

# Annual General Meetings and Special General Meetings

COCo Legal Info-sheet

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## 1 Why we hold general meetings

One reason that non-profits hold meetings with their membership is because the law says they are obligated to do so. This info-sheet was made to explain key legal requirements for these meetings.

As important as those legal responsibilities are, it's vital to avoid thinking about these meetings purely in terms of the law, or your meetings are sure to feel like a stressful chore. Meetings with our membership are a very important place to strengthen the democratic life of our organization, and strengthen the ability of our community to work together for social change. They are a place where we can give our membership a real say in major decisions that are being made about the structure, direction and governance of the organization. COCo believes that we should invest in ensuring that our meetings are spaces for community groups to foster and sustain relationships, provide space for self-reflection and critique, and build collective power: in short, to support the democratic life of social movements and community groups!

For more information on strategies about how to do this, see the resources listed at the end of this info-sheet, especially those produced by the *Comité sectoriel de main-d'œuvre (CSMO)*, as well as our article ["How to Make Your AGM Great, Not Just Necessary"](#)

## 2 Finding the rules that apply to you

To use this info-sheet, you will need to know whether your non-profit is provincially incorporated in Quebec (under Part III of *Quebec's Companies Act*) or federally incorporated (under the *Canada Not-for-Profit Corporations Act*). For more information on types of non-profits, see COCo'S info-sheet on **Incorporation of a Non-Profit in Quebec**.

**The other important set of rules that apply to you are the rules set out in your organization's constitution and its by-laws.**

This information sheet uses “constitution” to mean the document that was issued by the government to certify your organization's creation. The constitution is often likened to the organization's “birth certificate”. The technical name for your constitution is either **letters patent**, if you are a provincially incorporated non-profit under the Quebec Companies Act; or **articles of incorporation**, if you are a federally incorporated non-profit.

Your constitution sets out some basic rules for your organization including its name, its purpose, and the location of its office. It may also contain rules that affect how you run your general meetings.

One level below the constitution is your non-profit's by-laws which are internal rules your organization makes for itself about how it operates. By-laws often describe rules that must be followed for membership meetings, board elections, and board meetings. By-laws are different from organizational policies, which tend to address day-to-day issues like hiring, sick- and vacation-time, and purchasing. Changes to your by-laws must be approved by your membership, while policies can simply be adopted by the board or staff. For by-laws to be binding, they have to comply with your constitution and with the law under which you are incorporated.

Samples of valid by-laws for provincially incorporated organizations can be found in the resources listed at the end, including *Votre association* (at pages 84 and following) and the *Boîte à outils, 2016* (in the appendices referenced by Module 1).

For federally incorporated organizations, *Corporations Canada* offers model by-laws and a by-laws builder tool on its website; we have included the link to that in the appendix. It is best to adapt these samples to the needs, spirit, and practices of your own organization, so long as they remain consistent with the contents of your constitution and the law.. Examples of rules that non-profits commonly adopt in their by-laws are also provided throughout this info-sheet, for example:

Organizations who aim to ensure their decisions are made by the people directly impacted by their work or who aim to foster leadership within their constituencies will sometimes adopt by-laws requiring that a given proportion of its directors have participated in the organization's activities.

## 3 When to have your Annual General Meeting (AGM)

### If you are provincially incorporated...

Provincially incorporated non-profits must hold their Annual General Meeting each year at a time allowed by your letters patent and your by-laws. If none is set, your AGM must be held **on the fourth Wednesday in January at their head office.**

It's common for the by-laws of provincially incorporated non-profits to provide that their AGM must be held within four months of the end of the organization's financial year. This allows flexibility in timing your AGM, and also makes it easier to satisfy the legal requirement that financial statements presented at the AGM must have been approved within the last four months. **See below in Section 11**

*-- Presenting financial statements for more information.*



#### What is a Fiscal year?

A fiscal (or financial) year, is the year an organization uses to budget its spending and income. Fiscal years are not the same from organization to organization. At COCo, many non-profits that we work with have fiscal years that run either from January 1st to December 31st, or April 1st to March 31st.

#### Some organizations have a fixed date in their by-laws for their AGM.

For example, an organization could state that their AGM will be held on March 2nd of every year, so long as this was within four months of the end of their fiscal year.



#### Some organizations do not have a fixed date in their bylaws, but their bylaws say approximately when their AGM will be held:

For example, an organization could state in their bylaws that their AGM occurs between the third week of February and the third week of March, so long as this was within four months of the end of their fiscal year.

## If you are federally incorporated...

The federal non-profit law's name for an AGM is the annual meeting of members. It must be called:

- no later than fifteen months after the previous AGM; and
- no later than six months after the end of the financial year.

