

The Roles and Responsibilities of Nonprofit Stewards

Diversity, Equity, and Inclusion for a Strong Board

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**NONPROFIT
AND
COMMUNITY**

**Nonprofit organizations ensure
quality of life in our communities in
the**

**Best of Times
and
Worst of Times**

**and rely on volunteer boards to do
it!**

QUICK TAKE

10 min.

How are different nonprofits supporting your community during the Covid 19 Pandemic?

MISSION ...

why we are all here.

Board governance and oversight are key to securing the future.

Clarity about roles and responsibilities helps a board support - but not take over - day-to-day operations.

WHAT IS A MA PUBLIC CHARITY?

- ❖ **NONPROFIT** corporation, trust or unincorporated association stewarded by a **FIDUCIARY BOARD**
- ❖ Carrying out a **perpetual CHARITABLE MISSION**
- ❖ Serving an **INDEFINITE PORTION** of the **PUBLIC**

**IRS 501(c)(3)
TAX STATUS**

IRS 501(c)(3) exempt organizations have purposes within the following definition:

charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition and preventing cruelty to children and animals.

501(c)(3) organizations are:

- 1. Public charities or private foundations**
- 2. exempt from corporate income tax**
- 3. offer donors tax deductibility**



The Realm of the Board



Boards look out over the horizon and steer the ship toward long-term success.



strategic planning:

to ensure the organization's mission is carried out over time;

financial oversight:

to ensure the organizations finances are managed prudently, appropriately, and with accountability;

operations oversight:

to ensure operations are well carried out and are consistent with the mission;

MISSION PERPETUATION

- ❖ **On-going operations oversight** through management reports, participation at board meetings and committee engagement;
- ❖ **Periodic Strategic Planning** to develop long-term goals, objectives and outcomes to ensure mission is accomplished over time.

FINANCIAL OVERSIGHT

Boards are responsible for ensuring organizational funds are used prudently and exclusively in furtherance of 501(c)(3) mission.

Financial oversight occurs through:

- ★ **Regular financial reports** at board meetings
- ★ Approval of **annual budget**
- ★ **Financial planning** and reserves
- ★ **Review and approval of significant financial transactions**
- ★ **Review of IRS Form 990 and MA Form PC** prior to filing
- ★ Support from a standing **Finance (and Audit) Committee** of the Board

OPERATIONS OVERSIGHT

Day-to-Day Management is delegated to an executive manager overseen by the Board.

Foster a healthy employment relationship:

- ❖ **Clear job description**
- ❖ **Board approved reasonable compensation**
- ❖ **Collaborative process** for establishing goals and professional growth
- ❖ **Yearly performance evaluation and accountability**



Boards Work Through:

- ✓ **Policy development**
- ✓ **Action on Key Issues**

Typical Board Actions



Adopt policy;



Approve executive compensation;



Approve annual budget;



Review Form 990 and annual audit;



Approve material off budget expenditures;



Approve new programs;



**Approve significant transactions and/
or organizational changes.**



Keys To Success

Use Board Process and Procedure



orientation, regular meetings,
agendas, minutes



use committees to educate,
investigate, report, recommend



Managing the Day-to-Day



Day-to-day operations are typically delegated to the Executive Director:

Program/Service Delivery

Business functions

Personnel

Volunteer coordination

Fundraising [but not alone!]



Keys To Success

Use care in employment relationships



avoid too many bosses;



get professional advice when you need it





Form Follows Function



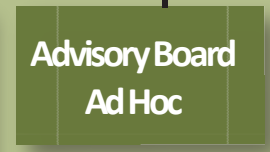
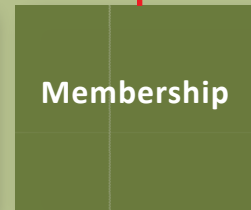
Oversight/Policy
MA&RS Law
& Best Practices

Financial Accountability
Mission Perpetuation
Executive Director
Employment Relationship



Duties

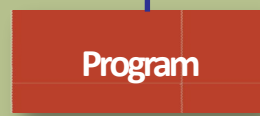
Due Care and Loyalty



Honorary
Expertise
No Vote
No Duty

Day-to-Day
Operations

Program and Operations
Personnel
Business Functions
Development
Consultants
Volunteers



WHO ARE THE OFFICERS?

