



Chapter 2

Responsibilities

CHAPTER OUTLINE

1. Individual responsibilities
 2. Legal & fiduciary responsibilities
 3. Financial responsibilities
 4. Risk management
- Chapter 2 Summary: Responsibilities
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INTRODUCTION

The board is entrusted to make certain the organization steadfastly pursues the stated mission, maintains compliance with all local, state, and federal requirements, and conducts activities with accountability and transparency. Board members should understand the components of individual responsibilities, legal and fiduciary responsibilities, financial responsibilities, and risk management. For nonprofits with staff, board members have additional responsibilities to address. Board members make strategic decisions that respond to new opportunities and risks. When board members' responsibilities are met, the board provides needed oversight to steward the organization's mission and valuable assets.

1. INDIVIDUAL RESPONSIBILITIES

Board members should understand their duties are to care for the organization and to work in the best interests of the organization. Their individual responsibilities towards the organization are defined by law and best practices. Board members make decisions as a board (govern together) and support as individuals (e.g., advise the executive director, bring network connections, serve as an ambassador to the community, etc.). Individual board members do not make decisions on behalf of the board. Remember, the executive director manages the organization, and the board governs by providing fiduciary, strategic, and generative leadership that advances the organization's work.

Board members should be committed to the mission and work of the organization. As individuals, board members add knowledge, resources, and connections to the development, implementation, and

evaluation of key programs and services. As you think about the aspects of individual responsibilities, also consider specific board roles like the board chair, other officers, and members. The board chair and officers along with board members should have position descriptions and training available to support their fulfillment of responsibilities. (More information on positions is available in Chapter 3. Composition & Development.)



Exploring Executive Leadership

The term executive director is used throughout the guide when referring to the role of executive leadership. Nonprofits can approach the role of executive leadership in many different ways. Your organization may have a single executive director, co-executive directors, or some form of distributed leadership. Exploring and establishing a leadership structure that works for your nonprofit is important.

2. LEGAL & FIDUCIARY RESPONSIBILITIES

Board members should understand there is a set of legal and fiduciary responsibilities that keep the organization in good standing with various government agencies and the public. For board members, there are three duties related to fiduciary responsibilities and the board should review these duties annually.

- **Duty of Care:** Board members must take reasonable care when making decisions, using diligence and independent judgment. Board members are expected to have a level of competence described as exercising the “care of an ordinarily prudent person in the like position” under similar circumstances.
- **Duty of Loyalty:** Board members should act in the best interest of the organization, putting the organization before self-interest. This is particularly important when the potential for personal gain exists and often arises when there is a conflict of interest.
- **Duty of Obedience:** Board members must make sure the organization is in compliance with local, state, and federal laws. Board members stay true to the organization’s mission and governing documents.

As of January 1, 2022, with the new Washington Nonprofit Corporation Act, there is an additional duty for board members and officers to share information with the board if a board member or officer has information that is important to the operations or relates to a violation or probable violation of law involving the organization.

Board members need to know the local, state, and federal requirements for the organization and ensure the organization is compliant with all requirements. In addition, board members should review and

approve the completed IRS Form 990 annually. When fulfilling these responsibilities, board members should have access to and regularly refer to key organizational documents like Articles of Incorporation, bylaws, budgets, and the strategic plan.

In Washington, nonprofit and charitable organizations need to register and stay up-to-date with the Office of the Secretary of State, Corporations & Charities Division. Nonprofit corporations have an annual report and charitable organizations have an annual renewal to complete. The resource on the following page outlines the requirements for nonprofit corporations and charitable organizations. Be sure to check which type of organization you are and remember you may qualify as both.

Another very important responsibility of the board is hiring the organization's executive director and completing the executive director's annual review. When the board provides the executive director a thorough and useful annual review, ongoing support, and investments in their development, a strong partnership and positive relationship between the board and executive director can emerge.

Stay Up-to-Date with the Secretary of State

Nonprofit and charitable organizations need to register and stay up-to-date with the Office of the Secretary of State.

- 1 Check which type of organization you are.
- 2 Note your key dates.
- 3 Put those dates onto your organizational calendar.

1

Nonprofit Corporation

WHAT IS IT? A private corporation for which no part of the income is distributable to its members, directors, or officers. It is formed to benefit the public, a specific group of people, or the membership of the nonprofit.

ANNUAL REQUIREMENTS

1. **What:** Annual Report
2. **When:** Last day of organization's incorporation month. A reminder will be sent to the registered agent at least 30 days prior to required filing date.
3. **Fee:** \$20 (revenues <\$500k/year)
\$60 (revenues >\$500k/year)

2 Your Incorporation Date: _____

Your Annual Report Filing Date: _____

For example: an incorporation date of March 3, 2002 would have an annual report filing date of March 31 each year. File online!

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ADD TO CALENDAR

...and don't forget to update address changes if you move or change contact person.

Nonprofit and Charitable Organization

- ◆ 60% of charitable organizations are also nonprofit corporations.
- ◆ They include many of the organizations we know providing direct service, supporting the arts, or advocating for causes.
- ◆ They follow both sets of requirements to be in compliance with the Secretary of State.

Charitable Organization

or individuals soliciting on behalf of organizations

WHAT IS IT? An entity that solicits or collects contributions from the general public in Washington to be used to support a charitable purpose. May or may not be a corporate structure.

In Washington, includes organizations that:

- Raise at least \$50,000 annually in Washington; **OR**
- Pay anyone to carry out the activities of the organization.

