A Year in the Life of a Nonprofit Board of Directors:

A Guide for Board Chairs

DC BAR
PRO BONO
CENTER

This guide is for informational purposes only. You should not rely on this guide as a substitute for legal advice by a competent legal professional. It is provided "as is" with no representations and warranties of any kind, express or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, and non-infringement. Under no circumstances will the D.C. Bar or the D.C. Bar Pro Bono Center be responsible for any loss or damage resulting from any use of this guide. Neither the D.C. Bar nor the D.C. Bar Pro Bono Center represents, warrants, covenants, guarantees, or promises any specific results from the use of this manual. You assume all responsibility and risk for your use of the guide. Before using this guide, you should consult with an attorney.

Introduction

A nonprofit organization's board of directors is responsible for overseeing the organization's operations and maintaining the nonprofit's commitment to its mission. To achieve these goals, the board must establish a strategic direction, ensure compliance with all applicable legal requirements, and keep the organization financially healthy.

The board's successful operation depends in large part on the board chair, who plays a critical leadership role by ensuring that the board's many important functions—such as approving the budget, monitoring the organization's financial performance, and reviewing the organization's risk assessment and mitigation plan—are fulfilled in a timely and effective manner. To do so, the chair must establish a yearly timetable for key board tasks, clearly identifying the goals that must be met and when they must be completed. By establishing and adhering to a schedule that allots time each quarter to manage specific issues, directors can ensure that their board—and their organizations—stay on track throughout the year. This timetable is not intended to list all the tasks a board should undertake. Rather, it describes the basic tasks a board must accomplish to fulfill its fiduciary duties.

This calendar provides an overview of the recommended time frame for important board actions (assuming a fiscal year ending on December 31).

January–March (1st Quarter)

1. **Orient New Board Members**

   Early in the fiscal year, the first order of business should be to welcome and orient new board members. An early orientation will provide a solid foundation for each new board member throughout his or her tenure, and will help ensure that new directors are active, engaged participants in the board's work. In addition to providing information about the organization's mission, history, and strategic goals, the orientation should:

   - Educate new board members about their fiduciary duties and responsibility for financial oversight of the organization;
   - Provide each board member with a copy of the organization's governing documents, including articles of incorporation, bylaws, conflict-of-interest, whistleblower, and other governance policies; and
   - Provide training in basic financial literacy to board members who do not have a background in finance or accounting.

2. **Review Conflict-of-Interest Policy with Board Members and Ensure Each Board Member Completes Annual Conflict-of-Interest Disclosure Form**

   Each year, you should review with the board a copy of the organization's conflict-of-interest policy and provide them with an opportunity to complete the conflict-of-interest disclosure forms, a key step in complying with your organization's conflict-of-interest policy. Reviewing these forms will alert you early to any board-member affiliations that may affect their objectivity in voting and decision making.

3. Review the Organization's Risk Management Plan

Evaluating and mitigating risk is essential to the health and resilience of your organization, ensuring that the organization is not vulnerable to events that could impose significant costs or entirely shut down its operations. But creating a risk management plan is not a one-time event. To consistently safeguard your organization against risk, you should conduct an annual review and update of your plan to ensure it responds to recent changes in your nonprofit or in your nonprofit's operating environment. Such changes might include:

- A shift or increase in the types of activities your group engages in;
- The purchase of a piece of property or major piece of equipment; or
- The passage of new state or federal laws that affect nonprofits.

For more information on creating and reviewing your organization's risk management plan, go to: A Nonprofit's Guide to Risk Management and Insurance.

4. Monitor Your Organization's Financial Performance (Each Quarter)

Each quarter, your board (or finance committee) should review the nonprofit's financial performance, comparing it to the same quarter in the previous year. Is your fundraising at the same level as the previous year or lagging behind? Are the organization's investments performing better or worse than at the same time last year? Did an unexpected cost arise that is playing havoc with your budget? Check your reserves to ensure they are sufficient to cover additional unexpected costs, and compare your quarterly balance sheet to the same quarter in the previous year. Is your organization's financial position better, worse, or about the same? Are there financial issues the board should be keeping an eye on?

