

A Nonprofit Board's Fiduciary Responsibility

Both the recession and wide-ranging scandals over the past few years have changed the perceptions of duties required of boards of directors in all industries - including nonprofits. Additionally, the Internal Revenue Service (IRS), through its revisions to Form 990, requires reporting by nonprofits on a range of governance issues that go far beyond financial reporting, including board member "fiduciary duty." What is fiduciary responsibility and what does it mean to the board of a nonprofit?

Largely due to tightened budgets, the role of the board member and management has been blurred. Management is responsible for running the organization on a day-to-day basis - while the collective board – is responsible for the strategic direction of the organization in order for it to run effectively and efficiently.

A fiduciary is someone acting on the behalf of another based on an expectation of trust. A nonprofit's board is the central decision making body for the organization. It has ultimate responsibility and accountability for the organization's actions.

According to the Midwest Center for Nonprofit Leadership, a nonprofit board and its members individually have three fundamental fiduciary duties: a duty of care, a duty of loyalty, and a duty of obedience.

The duty of care means that the board member actively participates, attends board meetings, is educated on the industry, provides strategic direction, and oversees management.

The duty of loyalty requires the board member to operate in the interest of the nonprofit and not to use the position to further personal agenda.

The duty of obedience requires the board to know the state and federal laws and regulations that apply. This includes the regulations and guidance issued by the IRS. Obedience to governing documents requires a deep understanding of the operating documents (by-laws, rules, board manuals) and a clear understanding of the difference between the terms "may" and "must" contained in those documents. Finally, obedience requires that the board not act outside the scope of the organization's legal documents.

The responsibilities of a board member are numerous, but the pay-off is priceless. Without directors willing to understand and faithfully execute their duties, the majority of nonprofits would not be in existence, benefiting society. This is why it is important to cultivate strong governance policies and build educated and committed boards – these qualities are the hallmarks of the most successful organizations.