

**The Nonprofit Board
Certification Seminar**

February 2, 2012

**The Nonprofit Board
Certification Seminar**

*Session #1: Nonprofit Governance:
The Roles and Responsibilities of
Being on a Board*

What does "being on a board" mean to you?

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What we (might) want to accomplish this morning. . .

- Introductions
- What I am hoping to convey
 - Outline of the Sessions
- What you might want to leave here with

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The Roles and Responsibilities of Being on a Board

The role of a board in a nonprofit

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The Nonprofit Board . . .

- . . . is the legal, governing body of the organization
- . . . has the ultimate responsibility for the welfare of the nonprofit organization
- . . . has the ultimate responsibility for ensuring the compliance of the organization to its legal and ethical responsibilities to society

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The Nonprofit Board of Directors

Some Key Points

Board of Directors – Key Points

- **Three Levels of Board Involvement**
 - As a Board
 - As a Board Committee
 - As Individual Board Members

Board of Directors – Key Points

- **Board Composition and Responsibilities Depends . . .**

. . . On the Organization's Resource Needs

Board of Directors – Key Points

- **Boards are made up of “Volunteers”**
 - Board Members Can (and Will) . . .
Only “Do So Much . . . !”

Board of Directors – Key Points

Board member time and expertise are scarce resources that need to be used wisely
– by the staff, by other board members –
and by yourself as a Board Member!

The Roles and Responsibilities of Being on a Board

The scope of the nonprofit sector & the role of a nonprofit in the community

SOME PERSPECTIVES ON THE NONPROFIT SECTOR

Quick Facts About Nonprofits

National Center for Charitable Statistics (NCCS)

- **1,569,572 tax-exempt organizations:**

- 997,579 public charities
- 118,423 private foundations
- 453,570 other types of nonprofit organizations, (incl. chambers of commerce, fraternal organizations and civic leagues)

(Source: NCCS [Business Master File](#) 10/09)

The Scope of the NP Sector

- 1.1 million in 1996
- 1.5 million in 2008
+36.3%
- 1.2-1.3 million in 2012??

• *Nonprofit Almanac 2010*

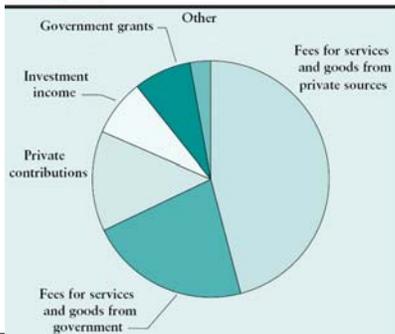
The Scope of the NP Sector

- Public Serving – 501(c)3 - 60% of nonprofits
- Foundations – 501(c)3 - 7% of nonprofits
- Religious Organizations - est. 380,000
- Membership Organizations

The Scope of the NP Sector

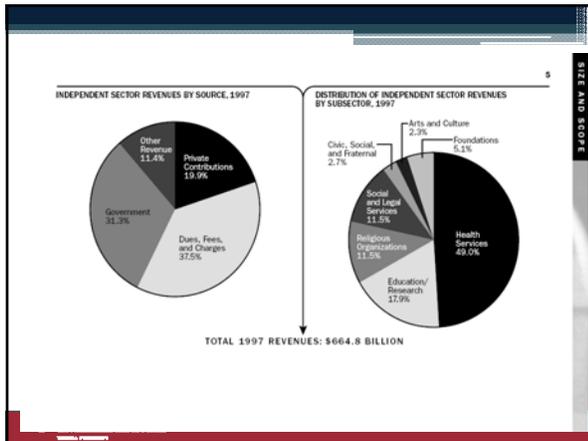
- 5.2% of GDP
- 8.3% of wages and salaries
- Giving: \$298 billion (2010)
 - 1.8% of GDP

Figure 2. Sources of Revenue for Reporting Public Charities, 2008



Variations among sub-sectors

- Health: 14% of orgs
 - 42% of employment
 - 62% of the Revenues
- Education: 22% of the orgs
 - 22% of employment
 - 21% of the Revenues
- Social Services: 40% of the orgs
 - 11% of the Revenues
- Civic: 17% of the orgs
- Arts and Culture: 8% of the orgs