5. Monitor Financial Investments (Each Quarter)

If your organization maintains investments as part of an endowment or reserve, it should conduct a quarterly review of the performance of those investments. This review should be conducted by the finance committee which then will report to the full board on how investments are performing.

April–June (2nd Quarter)

1. Oversee Program Evaluation

The second quarter is a good time for the board to oversee an annual evaluation of the organization's programs. While most of the evaluation data will be collected by the organization's staff and administration, the board is responsible for analyzing the results and making decisions about whether to modify or discontinue existing programs and whether to develop new ones. When reviewing evaluation data, board members should ask:

- Are programs serving the central mission and core values of your organization?
- Are existing programs meeting the objectives established by the organization and those stipulated by funders?
- Are the programs effectively meeting the needs of the community you serve?
- Are the programs well-managed?
- Where current programs are not meeting goals, do they need to be changed or discontinued? Do new programs need to be developed?

2. Supervise Audit

While an independent audit of the organization's financial books is not required for federal tax reporting, it is a good governance practice that lends credibility to the organization. Additionally, some states require an annual independent audit to be conducted as part of the nonprofit's registration under the state's charitable solicitation laws. For example, organizations with gross revenues that exceed $750,000 per year and that solicit funds from residents of Maryland must submit an independent audit with their application for registration. In Virginia, some organizations that seek exemption from registration may be required to submit an audit as well.

As a general rule, the annual audit is supervised by the audit committee. If an organization does not have a separate audit committee, the finance committee should oversee the audit. The committee should be composed of independent directors, at least one of whom has financial expertise. The committee should:

- Meet with the auditor prior to the start of the audit to discuss the audit's scope;
- Resolve any disputes on accounting methods that may arise between the auditor and management;
- Review the audit results with the auditor prior to presenting the results to the full board, including the auditor's management letter, which sets forth the auditor's findings regarding the accounting processes and procedures used by management; and
- Review any reports required under state law.

Once the audit or finance committee has reviewed the management letter with the auditor, the entire board should meet with the auditor in executive session to review the findings. This is an opportunity for the full board to be informed of any shortcomings or weaknesses in management's accounting and financial controls. The audit or finance committee is subsequently responsible for ensuring that any of the auditor's recommendations on changes to the organization's financial operations are implemented.

3. **File Financial Disclosure Statements—Form 990**

   Every tax-exempt charitable organization is required to file some version of the Form 990 each year. Which version your organization must file depends on the size of your organization.

   If your organization's annual gross receipts are normally $50,000 or less, your organization will normally file a Form 990-N post card return. The Internal Revenue Service (IRS) requires that the form be filed on the 15th of the fifth month following the close of an organization's fiscal year. If your fiscal year ends on December 31, the 990-N will be due on May 15.

   If your organization has annual gross receipts of less than $200,000 and assets of less than $500,000, it may file Form 990-EZ. Larger organizations must file the Form 990. Organizations that file the Form 990 or 990-EZ may request a 180-day extension[1] which would extend the filing deadline to November 15 (based on a fiscal year ending December 31). There is no extension to file the Form 990-N.

   Prior to filing any version of the Form 990, the board's finance committee should review the Form, along with the Form 990-T (for unrelated business income tax), if required. Organizations filing the Form 990 or 990-EZ may want them prepared by an independent accountant, then reviewed by the finance committee and full board. A copy of the Form should be sent to each member of the board prior to filing.

   The board should keep in mind that an organization's Form 990 is a publicly available document that can be viewed by all—including prospective donors, funders, and nonprofit partners—and should be treated as an opportunity to present the public face of the organization in the best possible light. Rather than providing only the minimum legal requirements, use the Form 990 or 990-EZ to tell a story about your organization, offering a detailed picture of the organization's mission, achievements, and programs.

4. **Review Budget Performance**

   Toward the end of the second quarter or in the beginning of the third, the finance committee should compare budgeted and actual revenues and expenditures to verify that the organization's annual budget is on track. If the committee discovers any major variances—for example, an anticipated donation or grant has not come through, or a planned expenditure costs more than anticipated—the board can instruct management to make adjustments to ensure that the organization has sufficient cash to pay its operating expenses.

