

Fiduciary Duties of Non-Profit Boards

Board Members have fiduciary, or legal, duties as established in corporate law. These are the Duty of Care, Duty of Loyalty, and the Duty of Obedience. The nature of these three duties can overlap. (CHMS, 2020)

Duty of Care – Clearly making a reasonable and good-faith effort to:

- ❖ Be aware of the association’s mission, plans and policies.
- ❖ Be sure that all activities are in accordance with the association’s mission, plans and policies
- ❖ Fully participate in Board meetings, deliberations and decisions.
- ❖ Read, evaluate and ensure accuracy of all reports, including minutes, financial and evaluations.
- ❖ Ensure the association has sufficient resources, including people, funding and other assets. Ensure these resources are prudently utilized.

Duty of Loyalty – Making a reasonable and good-faith effort, when acting as a Board Member to:

- ❖ Always be thinking about, and focusing on, priorities of the association, and not that of any individual board member or any other organization. Ensure the nonprofits activities and transactions are the priority and advance its mission.
- ❖ Share ideas, opinions and advice to forward the progress of the association.
- ❖ Represent the association in a favorable light.

Duty of Obedience – Requires that a Board Member work to:

- ❖ Ensure that the organization complies with applicable laws and regulations, acts in accordance with its own policies, and carries out its mission appropriately.
- ❖ Board members should ensure that the organization carries out its purpose and does not engage in unauthorized activities.

Board members also play a very significant role by providing guidance to the non-profit organization and contributing to the organization’s culture, strategic focus, effectiveness, financial stability as well as serving as ambassadors and advocates.

10 Fiduciary Responsibilities of Non-Profit Boards – The ten board responsibilities in conjunction with each board member’s defined responsibilities create the criteria by which boards may periodically review their performance and ensure a measure of accountability. (National Center for Nonprofit Boards, 2020).

1. Determine the association’s mission and purpose
2. Select the Chief Executive (or Association Management Company)
3. Support the Chief Executive and review his/her performance
4. Ensure effective organizational planning
5. Ensure adequate resources
6. Manage resources effectively
7. Determine and monitor the association’s programs and services
8. Enhance the association’s public image
9. Serve as a court of appeal
10. Assess its own performance

(Note: the ensuing information is compiled from a number of sources listed below, with the National Center for Nonprofit Boards being the primary source of reference).

1. Determine the association’s mission and purpose

One of the fundamental responsibilities of every board member is to ensure that not only each board member but also everyone connected directly or indirectly with the organization understands the reason for the organization’s existence. This purpose is usually concisely communicated via the organization’s mission and vision statement.

Clearly and visibly communicated as well as widely distributed, the mission and vision statements should clearly articulate the organization’s goal, purpose, and the primary constituents it serves.

An adequate statement of mission and vision should serve as a guide to the organizational planning, board and staff decision-making, volunteer initiatives, and setting priorities for the competing demand of scarce resources (National Center for Nonprofit Boards, 2020). Additionally, it sets the stage for developing fund raising strategies and strategic planning.

2. Select the Chief Executive (or Association Management Company) *(n/a at the Chapter level)*

This responsibility has the greatest impact on the non-profit organization’s development and effectiveness, therefore, significant consideration should be exercised in the selection of the Executive Director (ED).

3. Support the Chief Executive (ED) and review his/her performance *(n/a at the Chapter level)*

Although this responsibility is often overseen by the board's top elected officer, the President, it remains a board function. Therefore, the board as a whole should ensure that the chief executive:

- ❖ Receives frequent and constructive feedback
- ❖ Is introduced to other community leaders and organizations
- ❖ Is invited to important social functions
- ❖ Is complimented for exceptional initiatives
- ❖ Is assisted when members overstep prerogatives or misunderstands their roles

4. Ensure effective organizational planning

Effective planning should begin with a three (3) year organizational strategic plan. The board is responsible for formally approving the strategic plan following an extended period of consultation and an opportunity for revision. Additionally, the board members must be extensively involved in the planning process in order to ensure ownership of the strategic plan and to ensure the implementation of the plan's goals and objectives. A comprehensive strategic plan should make certain the following elements:

- ❖ Assumptions regarding the future status of the organization
- ❖ Table of Organization (updated)
- ❖ Board of directors (size, selection process, committee structure)
- ❖ Bylaw revisions
- ❖ Current programs and services;
- ❖ New programs and services;
- ❖ Membership development and retention strategies
- ❖ Staffing resource requirements (current and projected)
- ❖ Financial status (current, projected, trends over previous and next 3 years)
- ❖ Fund raising strategies

The board is responsible for assigning the oversight of the strategic plan to one member of the board (*President-elect*). The board should also ensure a formal reporting of the strategic plan's progress to the board and the organization's members. The reporting structure can be annually, quarterly and on an as needed basis.

Organizational planning occurs at various levels of the organization. The Board's committee structure should help facilitate the overall strategic plan. The board's committee should also actively recruit and engage members of the organization in areas and functions that are addressed in the strategic plan.

5. Ensure adequate resources

In order to endure, an organization is only as good as the resources it can obtain to meet its purpose. Providing adequate resources is first and foremost, a board responsibility (National Center for Nonprofit

Boards, 2020). The board in collaboration with the executive director and the director of industry affairs that responsible for effective fund raising methodologies. Ensuring effective fundraising programs and initiatives demonstrates a board members commitment and influence. The standing resource development committee is the board's agent to help coordinate the fund raising work. Moreover, the board should review and approve the fund raising strategies and plan annually.

6. Manage resources effectively

Board members serve the public trust of the NYSCHP members. An important responsibility therefore is to protect accumulated assets and ensure these assets are both safeguarded and managed properly. Under the law, board members are protected from personal liability as long as they act with reasonable care and in good faith, holding the basic interests of the organization as their principal objective (Fritz, 2019). Reasonable Care practices would include:

- ❖ Developing and approving an annual budget
- ❖ Monitoring the budget with regular (monthly) financial reports
- ❖ Quarterly balance sheets accounting for all current assets and current liabilities
- ❖ Internal audits
- ❖ Independent annual audit by a certified public accountant

7. Determine and monitor the association's programs and services

A board's role includes an analysis of all current and proposed programs, committees and services to ensure they are aligned with the organization's mission and vision. Given the limited resources and the unlimited demands of the NYSCHP organization, the board must decide among competing priorities. The board should provide a sufficient level of oversight and find the appropriate balance between ensuring quality, cost effective programs and their responsibility to creatively execute them.

8. Enhance the association's public image

The board is the visible body for all NYSCHP members and affiliates. Board members are accountable for all elements of communication presented as either written or verbal, whether via online platforms or more traditional platforms. Therefore, the board should develop comprehensive public relation strategies that confirm its mission and vision as well as safeguard its professional image. This is best achieved with consistent, clear communications as well as regular member distributed reports which outline achievements, demonstrate contributions to the profession and delineate appropriate receipt and allocation of organizational funds.

9. Serve as a court of appeal

The board is responsible to act as its own court of appeals; they are thus responsible to avoid and resolve conflicts and, as necessary, function as a court of appeals when there are disagreements between board members. Disagreements and misunderstanding are best mitigated through the creation of board reviewed policies and procedures regarding all operational and recruitment aspects of the organization.

10. Assess its own performance

A board self-assessment enables the board to hold itself, its members and its processes accountable. It identifies gaps in expected performance and charts a course of improvement, refinement and/or further progress (BoardSource, 2020). Every 2-3 years boards should conduct a self-assessment and review how the board is meeting its responsibilities. A self-assessment may include individual board member performance, performance and roles of specific committees, membership composition as well as organization structure. It is good to include an anonymous survey of the membership regarding their perceptions in advance of the self-assessment. It is also good to include a third party to help facilitate the self-assessment.

References

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As a board member of the NYSCHP, I acknowledge the duties and responsibilities of a non-profit board member.

Name: _____

Signature: _____

Date: _____ Board Position: _____