Giving in 2010

\$290.89 billion

- Individuals - \$218 billion 73%
- Bequests - \$23 billion 8%
- Foundations - \$41 billion 14%
- Corporations - \$15 billion 5%

35% to Religion **14% to Education**
11% to Foundations(!) **9% to Human Services**

Volunteers

63 million volunteers
U.S. Workforce = 150 million

In 2009

- 26.8% of the population
- Over 15 billion hours
- Worth \$279 billion

Roles of Organizations in the Nonprofit Sector *(Salamon)*

1. Service
2. Advocacy
3. Expressive
4. Community-Building
5. Value Guardian

The Roles and Responsibilities of Being on a Board

What it means to be a board member

The Nonprofit Board is responsible for . . .

- Determining the organization’s mission and policies
- Setting yearly and longer-range goals and strategies
- Establishing fiscal polices and procedures, including budgets and financial controls

The Nonprofit Board is responsible for . . .

- Providing adequate resources for the activities of the organization
- Selecting and evaluating the CEO
- Developing and maintaining communication and collaboration links between the organization and its community

PERSONAL APPLICATION:

Which sector(s) represent your most passionate interests?

- Identify and prioritize the top 5 organizations on whose board you would like to serve

The 15 Faces of the Nonprofit Board

Where Are Your Priorities?

The 15 Faces of the Nonprofit Board

- **An Advocate** – Promotes the organization and its mission
- **An Agent** – Represents the interests of an institutional hierarchy or an outside entity
- **A Community Representative** – Acts on behalf of donors, constituents, and other key stakeholders

The 15 Faces of the Nonprofit Board

- **A Corporate Advisor** – Ensures and supplements good business practices for the nonprofit corporation
- **A Donor** – Provides needed funding for the organization
- **An Evaluator and Problem-Solver** – Brings experience and wisdom to key issues faced by the organization

The 15 Faces of the Nonprofit Board

- **An Expert Resource** – Shares professional expertise with the organization to help address program and operational areas
- **A Fundraiser** – Seeks and secures needed funding
- **A Governor** – Establishes Policies, Procedures, and Evaluation Criteria and Methods

The 15 Faces of the Nonprofit Board

- **A Networker** – Links the organization to other organizations in the community, through their business, personal, and other associational relationships
- **An Owner** – Hires the Executive Director, defines the executive director’s responsibilities, establishes organizational goals and objectives, and evaluates whether they are met
- **A Participant** – Attends organizational events . . . and gets others to do the same

The 15 Faces of the Nonprofit Board

- **A Trustee** – Oversees the organization’s assets, to preserve for the good of the community today and into the future
- **A Visionary** – Is committed to the organization’s mission and works to envision and advance their future role within the community
- **A Worker** – Conducts the daily business of the organization

The 15 Faces of the Nonprofit Board

Where Are Your Priorities?

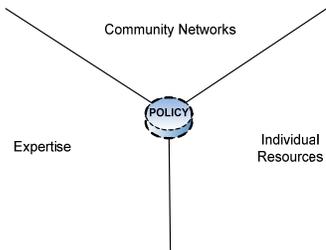
5 Types (or Evolutionary Phases) of Boards:

- An Organizing Board . . . of Volunteers
 - A “Working” Board
- A Fiduciary Board
 - A “Fundraising” Board
- A Strategic Board
 - A “Planning,” “Engagement” and “Networking” Board
- A Governing Board: MOST COMMON
 - A “Supervisory” Board
- An Institutional Board
 - A “Policy” Board

Being on a Board . . .

- As a **Representative** of:
 - The Community – to the organization
 - The Organization – to the community
 - The Constituency – of the membership
- With a **Role** that could be:
 - Governance & Oversight
 - Hands-on Operations
 - Strategy Development
- The **Board Role is always**:
 - Policy-Making
 - Ensuring Financial Stability (and Fundraising?)

Individual Board Members – What Do they Bring to Your Organization?



What does the Organization PRIMARILY need from its Board?

- Board Experience?
- Networks?
- Expertise?
- Resources (including financial)?

You Be the Board!

You Be the Board!