---

[1] Beginning in 2017, organizations whose fiscal year began on January 1, 2016, or later may request an automatic six-month extension, rather than having to request a three-month extension and then apply, subsequently, for another three-month extension.

5. Evaluate the CEO

A written evaluation of the organization's chief executive officer is an important component of the board's responsibilities. The board may draw on a range of sources in conducting its evaluation: individual board members, volunteers, funders, collaborating agencies, and clients. By documenting both the CEO's achievements and shortcomings, a written annual evaluation helps the CEO understand areas for improvement. Typically, a committee of the board (often the board officers) leads the evaluation process, then reports on the evaluation to the entire board and recommends the CEO's salary level for the next year.

6. Compensate the CEO and Senior Management

In conjunction with the CEO evaluation, the board is also responsible for setting the CEO's compensation, along with the salaries of other members of senior management. The Internal Revenue Code sets forth the criteria for determining who is a member of senior management and provides that a nonprofit organization cannot pay more than "reasonable" compensation to its senior managers. If excess compensation is paid, the IRS can impose penalties on the individuals receiving the excess salary, and the board members who authorized it.

The board can significantly reduce the risk of paying excessive compensation by utilizing a three-step process which, if followed, will result in the IRS presuming that the compensation is reasonable. The three steps are:

- The board (or a board committee) approves the compensation level in advance;
- The board (or committee) makes use of data showing how much similar organizations are paying similarly situated employees to determine that the compensation is reasonable; and
- The decision-making process is properly documented.

For more on evaluating and compensating the CEO, see Welcome to the Board of Directors, Part 5.

July–September (3rd Quarter)

1. Develop Funding Plan for Next Fiscal Year

Among the board's key roles are to attract resources to sustain the organization's goals, establish a successful fundraising strategy, and put an annual plan in place for achieving its fundraising goals. This is one of the critical roles of the fundraising committee. In creating its funding plan for the next fiscal year, the fundraising committee and the board should annually review existing revenue sources and identify potential new ones. Among the issues to be examined are:

- Have any foundations on which the organization has traditionally relied on for support changed their funding priorities for the upcoming fiscal year?
- Are any funding cuts or increases anticipated in public programs that could, in turn, affect the organization's funding in the coming fiscal year?
- Are there any new pools of potential donors or grantors that could be tapped?

In conjunction with this inquiry, the board should also evaluate:

- Are the organization's funding streams diverse enough? Is the organization too reliant on certain grants?
- Are the organization's fundraising techniques cost-effective, ethical, and appropriate?

Based on its assessment, the board should establish goals for the next fiscal year and develop a plan for achieving those goals that specifies the responsibilities of both management and the board in the fundraising effort. The board should also address the organization's long-term fundraising goals, including its strategy for diversifying its funding streams.

2. Conduct Board Self-Assessment

The board should annually evaluate its own performance. Among the issues to be examined are:

- **Overall Functioning:** Is the board completing its work efficiently and effectively? Are committees working properly?

- **Board Composition:** Which skills are lacking in the board? Most boards have a continuous need for members with a background in finance, fundraising, or the law. The board should determine any gaps in its members' expertise and experience, and seek to recruit new members with those skills.

- **Board Engagement and Director Performance:** Are all the directors engaged in the work of the board? If not, the board should discuss what steps it should take to re-engage its members. If efforts to re-engage a director do not work, the board should be willing to ask the director with poor performance to resign or to leave the board at the end of his or her term. While evaluating the performance of individual members can be difficult, it is important to remember that the board's first duty is to serve the best interests of the organization.

- **Board Contributions and Fundraising:** Are board members personally donating to the organization and working to attract funding from other donors, foundations, and other sources? Board participation is essential to any fundraising campaign, as an organization cannot expect others to provide financial support if the board does not. Rather than specifying a minimum dollar amount for each board member, a nonprofit should set a goal of 100 percent annual participation by directors, encouraging directors to make the nonprofit a priority in their annual giving. Board members should also assist in cultivating prospective donors by stimulating interest in the organization and its work.

