

DUTIES of LOYALTY, OBEDIENCE & CARE

Duty of Loyalty

By assuming office, the Director commits allegiance to the organization and acknowledges that the best interests of the organization must prevail over any individual interest of the Director, the Director's employer, and the Director's family and associates. Actions and decisions of the Director, while he or she is serving as a Director, must promote the organization's purpose and well-being rather than any private interest.

1. The duty of loyalty is transgressed when a Director uses his or her office to promote, advance or effectuate a transaction between the organization and such person or his or relatives or associates, and that transaction is not substantively fair to the organization.
2. Full disclosure and refraining from discussion and voting are required when a Director may be influenced by a private interest.

Duty of Obedience

Directors have a duty to follow the organization's global governing documents (such as Articles of Incorporation and Bylaws) to carry out the organization's mission and to ensure that funds are used for lawful purposes. Directors must also comply with state and federal laws relating to the organization.

Duty of Care

The duty of care contains several elements. Its violation is the most frequent source of liability for Directors.

1. Attendance
 - a) Directors must attend Board meetings. Courts will have no sympathy for Directors who claim as a defense to any legal action that they did not know of a particular issue or did not participate in a particular action because of failure to attend Board meetings.
 - b) Directors who do not attend meetings are nevertheless bound by actions taken at those meetings and will be held responsible if any such actions are deemed negligent.
 - c) The act of failing to attend Board meetings may itself be deemed to be negligent behavior. Board meetings should be missed only for unavoidable emergencies. A Board member who repeatedly misses meetings should consider resignation.
2. Delegation vs. Abdication
 - a) While the Board of Directors makes the important policy decisions that guide and determine the activities of the organization, it must rely on others to carry out the decisions. Such delegation is necessary and legal.
 - b) Boards also delegate their duties to committees and other outside parties, such as accountants and attorneys.
 - c) A Board must monitor those to whom it has delegated authority to make sure such persons are acting responsibly.
 - d) Delegation does not relieve a Board of liability.