Top 10 Best Practices for Boards: A Lawyer's View

Here's a lawyer's take on what every board needs to know.

By Laura A. Lo Bianco

Effective board governance is a must for nonprofit organizations. Directors owe fiduciary duties to the organization to act in good faith, exercise care, avoid conflicts of interest, and comply with the law.

As a board member, how can you be sure you're fulfilling your duties? Be vigilant, engage, think, ask, contribute, and participate! Always act in your organization's best interests, and be faithful to its mission and goals. In particular, we recommend following these practices for effective governance:

1. Assess your board. Is your board membership diverse enough to reflect the community you serve and offer a variety of viewpoints? Do board members represent your organization with enthusiasm and integrity? Do they have the array of skills needed for effective oversight? Review these areas regularly and seek new members to fill the gaps. Articulate prerequisites for candidates, and identify qualities desired. Be sure the number of members on your board is commensurate with the size and scope of the organization's operations, allowing for effective oversight of all aspects of the organization.

2. Define roles. Most well managed organizations identify the role each level of management will play. Typically, the board sets policy and oversees senior management. Committees advise the board in specific areas of policy. Senior managers run the organization's day-to-day operations. Organizations can trip up when the board delegates duties to a committee or staff member without sufficient oversight or when the board micro-manages the staff.

3. Create an audit committee. Financial improprieties can result in the downfall of any organization. It is with the oversight of independent directors and auditors that such actions are likely avoided — or discovered and corrected. Independent directors typically serve on the audit committee and oversee financial reporting, risk assessment, and management practices. They are also the ones in charge of selecting an outside firm to perform an annual audit.

4. Empower the board to ask the hard questions. Orient new board members, providing information about the organization. Educate them on their fiduciary duties. Be sure they have agendas and supporting materials prior to meetings. Keeping them well-informed and allowing them to prepare for meetings will enable them to ask tough questions about the organization's practices. Without such questioning, the likelihood of mismanagement rises.

5. Implement a self-evaluation tool. The board should set goals for itself and its individual members. Comprehensive evaluations should be conducted periodically to measure their achievement. Individual goals can include participation in board meetings, attendance at special events, service on committees, and assistance in raising funds. Active involvement by each director helps circumvent any improper actions by a few directors or staff members.

6. Establish internal controls. Participate actively in the budgeting, planning, and goal setting process. Monitor compliance with controls, such as segregation of duties (creating checks and balances), expense reimbursement policies, and whistle-blower policies. Regularly review financial statements, audits, and IRS Forms 990.

7. Adopt a conflict of interest policy. This policy should identify steps the board or delegated committee will take to approve a transaction that involves an insider, such as an officer, director, substantial contributor, or his/her family member. All insiders should disclose any potential conflicts annually and as they may arise. Failure to follow steps outlined in a comprehensive conflict of interest policy may result in penalties and even revocation of the organization's tax-exempt status.

> "The board should evaluate itself to be sure it's meeting its goals."

> "Ensure that board members ask tough questions about the organization's practices."

8. Keep good records. Maintain documentation of meetings, board resolutions, financial transactions, financial records, and agreements. Solid documentation is the best way to be sure you're providing accurate reports to your constituents, community, and government agencies.

9. Periodically review the organization's governing documents, policies, and procedures. Be sure they're being followed. Modify them if necessary to keep them current with best practices in the industry as well as with your organization's day-to-day procedures.

10. When in doubt, seek, obtain, and follow expert advice. Ultimately, the board is responsible for ensuring the organization meets certain legal and accounting standards and complies with rules and regulations. The board is held to ethical norms and should strive to meet or exceed best practices. Advisors can help. It's more efficient for advisors to steer an organization along the right course from the outset than to correct an improper action after the fact.

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Weapons of Board Instruction

These and many other articles on creating a diverse, dynamic, and responsible board are available at NonprofitWorld.org/members:

Defining Your Board's Needs (Vol. 26, No. 1)

Navigating Tough Conflict of Interest Situations (Vol. 27, No. 1)

Nonprofits without Audit Committees Risk Disaster (Vol. 22, No. 2)

How to Assess and Improve Your Board's Performance (Vol. 24, No. 1)

Look Beyond Tradition to Diversify Your Board (Vol. 22, No. 4)

A Board Member Self-Assessment (Vol. 15, No. 6)

Also see Learning Institute programs online: Board Governance (NonprofitWorld.org/LearningInstitute).