Storey County
Non-Profit Board Training

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Leadership Mission

1. Leadership Oversight – the integrity of the organization's core purpose and overall direction, its strategic plan and its policies and positions on issues
2. Operational Oversight – the effective execution of the strategic plan and operations plans, the development of the staff and organizational infrastructure including human and financial resources

   This doesn't mean that we should watch the sausage being made!
3. Culture Oversight – the consistent application of the organization's core values and other principles which are enduring and essential to guide the organization

- Glenn Tecker

Roles of the Board of Directors

1. Perpetuate the Board
2. Hire an Executive Director (Principal, Administrator) (or decide how the organization will be run without paid staff)
3. Fiscal Responsibility (ensure proper accounting and reporting)

Board Composition

- Size???
- Job descriptions and commitment statements
- Conflict of Interest and Confidentiality Policies
- Diversity
  - Backgrounds/experience in law, finance/accounting, HR, education, technology, etc.
  - Representative of community and individuals served by entity
- No Rubber Stampers
- Active Participants

Board Composition

- Compliance with the Governing Documents
  - Composition
  - Terms and Term Limits
  - Purpose and Mission
- Orientation and Training
- Provide opportunities for everyone to get to know each other
- Board involvement in the activities of the organization

Perpetuate the Board

- Strategic planning (Plan but be willing to be flexible)
- Succession planning

Hire an Executive Director (Principal, Administrator)

- Interview and hire an administrator
- Monitor and evaluate administrator
- Avoid micromanagement
- Be very cautious about personnel matters
- Board needs to be a resource to the Organization
  - Administration needs to learn how to utilize the board as a resource

Financial Overview

- Board responsible to approve fiscal year budget annually & financial statements on a regular basis
- Board responsible to approve financial procedures (recommend a financial policy)
- Board responsible to ensure "reasonable compensation" (may need to do periodic salary surveys)
- Organization must account for income and expenditures with compliant bookkeeping practices and report annually via Form 990 to the IRS

Financial Statements

- Organization needs to be able to produce accurate, standardized financial reports such as income statement, and balance sheet
- Reviewed and approved at Board meetings
- Questions, clarifications and adjustments are made at Board meetings if necessary
- Recommend training by Organization's CPA

Handling Money

- Whether it's cash from sales, or checks that come in from donors, it is crucial to have multiple accountability
- At least two, independent people need to be involved in money handling and accounting, sometimes more.
- Having only one person who is responsible for counting, spending, and accounting for the funds is a <u>recipe for disaster</u>.
- Having multiple accountability also protects your staff and volunteers. When only one person is involved, and an irregularity is discovered, they're almost always guilty until proven innocent. That's not fair to put someone in that position.

Investments

If your Organization has investments, must satisfy the “Prudent Man Rule” (should not be excessively risky with balance between risk and return)

Put in place policies outlining investment objectives such as risk tolerance, rate of return goals, asset allocations, performance requirements, etc.

Fiscal Responsibility

- Treat the financial aspects seriously
- Get a great CPA
- External audit (can’t use your CPA)
- Don’t let friendships drive financial decision-making
- Decide if the Board is responsible for fundraising
- If you do investing, get assistance from an expert
- Get a great bookkeeper and accounting system
- Make sure you have multiple accountability when handling money

Risks for Non-Compliance with Fiscal Responsibilities

- The IRS can hold Board members personally liable for sanctions and penalties for allowing excess private benefit to occur.
- If a Board flagrantly allows financial mismanagement, Board members could be individually sued by donors or by members of an organization.

Fiduciary accountability is not something to be feared, but rather, something to be understood. Understanding what's expected, and putting forth your best good faith effort to make sure things are handled properly is your job as a board member and doing that alleviates virtually all reasonable risk.

What is a fiduciary?

- A fiduciary is someone acting on the behalf of another based on an expectation of trust.
- In a non-profit, there are no shareholders so the Board of Directors is the governing or central decision making body for the organization.
- The Board has ultimate responsibility and accountability for the organization's actions.

