

Groups really DO work!

People frequently come together to accomplish something as a group that they would not be able to accomplish as individuals. The group may choose to meet and work informally or through a more organized structure.

What are the advantages of working with or through a group? Groups frequently

- have more credibility;
- benefit from the collective experience, skills and ideas of its members;
- are more effective at
 - increasing community awareness of issues important to the group,
 - leveraging financial, human or material resources to move the group's vision, mission, goals, objectives and activities forward, and
 - generating broad-based community support and recognition for group activities.

After a group has been working together informally for some time, a number of reasons for the group to define their organizational structure may surface. The group has probably established unspoken behavioral norms that may need to be communicated to others as the group grows or time passes. Problems may arise if acceptable behavior and operational procedures become unclear.



“When your organization has first formed, when members are lined up, when things are beginning to move, when you start to smell success, then (and no later) it’s time to think seriously about organizational structure.”¹

How organizational structure affects your group

In selecting an organizational structure, group members need to determine which structure would best support the achievement of the group's vision, mission, goals, objectives and activities. Adopting some form of organizational structure is inevitable. The structure establishes procedures for how

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¹ Jenette Nagy, “Organizational Structure: An Overview,” *Community Tool Box: Part D Chapter 9 Section 1*, Bill Berkowitz and Jerry Schultz, eds (University of Kansas, 2003) http://ctb.lsi.ukans.edu/tools/en/sub_section_main_1092.htm (accessed August 2003)

What you will learn:

- The advantages of working in a group
- Why a group's structure can become important
- When a “loose” organizational structure is preferred over a “tight” organizational structure
- Terminology and concepts related to corporations, nonprofit status and tax exemptions
- Options for becoming more formally organized and recognized
- Considerations in deciding which type of not-for-profit organization would be best for the group
- Where to go for additional information

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- people join the group,
- individuals communicate with one another,
- leaders are selected,
- decisions are made,
- the organization operates, and
- work is accomplished.

“... organizational structure is not one-size-fits-all. Some structures are tight, others are loose. Some are simple; others glitter. Some are worn casually, others are all business, others still are trotted out only for formal occasions.”²

Adoption, affiliation or independence?

A newly formed group may choose to

- seek *adoption* and become an integral part of an exiting organization,
- *affiliate* with an existing organization, or
- operate *independently* of any existing organization.

As your group considers which organizational structure is best, ask members to think about these two questions:

Do you see your group as a governing body or group – one that determines direction, focuses on long-term outcomes, and is legally responsible?

Or

Do you see your group functioning in an advisory

Tight or loose?

IF

- the organization is just starting;
- many prior relationships exist among members;
- many members have worked together in the past;
- members are highly motivated;
- there is a single task or issue to be addressed;
- the organization is small;
- the leadership is experienced;
- there is no urgency to take action now.

THEN

Select a looser, less formal, less rule-bound structure.

IF

- the organization is in later stages of development;
- few prior relationships exist among members;
- few if any members have worked together in the past;
- members are not motivated;
- there are multiple tasks or issues that need to be addressed;
- the organization is large;
- the leadership is inexperienced;
- there is a strong urgency to take action now.

THEN

Select a tighter, more formal, more rule-bound structure.

Source: Nagy, “Organizational Structure.”

capacity – one that recommends, suggests, advises, but has no legal authority or responsibility?

“... the best structure depends upon who you are, where you’ve been, and where you see yourself as going. And it can change. The best structure will change according to different stages in an organization’s life.”³

Adoption

When a group decides to become an integral part of an existing organization, this is

frequently referred to as adoption. The group’s projects are grafted onto the organizational structure of the adopting organization. The adopting organization assumes full financial and legal responsibility for the work of the group, but may also possess the power to influence the future work and direction of group activities.

