

## Preface

The name of your not-for-profit corporation is important because it is through its name that the corporation communicates its mission to the greater community. Clients, volunteers, staff, board members, colleague organizations and vendors – and others the organization seeks to reach – ideally will be drawn to the agency by its name.

Your organization may be changing its name for any number of reasons. Often the impetus for a name change is that the existing name does not accurately reflect the organization's current programs, structure and/or geographic service area. Other times an organization may choose to switch to a name that is more distinctive or easier to remember or abbreviate, as part of an overall marketing or branding strategy. Sometimes an organization will change its name to avoid confusion with another group.

Regardless of the reason for the name change, a New York not-for-profit corporation must follow certain procedures in order to effectuate a name change in compliance with the law. This manual seeks to outline these procedures as well as related practical steps that a not-for-profit corporation should undertake if it seeks to change its corporate name.

This manual is designed to provide helpful information to groups changing their name. It is not intended to constitute legal advice. We are pleased to offer this guide to aid not-for-profit organizations as they provide vital programs.

We thank Elisa Hwu for helping to update this Fourth Edition while working as a Lawyers Alliance staff attorney on a Dechert LLP externship. We also thank Dechert LLP for its help in producing these materials.

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## Overview of the 10 Steps to Changing a Name

The primary statute governing the name change process for not-for-profit corporations in New York is the New York Not-for-Profit Corporation Law (“N-PCL”). The primary New York state agency overseeing the name change process, and the filing of certificates of incorporation and amendments containing the name, is the New York Department of State (often referred to as the Secretary of State’s Office, but referred to herein as “Department of State”).<sup>1</sup>

This manual discusses ten basic steps for changing the name of a New York not-for-profit corporation (which you may check off when completed):

- \_\_\_ **Step 1:** Select, clear and reserve a new corporate name. (Pages 3-6)
- \_\_\_ **Step 2:** Obtain authorization of the name change from the corporation’s members, or, if there are no members, from the board of directors. (Pages 6-7)
- \_\_\_ **Step 3:** Set forth the name change in a certificate of amendment of the corporation’s certificate of incorporation. (Page 7)
- \_\_\_ **Step 4:** Obtain approvals and consents from any state administrative officials whose approvals and consents were endorsed on the original certificate of incorporation or any amendments thereto. (Page 8)
- \_\_\_ **Step 5:** Submit the signed certificate of amendment and supporting documents to the Department of State for filing, along with filing fees. (Pages 8 –10)

<sup>1</sup> The specific division handling these matters within the Department of State is currently called the Division of Corporations, State Records and Uniform Commercial Code. This division has had slightly different names over the years, including Division of Corporations and State Records.

- \_\_\_ **Step 6:** If applicable, notify the Internal Revenue Service (the "I.R.S.") of the name change and obtain verification of the continuing validity of the federal tax-exempt status of the corporation. (Pages 10-12)
- \_\_\_ **Step 7:** Review agreements with lenders to determine any obligations arising as a result of the name change, and comply with such contractual obligations. (Page 13)
- \_\_\_ **Step 8:** Send other interested parties a notice of the name change and any other required or relevant documentation (such as a letter from the I.R.S. verifying tax-exempt status after the name change). (Page 13)
- \_\_\_ **Step 9:** Make arrangements to change stationery letterhead, bank account names and building signs. Obtain a new corporate seal. (Page 14)
- \_\_\_ **Step 10:** File a certificate of corporate use of assumed name if you plan to use the new corporate name before the certificate of amendment becomes effective. (Pages 14-15)

These steps are concerned with amending a certificate of incorporation in order to accomplish a name change. This manual does not attempt to address any trademark, trade name or copyright issues that may arise in connection with a name change. We advise you to seek legal counsel for guidance on intellectual property issues. Additionally, this manual does not address other amendments that can be made to a Certificate of Incorporation, for example to change the agency's purposes or office address. <sup>2</sup>

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<sup>2</sup> For more information on Certificates of Amendment, see Victoria B. Bjorklund et al., *New York Nonprofit Law and Practice: With Tax Analysis* § 313 (2<sup>nd</sup> ed. 2007).