A federally incorporated organization's first AGM must be called within 18 months of being created.

These rules (federal law) specify when federal nonprofits have to call their AGM (i.e. give notice), unlike the rules for provincially incorporated non-profits, which say when you have to hold your AGM.

After a federally incorporated organization fails to call an AGM as required for two years, an "interested person" can make an application for it to be dissolved.

Like provincially incorporated organizations, your organization's by-laws may also further restrict the dates within which AGMs must be called.

## 4. When to have a Special General Meeting (SGM)

For both provincially and federally incorporated organizations, the Board of Directors can call an SGM at any time. An SGM can be called whenever there is an emergent issue that is important enough that the membership should have a chance to formally address it, or when the law requires that a decision be made at an SGM rather than an AGM.

## If you are provincially incorporated...

The following table indicates the required proportion of votes in favour for various types of decisions made at general assemblies, and indicates those that must be made at an SGM.

Decision (provincially incorporated)	Where?	Votes Needed
<ul style="list-style-type: none"><li>• Appointing an auditor</li></ul>	AGM only	50% + 1
<ul style="list-style-type: none"><li>• Electing directors</li><li>• Ratifying amendments to your by-laws (which must have been adopted in a board resolution, except some specific changes including ones listed below that require a larger majority)</li><li>• Dissolving your non-profit (Dissolution takes 2/3.)</li></ul>	AGM or SGM	50% + 1

Decision (provincially incorporated)	Where?	Votes Needed
<ul style="list-style-type: none"> <li>Changing the number of directors</li> <li>Amending your letters patent <b>(This is necessary in order to change your name, the location of your head office, your purpose, or the number of directors)</b></li> <li>Amalgamating with another incorporated organization</li> <li>Creating an executive committee</li> </ul>	SGM only	2/3 majority
<ul style="list-style-type: none"> <li>Transforming your non-profit into a for-profit company</li> </ul>	SGM only	4/5 majority
<ul style="list-style-type: none"> <li>Removing a director before the end of their mandate <b>Your letters patent (or possibly, your by-laws) must confer this power on the SGM to be able to do this. The director must be given notice and a chance to be heard at the meeting or to have the chair read a statement the director wrote giving the reasons they oppose being removed.</b></li> </ul> <p><b>The Registraire des entreprises provides the following model language for letters patent: “Les membres peuvent, lors d’une assemblée, destituer un administrateur de la personne morale. L’avis de convocation de l’assemblée doit mentionner qu’une telle personne est passible de destitution et préciser la principale faute qu’on lui reproche.”</b></p>	SGM only	A majority as specified by your letters patent

It is possible for the same meeting to be both an SGM and an AGM, which may be more time and resource efficient. If an organization knows it wants to create an executive committee, for example, it can wait until the period during which its annual general meeting must be held, and then give its members notice of an “annual and special general meeting”, which meets all of the relevant requirements.

An SGM must also be called when the (provincially incorporated) organization’s secretary receives a **written request signed by 10% of the members**, which sets out the issues the membership wants to address.

Any member has the right to consult the list of names and addresses of the members of the organization, which can help them in preparing the request. When the directors receive such a request, they must call the SGM within 21 days. If they fail to do so, 10% of the membership may call an SGM themselves, even if they are not the same members who signed the initial request.

The by-laws can lower this percentage. If the Board is being uncooperative about honoring the request for an SGM, this can make it difficult for members to properly give notice of an SGM themselves, and to hold one. An alternative is to make a mandamus request in Superior Court, asking the court to order the board to hold the meeting or risk being held in contempt.

## If you are federally incorporated...

Federal non-profit law calls SGMs “special meetings of members”. These meetings are the only place where directors, or the person serving as the organization’s public accountant, can be removed, by simple majority. All other decisions, including "special resolutions", are made at an "annual meeting of members". Special resolutions are those that require a special majority of votes to pass, that is, 2/3 of the vote.

\*The federal non-profit law defines a “special resolution” as one that needs a majority to pass, and other decisions must be made with unanimous consent.



Both provincially and federally incorporated organizations don’t have to call an SGM to change their by-laws. Instead, any changes to the bylaws take effect immediately when the board adopts them. They must be ratified by the membership at the next AGM to remain in force, or the next SGM, if one happens sooner.

