



STATE OF NEW MEXICO

MAGGIE TOULOUSE OLIVER

SECRETARY OF STATE

Requirements and Instructions for Merging into a Nonprofit Corporation (53-8-42 to 53-8-43 NMSA 1978)

Filing Fees: The filing fee is \$20. Please make the check or money order payable to New Mexico Secretary of State or NMSOS.

Filing: The authorized individuals for each party of the merger shall file with the Secretary of State:

1. A Plan of Merger and Articles of Merger drawn up based on the attached statute, 53-8-42 to 53-8-43 NMSA 1978, signed by one authorized person from each entity involved in the merger.
2. A check or money order in the amount of \$20.00 made payable to NMSOS.

Please refer to 53-8-40 to 53-8-44 NMSA 1978 for the complete statutes governing a merger into a nonprofit corporation. The Business Services Division can only act in an administrative capacity. We cannot offer you legal advice or opinion on your particular filing. We recommend that you consult with your own attorney and accountant during the process of incorporating as an association.

Please mail the entire packet to:

New Mexico Secretary of State

Business Services Division

325 Don Gaspar, Suite 300

Santa Fe, NM 87501

53-8-42. Adoption of merger or consolidation

- A. A plan of merger or consolidation shall be adopted in the following manner:
- 1) if the members of any merging or consolidating corporation are entitled to vote thereon, the board of directors of the corporation shall adopt a resolution approving the pro-proposed plan and directing that it be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Written notice setting forth the proposed plan or a summary thereof shall be given to each member entitled to vote at the meeting within the time and in the manner provided in the Nonprofit Corporation Act [Chapter 53, Article 8 NMSA 1978] for the giving of notice of meetings of members. The pro-proposed plan shall be adopted upon receiving at least two-thirds of the votes which members present at each such meeting or represented by proxy are entitled to cast; or
 - 2) if any merging or consolidating corporation has no members, or no members entitled to vote thereon, a plan of merger or consolidation shall be adopted at a meeting of the board of directors of the corporation upon receiving the vote of a majority of the directors in office.
- B. After adoption, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

53-8-43. Articles of merger or consolidation.

- A. Upon approval, articles of merger or articles of consolidation shall be executed by each corporation by two authorized officers of the corporation, and shall set forth:
- 1) the plan of merger or the plan of consolidation;
 - 2) if the members of any merging or consolidating corporation are entitled to vote thereon, then as to each corporation:
 - a) a statement setting forth the date of the meeting of members at which the plan was adopted, that a quorum was present at the meeting and that the plan received at least two-thirds of the votes that members present at the meeting or represented by proxy were entitled to cast; or
 - b) a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto; and
 - c) if any merging or consolidating corporation has no members, or no members entitled to vote thereon, then as to each corporation a statement of that fact, the date of the meeting of the board of directors at which the plan was adopted and a statement of the fact that the plan received the vote of a majority of the directors in office.
- B. An original and a copy, which may be a photocopy of the original after it was signed or a photocopy that is conformed to the original, of the articles of merger or articles of consolidation shall be delivered to the commission [secretary of state]. If the commission [secretary of state] finds that the articles conform to law, it shall, when all fees have been paid as pre-scribed in the Nonprofit Corporation Act:
- 1) endorse on the original and copy the word "filed" and the month, day and year of the filing thereof;
 - 2) file the original in the office of the commission [secretary of state]; and
 - 3) issue a certificate of merger or a certificate of consolidation to which shall be affixed the copy.
- C. The certificate of merger or certificate of consolidation, together with the copy of the articles of merger or articles of consolidation affixed thereto by the commission [secretary of state], shall be returned to the surviving or new corporation or its representative.



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Document Delivery Instruction Form

Please fill out in its entirety

Contact Name: _____

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All documents will be emailed to the email address listed. If an email address is not provided the documents will be mailed to the address listed.

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WWW.SOS.STATE.NM.US