We'll separate into groups. The groups are board committees from:

- **Your own organization** – if more than 3 people from one organization are here!
- Group(s) A: **A local hospital** (\$200 million budget)
- Group(s) B: **A children's theater** (\$1 million budget)
- Group(s) C: **A homeless shelter** (\$200,000 budget)

You Be the Board!

- **Your organization wants to improve its image as a Community Collaborator.**
 - What type of organization(s) might you collaborate with?
 - What kind of project(s) would be best for collaboration?
 - What is the role of individual board members to initiate this collaboration and help the collaboration be successful?
- 9 minutes: Discuss possible answers (3 minutes for each area)
- 1 minute: Finalize answers
- 5 minutes: Report

BREAK!

And PERSONAL APPLICATION

PERSONAL APPLICATION:

Which sector(s) represent your most passionate interests?

- Identify and prioritize the top 5 organizations on whose board you would like to serve

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**SESSION #2: *Legal Responsibilities
and Liabilities of the Board***

**The Legal Structure and Parameters of a
Nonprofit Organization**

*As a community member – what do
you expect from local nonprofit
organizations?*

The Nonprofit as a Legal Entity

A Disclaimer!

The following guidelines are general statements and do not constitute legal advice or should be construed to apply to any specific legal situations.

For any specific legal questions, please consult an attorney!

A Nonprofit Organization is . . .

- An Organization – Chartered under Law
- Private
- Non-Profit Distributing
- Self-Governing
- Voluntary (i.e. “non-compulsory”)
- Of Public Benefit – for a “Public Purpose”

- Lester Salamon, *America’s Nonprofit Sector* (p.22)

Incorporating a Nonprofit in Indiana

Starting a Non-Profit Organization in Indiana - IN.gov

www.in.gov/ofbci/files/Filling_Out_the_Forms.ppt

One Resource: Indiana Nonprofit Organization

<http://www.lawforchange.org/lfc/NewsBot.asp?MODE=VIEW&ID=2369&SnID=2>

Regulatory Oversight of Nonprofits

- **Incorporation in State**
 - State Attorney General
- **501(c)(3) through IRS**
 - IRS Division of Exempt Organizations
- **Congress**
 - House Ways and Means Committee
 - Senate Finance Committee

Regulatory Concerns of Nonprofits

- Private Inurement and Self-dealing
- Lobbying and Advocacy
- Unrelated Business Income and For-Profit Relations
- Donor Control
- Sarbanes-Oxley
 - Conflict of Interest
 - Transparency
 - Audit Committee

PERSONAL APPLICATION:

Why do you want to be a board member?

- Identify and prioritize the top 5 reasons you would like to be on the board of those organizations

The Legal Responsibilities and Liabilities of Board Members

The Legal "Duties" of Board Members

Every nonprofit organization must have a Board of Directors (or Board of Trustees) with a minimum of 3 people that meet at least once a year to approve the annual budget.

What Are The Legal Responsibilities Of A Board And Of Board Members?

Purpose of the Board of Directors

- NOT to manage the day-to-day activities of the organization, BUT to monitor the results of day-to-day managers.

What Are The Legal Responsibilities Of A Board And Of Board Members?

Responsibilities of the Board of Directors

- Defining the mission of the organization
- Planning the budget and other financial aspects of the organization
- Selecting and overseeing organization staff – and other resources

What Are The Legal Responsibilities Of A Board And Of Board Members?

Mission

- The board is responsible for the initiation, periodic review, and refinement of the mission statement and developing related strategies to accomplish the organization's goals.

What Are The Legal Responsibilities Of A Board And Of Board Members?

Financial Planning

- The board of directors is also responsible for financial planning. A principal function of many nonprofit organizations is raising funds.
- Fund-raising not only requires detailed financial planning, but also attention to fiscal integrity.

What Are The Legal Responsibilities Of A Board And Of Board Members?

Staffing

- Execute approved policies and maintain the organization's integrity.
- Provide board members with the information necessary to monitor the organization's activities.

What Are The Legal Responsibilities Of A Board And Of Board Members?

Governance Structure

- Two (possible) governance structures
 - **Directorship** . . or . . **Membership**
 - Specified in the articles of incorporation

What Are The Legal Responsibilities Of A Board And Of Board Members?

Individual Director Duties of Care

- In good faith
 - Honesty of intention, openness, and fair dealing
- With the same degree of diligence, care, and skill which an ordinarily prudent person would exercise under similar circumstances in a like position.