Affiliation

Groups being formed for charitable purposes or the public good will often choose to affiliate with an existing 501(c)(3) organization. A 501(c)(3) organization is a nonprofit organization operated exclusively for one or more of the purposes described in Internal Revenue Code Section 501(c)(3) and granted exemption from federal

² Nagy, “Organizational Structure.”

³ Viviane Simon-Brown, “Choosing Your Group’s Structure, Mission, and Goals,” *Working Together* EC 1507 (Oregon State University Extension Service, 1999).

taxes. By affiliating with a 501(c)(3) organization, a group can share in its not-for-profit, tax-exempt status.

The existing organization may be referred to as the fiscal sponsor or lead agency. As fiscal sponsor or lead agency, the existing organization would account for any funds received or dispersed in support of the developing group. While these funds may be intended for use by the developing group, ultimate discretion and control over the funds remains with the existing 501(c)(3) organization.

Other organizational support may also be provided by the existing organization. Affiliation in this way will free up the human and financial resources of the developing group to focus on project activities, organizational development and sustainability plan design. A memorandum of understanding between the developing group and the existing organization should be prepared to clarify roles and responsibilities.

Independence

If a group chooses to operate independently from other existing organizations, yet wants to become formally recognized by the state and others, they can become a *for-profit* organization or a *not-for-profit* organization. This fact sheet only addresses not-for-profit organizations.

The formation of a not-for-profit organization is complex. Group members should consult with trained professionals, an accountant and an attorney specializing in not-for-profit and corporate law.

Application procedures for not-for-profit organizations are made through the Maine Department of the Secretary of

The following chart identifies a number of different internal structural forms these adopted groups may assume within an existing organization. The predominant characteristics and possible shortcomings for each structural form are listed below.

Structural Form	Characteristics	Shortcomings
Senior management team	May be some delegation from above, but authority is clearly defined, decision-making usually by majority rule	Lacks recognition of individual contributions
Project teams and task forces	Focus on improving systems and handling specific problems or issues, decision-making within the group is determined by the group, makes recommendations to superiors	Encourages project loyalty, but not group loyalty, no real power
The matrix	Flexible, focuses on the end product, uses consensus decision-making, composition of group is determined by practical contributions an individual can make to the end product	Responsibilities and boundaries less clear, takes more time to complete project
The project group	Outcome based, group has authority within clearly defined and agreed upon boundaries, decisions by consensus	Loyalty to the project not the group, more difficult to track process or control outcomes
Organic network	Open-ended system with a core group providing direction and support to other people that are moving in and out of the network, people join to contribute toward desired outcomes	Requires greater coordination of human resources and "big picture" thinking by core group members

Source: Viviane Simon-Brown, "Choosing Your Group's Structure, Mission, and Goals," *Working Together* EC 1507 (Oregon State University Extension Service, 1999).

State. Please contact them at 207-624-7736 for more information, or visit their Web site at <http://www.state.me.us/sos/sos.htm>.

Types of not-for-profit structures

There are three types of not-for-profit organizations recognized by the federal government

- A trust
- An unincorporated organization

- A not-for-profit corporation

Trusts

The interests of an organization that chooses to form a trust are usually quite narrow. Activities are frequently charitable in nature and revolve around giving money away. Community groups rarely consider becoming a trust for these reasons. To learn more about trusts, contact

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Terms you should know

Corporation—“A corporation is a legal entity established by individual(s) under the laws of the state to conduct particular types of business or transactions. The corporation exists separately from its stakeholders, directors and employees. A corporation is a ‘person’ in the eyes of the law. A corporation functions in the same manner as a person and has the same rights and responsibilities as a person. The corporation may make contracts, assume liability, sue and be sued. The corporation and its shareholders and directors have specific duties and obligations to each other.”¹

Nonprofit status—Nonprofit status is determined by the state. In its simplest form, a not-for-profit organization “is any organization for which those who control or support it do not earn a profit.” This does not mean that the not-for-profit organization can’t make a profit or invest the profit to generate more money. It does mean that “all money made must go back into the organization—there is no ‘profit sharing’ among members.”²

Federal tax-exempt status—Determination of federal tax-exempt status is made by the federal government. One of the most common exemption categories is for those organizations that fit the requirements described under section 501(c)(3) of the Internal Revenue Code. They are frequently referred to as 501(c)(3) organizations. Applications are made to the Internal Revenue Service (IRS) with IRS form 1023.

