



Board Member Responsibilities

Legal Responsibilities of Board Members

A board of directors is the legally constituted body responsible for the governance of a tax-exempt, nonprofit corporation. The provisions of the New York State Not-for-Profit Corporation Law generally limit the liability of directors and officers of not-for-profit corporations, except in instances of gross negligence or intentional harm. But a member of the board does not enjoy absolute immunity from lawsuits brought against him or her in the course of serving as a board member.

In general, board members can protect themselves from personal liability if they do the following:

- act in good faith and exercise reasonable diligence and care in the affairs of the corporation;
- make themselves thoroughly acquainted with the agency's bylaws and articles of incorporation;
- attend board and assigned committee meetings;
- keep adequately informed of program activities;
- discourage business transactions between the corporation and directors, especially those where profit may be gained, unless conducted entirely openly and in compliance with applicable laws and the bylaws; and
- oppose any board actions with which they disagree.

Basic Responsibilities of Nonprofit Boards

Determine mission and purpose. It is the board's responsibility to create and review a statement of mission and purpose that articulates the organization's goals, means, and primary constituents served.

Select the chief executive. Boards must reach consensus on the chief executive's responsibilities and undertake a careful search to find the most qualified individual for the position.

Support and evaluate the chief executive. The board should ensure that the chief executive has the moral and professional support he or she needs to further the goals of the organization.

Ensure effective planning. Boards must actively participate in an overall planning process and assist in implementing and monitoring the plan's goals.

Monitor and strengthen programs and services. The board's responsibility is to determine which programs are consistent with the organization's mission and monitor their effectiveness.

Ensure adequate financial resources. One of the board's foremost responsibilities is to secure adequate resources for the organization to fulfill its mission.

Protect assets and provide proper financial oversight. The board must assist in developing the annual budget and ensuring that proper financial controls are in place.

Build a competent board. All boards have a responsibility to articulate prerequisites for candidates, orient new members, and periodically and comprehensively evaluate their own performance.

Ensure legal and ethical integrity. The board is ultimately responsible for adherence to legal standards and ethical norms.

Enhance the organization's public standing. The board should clearly articulate the organization's mission, accomplishments, and goals to the public and garner support from the community.

Richard T. Ingram, Ten Basic Responsibilities of Nonprofit Boards, Second Edition (BoardSource 2009).

Lobbying/Advocacy

According to IRS regulations, a tax-exempt organization can do no *substantial* amount of lobbying. GardenShare, a 501(c)(3) has filed with the IRS. This means GardenShare may legally spend up to 20 percent of the first \$500,000 of their annual expenditures on lobbying to influence legislation (5 percent on *grassroots lobbying* of the general public and 15 percent on *direct lobbying* of legislators or government officials). Definitions:

Electioneering is supporting or opposing a candidate at any level of government. A 501(c)(3) tax-exempt organization such as GardenShare Inc. is permitted to *absolutely no* electioneering.

Lobbying, on the other hand, is supporting or opposing a piece of legislation at any level of government or at the ballot (in the form of an initiative or referendum). An organization is lobbying when it states its position on specific legislation to legislators or other government employees who participate in the formulation of legislation, or urges its members to do so (*direct lobbying*). In addition, an organization is lobbying when it states its position on legislation to the general public and asks the general public to contact legislators or other government employees who participate in the formulation of legislation (*grassroots lobbying*).

Advocacy is the process of educating on issues that affect lives at the local, state, and national level. It also means helping policymakers find solutions to specific and persistent problems. GardenShare can engage in advocacy as much as possible to achieve the mission.