



BOARD ROLES AND RESPONSIBILITIES

Preamble:

Board Roles and Responsibilities allow the Board of Directors to conform their conduct to the fiduciary duties required by law. The board's fiduciary duties are based upon the **Duty of Care**, **Duty of Loyalty** and **Duty of Obedience** found at Common Law. Most states have adopted all or part of the Model Nonprofit Corporation Act, which provides that the board of directors must act **in good faith** and in the **best interests** of the nonprofit and when becoming informed in connection with their decision-making functions or devoting attention to their oversight function, they must **discharge their duties with care**.

The comments to the fiduciary duty sections of the Model Nonprofit Corporation Act by the authors makes clear that the foundation for the Board of Directors Standards of Conduct of the Board of Directors still lies in the common law fiduciary duties of Duty of Care, Duty of Loyalty and Duty of Obedience.

The Duty of Loyalty and the Duty of Care both address the obligations that fiduciaries owe to advance a nonprofit's purpose. The **Duty of Loyalty** requirement to "act in good faith" is neither an independent fiduciary duty nor a separate requirement of the duty of loyalty. Rather, a threshold requirement is that a fiduciary hold a subjective belief they are acting within the best interests of the nonprofit in light of the nonprofit's purposes. Each board member must be loyal to the nonprofit and not use the position of authority to obtain, directly or indirectly, a benefit for him or herself or for another organization in which the board member has an interest. Accordingly, the duty of loyalty considers both a board member's financial interests and the governance or leadership positions he or she holds with other organizations. The most critical implementation of the duty of loyalty comes in the nonprofit's conflict-of-interest policy.

The **Duty of Care** is a statement of a fiduciary's duty to oversee the nonprofit and is sometimes known as the duty of attention and characterized as including a duty to be adequately informed when making important decisions for the nonprofit. It is generally understood that the level of familiarity and knowledge required is that the director attend board meetings regularly and actively seek the information necessary to make informed and independent decisions that are in the nonprofit's best interest.

The **Duty of Obedience** is now thought to be an element of the duties of care and loyalty rather than a separate duty. The Duty of Obedience is the duty to remain faithful to the purposes of the nonprofit by operating in furtherance of its governance documents and in compliance with the law as well as any restrictions imposed by donors. The board should ensure there are internal controls to achieve compliance and to identify and address problems. The board should periodically re-evaluate its purposes and mission and if appropriate amend or change its governing documents.

The Board Roles and Responsibilities are a means of conforming conduct to the law as well as best practices that reflect compliance.

Roles and Responsibilities:

1. Define and advance the Organization's mission, purpose, and strategic direction

It is the responsibility of the board to develop, review and advance the Vision, Mission and Purpose that will guide all the activities of the Organization.

The Board should regularly set and review goals and strategies to accomplish the organization's Mission and purpose. The board should be appropriately engaged in the oversight of the nonprofit's programs. Strategic Planning should include a determination of the resources needed for implementation and include evaluation of how well the plan is carrying out the Mission and purpose.

2. Providing Financial Oversight and Stability

The Board of Directors is responsible for both the long- and short-term financial health of the nonprofit. The role of the Board of Directors is to maintain financial oversight of the organization by establishing and approving the annual budget. Financial reports to the board should be consistent, accurate and include comparison to the annual budget. Financial reports should be presented at every board meeting. It is the Board's responsibility to ensure that they read and understand the financial reports.

3. Ensure that the organization operates in a legal, ethical, accountable, and transparent manner

A board needs to ensure that the organization is compliant with all relevant laws and regulations that impact nonprofits federally and in the state of its organization. This includes proper filing of its 990-tax return and any required state reports. It also includes being compliant with employment laws, lobbying laws, etc. Because a nonprofit is a public organization, it must be accountable and transparent to the public, making certain data easily available to the public such as its 990-tax return. The organization should produce an Annual Report and make it available to the public, its members, and donors. Minutes of each board meeting must be recorded and preserved and made available if requested.

The board sets policies that fulfill its legal and accountability responsibilities and which reduce board and staff time because they are actions / decisions that are "pre-approved" by the Board. Policies and procedures give employees, board members, volunteers, and stakeholders guidance when certain specific issues arise. For instance, policies that protect the board from legal liability might ensure that the organization is protected if a specific legal issue arises, such as if there is an allegation of discrimination.

To ensure compliance with the law, the Board of Directors should draft and approve a Conflict-of-Interest Policy and each member of the board should sign the Conflict-of-Interest Policy, annually.

4. Ensuring Adequate Resources, including fundraising

The Board is responsible to ensure the necessary resources to fulfill the mission and that its resources are used properly. This role includes active involvement in fundraising efforts.

5. Select, support, evaluate and effectively manage their relationship with the CEO / ED

The Board of Directors is responsible for the management and oversight of the organization. However, management of the organization can be delegated to an Executive Director. Once management is delegated, the roles of management and governance should be clearly differentiated and respected. The Board is responsible for selecting an Executive Director and annually evaluating the Executive Director's compensation and performance based on a written job description. The board should provide on-going support to the Executive Director.

6. Build and sustain a competent board

Healthy boards are maintained through recruitment, orientation, job descriptions, mentoring, active involvement, and self-assessment. Recruitment and orientation will involve assessing skills and competencies needed and being honest about time and fundraising expectations. A committee can be used to recruit, nominate, interview, and suggest new members for full board approval. Job descriptions provide clarity to new board members. Mentoring ensures that the new board member feels a part of the team. Active involvement includes preparing for and attending Board meetings regularly. Being prepared means reading all financial and other reports provided to the Board to enable sound decision making. Regular board self-assessments are the most effective means of enabling board members to both understand and improve their governance practices. Assessments improve board performance.

Leadership changes, whether staff or board, can present great challenges and create vulnerability if the changes occur without a plan. To remain sustainable during a time of transition as well as maintain forward momentum and even growth during such transformative times, requires planning. A Succession Plan allows the organization to capture knowledge and skills, enables the organization to remain on course and keeps the organization focused on its mission and programs as well as provides tools to improve capacity to manage inevitable change in the future.

7. Enhance the organization's public standing

Board members should act as ambassadors for the organization by being able to articulate the mission and the organization's success at carrying out its mission to the public, donors, and stakeholders. The Board's role as ambassador enhances the organization's public image and garners support for the organization.

Dated this _____ day of _____, 20__.

New Board Member Signature