What Are The Legal Responsibilities Of A Board And Of Board Members?

Individual Director Duties of Care

- The concept of “care” incorporates both diligence and attention – **Duty of Due Diligence**.
- Diligence requires an active interest - such as attending meetings, reading materials, and making an effort to learn about the corporation and its activities.
- Attention requires alertness and suggests anticipation of potential problems and issues.

What Are The Legal Responsibilities Of A Board And Of Board Members?

Duties of Loyalty

- Duties of loyalty require the director’s undivided allegiance to the corporation.
- A director may possess a substantial amount of power and information with respect to the corporation and its property.
- The duty of loyalty prevents a director from using such power or information for personal gain – **Duty against Self-Dealing**.

What Are The Legal Responsibilities Of A Board And Of Board Members?

Fiduciary Duties

- Maintain the confidentiality of the organization.
- Financial information is private and confidential – until released for public reports

The Board's Role In Finances

The Board's Role In Financial Management

- Budget Approval
- Review of Financial Statements
- Evaluating Financial Statements
- Board Financial Committees
 - The Finance Committee
 - The Investment Committee
 - The Audit Committee

What Are The Legal Responsibilities Of A Board And Of Board Members?

- **Duty of Conscience** (on behalf of society)
- **Duty of Obedience** (on behalf of the laws – and the organization's Mission)

What Are The Legal Responsibilities Of A Board And Of Board Members?

Legal Trends Affecting Nonprofit Activities and Regulation

- Collaboration with for-profit organizations.
- Increased government oversight.
- Independence of governing board.
- Electronic communications.

Sarbanes-Oxley and Nonprofit Boards

Why does the American Competitiveness and Corporate Accountability Act of 2002 matter to the nonprofit sector?

What do we need to know as nonprofit leaders about S.O.A.?

- The law was enacted in response to corporate scandals – a means for rebuilding public trust in the for-profit sector.
- Only two of the sixty sections apply to nonprofits.
 - (1) **Whistleblower**: prohibits retaliation,
 - (2) **Record Keeping**: no destruction, altering of documents or getting in the way of investigations.

S.O.A. Best Practices

- Increase number of board members
- Establish an audit committee
- Minimize (?) loans to executives and board members, especially where principal is partly or completely forgiven.

S.O.A. Best Practices

- Implement a Code of Ethics
- Evaluate internal controls against deterring and detecting fraud.
- Ensure staff, program directors and Boards are knowledgeable in use of financial statements for budgeting and fiscal management.
- Rotate external auditors at least every five years.

S.O.A. Best Practices

- CEO/CFO should not be employed by auditing firm during one year prior to audit.
- Audit committee should establish procedures for receiving, documenting and processing complaints – ensure Whistle-blower compliance.
- Develop written policy for records retention.

The Legal Liabilities of Board Members

How a nonprofit organization can shield its directors from personal liability . . .

- Indemnification Clause – in By-Laws
- State and Federal provisions
- The *Corporate Shield*

- Other means (if you are really concerned!)
 - Insurance Policies
 - Risk Management procedures
 - In Contracts – Releases and Waivers

How Board Members can shield themselves from personal liability . . .

- Practice and monitor *Due Diligence* (to the fore-mentioned items) – **Avoid Conflict of Interest**
- Practice the Duties of Care, Loyalty, and Fiduciary Responsibilities . . . AND Obedience and Conscience
 - “With the same degree of diligence, care, and skill which an ordinarily prudent person would exercise under similar circumstances in a like position.”

You Be the Board!

You Be the Board!

- ***Your organization is considering buying a new facility – and the ideal site – and price – is one that you own (and have been unable to sell).***
 - How do you (personally) handle the board discussion and decision-making process?
 - What guidelines should the board implement to make this particular decision?
 - What policies should the board implement to anticipate similar situations in the future?
- 9 minutes: Discuss possible answers (3 minutes for each area)
- 1 minute: Finalize answers
- 5 minutes: Report

BREAK!

And PERSONAL APPLICATION

PERSONAL APPLICATION:

Why do you want to be a board member?

