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THE THREE BASIC DUTIES OF BOARD MEMBERS

When organizations incorporate as nonprofits, the law requires that a group of individuals serve as the stewards of the public's and the government's interests in the work of the nonprofit. Decisions must meet the "prudent person" rule: Given a reasonable amount of information and reasonable efforts to gather information, the decision must be one that a prudent person would make.

As a board member of a charitable nonprofit in New York State, your fiduciary responsibilities revolve around three basic duties: the duty of care, the duty of loyalty, and the duty of obedience.

Duty of Care

This duty is fulfilled when a board member acts in good faith in all dealings with, and on behalf of, the organization. An individual's actions are measured against the "reasonable person" standard; in other words, how an ordinarily prudent person acts in similar circumstances. Consider:

- Am I sufficiently informed to decisively vote on matters?
- Are board & committee meeting minutes sent to & reviewed by members in advance?
- Are periodic financial reports, including comparisons with budget amounts, received regularly?
- Are board meetings organized to allow adequate discussion of policy related issues?
- Do we take the steps necessary to manage risks throughout the organization?
- Are approved plans monitored to assure accomplishment of objectives?
- Are financial budgets developed & approved before the start of the fiscal year?
- Is the organizational structure adequate to assure an efficient & effective operation?
- Are internal financial controls in place?
- Are we meeting our auditory requirements?
- Am I familiar with the audit? Are all my questions answered to my satisfaction?
- Are the personnel policies legally compliant & fully adhered to?
- Are we getting the most out of our investments? (endowment, working capital, & restricted funds)

Duty of Loyalty

This duty involves acting in the best interest of the organization at all times. Most board members are familiar with the need to avoid conflicts of interest that is clearly stated in state law. Consider:

- Do I regularly attend board meetings & committee meetings?
- How strong is my allegiance to the organization?
- Have I avoided conflicts of interest with the organization?
- Is there policy & procedures for handling conflicts of interest in the bylaws?
- If there are common or overlapping boards for affiliated entities, are decisions evaluated from the perspective of all the involved entities?
- Am I willing to invest my personal resources & use my influence in the interest of the organization?

Duty of Obedience

Nonprofits have an obligation to operate in a manner that fulfills the stated purpose or mission as defined in the articles of incorporation, bylaws, application for tax-exempt status, and other official documents. Board members have a duty to follow the direction set by these governing documents, as well as to oversee compliance with laws and regulations that affect the organization. Consider:

- Have I read & do I understand the charter and bylaws?
- Did I review the mission statement & other documents?
- Am I informed about significant contractual lawsuits or potential claims on assets?
- Do I know the intended beneficiaries of the exempt activities?
- Am I satisfied that resources are dedicated & used in accordance with the organization's mission and purpose?
- Is there a system in place to assure compliance with local, state, and federal laws & regulations, & am I familiar with these laws & regulations?