Decision (federally incorporated)	Where?	Votes Needed
<ul style="list-style-type: none"> <li>Removing a director</li> <li>Removing the public accountant</li> </ul>	SGM only	Ordinary resolution
<ul style="list-style-type: none"> <li>Electing directors</li> <li>Fixing the number of directors to be elected at annual meetings (within the range set by the articles of incorporation)</li> <li>Appointing or removing the organization’s public accountant, or fixing their remuneration, or requiring that they carry out an audit</li> <li>Confirming, rejecting, or amending changes or proposals to the by-laws made by the board, except those that make “fundamental changes” (see the following point)</li> </ul>	AGM or SGM	50% + 1 (“ordinary resolution”)
<ul style="list-style-type: none"> <li>Amending the by-laws to modify the articles of incorporation, amalgamate with another entity, become a provincially regulated non-profit or other type of legal entity, dissolve, or liquidate the organization’s assets</li> <li>Approving or ratifying a contract in which a director has a potential conflict-of-interest</li> </ul>	AGM or SGM	2/3 majority (“special resolution”)
<ul style="list-style-type: none"> <li>Holding a general meeting outside of Canada (this approval is not necessary if the articles of incorporation explicitly allow it)</li> <li>Adopting a resolution in lieu of a meeting (must be signed by all members)</li> <li>Resolving not to appoint a public accountant</li> </ul>	AGM or SGM	Board of Directors* (unanimous decision)

\* Board of Directors, the voting process may be more complicated than what is listed above, and you should consult other resources, such as the more comprehensive table from which the one above was adapted, provided in *La corporation sans but lucratif au Québec : aspects théoriques et pratiques* by Paul Martel (Montréal: Wilson & Lafleur, looseleaf version updated to January 2017), volume 1 at pages 14-75 to 14-79, as well as 8-18 and following.

## 5 Where to hold your meeting

If you are federally incorporated, by default, you must hold your AGM in Canada. If you are provincially incorporated you must hold your AGM in Quebec. You can meet elsewhere if your constitution explicitly allows it, or if every member with the right to vote at the meeting agrees to it beforehand. An email confirmation from each member agreeing to hold the meeting elsewhere could be sufficient.

***Your constitution or by-laws are also able to further restrict where you can hold general meetings to say that, for example, they must be held in Montreal.***

## 6 Setting the agenda...

Directors are generally the ones who set the agenda of topics to be discussed at a general meeting. An SGM's agenda will include the issues it was called to address. For example, if the SGM was called as a result of a valid request from members to do so, the topics they indicated must appear on the agenda. The board can, however, also add further topics at its discretion.

What topics should be on the agenda for discussion at an AGM? A number of topics are standard, though most of these are not strictly necessary:

### **Present and approve minutes of previous years' AGM:**

- it is common for organizations vote to approve the minutes taken at the previous year's AGM;

### **Presentation of activities over the past year:**

- it is common for organizations to present their activities over the past year to the membership, including reports from the Board and other decision-makers;

### **Presentation of annual financial statements:**

- the Board is required to present the organizations' annual financial statements and any other financial information required by your constitution or by-laws (for details, see Section 11 – Presenting financial statements), and must allow the membership to ask questions about them;

### **Presentation of accountant's report**

- if your organization has named an auditor or public accountant, their report on your financial statements must also be presented;

### **Approval of financial statements**

- it is common for organizations to hold a vote to approve the financial statements and any report given by the auditor or public accountant;

- you are required to either appoint an auditor (provincially incorporated non-profit) or public accountant (federally incorporated), or else pass a unanimous resolution not to appoint one<sup>5</sup>;

### **Discuss and Vote on By-law/Constitutional changes**

- you are required to discuss and vote on any changes to your by-laws or constitution proposed by the board (or, in some cases, the members, see below) since the last general meeting (for federally incorporated non-profits, these by-laws may already be in effect and only need to be ratified to remain in force);

### **Election of new directors**

- organizations generally elect directors, in accordance with their by-laws (though it is possible that elections will be unnecessary, either if none of the incumbent directors' terms end that year or, for provincially incorporated non-profits, if elections are held by mail or at an SGM);

### **Vote on resolutions/contracts**

- many organizations vote to ratify resolutions that the board has made or contracts that it authorized or that executives entered into<sup>6</sup>;

### **Discuss funders concerns or questions**

- organizations generally address any topic or condition required by their funders; and

### **"Varia"/Any other business (AOB)**

- a "varia" agenda is often included at the end of the agenda to provide the opportunity to discuss any other topics not explicitly mentioned.

### **Provincially incorporated non-profits often include in their by-laws the ability to authorize the chair of the general meeting to reorder the agenda items during the meeting.**

Even if it is not required by the law, you should consider allowing a discussion on any topic that the members have indicated they feel is important. Indeed, federally incorporated non-profits can only refuse to include member proposals on the agenda in limited circumstances. These include when the proposal clearly fails to significantly relate to your organization's activities, if its intent is clearly to settle a personal grievance, or when it wasn't submitted according to the legal requirements (e.g. it was sent outside of the proper period). Whenever a federally incorporated non-profit intends to refuse to a member proposal on the agenda, it must provide the member with written reasons explaining why within 21 days of receiving their proposal.