- Identify and prioritize the top 5 reasons you would like to be on the board of those organizations

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SESSION #3: *Financial Guidelines for Nonprofit Board Members*

Finances and Nonprofit Organization

What is a reasonable level of “profit” for a nonprofit organization?

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Nonprofit Budgets and Financial Reports

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The Nonprofit Budget - Income

- Earned Income
- Unearned Income – Private Contributions
 - Foundation Grants
 - Business Support
 - Special Events
- Unearned Income – Government Grants
 - Government Contracts
- Other Income:
 - Interest/Investment Income
 - Dues/Memberships

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The Nonprofit Budget - Expense

- Program Expense
- Overhead/Administrative Expense
- Fundraising Expense

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Financial Statements

- Balance Sheet
- Statement of Activities (Profit and Loss Report)

http://www.ucp.org/uploads/media_items/ucp-audited-financial-statements-10.original.pdf

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Financial Statements

- The Audited Financial Statement
- The IRS Form 990
 - <http://www.guidestar.org/FinDocuments/2008/131/641/2008-131641079-054d65d0-9.pdf>

For further information:
Nonprofit Financial Basics:
<http://www.nonprofitaccountingbasics.org/internal-reporting-good-management/internal-reports/statement-activities>

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Finding IRS 990 Forms

GuideStar
How to access/use Forms 990
<http://www2.guidestar.org/>

NCCS - Search Active Organizations
<http://nccsdataweb.urban.org/PubApps/990search.php/>

Foundation Center
<http://foundationcenter.org/findfunders/990finder/>

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The Nonprofit Budget Evaluation Criteria

- Net Income – % of Income Budget
- Liquid Assets - % of Annual Expense (# of months of operating available)
- Liquid Assets – vs. Liabilities
- Mix of Revenue

Some Other Financial Evaluation Criteria

VARIOUS RATIOS

- Personnel Cost Ratio
- Program Expense Ratio
- Administrative Expense Ratio
- Fundraising Ratio
- Overhead Ratio

Financial Terminology for Nonprofits

- Some Different Terms . . .
 - Fund Accounting
 - Restricted vs. Unrestricted Accounts
 - Joint Costs

For Further Information:
Guidestar "Glossary"
<http://www2.guidestar.org/rxp/help/glossary.aspx>

PERSONAL APPLICATION:

*What do you want to get from
your board service?*

- Identify and prioritize the top 5 things you would like to get from being on the board of those organizations

Fundraising and other financial resources . . .

. . . and board members

Fundraising and the Board Member

- A Board Purpose:
 - Is ultimate responsibility for the welfare of the nonprofit organization
- A Board Responsibility:
 - Providing adequate resources for the activities of the organization

Fundraising and the Board Member

- Questions to Ask
 - Am I expected to give money?
 - If so, how much?
 - Am I expected to ask others for money?
 - If so, how often, how many, and when?
 - How does the organization raise money – and otherwise generate income?

How does fundraising “work”?

- People give to people, not to causes
- Giving is a habit

How does fundraising “work”?

- People don’t give to solve problems
 - They give
 - To a vision . . .
 - To the future . . .
 - To excellence . . .

Making a fundraising call – Some guidelines

- Tell your story
- Talk with someone you know – and are comfortable talking with
- People give to be fulfilled
 - Help the person fulfill their personal values

Other Financial Resources:

- Earned Income
- Investments
- Endowments
- Grants
- Contracts

You Be the Board!

You Be the Board!

Your organization is hiring a new Executive Director.

- What criteria are you looking for?
- What do you feel is reasonable compensation??
- You have found the ideal candidate
 - What is the highest level of compensation you would consider – practically?
 - What is the highest level of compensation you would consider – ethically?
- 9 minutes: Discuss possible answers (3 minutes for each area)
- 1 minute: Finalize answers
- 5 minutes: Report

BREAK!

And PERSONAL APPLICATION

PERSONAL APPLICATION:

What do you want to get from your board service?

- **Identify and prioritize the top 5 things you would like to get from being on the board of those organizations**

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**SESSION #4: *Functioning as an
Effective Board Member***

Becoming a Board Member - Recruitment

*What would you want to know before joining
the board of a nonprofit organization?*

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Nonprofit Board Recruitment

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When you are being recruited . . .

. . . Some questions to ask.

