



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.

Ex Officio Directors in Georgia Nonprofit Corporations

By Alex Godwin, Senior Counsel, Novelis North America

It is important for nonprofit corporations to build a strong board of directors because the board plays a central role in ensuring the organization's success. The inclusion of an ex officio director on a nonprofit board can further strengthen an organization but may also present certain challenges. This article outlines what ex officio directors are, their role on a board of directors, the benefits they provide, the potential challenges to consider and best practices for implementation by a nonprofit corporation.

What is an ex officio director?

The term *ex officio* is a Latin phrase meaning “by virtue of office or position.” An ex officio director is not elected, but rather holds their board position automatically and solely because they hold another position or office. The qualifying position can be internal to the organization (such as one of its chief executive) or an external professional who holds a position relevant to the organization. For example, a nonprofit may reserve an ex officio board position for the Executive Director, a city councilperson, or an officer of a local university.

Because an ex officio director serves by virtue of office or position, an individual serving on a board of directors in an ex officio capacity will cease to be a member of such board in the event they no longer hold such office or position, with the successor to such office or position automatically taking that spot on the board of directors.

How are ex officio directors appointed and removed?

A Georgia nonprofit corporation can create an ex officio director position through its corporate bylaws. The bylaws must not only expressly provide for the ex officio role but, as discussed in more detail below, must also outline any special privileges or exceptions applicable to the ex officio director as compared with the organization’s elected directors. The ex officio position can be included in the initial bylaws adopted at the formation of the organization, or at any later time through a written amendment.

Dated: 10/27/2025

www.pbpatl.org

© 2025 Pro Bono Partnership of Atlanta, Inc. All rights reserved.

Similarly, the only way a Georgia nonprofit corporation may remove or otherwise make material changes to an ex officio position is through an amendment to its bylaws. Neither an individual serving as an ex officio director nor the ex officio position can be removed by a simple vote of a corporation's members or other directors. It is important for Georgia nonprofit corporations to ensure that directors are properly removed in accordance with their organizational documents, particularly because Georgia courts have declared decisions of a board of directors to be void in cases where purportedly removed directors were not properly removed in accordance with Georgia law.

What powers do ex officio directors have?

Despite a common misconception that "ex officio" means "non-voting," an ex officio director is equivalent to elected members of the board in every way (other than with regards to appointment and removal, as discussed above) unless their organization's bylaws provide otherwise. It is important to note that a director serving "ex officio" only describes how the director holds their position and does not otherwise define such a director's rights or limit their power.

If a Georgia nonprofit corporation intends for an ex officio director to be non-voting and/or to have any other differences in their rights and powers compared with the corporation's elected directors, these restrictions must be expressly set forth in its bylaws. In the absence of specific language in the bylaws, under Georgia law an ex officio director has the same rights and duties as elected directors including the right to vote, quorum determinations, fiduciary duties, and the duty to attend meetings.

Advantages

An ex officio director can bring many advantages to a nonprofit board, including:

- **Expertise:** Ex officio board members often bring specialized knowledge and/or experience to the board that may support the nonprofit's mission and operations.
- **Continuity:** Ex officio board members can have a longer tenure than elected directors. In this case, they can provide a stable source of institutional knowledge.
- **Community representation:** Ex officio board members coming from the local community or government can often prove beneficial to an organization seeking to represent certain populations and communities, as they may have connections and influence within these communities and may also be uniquely positioned to understand the needs of these communities.
- **Coordination:** An internal employee of a nonprofit serving as an ex officio director can increase efficiency and coordination by serving as a liaison between the management and operations of the organization.

Challenges and considerations

While ex officio directors may offer valuable contributions to a nonprofit board, nonprofits with ex officio directors (or considering having them) should be sure to consider the following potential pitfalls:

- **Conflicts of interest:** An ex officio director's qualifying position can present a heightened risk of conflicts of interest or related party transactions. For example, if an ex officio director is also an officer of the organization, this is likely to create conflicts of interest related to staff evaluations or budget decisions. The board should manage any such conflicts by following the organization's conflict of interest policy (see below).
- **Accountability:** Though ex officio directors serve in dual roles, they must still be held accountable to the nonprofit organization to which they provide board service. While all Board members have a fiduciary duty to act in the organization's best interests, ex officio Board members may not share the same incentives as Board members who must seek re-election.
- **Reduced engagement:** Because ex officio directors are required to serve on the board rather than volunteering to serve on the board, there is a risk that an ex officio director's board service may arise out of duty rather than out of interest. That lack of interest may impact their participation level. Ideally, all board members desire to serve on the board and are fully engaged in their roles.
- **Lack of turnover:** As discussed, an ex officio director may hold their qualifying role for a long period of time. While a member's consistent presence on a board can have benefits (as discussed above), regular board turnover often brings new perspectives and reflects the organization's changing needs over time. Particularly in the case of smaller boards, ex officio directors who may remain on the board regardless of the evolving needs of the organization could lead to a power imbalance.

Best practices

Some best practices for nonprofit organizations with one or more ex officio members of the board of directors include:

- **No term limits:** in spite of the concerns about lack of turnover mentioned above, ex officio directors should be exempt from director term limits as such limits directly conflict with the basis of their board service (which is tied to their position or office).
- **Clearly defined responsibilities:** The scope of an ex officio director's responsibilities should be clearly defined in the organization's bylaws and well-understood by the ex officio board member and the board at large. Additionally, ex

officio directors should receive targeted onboarding that provides them with a clear understanding of their specific roles and responsibilities within the board.

- **Checks and balances:** Nonprofit organizations with an ex officio director on their board should establish related checks and balances to maintain accountability and transparency. Nonprofits should have a robust conflict of interest policy that provides directors guidance on recusing themselves from decisions involving conflicting loyalties and ensures that conflicts arising from the roles or affiliations of ex officio directors are appropriately managed.
- **Consider alternative roles:** If a nonprofit organization desires an ex officio to serve in a non-voting or otherwise primarily advisory role, that organization should consider instead honoring the person in that role or office as an honorary advisor. This title, which is nonvoting, can acknowledge a valued person's contributions to an organization while avoiding confusion about their role on the board. These individuals can attend board meetings as observers and participate in these meetings as permitted without being considered members of the board and subject to the associated fiduciary duties and other responsibilities.
- **Regular review of the arrangement:** Boards should regularly assess the inclusion of an ex officio director to ensure that the arrangement remains in the best interests of the organization and strengthens, rather than impedes, the board's effectiveness and efficiency.

Ex officio directors can add value to a board by bringing expertise, continuity and stability, and tailored representation. However, organizations should proactively consider the potential challenges and limitations having an ex officio director on their board may bring. Implementing some or all of the best practices discussed above will help your organization effectively leverage an ex officio director's experience and expertise. Be sure to consult with your legal counsel for advice specific to your organization.