**Sample general meeting agendas can be found in the resources listed at the end of this info-sheet, including in an appendix to the CSMO's Boîte à outils, 2016.**

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5 You are only allowed to forgo this appointment if, as a federally incorporated non-profit, you are what the law deems a "designated organization" or if, as a provincially incorporated non-profit, you received no more than \$250,000 in government subsidies during the previous year.

6 Although whether this actually legitimizes these decisions in the eyes of the law is not clear in all instances.



## 7 Giving notice of the meeting

Your general meeting will be at risk of being invalidated entirely unless proper notice is given. It's good practice to regularly update your membership contact lists to be able to notify your members.

### **Provincially incorporated non-profits commonly establish in their by-laws that accidentally failing to give notice to a member doesn't invalidate a general meeting.**

Members who weren't properly notified can renounce notice, and are presumed to have renounced it if they are present at the general meeting, unless they raise an objection. By renouncing their right to proper notice, members can allow a general meeting to be held without any delay and without the board providing any notice, for example, as long as all the members with the power to vote renounce this right. By-laws sometimes explicitly state that notice can be renounced.

### 6.1 If you are provincially incorporated...



#### **When must you give notice?**

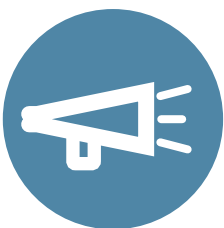
If your by-laws don't specify a timeframe, provincially incorporated organizations have to give notice **ten days before a general meeting**.

The delay is calculated starting from the time the notice is received (or would normally be expected to be received), and by default is counted in "clear days": neither the day that notice is received nor the day that the meeting is held count toward the total. To reduce confusion, your by-laws can explicitly state what the notice delay is.



#### **What must you include in the notice?**

Notice must include the **time, place and nature of the meeting** (i.e. "annual general meeting", "special general meeting", or "annual and special general meeting"). Notice of an SGM must clearly list each topic to be discussed, and it is standard to also do so when giving notice of an AGM.



#### **How must you give notice?**

By default, notice must be sent by **registered mail** to each member's last known address and must be **advertised in a newspaper published in English and one in French** in the nearest place to the company's head office where such newspapers exist (or in only one newspaper if they don't exist in both languages in that place).

Letters patent or by-laws for provincially incorporated organizations may provide a less onerous method to give notice than using registered mail or newspaper advertisements.

Be careful with these seemingly simpler methods of giving notice. A television advertisement alone is not valid notice. Similarly, simply putting up a poster in the head office a few days in advance of the meeting may be not only unfair to the membership, but also potentially invalid because it fails to effectively reach the membership.

## 6.2 If you are federally incorporated...

When and how must you give notice? For federally incorporated organizations, your bylaws establish how you must give notice, through one or more of the following methods:

Days in advance	Method for giving notice for federally incorporated nonprofits
21 to 60	By mail, courier or personal delivery to each member entitled to vote at the meeting.
21 to 35	By “telephonic, electronic or other communication facility” to each member entitled to vote at the meeting. Where the by-laws opt for electronic means, they must also provide one or more of the other methods to be used when a member requests a non-electronic alternative.
At least 30	By “affixing it to a notice board on which information respecting the organization’s activities is regularly posted and that is located in a place frequented by members”.
21 to 60	In a publication by your organization that is sent to all members: but this method is only available if your organization has more than 250 members. Organizations of this size also have the option to instead publish the notice “at least once in each of the three weeks immediately before the day on which the meeting is to be held in one or more newspapers circulated in the municipalities in which the majority of the members of the corporation reside as shown by their addresses in the register of members”.

Your organization can also request special permission from Corporations Canada to notify your members in another way.

### What must you include in the notice?

Federally incorporated nonprofits must include the date, time, and place of the meeting, and the nature of any issues on the agenda, in enough detail to allow an informed opinion of them in their notice. The text of any special resolution being submitted must be reproduced in the notice. For AGMs, however, the notice doesn’t have to announce that you will consider the financial statements, that the public accountant will present a report, that directors will be elected or that the incumbent public accountant will be re-appointed.

### Who must the notice be sent to?

Notice must be sent to all of the members entitled to vote, to all of the directors, and to the public accountant, if any.



To receive a notice of the meeting or to have the right to vote, a person must have been a member at the time of the “record date”. The directors can fix this date at anywhere between 60 and 21 days before the general meeting takes place. The law strangely lets them set one date at which time a person has to be a member to be entitled to receive notice of the meeting, and set a different date at which time a person has to be a member to be entitled to vote at the meeting. If the directors don’t set a record date for notice, then it’s set at the end of the business day before notice was given (or the day of the meeting, if no notice was given). If no record date is fixed for the right to vote, then it’s the same as the record date for the right to receive notice.