3. Recruit New Board Members

As current directors reach the end of their terms, board members should begin identifying candidates to join the board. In identifying and assessing prospective board members, directors should consider:

- **Director Independence:** A majority of directors on the board should be independent to ensure that the board makes objective, unbiased decisions that are in the best financial interests of the organization. A director with a personal interest in a transaction may exert influence that ultimately undermines his or her role in ensuring the organization's financial soundness. A nonprofit director is considered independent provided neither the director nor a close family member:
    - Receives compensation from the organization;
    - Is affiliated with management; or
    - Has a personal interest in a specific transaction.

- **Financial Literacy:** While every board should include some members with substantial business or finance experience, all board members should possess enough financial literacy to understand basic terminology, read and evaluate financial statements, and ask the right questions in determining the financial health of the organization. Basic, board-wide financial literacy will significantly reduce the risk of sudden budget shortfalls, accusations of financial impropriety, or inability to fulfill long-term goals because of a mismatch between the budget and the strategic plan. Training can be provided to board members to ensure that they have the needed skills.

- **Composition of Board Committees:** Review your board committees to determine where departing directors may leave gaps in expertise. For example, if your finance committee is losing a director with accounting skills and another existing board member does not have those skills, you may wish to seek out new board members with expertise in business or financial management.

October–December (4th Quarter)

1. Select Auditor for Annual Audit for Current Fiscal Year

It is the responsibility of the board (or the board's audit committee) to select an independent financial auditor to conduct an audit of the organization's books and records. As discussed on page 4, an annual independent audit can be invaluable in highlighting weaknesses in an organization's financial systems, strengthening policies and procedures, and contributing to a culture of transparency. The Board may authorize the audit committee to make the final selection decision, or the committee may recommend that the board retain the services of an auditor, subject to the board's approval.

2. **Approve Annual Budget and Organizational Work Plan**

During the fourth quarter, the nonprofit's senior staff should prepare the annual budget for the upcoming fiscal year, which the board must review and approve. Concurrently, the staff should complete an annual work plan that addresses the nonprofit's strategic planning goals for the coming year by identifying concrete objectives, the resources required, and the timeline for achieving the objectives, and the desired end results. The board, in turn, must review and approve this plan.

3. **Elect New Board Members and Officers; Appoint Committees**

Once the board has recruited candidates to serve as directors, board members must elect the candidates to the board, as well as reelect current directors whose terms have expired and who wish to continue serving. The board must also elect officers of the board if the existing officers' terms are about to expire.

Term Limits: It is generally recommended that nonprofit boards establish term limits for officers and directors, and include those limits in the organization's bylaws. Term limits have the advantage of assuring that the board benefits from the energy and fresh perspectives that new members bring to the organization. However, the organization should weigh the costs and benefits of term limits, as it can be challenging to recruit new board members, particularly those with special skills, such as finance or law. If the organization's bylaws contain term limits for officers and directors, the board's practices must conform to the bylaws. If the board wishes to change how it operates, including doing away with term limits, it must first amend its bylaws to reflect that change.

Board Elections and Voting: If a nonprofit is a membership organization and provides that the members elect individuals to the board, the nonprofit should establish in its bylaws a record date (the date for determining who is a member entitled to vote), quorum requirements, and voting rules for the membership. If an organization does not establish its own rules, it must comply with the provisions of the D.C. Nonprofit Code regarding record date (no more than 70 days prior to the meeting), quorum requirements (a quorum consists of a majority of members entitled to elect directors), and election requirements (election of new board members requires a plurality of the votes).

If your nonprofit is *not* a membership organization, the board of directors elects individuals to the board. A new board member may be elected based on the affirmative vote of a majority of directors present at a board meeting at which a quorum is present. However, it is considered a best practice for new directors to be elected by a majority of all the directors serving on the board, so that there is widespread agreement that the individual serve as a board member.