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Some questions to ask when being recruited

- Who is on the current board – how did they get there?
- How long do the board members serve?
- What committees does the board have?
- Can you see the books and records of the organization?
- How large is the overall budget?
- Are there job descriptions for the board members?
- Is there a board orientation program?

What Questions do YOU Have?

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Effectively Recruiting Board Members —
IDENTIFY THE ORGANIZATION’S NEEDS
– AND RECRUIT TO THOSE NEEDS!

- **Recruit for:**
 - Skills
 - Connections
 - Image
- **Identify YOUR Gaps**
- **DON’T Recruit “to the Board”- Recruit Directly to the Need**
 - Recruitment as an ongoing part of the Orientation Program and Board Operation

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Being an effective board member
Board Meetings, Committees, and
Ongoing Operations

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Operating An Effective Board Meeting

How To Get The Most Out Of Board Meetings

- **The Two (Conflicting?) roles of Board Meetings**
 1. Meetings define an “organization”
 2. Meetings accomplish needed tasks

How the agenda is developed . . . influences the type of meeting it is

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Operating An Effective Board Meeting

- **How To Get The Most Out Of Your Meetings**
 - **Is there a “purpose” for this particular meeting (i.e. if it hadn’t been scheduled would we have needed to call a special meeting)?**
 - **Reports are NOT A GOOD PURPOSE for a meeting (put at the end of the agenda)**

Operating An Effective Board Meeting

Developing Effective Meeting Objectives And Agendas

- *The Three Indicators of “Good” Meetings*
 - *Everyone talks*
 - *Something is decided (as a result of the “talk”)*
 - *Everyone leaves with something to do*
- *To accomplish these – takes advance planning*

Board Committee Structures

Three major types of committees which may be designated by the board – **AND Involve Others?**

- Standing committees
- Advisory committees
- Ad hoc committees.

PERSONAL APPLICATION:

What do you expect from the staff and other board members of the organization?

- Identify and prioritize the top 5 things you expect from others in your chosen organizations

Being an effective board member

The Board and Strategic Planning

Do You Need Strategic Planning?

Strategic Planning . . . OR

- Business/Operational Planning
- Long-Range Planning

Do you want *The Plan* – or –
The Planning Process?

MISSION – or – VISION?

- Mission = Operational Plan
- Vision = Strategic Plan

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What is *Strategy*?

- An organized pattern of behavior toward an end
- How you accomplish a *mission*
- Envisioning the end – and working backwards

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Strategic Thinking

- Identifying . . . and weighing . . . and Choosing - - - - Alternatives
- Planning for organizational change

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Strategic Planning and The Board

- Planning for Achieving Results –
 - What “Should” Be Our Goals?
 - How Do We “Best” Achieve Our Goals?

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A Strategic Plan as a Guidance Tool

- A Strategic Plan is a Roadmap of Progress toward specific Goals – It is NOT a Mission Statement

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Being an effective board member

The Board Role in Evaluating the Nonprofit – Itself – and the Executive Director

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Evaluating the Organization

- Against Annual Goals
- Against Benchmarks
- Against Independent Standards

Evaluating the Board

- Self-Evaluations
- Staff Evaluations
- Outside Evaluations

Evaluating the Staff

- Evaluating the Executive Director
- Evaluating Program Staff
- Evaluating Administrative Staff

You Be the Board!

You Be the Board!

- *The Executive Director of your organization has been obviously frustrated with the board's actions (or perceived non-actions) in seeking new donors for the organization*
- *She has been openly critical of board members, both in board meetings and in conversations with others in the community*

You Be the Board!

- As an individual board member, what would you do?
- What immediate actions would you suggest the board as a whole take?
- How would you suggest the future and ongoing relationship between the Executive Director and the board could be improved?
- 9 minutes: Discuss possible answers (3 minutes for each area)
- 1 minute: Finalize answers
- 5 minutes: Report

PERSONAL APPLICATION:

What do you expect from the staff and other board members of the organization?

- Identify and prioritize the top 5 things you expect from others in your chosen organizations

For General Discussion:

A friend is joining the board of a local nonprofit food relief agency.

She has asked for some advice.

What 3 Key Concepts about board service would you give her?

Some Closing Thoughts . . .

What might the future hold for nonprofits – and for boards?
