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Volunteer Board Members of Illinois Not-for-Profit Organizations

Prepared

by

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Volunteer Board Members of Illinois Not-for-Profit Organizations

Welcome, and thank you for volunteering to undertake this vital public service. Your gift of time and talent as a volunteer board member makes possible many important benefits to your fellow citizens. This information is intended only as a guide; specific legal questions should be directed to your attorney.

Volunteer Board Member Responsibilities

As a board member, you have the basic legal and policy responsibility for your not-for-profit organization. Even though you are an unpaid volunteer, you must:

- 1. Be active**
- 2. Receive no material profit**
- 3. Avoid conflicts of interest**
- 4. Exercise judgment in overseeing the organization's affairs**
- 5. Comply with applicable governmental regulations**

The following information briefly describes your responsibilities as a volunteer board member.

For additional information, contact your organization's lawyer or the Office of the Attorney General at 100 W. Randolph St., Charitable Trust Bureau, 3rd Floor, Chicago, Illinois 60601, 312-814-2595 (TTY: 312-814-3374). Charitable Trust Bureau staff are eager to help you serve the public effectively.

1. Be active

You should attend meetings of the board and board committees on which you serve. You must have general knowledge and understanding of how the organization is functioning, and you must have particular knowledge and understanding about the purpose of the organization and the specific responsibilities assigned to you.

Absence from meetings and inactivity do not excuse you from legal responsibility.

2. Receive no material profit

Board members can only receive reimbursement for reasonable expenses and costs incurred in carrying out their board responsibilities. Illinois law prohibits loans by the organization to its directors and officers.

If a board member is also an employee, compensation can be paid but the employee/board member should not participate in setting his or her compensation.

3. Avoid conflicts of interest

As a board member, you owe a **duty of loyalty** to the organization that takes precedence over your personal interests.

- Self-dealing

Avoid transactions with the organization in which you have a personal or business interest beyond your interest as a board member. In the rare instance where it is not in the best interests of the organization to deal with you, you should make a full disclosure to the board of all the circumstances involved in the transaction, be sure that the transaction is fair to the organization, refrain from voting on the transaction as a board member, and not be counted in determining the existence of a board quorum. This restriction

applies also to your relatives, business associates and friends.

- Organizational opportunities

In all matters pertaining to the organization, you must put its interests ahead of your own. If an opportunity related to the organization's purposes comes to you either as a board member or otherwise, you must make it available to the organization before you take it for yourself or another entity.

4. Exercise judgment in overseeing the organization's affairs

As a board member, you have a **duty to care** for the organization's affairs in good faith and with at least the degree of diligence, care and skill which ordinarily prudent people would exercise under similar circumstances in like positions. Your good faith is not enough.

The board must act with knowledge and after adequate deliberation. The board must carefully set organizational policy and regularly oversee its administration by competent staff. To exercise its duty or care, the board must appoint and regularly review the chief administrative officer of the organization and establish and monitor, without getting involved in day-to-day activities, basic organizational policies and procedures as follows:

- Become familiar with all financial matters of the charity. Regularly request financial information and review all annual reports and audits of the organization's financial affairs. Each board member should be sure to review and keep copies of the returns filed with the Internal Revenue Service.
- Provide for competent legal counsel. Legal counsel will assure compliance with applicable local, state and federal laws, including timely filing of reports and meeting procedures.
- Provide for regular meetings of the board and its committees. Meet as needed with adequate reports on – and discussion of – organizational activities.
- Maintain adequate minutes of board and committee meetings as well as pertinent organizational records.
- Provide for careful selection and orientation of new board members.
- Be sure that conflicts of interest are avoided.
- Require board review, adoption and monitoring of the annual budget.
- Ensure financial resources to conduct organizational activities.
- Clarify and assure adherence to the purposes of the organization and monitor effectiveness in achieving results. A copy of the charter, by-laws and tax exemption letter, if any, will help with this.
- Assure a personnel program that provides competent staff.
- Assure that staff compensation and professional consulting fees are reasonable and set senior staff compensation.
- Provide sound investment and management of organizational funds and assets not expended directly for charitable purposes, to yield a reasonable return without undue risk. Protect the organization's property, including reasonable provision for safekeeping, replacement and divestment procedures that will benefit the organization.

5. Comply with applicable governmental regulations

A number of local, state and federal laws and regulations apply to not-for-profit organizations. The board is responsible for ensuring that the organization complies with these requirements.

- Organizational regulations

Illinois not-for-profit organizations may be organized either as not-for-profit corporations or as charitable trusts under a trust agreement. Not-for-profit corporations must file annual reports with the Illinois Secretary of State's office and annual financial reports with the Illinois Attorney General's office. Charitable trusts must file reports with the appropriate court and/or with the Illinois Attorney General's office.

- Administration and solicitation of funds

The Illinois Charitable Trusts Act and the Illinois Solicitation for Charity Act generally apply to charitable not-for-profit organizations functioning in Illinois whose assets exceed \$4,000 or who solicit or plan to solicit funds from persons in this state or from this state. Such organizations must register and then file annual reports with the Office of the Illinois Attorney General Lisa Madigan. The Attorney General is responsible for assuring that charitable funds are properly solicited and administered.

- Taxation

Some not-for-profit organizations are eligible for tax exempt status. Each exemption from income, real estate or sales tax requires a separate application. Most taxing authorities also require annual reports. Not-for-profit organizations are subject to all employer-employee taxes and regulations.

- General regulations

In conducting their operations, not-for-profit organizations are subject to most of the laws affecting individual and corporate conduct.

- Accountability

The Illinois Attorney General has the responsibility to the public of assuring sound and legal operation of not-for-profit organizations. This includes bringing legal action against board members for failure to exercise their legal responsibilities. Board members can be held personally liable by third parties injured by actions of the organization. Liability insurance for directors and officers is often available to cover some of these situations.

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