

LEGAL DUTIES OF BOARD MEMBERS

The board as a unit is responsible and liable for what happens internally *in* an organization, and what happens externally *to* an organization. Boards are held to three legal standards: the duty of care, duty of loyalty and duty of obedience. Board members who faithfully carry out these duties are generally, but not always, clear of personally liability.

The Duty of Care

The Duty of Care requires that board members remain fully informed about the organization's activities, participate in decisions with diligence, care and skill, and do so in good faith. Board members must use the care and judgment of an ordinarily prudent person in similar circumstances.

The duty of care is carried out through:

- Attendance at board and committee meetings
- Advance preparation for meetings
- Use of independent and best judgment

The Duty of Loyalty

The Duty of Loyalty requires board members to exercise their power in the interest of the organization and not in their own interest or the interest of another entity, particularly one in which they have a formal relationship. When acting on behalf of the organization, board members must put the interest of the organization before their personal and professional interests. The Duty of Loyalty requires board members to give undivided allegiance to the organization when making decision affecting the organization.

The Duty of Loyalty is carried out through:

- Disclosure of any conflict of interest
- Adherence to the organization's conflict of interest policy
- Avoidance of the use of organizational information or opportunities for the individuals' personal gain or benefit

The Duty of Obedience

The Duty of Obedience requires board members to comply with all applicable federal, state and local laws, adhere to the organization's by-laws and remain the guardians of the mission. Although board members may exercise their own reasonable judgment concerning how the organization should best meet its mission, they are not permitted to act or speak publicly in a way that is inconsistent with the central goals of the organization.

The Duty of Obedience is carried out through:

- Thorough examination of the organization's compliance with regulatory and reporting requirements, and other documents governing the organization and its operations (such as by-laws and policies)
- Involvement in ensuring that board decisions are within the organization's mission
- Speaking "with one voice" after a decision has been made, even if the individual board member voted against it.