Nonprofit Boards 101:
What You Need to Know to Effectively Create and Run a Board and Board Meeting

January 2022

Judy Siegel, Senior Staff Attorney
Not Legal Advice

This presentation is provided as a general informational service to clients and friends of Pro Bono Partnership. It should not be construed as, and does not constitute, legal advice on any specific matter, nor does this presentation create an attorney-client relationship. You should seek advice based on your particular circumstances from an independent legal advisor.
RE: Copyright

This presentation may contain copyrighted material which has not been specifically authorized by the copyright owner. The Pro Bono Partnership is a nonprofit 501(c)(3) exempt organization that is making this material available for educational purposes only. As such the Partnership believes this constitutes “fair use” of any such copyrighted material as provided for in Title 17 U.S.C. § 17 (The Copyright Act of 1976).
Upcoming Webinars

- Summer Hires – March 15th from 12-1
- Legal Issues and Developments in Fundraising – March 23rd from 12-1
- Everything You Need to Know to Navigate Conflicts of Interest Transactions – March 30th from 12-1
Brief Overview of Pro Bono Partnership

• **Our mission:**
  - strengthen nonprofits and communities
  - **free** legal services

• **Our clients:**
  - serve the disadvantaged
  - enhance the quality of life
  - unable to pay
  - NY, NJ, CT

• **Our volunteers**
  - Practice in their field of expertise
  - choose their projects
Types of Pro Bono Partnership Clients

- Health & Human Services
- Housing & Community Development
- Environmental
- Education
- Social Services
- Animal Welfare
- Arts
- Children & Youth
Types of Assistance We Provide

- Intellectual property
- Lending/finance
- Merger/collaboration
- Real estate
- Tax
- Trusts and estates
- Compliance
- Contracts
- Corporate structure/governance
- Dissolution and bankruptcy
- Employment/volunteer issues
- Fundraising/charitable solicitation laws
- Incorporation/tax exemption
Topics We Will Cover

• Board roles & responsibilities
  ● Fiduciary obligations
  ● Legal obligations
• Board Size
• Term Limits
• Diversity – Why It Matters
• Corporate Documents
  ● Agenda, resolutions and minutes
• Effective Meeting Tips
The Role of the Board of Directors
Organization Chart for Nonprofits

Members (if applicable)

Directors/Trustees

Executive Director

Remaining Staff (Paid and Unpaid)
Why Do Nonprofits Have Boards?

• Effective Governance

• Legal Compliance and Public Disclosure

• Strong Financial Oversight

• Responsible Fundraising
  • stewards of the nonprofit’s assets
  • Serve as risk managers
  • Hire/evaluate senior staff and professionals (e.g., outside auditors)
  • Be visionaries: plan for the future
A Director of a Tax-Exempt Organization is ...

“a fiduciary of the organization’s resources and a facilitator of its mission’

Bruce R. Hopkins
The Law of Tax Exempt Organizations
What is a “fiduciary”? 
3 Fiduciary Duties of Nonprofit Directors

- Duty of Care
- Duty of Loyalty
- Duty of Obedience
Generally a prudent person standard

- Expected to use the same degree of diligence, care, and skill
- which ordinary, prudent persons would exercise
- under similar circumstances in like positions.
Duty of Care = Engagement
Duty of Care = Engagement

Literally “take care” of the organization; that is, devote attention to trustee’s/director’s tasks:

- Actively participate
- Provide strategic direction
- Manage or oversee management
- Require sufficient information to make sound judgments
- Ask questions when necessary
- Manage Risk
- Protect Assets
Duty of Obedience:

Duty of obedience means that board directors must make sure that the nonprofit is abiding by all applicable laws and regulations and doesn’t engage in illegal or unauthorized activities.

Duty of Obedience:

- Mission
- Certificate of Incorporation and Bylaws
- Policies
- The Law
Duty of Loyalty:

directors are to exercise powers in good faith and best interests of corporation rather than their own interests or interests of another person or entity

Fiduciary Duties of Nonprofit Directors

Duty of Loyalty:

- Conflicts of Interest
- Confidentiality
- Transparency
- Responsibility to Act

www.probonopartner.org
Governance in Action

- Required filings
- Financial issues
- Risk management
- Worker issues
- Fundraising
- Maintaining tax exempt status
Building an Effective Board
Building the Board

- Size
- Composition
- Term limits
- Committees
- Onboarding
Size

- 3 people
- Depth & Complexity
- Expertise
- Beneficiaries
Composition a.k.a. Diversity

- Age
- Gender
- Race
- Religion
- Culture
- Geography
- Education
- Economic
- Professional
- Disabilities
Term Limits

- Pros
- Cons
- Most common
Onboarding & Director Cultivation

- Interviews
- Board Books
- Engagement
- Training
- Bonding
Effective and Efficient Board Meetings
Board Meetings

Meetings
Efficient Meetings

- Agenda
- Notice
- Resolutions / Written Consents
- Minutes
- Email
Agendas

- Increase attendance
- Increase preparation
- Save time
- Ensures continuity
Notice

• Statutory requirements
• Bylaws
• Methodology
<table>
<thead>
<tr>
<th>Corporate Resolutions</th>
<th>Written Consents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Following a meeting</td>
<td>No meeting</td>
</tr>
<tr>
<td>Short document</td>
<td>Short document</td>
</tr>
<tr>
<td>Summary of action</td>
<td>Summary of action</td>
</tr>
<tr>
<td>Approved</td>
<td>Unanimous</td>
</tr>
<tr>
<td>Authorized</td>
<td>Signed by ALL</td>
</tr>
<tr>
<td>Signed by some</td>
<td></td>
</tr>
</tbody>
</table>
Can we vote by email?
Minutes

Timing & Attendance Details
Motions Made
Debate Summaries
Reports / Documents Received
Other Action Items

NOT A TRANSCRIPT
For More Information

Pro Bono Partnership
While we are working remotely
please contact me via email:

Judy Siegel
jsiegel@probonopartner.org

Questions Welcome