

Risk Management Webinar: Good Sense Governance

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Governing Documents

□ Articles of Incorporation

- ✓ A public document that legally establishes the organization
- ✓ Agreement between state and organization

□ Constitution and Bylaws

- ✓ Internal document(s) that governs organization's operations
- ✓ Agreement between organization and members

□ Policies

- ✓ Standard operating procedures that are adopted and amended by the BOD
- ✓ Agreement between BOD and staff

What's What and How?

1

Constitution vs. Bylaws

- ❑ Both govern organization's internal affairs
- ❑ Courts consider these documents essentially the same
- ❑ Per Robert's Rules, constitution prevails if conflict

2

Bylaws vs. Policies

- ❑ Bylaws are appropriate for items that are less likely to change
- ❑ Policies are appropriate for items that may frequently change or requires discretion

3

Core Standards

- ❑ Adoption of mandatory standards
- ❑ Everything else is at the association's discretion



Board of Directors

- ❑ Ultimate authority - over internal affairs of organization and management and use of its assets
- ❑ Provide strategic leadership
- ❑ Must act consistently and in accordance with Articles of Incorporation, bylaws and policies

BOD Fiduciary Duties

Duty of
Care

Duty of
Obedience

Duty of
Accounting

Duty of
Loyalty



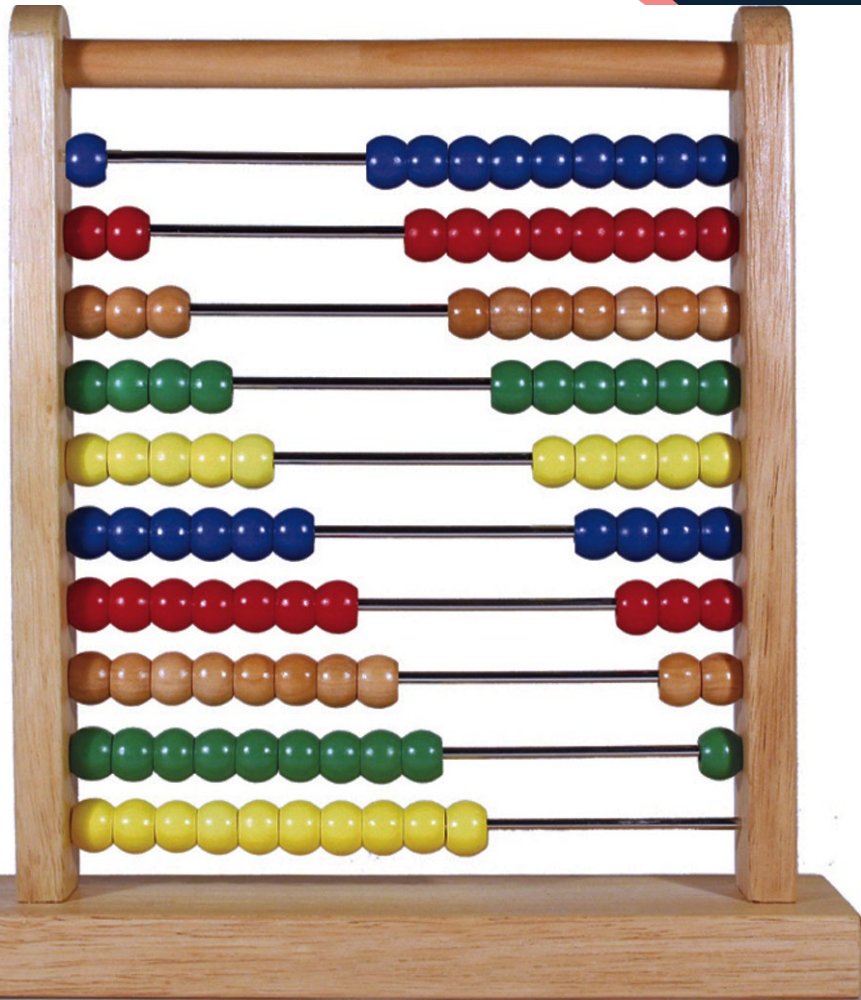
Duty of Care

- ❑ Exhibit honesty and act in good faith
- ❑ Exercise ordinary and reasonable care in delegation of duties
- ❑ Attend meetings and stay informed of all material information that's reasonably available



Duty of Obedience

Act in accordance with, and in furtherance of, the association's mission and governing documents, as well as applicable laws and regulations.



Duty of Accounting

Safeguard, protect, and preserve association assets by adopting, and following, proper accounting procedures and controls



Duty of Loyalty

Undivided allegiance and duty of faithfulness to the association.

- Directors must act in good faith for the benefit of the organization and not for the director's own personal interest.

**FAILURE TO FOLLOW FIDUCIARY DUTIES LEADS
TO HARM TO ASSOCIATION AND MEMBERSHIP
AND LEGAL EXPOSURE.**



BOD Composition and Removal

- ❑ The board composition and director eligibility requirements should be established in the bylaws
- ❑ If the organization's needs or interests of its board have changed, the bylaws should be amended accordingly
- ❑ The bylaws should contain a removal provision that describes the removal process and the events for removal

BOD Meeting

- ❑ **Fulfill minimum number of BOD meetings**
- ❑ **Give sufficient notice and send meeting agenda**
 - ✓ Establish start and end times
 - ✓ Identify action items, topics and speakers
 - ✓ Allows preparation

- ❑ **Quorum**
 - ✓ Must comply with state law and bylaws
 - ✓ Necessary to take valid action



Robert's Rules of Order - Parliamentary Procedure



**Promotes
Efficiency**



**Protects
minority's right
to be heard**



**Protects
majority's right
to decide**



**Maintains
order**

Board Action Without a Meeting



Reserve for non-controversial matters or urgent matters



Unanimous written consent



Abstentions not allowed



Executive Session

- ❑ Motion
 - ✓ To enter into and to rise out of executive session
- ❑ Limited guests
 - ✓ Board members plus whoever BOD permits to stay
- ❑ Confidential
 - ✓ Anything discussed or share must not go beyond those present in the meeting
- ❑ Minutes
 - ✓ Keep separate minutes



Meeting Minutes

Minutes

- ❑ Legal documents
- ❑ Golden rule – Not a transcript, record of actions taken
- ❑ Consists of:
 - ✓ Date, time and place of meeting
 - ✓ People present and absent
 - ✓ Motions (maker and disposition)
 - ✓ Consensus items
 - ✓ Notation of subject matter of reports

Meeting Minutes 2008-03-18

10:03 - Meeting starts

10:05 - Check on presence of quorum:

- * Quorum present

10:08 - Agenda:

- * Added item "sales representative bonus policies" to agenda

- * Confirmed with 6 votes out of 7

10:14 - Sales report

- * CEO: Numbers presented (attached)

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Official Meeting Minutes

Meeting Minutes 2008-03-18

10:03 - Another bad start into the day

10:05 - Check on presence of quorum:

- * Those who like to talk are here again

10:08 - Agenda:

- * Looked out of the window

- * Bird flew by, probably sparrow

10:14 - Sales report

- * Counting "o"-s on the printed agenda

- * Filling them with red pencil

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What really happened ...