



Legal and other Governance Responsibilities for New Board Members

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Presenter



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Disclaimer

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Opening Thought

*Boards govern, and staff/
management company
manages.*

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Today's Discussion Topics

- *Fiduciary Duties of Directors*
- *Expectations of Board Members*
- *Risk Awareness and Prevention*

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Fiduciary Duties



- Board members have certain legal and ethical standards of conduct in carrying out their responsibilities to the organization (grounded in state law).
 - Duty of Care
 - Duty of Loyalty
 - Duty of Obedience

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Duty of Care

- Exercise reasonable and ordinary care when making decisions and providing oversight.
- Protect the financial assets/resources/proprietary information of the corporation.

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Duty of Loyalty

- Pursue the “organization’s best interests”.
 - Allegiance to the organization.
- Put the interests and mission of the organization above self-interest or other external interests.
 - Minimize and manage conflicts of interest.
 - Maintain confidentiality of information.

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Conflict of Interest

- **Formal Policy and Procedure**
 - Regular Disclosure
 - Refrain from voting on a matter and/or participation in discussion;
 - Resign or withdraw from an activity



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Confidentiality



CONFIDENTIALITY

- **Nondisclosure agreement**
- **Do not disclose information learned in the course of your Board service.**
- **As a starting point, assume all deliberations and/or materials are confidential.**

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Duty of Obedience



- Compliance with state and federal laws, and regulations
- Act only in accordance with organization's articles of incorporation, bylaws, and board policies
- Avoid negligent and fraudulent actions

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Expectations of Directors

- Attend all Board meetings
- Prepare before the board meeting
- Study and understand mission, bylaws, strategic plan, board policies
- Reliance on Experts
- Treat all information and discussions as confidential
- Participate and manage conflict of interest
- ASK QUESTIONS!

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Other Matters

 Indemnification of Directors

 Providing Directors and Officers Insurance



Risk Awareness and Prevention

Tax Exempt Status

Cyber security

Use of Social Media

Contractual Arrangements



Takeaways

Ensure the proper governance and direction of the organization

Compliance with mission/exempt purpose

Fulfilling your fiduciary duties minimizes risk of liability and claims against Boards, and it shields Board members from personal liability for actions of the Board

Ask questions!

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Good Governance Values



- **Accountability**
- **Transparency**
- **Responsiveness**
- **Participation**
- **Respect (ideas and people)**
- **Integrity**
- **Effectiveness**

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QUESTIONS



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Resources for Board Members

- [Board Brief: A Quick Guide to Volunteer Leadership](#), Associations Now, The Center for Association Leadership, 2019.
- ASHP website. www.ashp.org/stateaffiliates
- American Society of Association Executives (ASAE). www.asaecenter.org
- Willard L. Boyd (Editor), [Nonprofit Law: A Practical Guide to legal Issues for Nonprofit Organizations](#), American Bar Association, 2017

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