Some types of organizations may be considered tax-exempt under section 501(c)(3) automatically, even if they do not file application form 1023:

1. Churches
2. Integrated auxiliaries of churches, and conventions or associations of churches
3. Any organization that is not a private foundation has gross receipts in each taxable year of normally not more than \$5,000³

Do not confuse federal tax-exempt status with an exemption from state sales, income or property tax. Contact the Maine Department of the Secretary of State for more information about in-state tax exemptions.

Charitable Organization—Any person or entity registered by the Maine Department of Professional and Financial Regulation that is, or holds itself out to be, organized or operated for any charitable purpose and solicits, accepts or obtains contributions from the public for any charitable purpose.⁴

¹ Bureau of Corporations, Elections and Commissions, Maine Department of the Secretary of State, *The Basics to Incorporating in Maine*, <http://www.state.me.us/sos/cec/corp/inc.htm> (accessed August 2003).

² Jenette Nagy and Chris Hampton, “Understanding Nonprofit Status and Tax Exemption,” Community Tool Box: Part D Chapter 9 Section 1, Phil Rabinowitz and Kate Nagy, eds (University of Kansas, 2003), http://ctb.lsi.ukans.edu/tools/EN/sub_section_main_1308.htm, (accessed August 2003).

³ U.S. Internal Revenue Service, *Instructions for Form 1023: Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, 1, <http://www.irs.gov/pub/irs-pdf/k1023.pdf> (accessed February 2004).

⁴ Maine Department of Professional and Financial Regulation Office of Licensing & Registration, “Charitable Organizations,” *Charitable Solicitors*, <http://www.state.me.us/pfr/olr/categories/cat10.htm> (accessed August 2003).

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an attorney or tax professional.

Unincorporated organizations

Unincorporated does not mean unorganized. An unincorporated organization will have a name, a formal structure and established operating procedures. By becoming an unincorporated organization, a group goes on record about its purpose. There are some disadvantages to becoming an unincorporated organization:

- Unincorporated organizations are not legal entities, so group members may be held personally liable for organizational activities.
- While unincorporated organizations may apply to the IRS for tax exemption, most do not.
 - Without tax-exempt status, the contributions people make to the organization are not tax deductible.
 - When seeking funding through grants or private foundations, you will find that most require federal tax-exempt status or affiliation with a federal tax-exempt organization.
 - Without federal tax-exempt status, fundraising will be more difficult.

Newly formed organizations that are operated for charitable purposes may be required by the state to be licensed if they plan to operate within Maine. Some charitable organizations may be exempt from licensing requirements, but would still be expected to apply for exemption annually. To learn about how your group can become an

unincorporated charitable organization, contact the Maine Department of Professional and Financial Regulation, Office of Licensing & Regulation at (207) 624-8603 or visit their Web site at <http://www.state.me.us/pfr/olr/>. *Maine's Charitable Solicitations Act* (MRSA, Title 9, Part 13, Chapter 385) is the state law that establishes licensing requirements for charitable organizations. View the act online at <http://janus.state.me.us/legis/statutes/9/title9ch385sec0.html>, or look it up in the *Maine Revised Statutes Annotated* in your local library.

