

What Do We Mean By...?

GOVERNING INSTRUMENT ➤ The term “governing instrument” refers to the document that contains a foundation’s statement of purposes. The governing instrument also specifies whether or not a foundation must be perpetual and may spell out special restrictions on succession or control. If a foundation is structured as a charitable trust, the governing instrument is an Agreement of Trust, sometimes referred to as an “Instrument,” “Declaration,” or “Indenture” of Trust. If a foundation is structured as a not-for-profit corporation, the governing instrument is called the Articles of Incorporation or the Certificate of Incorporation.

BYLAWS ➤ Although the trustees of a charitable trust occasionally elect to adopt Bylaws, the directors of a not-for-profit corporation almost always do so, and in some states it may be required. Bylaws are typically limited to routine matters of governance and say little or nothing about a foundation’s purposes.

TRUSTEE and OFFICER ➤ A not-for-profit corporation ordinarily has a “board of directors” or a “board of trustees,” and the board appoints a president, a secretary, a treasurer, or other “officers.” A charitable trust usually has “trustees” but no officers, although larger charitable trusts may appoint administrative and program “officers.” In this chapter, the term “trustee” is used generically — and can mean the trustee of a charitable trust or a member of the board of a not-for-profit corporation. The term “officer” refers to an officer of a not-for-profit corporation or a charitable trust.