President/Chair presides at all meetings of the Board and serves as an *ex officio* (without vote) member of all committees.

Treasurer has general charge of the financial affairs of the Corporation including accurate books of account, presides over the Finance Committee, has custody of all funds, securities, and valuable documents, and prepares or oversees all reports and filings required by the Commonwealth of Massachusetts, the IRS, and other governmental agencies.

Clerk (Secretary) responsible for corporate records and keeps minutes and other records of all Board meetings.

GOVERNANCE SOURCES

STATE

- ★ Articles of Organization
- ★ Bylaws
- ★ Conflict of Interest Policy & Procedures
- ★ Executive Compensation
- ★ WISP

IRS / Federal

- ★ Form 1023 for 501(c)(3) status
- ★ 990 Policies
- ★ Conflict of Interest Policy & Procedures
- ★ Executive Compensation

WHAT YOU SHOULD KNOW ABOUT BYLAWS

- ❖ **Internal rules of corporate procedure** to be followed by the Board.
- ❖ **Legally binding**, but may be amended.
- ❖ Must be **consistent with the Articles of Organization**.

Q & A

Questions so far?



**Directors of nonprofit
charitable organizations
have fiduciary duties of
due care and **loyalty**
to the organization they serve.**

DUTY OF DUE CARE

☆ A Director shall perform the duties of a Director, including duties as a member of any Board Committee on which the Director may serve, **in good faith**, in a manner such Director **believes to be in the best interest of their organization**, and with such care, including reasonable inquiry, as **an ordinarily prudent person in a like situation would use under similar circumstances.**

HOW TO MANAGE DUTY OF DUE CARE

- ☆ Learn your organization;
- ☆ Understand the finances;
- ☆ Regularly attend and participate in Board and committee meetings
- ☆ Ask questions and make your views known;
- ☆ Vote your conscience in a manner you believe to be in the best interests of the organization;
- ☆ Trust the process

DUTY OF LOYALTY

The **Duty of Loyalty** requires:

- ❖ Directors and officers to always place the organization's best interests above their own personal or business interests.
- ❖ Personal transactions between directors or officers and the organization are known as Related Party transactions.
- ❖ Ensuring confidentiality of the Organization's non-public information.

HOW TO MANAGE DUTY OF LOYALTY

- ☆ Understand what a conflict of interest is and commit to best conflict avoidance practices;
- ☆ Adopt and follow a **comprehensive Conflict of Interest policy and annual disclosure procedure**;
- ☆ Ensure **related party transactions** are disclosed and separately considered;
- ☆ Be sure you know as much as the public knows:

IRS Form 990 and MA AGO Form PC

QUICK TAKE

10 min

The long-time Executive Director of your organization has asked to join the Board. She has been with the organization for over two decades and believes she entitled to be a Director. Several long-time members of the Board have become good friends with the Executive Director over the years and support this idea because they know her so well and trust her judgment.

Pros and Cons?



COMMIT TO VALUES

The Board is a reflection of an organization's values and beliefs about who should be empowered and entrusted with its most important decisions.

A strong Board commits to embedding those values in its culture.

FOSTER DIVERSITY

A **diverse and inclusive** Board is **an intelligent Board** that helps the organization it serves **understand** the context in which they work and how best to **prioritize resources and strategies** to effectively carry out mission within the community served.

**ENSURE
INCLUSION**

Culture of **Inclusion**

+

a Culture of **Trust, Candor
and Respect**

=

The **Most Effective** Board

EMBED DIVERSITY

Adopt a Board Qualification By-law

The Board of Directors shall reflect the kinds of skills and experience which can together contribute to furthering **the purposes and mission** of the Corporation

... including expertise in [education, business, law, finance, public relations, fundraising...] and a ***cross-section of the community served.***

and INCLUSION

- ☆ Form a **nominating committee** including community representation.
- ☆ Ensure the committee understands organizational commitment to diversity.
- ☆ Offer thoughtful **board orientation and training.**
- ☆ Never say no to a volunteer with your mission in their heart and a willing hand to lend.
- ☆ **Cultivate future board members** through recruitment to committees or other organizational activities.