Fiduciary Responsibilities

- Duty of Care
  - Act in a prudent manner
- Duty of Loyalty
  - Act with **undivided allegiance** – all decisions are made in the best interest of the Organization without regard to personal or business benefit
- Duty of Obedience
  - Act within scope of legal authority

Duty of Care

Responsibilities of the <u>Board of Directors:</u>

Actively participate

- Attend meetings
- Review materials in advance
- Ask questions
- Avoid a “one person show” and “non-management”
- Involve and give consideration to the Executive Director and staff who likely have the most relevant information on most questions/decisions
- Review meeting minutes and materials if you miss a meeting
- Don’t get overly involved in the operations of the organization once strategic plan and budget are approved

Duty of Care (cont.)

- Follow the money
  - Be informed on financial matters
  - Adopt an appropriate budget
  - Ensure that all proper filings are done
  - Adopt financial policies
  - Make sure funds are being used for the organization's stated purposes

Duty of Care (Cont.)

- Records
  - Be familiar with contents of organization's books and records including articles, bylaws, accounting records, policies and procedures, rules, and minutes
  - Written minutes should be kept for every board meeting

Duty of Care (Cont.)

- Conduct Investigations
  - Investigate warnings or reports of theft or mismanagement
  - Consult with professionals if necessary
- Know Your Rights
  - You have the right to obtain information necessary to fulfill your responsibilities
  - You have reasonable access rights
  - You are entitled to rely on professional advice

Duty of Undivided Loyalty

- Avoid detrimental conflicts of interest
- As a Board member, your decisions must be made independently and free of any undue influence from any person or organization, including any local or state association or brokerage.
- Many Board members are board members for multiple organizations. In that instance, you owe fiduciary duties to multiple organizations. If the duties you owe to another organization prevent you from giving undivided allegiance to this Organization, then you are individually responsible for addressing that conflict in a manner consistent with the Organization's Conflict of Interest Policy.

Duty of Loyalty (Cont.)

- Establish policies regarding disclosure of conflicts
- Avoid misuse of the organization’s information (e.g. misuse of Organization information)
- Keep Board information and discussions confidential

Special Confidentiality Considerations While Using Electronic Communications

- If conducting meetings by Zoom (or similar platform), be aware of who can hear the discussions (e.g. family member or strangers)
- If materials are distributed by email or other electronic means, ensure that the documents are managed, stored or destroyed in a safe and confidential manner

Duty of Obedience

- Obey state and federal statutes
- Meet filing and reporting requirements
- Comply with governing documents
- Seek outside help if necessary

Bonus: Risk Tips for Personal Liability

There are steps every board member can take to reduce the risk from low to negligible. To minimize exposure to personal liability, every current and prospective board member should:

- **Serve for the right purpose**: Never agree to serve on a nonprofit board as a personal favor to a friend. The sense of satisfaction that service offers comes with a price tag. The cost of service includes the willingness to put personal interests aside while voting on issues before the board, as well as an investment of personal time and other resources to support the mission of the nonprofit.

- **Pause before accepting a leadership role**: Give careful thought prior to volunteering to serve as an officer or Committee Chair, recognizing that these important roles require additional time and focus in support of the organization’s mission.
- **Come to board and committee meetings fully prepared to share your questions and perspective**: Carefully review background material provided in advance of board meetings and prepare thoughtful questions for which you seek additional information or clarification.

- **Vote “yes” only when you’re confident it’s the right thing to do**: Never vote “yes” on a matter before the board if you are unclear about the implications of the decision, if you believe that a “yes” vote is not in the best interests of the nonprofit, or if you are convinced that further study or reflection is needed on the issue before the board.
- **Be courageous**: Always vote “no” (versus abstaining) if you disagree with the proposed action before the board. Take the opportunity to explain why you are voting “no” during the comments or questions period.

- **Listen to the small voice telling you to speak up**: Never tacitly or openly endorse an action you believe is wrong. Always speak up if you believe the organization, or any of its paid or volunteer leaders, are acting in a way that is illegal, unethical, fraudulent or violates regulatory requirements to which the nonprofit must adhere. Speak up if you believe a conflict of interest should be disclosed and discussed prior to a vote on a matter before the board.

Consequences of Violation of Fiduciary Duties

A Director can be held personally liable for breach of fiduciary duties and injuries caused by the Director’s intentional misconduct, fraud, or knowing violation of the law

But…

If the Director exercises due care and acts in good faith, he or she will be immune from liability.

NRS 82.221(4): …, no action may be brought against an officer or director of a corporation based on any act or omission arising from failure in his official capacity to exercise due care regarding the management or operation of the corporation unless the act or omission involves intentional misconduct, fraud or knowing violation of the law.

Thank you!

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