Not-for-profit corporations

Becoming a not-for-profit corporation is frequently a labor-intensive, complex and lengthy process. Your group should not enter into it lightly. The reasons why a group might want to become an incorporated not-for-profit organization are numerous:

- If individual board members act responsibly, they are not legally liable for actions brought against the organization.
- The organization may be exempt from federal and state income, sales, property and other local taxes.
- Charitable contributions made by an individual to a federal tax-exempt organization are recognized as tax deductible contributions for that individual.
- Federal tax-exempt organizations have more fundraising opportunities, particularly through foundation, corporate or federal grants.
- The organization is eligible for reduced-cost mailing rates.



- Employees of not-for-profit organizations may be able to contribute to tax-sheltered annuities.
- Before a group pursues not-for-profit and tax-exempt status, they ought to ask themselves if they have
- proven the group's value to the community through specific activities and accomplishments;
 - group leaders and members that are committed to the group and its future activities;
 - an ongoing need for financial support from individuals;
 - plans to seek funding through foundation, corporate or federal grants; and
 - been unable to find a suitable existing not-for-profit organization that is willing to act as their fiscal sponsor or lead agency.

There are some clear indications that a group is not yet ready to pursue not-for-profit and tax-exempt status. If there is any indication that the

group may not continue, that outside funding to operate is not required, or that a suitable fiscal sponsor or lead agency may be willing to assist the group to become more established, then timing may not be right to pursue not-for-profit and tax-exempt status. If your group decides to apply to become a not-for-profit corporation and to pursue tax-exempt status, complete the steps below.

Steps to forming a not-for-profit corporation:⁴

1. Determine your vision, mission or purpose, and organizational structure.
2. Select your name.
3. Determine your initial board of directors.
4. Draft your articles of incorporation.
5. Draft your bylaws.
6. Consult legal counsel and

⁴ Maine Department of Human Services Bureau of Health, *Healthy Communities Project Manual* Section 3, (Augusta, ME), 3.

modify articles of incorporation and bylaws, as appropriate and necessary.

7. File your articles of incorporation with the Secretary of State.
8. Hold the first official meeting of your board to adopt bylaws and elect officers.
9. File application with the IRS to obtain 501(c)(3) tax exemption from corporate income taxes.

There is no one-size-fits-all structure for developing groups. Groups need to select the most appropriate structure for today, but be flexible enough to change the structure to meet the evolving needs of the group. Above all, use the information in this fact sheet as a guide to seeking sound professional advice.

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Resources for Additional Information

Maine Revised Statutes, Title 13-B: *Maine Nonprofit Corporation Act*, <http://janus.state.me.us/legis/statutes/13-B/title13-Bch0sec0.html> (accessed February 2003).

Maine Revised Statutes, Title 9, part 13, ch. 385, *Charitable Solicitations Act*, <http://janus.state.me.us/legis/statutes/9/title9ch385sec0.html> (accessed August 2003).

Joe E. Heimlich and Sereana Howard Dresbach, *Written Documents for Community Groups: Bylaws and Standard Operating Procedures* (Ohio State University Community Development fact sheet) <http://ohioline.osu.edu/cd-fact/co-bl.html> (accessed August 2003).

Chris Hampton, "Writing Bylaws," *Community Tool Box*: Part D Chapter

9 Section 7, Phil Rabinowitz and Jerry Schultz, eds (University of Kansas, 2003), http://ctb.lsi.ukans.edu/tools/EN/sub_section_main_1098.htm (accessed August 2003).

Phil Rabinowitz, "Developing an Ongoing Board of Directors," *Community Tool Box*: Part D Chapter 9 Section 4, Bill Berkowitz, ed (University of Kansas 2003), http://ctb.lsi.ukans.edu/tools/EN/section_1095.htm (accessed August 2003).

Helpful Web sites

Internal Revenue Service:

<http://www.irs.gov>

Maine Department of the Secretary of State:

<http://www.state.me.us/sos/sos.htm>

Maine Association of Nonprofits:

<http://www.nonprofitmaine.org>

Maine Department of Professional and Financial Regulation, Office of Licensing & Registration:

<http://www.state.me.us/pfr/olr/>



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