

BOARD PURPOSE AND FIDUCIARY DUTIES

People serve on Boards of Directors for many reasons. These may include connection to the organization's mission, interest in helping the organization grow, and the opportunity to make a difference in their community. Sometimes reasons are less altruistic: to gain benefits for themselves or their business, perceived status, or because "someone told me to" (often those representing corporate contributors). Regardless of reason for serving, it's important for Board members to understand that there are legally established responsibilities for Board members.

Board Purpose:

The primary purpose of the Board of Directors is to

- ◆ Govern based on documents and key information
- ◆ Focus on the strategic direction, mission, and goals of the organization
- ◆ Support the organization with time, talent, and treasure
- ◆ Fulfill Fiduciary duties, honoring the trust members/stakeholders have in the Board of Directors
- ◆ Explore opportunities while being careful with resources
- ◆ Develop policies and procedures appropriate to the Chamber
- ◆ Manage risks while pursuing opportunities

All Board members have certain obligations to the organization and its stakeholders under nonprofit corporation law. These are called Fiduciary Duties, and include the Duties of Care, Loyalty, and Obedience.

Duty of Care:

To meet the Duty of Care, Board members:

- ◆ Must be diligent and prudent in managing the organization's affairs
- ◆ Must handle Board duties with the care an ordinary, prudent person would exercise in a like position and under similar circumstances, including
 - Attending Board meetings regularly – participate in decision-making by providing input
 - Showing independent judgement – speaking up when they disagree or have a different viewpoint
 - Being informed about organization resources – including staff and volunteer time and effort
 - Delegating only to responsible individuals – not only staff, but also volunteers
 - Following up regularly – ensuring progress is made, but not micromanaging

Duty of Loyalty:

To comply with the Duty of Loyalty, Board members need to:

- ◆ Act in good faith – make decisions based on the best information available and what's best for the organization
- ◆ Not put personal interests above those of the organization – make decisions in the organization's best interests
- ◆ Avoid Conflicts of Interest in fact and appearance – recuse if your interests conflict with the organization's

Duty of Obedience:

This is the obligation of the Board to ensure that the organization is acting within legally established boundaries.

- ◆ Forbids acts outside the corporate powers established by the organization's Charter, Articles of Incorporation and Bylaws, and requires compliance with these documents
- ◆ Requires compliance with state and federal laws
 - If a conflict arises between the organization's documents and state or federal law, the Board must comply with the LAW
- ◆ Establish Accountability measures for organizational efforts and effectiveness, including policies, programs, performance, process, outcomes/effectiveness, and planning/allocation/management

Failure to comply with the organization's corporate documents and fulfill the Board's fiduciary duties can result in the invalidation of the organization's Directors and Officers (D&O) insurance, leaving individual Board members open to liability. It pays to understand and comply with your responsibilities as a member of the Board of Directors!



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Rely on legal, accounting and insurance counsel when discussing board fiduciary and trustee duties.