Notice does not need to be given to resume a meeting that was adjourned for a specified time of 30 days or less.

## 8 Quorum

Quorum is the minimum number of people who have to attend a meeting. Without quorum, the entire general meeting is invalid, although members are free to meet, without their decisions having any effect other than as recommendations.

Frustration with quorum is common. But it also serves an important purpose by preventing a small proportion of the membership from being burdened with having to decide whether they can legitimately make important structural decisions, and by preventing them from making decisions that the other members oppose. Efforts to encourage membership participation can be a good (and often fun) way of ensuring a healthy turn out for general meetings. It also helps with fostering healthy lines of communication.

<http://www.stickpng.com/assets/images/585e4ae1cb11b227491c3393.png>

**If quorum is not specified in the by-laws, then it automatically becomes the majority of the members with the right to vote.**



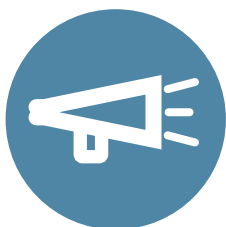
### What can a quorum look like?

Quorum can be set as a fixed number of members, a percentage of their total, or an amount that is determined or determinable by a formula. At the minimal extreme, the by-laws can state that “the members who are present form a quorum”. Many non-profits set a lower threshold for quorum in their by-laws.



### What's the lowest quorum that a non-profit can have?

Quorum for provincially incorporated non-profits can't be less than two people: the law says that one member can't “meet” with themselves. If your organization has only one member, your by-laws can set the quorum to be one member who is represented at the meeting by at least two people. One person on their own can, however, validly hold a general meeting of a federally incorporated non-profit.



### Does quorum need to be maintained throughout a meeting?

The by-laws can set whether quorum must be maintained throughout the meeting or is only needed to open the meeting. If they say nothing about this issue, then quorum must be maintained for the whole meeting for provincially incorporated non-profits, while federally incorporated non-profits only need quorum to open it.

## 9 Minutes

A meeting's minutes are a written summary that serve as a record of important things that happened. They shouldn't recount every detail of the meeting, but should summarize key points, and ensure, for example, to note who gave which presentation, on what topic, as well as the substance of any decisions made, including the text of resolutions and the names of any directors who were elected.

For and against each decision should be recorded, as well as the number of abstentions, whenever they are counted. When voting is done by ballot, this is mandatory. But if the meeting chair simply states that a motion was carried by a clear majority without individual votes being counted, it is not necessary. Minutes should always record the fact that the chair declared that a given resolution was carried or defeated.

Minutes must be stored with the organization's other important corporate records at your head office (although the directors of a federally incorporated non-profit can designate another place in Canada to do this). Store any signed resolutions made in lieu of a general meeting the same way. The minutes should be signed before they are stored to certify that they reflect what happened at the general meeting. For provincially incorporated non-profits they must be signed by either the meeting chair, the president, or the secretary.

Members of a provincially incorporated non-profit can consult the minutes of general meetings and the reports appended to them if they were present at the meeting. The board of such organizations decide whether to grant access when other requests are made.

You can find sample minutes for general meetings in some of the resources listed at the end of this info-sheet, for example in *Votre association* starting at page 91.

## 10 Meeting Procedure

A chairperson presides over a general meeting. Your by-laws can indicate who must serve as chair.<sup>5</sup> When choosing the chair, consider whether the issues you will be discussing are likely to be divisive, as well as the organization's overarching principles, personality, and purpose. Organizations sometimes choose a chair on the basis that they're good at facilitating discussions, other times it is important for the membership to perceive them as neutral, and in others, it's good to have someone who is well-versed in meeting procedure.

The chair of a provincially incorporated organization must check that notice of the meeting was validly given.

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<sup>5</sup> If no chair is indicated in the by-laws or the person indicated there is absent, a provincially incorporated organization's general meeting is chaired by its president. If the president is absent or the organization has none, then the task falls to the vice-president. If none of these people are at the meeting within fifteen minutes of the start time, then the members elect a chair among themselves.

The meeting will also choose a meeting secretary to record minutes.

A chair must then check that quorum is respected.

If no rules of procedure for general meetings are established by the by-laws, the chair of a provincially incorporated non-profit then establishes the rules, as well as any exceptional features such as a time limit for the overall meeting or time limit for individual speakers.



