



Legal and other Governance Responsibilities for New Board Members

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Presenter



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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

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Risk Awareness and Prevention

Tax Exempt Status

Cyber security

Use of Social Media

Contractual Arrangements

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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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