



Policy Document: Standards of Duty
Approved by: *[Executive Board]*
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The Legal Responsibilities of Being a Member of the Board

Application of Corporate Law Principles: The actions of the members of a board of a nonprofit association are reviewed, applying the same legal standards applied to actions of members of boards of directors of for-profit corporations.

Board Member's Duties to the Organization

Board members owe their association fiduciary duties of care, loyalty, and fidelity to purpose. Each of the duties discussed in more detail below must be carried out with the same degree of care exercised by a reasonable, prudent person in the same position. In carrying out each of the duties, board members will be entitled to the benefit of the doubt. They will be protected from being "second guessed" and being held personally liable for bad decisions, provided that the decision was properly reached. The source of this protection is the "Business Judgment Rule." Despite its name, the Rule applies to the "business" of decision making by boards of nonprofit associations. The Business Judgment Rule is related to all three fiduciary duties. It is based on the presumption that in making a decision affecting the association, the members of the board have acted on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the association. If all three aspects of this presumption are correct, any "business" decision made by the board members is accorded a high degree of respect.

Duty of Care

The duty of care focuses on the level of diligence exercised by the board member in carrying out his or her responsibilities. The Revised Model Business Corporation Act defines the duty of care as follows:
A [board member] shall discharge his [or her] duties as a [board member], including his [or her] duties as a member of a committee (1) in good faith, (2) with the care an ordinary prudent person in like position would exercise under similar circumstances, and (3) in a manner he [or she] reasonably believes to be in the best interest of the [association]. The standard considers the "position" and "circumstances" and, therefore, will impose varying standards, depending upon the status of the individual board member and the nature of the action being evaluated.

Duty of Loyalty

The duty of loyalty is the board member's obligation to act in the association's best interests and not to use his or her authority to advance personal interests, or the interests of related third parties. These self-interests need not be financial, but may be such interests as enhancing prestige and professional reputation of oneself or one's employer. The phrases "conflict of interest" and "self-dealing" describe potential breaches of this duty.

Duty of Fidelity to Purpose

A board member's duty of fidelity to purpose (often called the duty of obedience) is particularly important in the context of nonprofit associations because it involves the board member's fidelity to the purposes of the association. This duty is particularly important when an association obtains public funding based on representations of its goals and purposes. Unlike for-profit corporations, nonprofit associations generally are required to designate a purpose and must adhere to that purpose in order to retain the privileges of a nonprofit association.