**Meeting procedure does not have to be overly formal and organizations can adapt or completely build their own rules.** For example, there is no need to require that motions must be “seconded”. Although the most well-known rules of procedure (Robert’s Rules of Order, the Code Morin , etc.) are widely used, they may often be more cumbersome than necessary for the purposes a small non-profit. It’s up to you to decide whether a simplified set of rules is more appropriate.

The members must then vote on the adoption of the meeting agenda. Once adopted, the meeting will move through the items in the agenda as adopted until it is adjourned.

Agenda items take either a **plenary form**, where the intent is to convey information, or a **deliberative form**, where the ultimate aim is to make a decision.

## FOR FEDERALLY INCORPORATED NON-PROFITS...

**For federally incorporated non-profits**, the default voting procedure if the by-laws don’t provide otherwise is to vote by show of hands, unless any member requests a vote by secret ballot.

**For federal nonprofits**, the law explicitly provides that a member can request a vote by secret ballot even after the vote by show of hands has already taken place.

**For provincially incorporated non-profits**, if no voting procedure is specified by the by-laws, the chair decides on the procedure. A common practice is to use the same vote by show of hands unless a member requests a secret ballot, although this usually must be requested before the vote has taken place.

Any number of possibilities, however, are possible, including a vote by spoken “yay” or “nay”, by people standing (to indicate a vote in favour) or sitting (to oppose), or any of an endless array of other methods are also possible to adopt.

## PROVINCIALY INCORPORATED NON-PROFITS...

**Provincially incorporated non-profits** can hold the election of their directors by mail, though this method is probably invalid to use for adopting general meeting resolutions, if their by-laws provide for this (writes Paul Martel).

**For provincially incorporated organizations**, the meeting chair not only has the right to propose motions and vote on all motions in their capacity as a member, but also has the power, in the case of a tie, to cast a second, deciding vote, unless that power is withdrawn by the letters patent or by-laws.

**Provincially incorporated non-profits** can also adopt resolutions with unanimous consent if no one asks for a vote, and the chair can declare the resolution to have unanimously passed. However, any member, including the chair, can ask for a vote.

**Federally incorporated non-profits** allow more flexibility in voting by members who are not physically present. A vote can be held entirely by telephone or any other technological or electronic communications method the organization deploys, unless the by-laws provide otherwise. It is also possible for the by-laws to authorize absentee voting by proxy, by mail, or by electronic means, so long as certain conditions in the law are met. You can also ask for special permission from Corporations Canada to be authorized to use another absentee voting method.

**Although a written resolution signed by all of the members of a federally incorporated non-profit can be just as valid as one passed at a general meeting held in person, provincially incorporated non-profits cannot validly pass resolutions of the membership this way.**

Decisions that require 50%+1 votes to pass are usually counted using a simple majority of votes cast by the members present forming quorum. Exceptionally, though, when no quorum is specified in the by-laws of a provincially incorporated non-profit, the count is an absolute majority, and abstentions and absences are also counted.

When supermajorities are required for provincially incorporated non-profits (**e.g. 2/3 majorities**), the total is calculated with respect to all members present, and so abstentions have the same effect as a vote against.



Your by-laws can raise the proportion of votes required for many decisions, and federal non-profits can even make many of their decisions by consensus, so long as their by-laws define the meaning of consensus, the way to verify that it was obtained, and the way to submit to a vote any issue on which consensus cannot be reached.

If your organization has created different classes of members, you should be sure not to rely solely on the simplified information above, and should look to other resources, since the process is more complicated: in a number of situations even members designated as “non-voting” must be given a say!

# 11 Presenting financial statements

Your financial statements can be subjected to one of three levels of accounting analysis:

- **a compilation, or notice to reader** is the least onerous option, and is largely a literal compilation of the relevant information;
- **a financial review or review engagement** involves analysis of the information, including basic checks to ensure that the numbers are reasonable and internally consistent; and
- **an audit** is the most rigorous accounting procedure, and provides the strongest assurance that the financial statements are accurate.

The law requires certain minimum levels of analysis in different situations, but you may also be required to exercise a more rigorous level of analysis by the rules in your by-laws, your letters patent, or requirements made of you by your funders.

## IF YOU ARE PROVINCIALY INCORPORATED

The financial statements that you must present at your AGM always include a balance sheet (which, as mentioned before, must cover a period ending no more than four months before the AGM <sup>5</sup>).

Provincially incorporated non-profits can add to their financial statements a general statement of income and expenditure for the financial period ending nearest to the date of their balance sheet. The CSMO's *Boîte à outils*, 2016 (referenced at the end of this info-sheet), provides at page 70 a sample of a statement of income and expenditure.

Provincially incorporated organizations must also present any financial information required by their constitution or by-laws.

All of this information must have been approved by the current board before being submitted to the AGM. A director should sign them as evidence of this.

