ask [name]</p>	<p><u>Disclaimer:</u> This column provides basic or preliminary information on the topics or links to helpful resources. The basic review refers to Colorado law but can be adapted for other states. This tool is not intended as legal advice and is not a substitute for consulting legal, accounting, employment, insurance, tax, or other experts and advisors.</p>
7. Filing	01	Filing documents: ¹		<ul style="list-style-type: none"> Nonprofits are required to file a Periodic Report with the Secretary of State each year. Q&A about Periodic Reports is available at https://www.sos.state.co.us/pubs/business/FAQs/reports.html <p>You (and anyone) can view the public records at: https://www.sos.state.co.us/biz/BusinessEntityCriteriaExt.do</p>
	02	<ul style="list-style-type: none"> Are you in good standing? 		
	03	<ul style="list-style-type: none"> Are you filing annual reports with the Secretary of State's office? 		
	04			
8. Fiduciary Duty	01	Do your directors understand their fiduciary duties?		<ul style="list-style-type: none"> Directors and officers are required to carry out their duties "[i]n good faith ... [w]ith the care an ordinary prudent person in a like position would exercise under similar circumstances; and ... in the manner the director or officer reasonably believes to be in the best interests of the corporation." C.R.S. 7-128-401.
	02	<ul style="list-style-type: none"> Duty of care 		
	03	<ul style="list-style-type: none"> Duty of loyalty 		
	04	<ul style="list-style-type: none"> Duty of obedience 		
	05			
	06			
	07			
	08			

NONPROFIT ASSESSMENT TOOL DRAFT NOVEMBER 2019 FOR INITIAL REVIEW BY E.D. AND BOARD CHAIR

TOPIC	Line number	SELF-ASSESSMENT	ORGANIZATION NOTES	STANDARD / PRELIMINARY RESOURCES
		<p><u>Disclaimer:</u> This is a tool for nonprofit senior leadership and board members to assess many facets of their functioning. It is broad but should not be considered to cover all possible issues necessary for a particular organization. Not all items are of equal importance.</p>	<p>X Not relevant for us. ✓ We're good here! ○ Oh no, help! ? Don't understand this. + Need more info. → Will ask [name]</p>	<p><u>provided upon engagement</u></p> <p><u>Disclaimer:</u> This column provides basic or preliminary information on the topics or links to helpful resources. The basic review refers to Colorado law but can be adapted for other states. This tool is not intended as legal advice and is not a substitute for consulting legal, accounting, employment, insurance, tax, or other experts and advisors.</p>
9. Policies	01	What policies do you have, need, or feel are		<ul style="list-style-type: none"> “Although the Internal Revenue Code does not require charities to have governance and management policies, the Internal Revenue Service will review an organization’s application for exemption and annual information returns to determine whether the organization has implemented policies relating to executive compensation, conflicts of interest, investments, fundraising, documenting governance decisions, document retention and destruction, and whistleblower claims.” https://www.irs.gov/pub/irs-tege/governance_practices.pdf
	02	unnecessary? Though they are not required, the		
	03	IRS is interested in policies on:		
	04	• Executive compensation		
	05	• Conflicts of interest		
	06	• Investments		
	07	• Fundraising		
	08	• Documenting governance decisions		
	09	• Document retention and destruction		
	10	• Whistleblower claims		
	11			
	12	Other best practices policies to consider are:		
	13	• Internal controls		
	14	• Nondiscrimination		
	15	• Misconduct		
	16	• Security		
	17			

NONPROFIT ASSESSMENT TOOL DRAFT NOVEMBER 2019 FOR INITIAL REVIEW BY E.D. AND BOARD CHAIR

TOPIC	Line number	<u>SELF-ASSESSMENT</u>	<u>ORGANIZATION NOTES</u>	<u>STANDARD / PRELIMINARY RESOURCES</u>
		<p><u>Disclaimer:</u> This is a tool for nonprofit senior leadership and board members to assess many facets of their functioning. It is broad but should not be considered to cover all possible issues necessary for a particular organization. Not all items are of equal importance.</p>	<p>X Not relevant for us. ✓ We're good here! ○ Oh no, help! ? Don't understand this. + Need more info. → Will ask [name]</p>	<p><i>[provided upon engagement]</i></p> <p><u>Disclaimer:</u> This column provides basic or preliminary information on the topics or links to helpful resources. The basic review refers to Colorado law but can be adapted for other states. This tool is not intended as legal advice and is not a substitute for consulting legal, accounting, employment, insurance, tax, or other experts and advisors.</p>
23. Registration as Charity	01	<p>Do you solicit contributions in this state and are required to register as a charity?</p> <ul style="list-style-type: none"> This is a requirement separate from obtaining 501(c)(3) status Churches are exempt from the requirement If you solicit contributions in other states, have you considered their requirements for registering? <ul style="list-style-type: none"> This may depend on how you solicit funds. There are services that seek your business to help register for you in all states. <p>See section on nonprofit purpose for definition of "charitable."</p>		<p>6-16-104. Charitable organizations - initial registration - annual filing - fees</p> <p>"(1) Every charitable organization, except those exempted under subsection (6) of this section, that intends to solicit contributions in this state by any means or to have contributions solicited in this state on its behalf by any other person or entity or that participates in a charitable sales promotion shall, prior to engaging in any of these activities, file a registration statement with the secretary of state upon a form prescribed by the secretary of state. * * *</p> <p>Subsection (6) refers to federal statutes which provide, among other less common situations, that "churches, their integrated auxiliaries, and conventions or associations of churches" are mandatory exceptions. 26 U.S.C. sec. 6033 (a)(3)(A)(i).</p> <ul style="list-style-type: none"> You can register, or find out if you are registered, at https://www.sos.state.co.us/pubs/charities/charitableHome.html
	02			
	03			
	04			
	05			
	06			
	07			
	08			
	09			
	10			
	11			
	12			
	13			
	14			
	15			
	16			