WORKSHOP

Legal and Ethical Requirements of Nonprofit Boards

Building Better Boards
May 17, 2013
2:45 pm - 4:00pm
Diana Kern, Vice President
AGENDA

1. Introduction to the Nonprofit Landscape
2. Duties of a Nonprofit Board Member
3. The Work of the Board
4. High Performing Boards
WHY SERVE ON A BOARD?

Help an organization achieve its mission

Leverage existing or develop new management skills

Broaden your personal and professional networks

Demonstrate a commitment to your community
More than 1.6 million nonprofits in the US

More than 13.5 million paid employees

More than 63.4 million volunteers

Three quarters of all nonprofits have annual expenses under $500,000

Source: The Independent Sector Website, 2012
• 47,000 nonprofits in Michigan
• 15,000 nonprofits in Southeast Michigan
• 440,000 nonprofit employees
• Generate nearly $108 billion per year in total economic activity
• Nonprofit employment has grown by 1.3% per year since the recession

Source: Michigan Nonprofit Association 2009
Why Do Board’s Exist?

Gatekeepers of the Mission

- Program
- Financial
- Legal
- Stakeholders

Sustainability

Legacy

Trust - Empower – CEO Relationship
“Board members need to come prepared, rise to the occasion, work diligently as a group, and expect to be intellectually taxed by complex and consequential questions.”

Federal and state legislation demands greater accountability in all sectors

Sarbanes – Oxley Act of 2002 (SOX)

Enhanced enforcement by the IRS
  - Over 272,000 nonprofits lost their tax-exempt status in 2011

Senate Finance Committee hearings
  - Panel on the Nonprofit Sector

Source: The Independent Sector Website, 2012
STANDARDS OF CONDUCT (DUTIES)...

- Duty of Care
- Duty of Loyalty
- Duty of Obedience
- Duty of Confidentiality
PROTECTION AGAINST LIABILITY

- Prudent and careful oversight
- Indemnification policy in bylaws
- Director and Officer (D&O) Liability Insurance
- Personal liability insurance (e.g., umbrella policy)
- Transparency – Open Meetings
THE WORK OF THE BOARD

- Board Operations
- Strategic Planning
- Resource Development
- Oversight
- Ambassadorship

Ethical Work & Best Practices
Which of these do you offer?

WORK

WEALTH

WISDOM
THE WORK OF THE BOARD

Board Operations

Composition & Recruitment

Orientation & Education

Structure

Effectiveness & Evaluation
ORIENTATION AND EDUCATION

Orientation

- Best if use a self-guided orientation checklist
- Educate, inform, clarify role and inspire!
- 90-day window

Educating the Board

- Provide reports on program and mission achievement
- External education on board roles and trends
- “How-to” topics, like fundraising, understanding financials, etc.
- Conduct regular assessments to determine board performance
EFFECTIVE MEETINGS

- Efficiency
- Attendance
- Strong facilitation
### BOARD COMMITTEES

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>79%</td>
<td>Executive</td>
</tr>
<tr>
<td>56%</td>
<td>Fundraising</td>
</tr>
<tr>
<td>45%</td>
<td>Finance/Audit</td>
</tr>
<tr>
<td>38%</td>
<td>Governance/Nominating</td>
</tr>
<tr>
<td>27%</td>
<td>Program</td>
</tr>
<tr>
<td>23%</td>
<td>Marketing/Communications/PR</td>
</tr>
<tr>
<td>23%</td>
<td>Planning/Strategic Planning</td>
</tr>
</tbody>
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77% of boards have written charters for committees.
BOARD COMMITTEES

Organize the work of the board

May be ad hoc or standing committees

- Non board members can serve on non-governing committees

Develop SMART goals for committees annually

S • Specific
M • Measurable
A • Attainable
R • Realistic
T • Timely
Strategic Planning

- Provides focus and establishes priorities
- Maps out a path for program and resource development
- Opens opportunities for innovation
- Requested by funders and adds legitimacy
The reason nonprofit boards exist is to ensure that the organization’s mission is achieved.

The mission should be the primary focus when transacting board business.

- Program development
- Financial priorities
- Strategic planning
1. Does this program or service fit our mission?
2. How will we pay for it on a sustained basis?
3. Who will benefit?
4. How will we measure its effectiveness?
THE WORK OF THE BOARD

Resource Development

Financial
Human
Physical
THE WORK OF THE BOARD

Oversight

Program
Legal
Financial
FINANCIAL OVERSIGHT

- Setting up and monitoring key financial indicators
- Ensuring adequate control mechanisms
- Approving the budget
- Overseeing the organization’s legal obligations
What to Expect from your Organization

- Periodic financial reports
- Internal/interim statements
- Annual Budgets
- Variance analysis – actual to budget
THE WORK OF THE BOARD

Ambassadorship

Advocate for mission

Enhance public standing of organization

Speak as a unit

Develop marketing plan and brand

Maintain crisis management plan
THANK YOU FOR PARTICIPATING!

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