Finally, if your organization named an auditor, their report must also be attached and presented, though they do not necessarily need to present their report in person.

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<sup>5</sup> If the organization's work is based outside of Quebec, however, it can adopt a resolution at a general meeting to extend this to six months.

## IF YOU ARE FEDERALLY INCORPORATED

The financial statements that you must present at your AGM include a balance sheet, and statements:

- of comprehensive income or of retained earnings;
- of changes in equity or of income; and
- of cash flows or of changes in financial position.

These generally must be comparative financial statements, relating to the previous two financial years. You must also present any financial information required by your constitution, your by-laws and any unanimous member agreement.

The law regulating federally incorporated non-profits is explicit that its comparative financial statements must conform to “generally accepted accounting principles”, as established by Chartered Professional Accountants (CPA) Canada. For more on this topic, see Coco’s info-sheet on Generally Accepted Accounting Principles for Small Non-Profits.

All of this information must have been approved by the current board before being submitted to the AGM. A director should sign them as evidence of this. Finally, if your organization named a public accountant, their report must also be attached and presented, though they do not in all cases need to present their report personally.

It is an offence for a federally incorporated non-profit to publish or disseminate these financial statements if they are not approved and signed, or if they are not accompanied by the public accountant’s report, if one was produced.



Certain particularities apply to the presentation of financial information by federally incorporated organizations at their AGMs. For example: Federally incorporated non-profits must send their members a copy or a summary of all the financial documents they are required to present at the annual meeting. If a summary is provided, the non-profit must indicate how members can obtain a full copy at no cost. To lessen this burdensome obligation, your organization can instead provide in its by-laws to notify its members, according to the same rules for notification as for general meetings, that these documents are available at your head office and that members are free to receive a copy at no charge either by visiting the office in person or by prepaid mail.

If you are federally incorporated non-profit also has subsidiaries, there are additional obligations related to their financial statements.



The level of scrutiny required of a federally incorporated non-profit depends on its gross annual income and whether it is considered a “soliciting corporation”, meaning that it has received \$10,000 or more from public sources in any of its three previous financial years. For the definition of what is included in this notion of “public sources”, see Corporations Canada’s website on this topic, listed in the appendix.

The following table describes what is required of different categories of federally incorporated non-profits:

Soliciting Corporation?	Gross annual revenue		Allowed to forgo naming a public accountant?	Intensity of review by the public accountant	
Yes	< \$ 50 k		Yes, in which case there will be no review (i.e. a compilation)	Review engagement by default. but members can require an audit by ordinary resolution	
Yes	\$ 50 k to \$ 250 k		No	An audit by default, but members can opt for a review engagement by special resolution	
Yes	< \$ 250 k		No	An audit is mandatory	
No	< \$ 1 M		Yes, in which case there will be no review (i.e. a compilation)	Review engagement by default. but members can require an audit by ordinary resolution	
No	> \$ 1 M		No	An audit is mandatory	

## 12 Board elections

**Length of term.** Directors are, by default, elected for one-year terms at every AGM, but providing for longer terms in your bylaws allows the terms to be staggered so that the organization has both experienced and fresh directors working alongside one another. To establish this system, directors are initially elected for unequal term lengths. For provincially incorporated organizations, the maximum term length that by-laws can validly establish is two years; it is four years for federally incorporated non-profits. If, in a federally incorporated nonprofit, a director is elected for a term whose length is not expressly stated, it ends with the close of the following AGM. Similarly, for provincially incorporated non-profits, the election “shall take place yearly, and all the directors then in office shall retire, but, if otherwise qualified, they shall be eligible for reelection.”

**Term limits.** Directors can be re-elected indefinitely, unless the by-laws set term limits, which organizations often choose to impose. Sometimes these limits allow a director to be re-elected only after the end of a period that begins at the end of their term.

**Eligibility.** The law requires directors to be at least 18 years old; to not currently be bankrupt; to not have certain intellectual disabilities, notably when they have been “declared incapable by a court”; and to be a “natural person” (in other words, they can’t be an incorporated organization, which the law also considers to be a person!). But people under 18 years old and people with intellectual disabilities can be directors of a non-profit of an organization whose purpose concerns them. Check your by-laws and constitution to see if they set further restrictions. Sometimes, for example, a director must be a member of the organization. In the case of federally incorporated non-profits that are soliciting corporations (described in the previous section), at least two directors must be neither officers nor employees of the organization or its affiliates.