Board Committees: Once the election of directors and officers takes place, the board must also appoint directors to serve on the various committees. If the board appoints a board committee—meaning a committee that is authorized to make decisions on behalf of the organization without further approval from the board—then the individuals appointed to such committees must all be members of the board, and their appointment must be approved by a majority vote of all the directors serving on the board. Non-board members can serve on advisory committees, and the board does not have to approve the appointment of committee members by a majority vote of all directors.

Non-Annual Board Action Calendar

In addition to these annual tasks, from time to time the Board must periodically undertake certain tasks as part of its regular duties. These actions do not take place every year, but should be part of the regular life cycle of the board.

1. Strategic Planning

Every three to five years, the board should lead the organization in mapping out the strategic direction of the organization to ensure the organization's future sustainability and growth. The strategic planning process should use the organization's mission statement as its starting point, determining whether the organization's activities are consistent with its mission and whether they meet the needs of stakeholders. The board should next examine whether existing programs are effective in carrying out the organization's mission, and evaluate whether it needs to find more effective ways to meet its goals, or shift its focus to meet current and future stakeholder needs. Finally, the board should evaluate whether resources are available to assist in better meeting the needs of its stakeholders or expanding its services.

In partnership with senior management, the board should then develop a plan that will guide the organization's activities and goals for the next three to five years. Once the board has adopted it, senior management is responsible for developing an annual work plan to implement the goals in the strategic plan.

2. Review Policies and Procedures

Good governance policies, while not required by the IRS, play an important role in ensuring the organization's financial health by promoting a culture of accountability that safeguards against future problems. These policies should be reviewed and updated every three to five years. Key policies include a conflict-of-interest policy to guard against self-dealing transactions; a document retention and destruction policy to protect against loss or inadvertent destruction of documents; a code of ethics to establish conduct guidelines for the board, management, staff, and volunteers; and a whistleblower policy that protects staff and volunteers who report unethical or unlawful practices within an organization.

3. **Review and Update Bylaws**

   A nonprofit's bylaws, which provides the internal rules and governance structure of the organization, are one of its most important documents. A review of the bylaws every three to five years is essential to ensuring that the bylaws are in legal compliance with applicable state and federal statutes, particularly if those statutes change. Additionally, directors should review and refamiliarize themselves with the bylaws to ensure that they are in fact following the required procedures, and reaffirm that those procedures are sound and promote the best governance practices. Regular review of the bylaws also provides an opportunity to educate board members about their responsibilities as directors, their legal duties, the standard of care they are required to exercise, and permissible delegation of duties. Well-crafted bylaws lie at the heart of a well-governed organization, and regular review of this key document will strengthen the board and the organization.

Conclusion

While a board's smooth functioning is dependent on many factors, among the most critical is a board chair who ensures that the board meets its responsibilities in a timely and effective manner. A yearly calendar that clearly identifies the board's duties, the timetable for completing them, and the board committees responsible for them is a crucial leadership tool. By keeping directors informed of what is expected of them each quarter, a board chair can ensure that the board keeps the organization financially sound, focused on its mission, and prepared for the future.

Additional Resources

Manuals

- Welcome to the Board of Directors
- The Role of the Board of Directors in Financial Oversight: A Guide for Board Members
- A Nonprofit's Guide to Risk Management and Insurance

Webinars

- Managing Conflicts of Interest Webinar
- Keeping Track–A Primer on Writing and Retaining Board Minutes
- The Dos and Don'ts of Board Voting
- What You Need to Know When Calling and Holding a Board Meeting
- What a Nonprofit Board Should Know About Meeting in Executive Session

Legal Alerts

- Revisiting Director and Officer Indemnification: Provisions in the New D.C. Nonprofit Act
- FAQs About Board Voting
- Audit Committee and Audit Committee Charters
- Conflict of Interest Policies: Disclosure, Monitoring, and Enforcement
- Keeping Corporate Minutes
- Tax-Exempt Organization Alert: Whistleblower Policies
- Document Retention and Destruction Policies: What Every Nonprofit Needs to Know
- Fiduciary Duty of Board of Directors to Oversee Financial Affairs
- Codes of Conduct: How to Establish the Right Tone