ANNUAL REQUIREMENTS

1. **What:** Annual Renewal
2. **When:** No later than the last business day of the eleventh month after the end of the organization's accounting year. Earlier reporting welcome!
3. **Fee:** \$40

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Your Accounting Year End: _____

Your Charities Filing Date: _____

For example: an accounting year of Dec 31, 2022 would have an annual renewal filing date of Nov 30, 2023.

Developed by:



Nonprofit Association
of Washington



WASHINGTON
Secretary of State

Corporations & Charities Division

For more information, visit the

[Office of the Secretary of State,
Corporations & Charities Division website.](#)

3. FINANCIAL RESPONSIBILITIES

A nonprofit's financial management practices are critical to the organization's ability to achieve its mission and protect its assets. Providing financial training opportunities for the board and facilitating regular conversations related to financial literacy is an important step in fulfilling these crucial responsibilities.

The board should regularly review the balance sheet and income statement as well as a cash flow statement, if possible. The board should contribute to the budget development, understand budget components, and approve the budget annually. The board is responsible for ensuring the organization has a sustainable financial plan that includes the right balance of income streams and is not overly dependent on a single funding source. Board members also need to monitor funds with donor restrictions to make certain funds are spent and reported on as directed.

Annually, the board should review policies and procedures related to the separation of duties and internal financial controls. The proper separation of duties divides bookkeeping functions, reconciliation and review, and check writing and check signing across at least two people. The review process should ensure no one person can initiate, approve, record, and reconcile a transaction.

4. RISK MANAGEMENT

Board members need to minimize various kinds of risks the organization may face. The board should review and plan for risk factors including legal, financial, regulatory, human resources, technology, and property. When needed, the board supports the executive director in taking action. The board should ensure Directors and Officers Insurance is in place and complete an annual review to make sure the coverage is appropriate and adequate.

The board needs to be aware of and understand the organization's Document Destruction Policy and Whistleblower Policy. The organization must be compliant with the Sarbanes-Oxley Act and should follow the best practices for governance, policies, and disclosure outlined in the IRS Form 990. An additional policy to have in place and review annually is a Conflict of Interest Policy. Board members and key staff members should complete and sign a conflict of interest form annually.

FINANCE UNLOCKED *for* NONPROFITS

1 Balance Sheet

2 Income Statement

3 Nine-Ninety

4 Giving

5 Oversight

Nonprofit Association of Washington's *Finance Unlocked for Nonprofits* guide provides information on the balance sheet, income statement, IRS Form 990, giving, and oversight (including separation of duties).

To reduce operational disruption, the board should maintain several emergency and long-term plans. For all the plans mentioned, board members and staff need to receive instructions about the plan and their role in activating or complying with the plan.

- Emergency and long-term **succession plans** for the executive director and other key organization staff and board members, which includes the board chair, are important to keep the organization's momentum during leadership transitions.
- A **general emergency plan** for disruption in the delivery of programs or services (e.g., weather, pandemic, strike, etc.) should be guided by local and state laws and include procedures for mitigating loss of physical/financial assets and providing for health and safety of workers.
- An **emergency communication plan** prepares a nonprofit in case of negative press related to the organization or the cause in which the organization is working.



ACTIVITY

Your turn: Think about your board member responsibilities and the collective responsibilities of the board as you reflect on the following questions. Use the space provided to write down your answers and action steps.

Ask yourself...

WHY:

- Why does it matter that board members individually and collectively know and act on their board responsibilities?

WHO:

- Who reviews local, state, and federal requirements to ensure the organization is compliant? Here are a few items to check:
 - Federal: IRS Form 990 (filed annually)
 - State: Annual Report (filed annually for nonprofit corporations)
 - State: Annual Renewal (filed annually for charities – organizations raising funds from the public)
 - Local: Business license, business and occupation tax, etc. (taxes and licenses vary by jurisdiction)

HOW:

- Over time, how is the organization’s mission reviewed for continued relevance?

WHAT:

- What oversight do board members provide the organization?
- What opportunities and challenges do board members need to anticipate and plan for?
- What role do board members play as stewards of the nonprofit’s mission within the community?

Notes & Next Steps



1. Board members have individual responsibilities towards the organization defined by law and best practices. Board members make decisions as a board (govern) and support as individuals.
2. Board members have three duties related to fiduciary responsibilities – Duty of Care, Duty of Loyalty, and Duty of Obedience. As of January 1, 2022, the Washington Nonprofit Corporation Act added the duty to share relevant information related to the operations or a violation of law involving the organization.
3. Financial management practices play a critical role in a nonprofit’s ability to achieve the mission and protect assets, and board members need to understand their organizational financial responsibilities.
4. An organization may face various kinds of risk, and the board should review and plan for risk factors including legal, financial, regulatory, human resources, technology, and property.



Here are some questions to think about:

- Thinking about your nonprofit’s current policies and plans (e.g., succession plans, emergency plans, etc.), what other policies and plans might you need to implement? Are the policies and plans up-to-date and effective?
- Typically, bylaws are reviewed every 4 – 5 years, do you know when your nonprofit’s bylaws were last reviewed? Is the board in compliance with the bylaws?

Reflections



Next steps:

- Make sure the following required documents are on file, and all board members have access to a copy of the Articles of Incorporation and bylaws.
 - Key organizational documents: IRS Form 1023 (application for federal tax-exemption), IRS Determination Letter, Articles of Incorporation, bylaws, Document Retention and Destruction Policy, and Whistleblower Policy
- Learn more about board roles and responsibilities as well as whistleblower protections for nonprofits on the National Council of Nonprofits resource pages – [Board Roles and Responsibilities](#) and [Whistleblower Protections for Nonprofits](#). Both resource pages include sample policies and more resource suggestions.