**Number of board members.** You must elect enough board directors to fill the number specified in your constitution. If the articles of incorporation of a federally incorporated non-profit specify a range, then either the membership can fix the specific number of directors by resolution, which remains in effect until rescinded, or it can delegate this power to the board. In all cases, your organization must have a minimum of three directors, unless you are a non-soliciting, federally incorporated non-profit, in which case one is enough. Provincially incorporated non-profits have to set the specific number of directors and send notice to the Registraire des entreprises using the proper form, and can’t change that number by simple resolution or by just changing their by-laws. Choosing an odd number of directors is a strategy used to try to avoid the chance of tie votes.

**Reserved seats.** It is also possible for the by-laws to reserve a certain number or proportion of seats on the board of directors for particular categories of people, such as people who benefit from the organization’s services or are active volunteers.

**Voting.** Elections of directors of provincially incorporated non-profits must be by ballot, although any vacancies that arise during the year can be filled for the rest of that director’s term by the board itself. As long as the board retains quorum, it can fill vacancies even if no directors originally elected by the members remain. But the board can never extend a director’s mandate beyond the one the members initially elected them to.

**If no election is held.** If, for whatever reason, an election is not held at your AGM as it should be, your existing directors remain in their positions until a general meeting is called and elections held. This ensures that even if your AGM doesn’t happen, you’re not left without a board of directors.

**Removing board members.** The rules describing how to remove a board member have to be outlined in the by-laws and even this may not be enough for a provincially incorporated non-profit, where they may have to be written in your letters patent.

See more on this topic above in *Section 4 – When to have a Special General Meeting (SGM)*, or in COCo’s infosheet *Incorporation of a Non-Profit in Quebec*.

## Further resources & legal notices

The following resources provide detailed information on non-profit governance, and are generally available to borrow from COCo's resource library or to purchase from us. Most are currently only available in French. Please contact COCo if you need help navigating them.



**Votre association : personne morale sans but lucratif : Pour les administrateurs et les membres des associations** Government of Quebec, 2013,  
[iris.banq.qc.ca/alswww2.dll/APS\\_ZONES?fn=ViewNotice&q=0004480772](http://iris.banq.qc.ca/alswww2.dll/APS_ZONES?fn=ViewNotice&q=0004480772)

### **Administrateurs de personnes morales sans but lucratif : Le guide de vos droits, devoirs et responsabilités**

Paul Martel, 4th edition, 2016, Wilson & Lafleur, [iris.banq.qc.ca/alswww2.dll/APS\\_ZONES?fn=ViewNotice&q=0005315351](http://iris.banq.qc.ca/alswww2.dll/APS_ZONES?fn=ViewNotice&q=0005315351)



**Boîte à outils** – La gouvernance démocratique - OBNL de l'action communautaire et de l'économie sociale. Comité sectoriel de main-d'œuvre – Économie sociale action communautaire (CSMO-ESAC), 2016 edition,

[csmoesac.qc.ca/outils/gouvernance-democratique/boite-outils-gd](http://csmoesac.qc.ca/outils/gouvernance-democratique/boite-outils-gd)

**Boîte à outils** – La gouvernance démocratique – Fiche 2 : La structure juridique des OBNL et la gouvernance démocratique Comité sectoriel de main-d'œuvre – Économie sociale action communautaire (CSMO-ESAC), 2011 edition, [csmoesac.qc.ca/sites/default/files/files/boite\\_a\\_outils\\_15\\_fevrier\\_2011.pdf](http://csmoesac.qc.ca/sites/default/files/files/boite_a_outils_15_fevrier_2011.pdf)



**Corporations Canada website, Not-for-profits – The members – Members meetings**  
[ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs05006.html#toc-03](http://ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs05006.html#toc-03)

**Corporations Canada website, model by-laws**  
<https://ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs04999.html>

## Corporations Canada website, bylaw builder

[https://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/h\\_cs04734.html](https://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/h_cs04734.html)

## Corporations Canada website, Requirements for soliciting corporations under the *Canada Not-for-profit Corporations Act (NFP Act)*

<http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs05011.html>



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**COCO has released other info-sheets** related to this one, including:

- **Incorporation of a Non-Profit in Quebec**, [coco-net.org/incorporation-of-a-non-profit-organization-in-quebec](http://coco-net.org/incorporation-of-a-non-profit-organization-in-quebec)
- **Generally Accepted Accounting Principles for Small Non-Profits**, [coco-net.org/generally-accepted-accounting-principles-for-small-non-profits](http://coco-net.org/generally-accepted-accounting-principles-for-small-non-profits)
- **Board of Directors: Roles & Responsibilities**, [coco-net.org/portfolio-item/board-directors-roles-responsibilities](http://coco-net.org/portfolio-item/board-directors-roles-responsibilities)
- **How to make your AGM Great, Not Just Necessary** (“How to Make Your AGM Great, Not Just Necessary” <http://coco-net.org/making-your-agm-great-not-just-necessary/>)

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