LEADERSHIP THROUGH MENTORING

Mentor can

- ☆ Offer a friendly face
- ☆ Check in before and after meetings
- ☆ Invite meeting participation
- ☆ Answer questions that the new recruit may not feel comfortable asking at the Board meeting
- ☆ Help the recruit work out a plan to leverage his/her talents

SMALL GROUP BREAK OUT :

Empowering Leaders within the Board

15 min

The Board Chair will be “rolling off the Board” soon. The Clerk is also interested in having someone else assume the role after 5 years in the position. There also will be other vacancies in the leadership positions.

There are good candidates but no one volunteers because they do not feel confident enough.

**What are possible
SOLUTIONS?**



HOW DOES A NONPROFIT ACT?

Boards act on behalf of the Corporation through **group deliberation and vote:**

- ☆ Allow all voices to be heard
- ☆ Respect all points of view
- ☆ Strive for consensus
- ☆ Decide by majority vote
- ☆ Speak with one voice after a decision has been made

HOW DO BOARDS MEET?

- ❖ **Regular** Board and Committee meetings
- ❖ **Guided by agendas** developed by the Board Chair with ED
- ❖ **Informed** by background materials (financial reports, committee reports, background materials related to action items)
- ❖ In accordance with **Bylaws and other policies and procedures**

HOW DO BOARDS VOTE?

- ☆ Director makes a **motion** for the Board to take a particular action.
 - ☆ Another director **seconds** the motion
 - ☆ Board considers **relevant reports and information** regarding proposed action
 - ☆ Board **deliberates** considering pros and cons
 - ☆ Board **Votes**
 - ☆ Clerk / Secretary
- ## Records



CASE STUDY

15 min.

Sam is the Chair of the 7-member board of Animal Rescue Team (ART). ART operates an animal shelter which rescues and adopts out dogs and cats.

Sam is a successful real estate agent and an animal lover. A multi-family house caught his eye as a great investment opportunity for ART. It has three apartments that could qualify for Section 8 rentals which would help people in need.

Sam speaks with Jane, a fellow board member and Treasurer of ART about this. She likes the idea as the rent would bring in revenue.

Sam and Jane have talked to the bank and ART has been pre-approved for a loan to buy the building. Sam will be happy to act as the buyer's agent and would like to Board to approve this purchase.

WHAT DO YOU THINK?

Ensure **LEGAL COMPLIANCE**

Details in legal workshop

WHO ARE REGULATORS?

Massachusetts

- ❖ MA AGO
Nonprofit
Organizations /
Public Charities
Division
- ❖ MA Secretary of
the
Commonwealth,
Corporations
Division
- ❖ State DOR and
Licensing
Agencies
- ❖ Municipal
Government

Federal Regulators

- ❖ Internal
Revenue
Service
- ❖ Form 990 /
990EZ/ 990N
- ❖ Federal
Contracting
Agencies

**WHAT DO
THEY
WANT?**

☆ **Duty of Due Care**

Process

Deliberation

☆ **Duty of Loyalty**

Conflict of Interest Policy
implemented

IRS REQUIREMENTS

on tax exempt organizations

details in legal workshop

- No private benefit (Duty of Loyalty)
- No political campaign activities
- No substantial lobbying

MA Sec of State

Annual Report

November 1

MA AGO

Form PC with Form 990EZ / 990 and financial statements or audit report depending on the organization's revenue and asset size

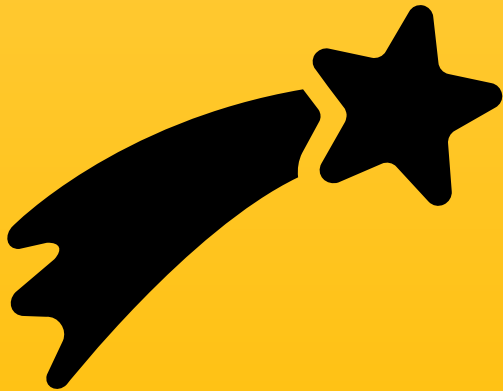
15th of the 5th month after end of FY

IRS

Form 990/990EZ/990N

15th of the 5th month after end of FY

Board should review before sent out



DIRECTOR AND OFFICER INSURANCE (D&O)

- Best protection
- Reimburses director's liability or third party (if not indemnified) AND funds NPO's indemnity obligations
 - Articles or Organization
 - Bylaws
- Exclusions
- Check umbrella policies

WHEW!

THANK YOU!

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