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Insights on Foundations: **Mission & the Board**

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Meet the Presenters



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Agenda

- What are the legal & core responsibilities of a Foundation board member?
- How can a family Foundation engage the board & successive generations?
- Questions



The true meaning of life is to plant trees, and create shade where you do not necessarily expect to sit.

– Kamari



Legal & Core Responsibilities of Foundation Board Members

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1. Duty of Care

- ➡ Board members must use their best judgment in all dealings with the organization
- ➡ Regularly attend & participate in board meetings, attend special events/fundraisers, & other organizational activities
- ➡ Raise proper & necessary questions
- ➡ Provide careful oversight

Delegate with
care,
considering
qualifications

2. Duty of Loyalty

Board members must act in good faith to advance the organization's interests

Confidentiality

Will not authorize or engage in transactions except those that provide the best outcomes for the organization

Will not allow a conflict of interest, real or perceived, where they might benefit or if they are involved in multiple organizations

3. Duty of Obedience

Members must stay true to the organization's mission & to applicable laws & regulations when making decisions

Federal & state laws

Obedience to bylaws



Legal & Compliance Responsibilities

- The board holds legal responsibility for compliance with applicable federal, state, & local regulations
 - Engage trusted advisors to assist with reporting & compliance requirements
 - Conflict of Interest Policies
 - Form 990-PF annual filing requirement
 - Charitable solicitation & state reporting

Avoiding Prohibited Transactions

- Private Foundation prohibited transactions & self-dealing
 - The Internal Revenue Code attempts to discourage certain activities/transactions between family Foundations & Disqualified Persons
 - Complex set of rules that are broad & far-reaching
 - Require careful oversight
 - Generally prohibit any direct/indirect financial or economic benefit to board members/family members
 - Penalties can attach to individuals if excise taxes apply

Self-Dealing Transactions – What Are They?

- Specific acts that are prohibited
 - Buying/selling property to or from a Disqualified Person (even on terms favorable to the Foundation)
 - Renting property to a Disqualified Person or leasing property from a Disqualified Person (other than on a rent-free basis)
 - Lending money or extending credit to a Disqualified Person or borrowing money from a Disqualified Person (exempt on an interest-free basis)
 - Paying excessive compensation to a Disqualified Person

Self-Dealing Transactions – What Are They?

- Specific acts that are prohibited
 - Paying/reimbursing unreasonable expenses of a Disqualified Person
 - Allowing Disqualified Persons to use a Foundation's income/assets/facilities (except for goods/services furnished on the same terms as the general public)
 - Satisfying the enforceable pledge of a Disqualified Person
 - Making payments to certain government officials

Self-Dealing Transactions – Exceptions

- Paying reasonable compensation for necessary services
 - Services must be personal
- Reimbursement of reasonable & necessary expenses
- Tickets to fundraising events
 - Board members can use if attendance is reasonable & necessary
 - Use of tickets by spouse/family members is self-dealing

Self-Dealing Transactions – Penalties for Violation

- 5% initial tax on the self-dealer
- 2.5% initial tax on the Foundation Manager
- Correction is required – penalties can be applied for each year until correction takes place
- Second-tier tax = 200% of the amount involved
 - 50% not to exceed \$10,000 for Foundation Managers

Fiduciary Duty & Jeopardizing Investments

- Foundation board members are tasked with managing & protecting Foundation assets
 - Jeopardizing investment rules require Foundation board members to take reasonable care & prudence to provide for both short- & longer-term financial needs of the Foundation
 - Avoid overly risky investments
- Exercising fiscal oversight

Family philanthropy is “a unifying and ennobling odyssey for families with the means and the determination to make a difference in the world around them.”

– Paul Ylvisaker

1. Lead the organization

Set mission, vision, values

Are we still relevant?

Clarify

- Why do we exist?
- What do we hope happens?
- What's our part?
- How will we know it worked?

2. Establish policies

Financial Controls, Separation of duties, authority

HR/Operations COI, Whistleblower, Gift acceptance

Technology User access, Security, privacy

3. Secure essential resources

Make sure the organization secures the resources that it needs to accomplish its mission, vision, & goals

4. Ensure effective resource use

Ensure the organization makes effective use of its resources

5. Ensure & enable accountability

Make certain the Foundation has established standards & implemented systems by which to ensure that it is accountable & effective in serving the community & people it exists to serve

Proper controls/system

Have necessary tools?

Compliance

Systems to listen & learn

6. Ensure board effectiveness (three parts)

Members

Clarity of role/expectations

Leadership

Officers – President, V.P., etc.

Rotation & Recruitment

Fresh thinking, engaging others

90% of organizations report family members work well & family dynamics do not have negative effect on the Foundation's work



Engaging Your Board & Successive Generations

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“The meaning of life is to find your gift. The purpose of life is to give it away.”
– Pablo Picasso

Common Challenges in Family Foundations

- Generational priorities/competing interests
- Family dynamics
- Communication styles & preferences
- Disparities in philanthropic knowledge

Great Governance: Board Composition

One size does not fit all

- Trend toward smaller boards
- Pros & cons of board size
- Size commensurate with organization's needs

Preparedness

- Most lack understanding
- Training often delayed or ignored

Constructing a Strong Organization

PR, Marketing, Fundraising

Support to programs, others

Board, Exec Director

Proven need & path forward

Clear purpose & strategy



Use proper materials
to protect structure
(plans, policies, systems)



Engaging With the Foundation Mission

- Periodically review the Foundation's mission/values
 - Are strategies, programs, grantmaking in alignment with mission?
- Encourage living donors/family to document intentions while allowing flexibility for future governance
- Recognize later generations' interests
 - Flexibility can allow focus areas to adapt over time

Benefits of Engaging Multiple Generations

- Builds stronger ties to family through common philanthropic goals
- Engages skills & observations in meeting mission & challenges the Foundation prioritizes
- Allows new & innovative ideas to be incorporated into the Foundation's work
- Builds the next generation to advocate for effective philanthropy

Philanthropy starts early

- What is the need or issue being addressed? (May be complex or misunderstood)
- How does the Foundation help/what does it do?
- Explain the WHY – underlying motive or guiding principles

What role can family members of varying ages have?

Board or committee
PR, education
Volunteer
Community input
Research

- Mature/Boomers
- Millennials
- Gen Y
- Zoomers

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