

Thinking of joining a board of directors?



Six Responsibilities of the Board of Directors

This Legal Lesson white paper explains the responsibilities one must consider before jumping into a leadership role for a corporation.

3 Roles You Can Play in Business

- A person can be in management (i.e. on the Board of Directors);
- An owner (shareholder); or
- An employee.

Any individual can take on one, some, or all of these roles

The Board of Directors

Every board of directors is made up of appointed officers.

- The president, vice president, treasurer and other members.

The board of directors is responsible for making major decisions for the corporation, and individuals are often selected for areas of expertise that they bring to the table.

The Six Duties of a Director

- The Duty of Care

- The Duty of Loyalty

- The Duty of Good Faith

- Duty of Candor

- Obedience to the Law

- Duty of Oversight

What is Legal Lessons?

Legal Lessons, or Legal Intelligence, is about what the law really means and how it affects your business. It's written for entrepreneurs and business owners who need to understand exactly what is happening in their business from a legal perspective. And while it should never be a substitute for legal advice, it provides the legal knowledge you need to run your company more effectively.

The Duty of Care

- The obligation of the director to use the amount of care that an ordinarily careful and prudent person would use in a similar situation.
- In taking business risks, the Board must act in the best interests of the business.
- The Board must always act on an informed basis.

The duty of care is just the foundation of the trusted responsibilities of a member of the board of directors.

The Duty of Loyalty

- Directors must act in good faith for the benefit of the corporation and its shareholders.
- Directors will not be protected if they engage in transactions where there is a conflict of interest.
- Directors must not act for their own personal interests.

Generally, if the directors have a personal interest in an action of the Corporation, courts will typically presume that the directors did not act in the best interest of the Corporation.

The Duty of Good Faith

- Directors must always be acting with honesty of purpose; and
- Directors must always be acting in the best interests of the corporation.

While there's no binding legal definition of good faith, courts have identified several situations that usually involve bad faith.

- A Director has a duty to act in accordance with the law.
- A Director cannot act to benefit his/her own interest.

The Duty of Candor

- The director is obligated to communicate honestly and openly with the stockholders of the corporation.

This is also known as the duty of "Disclosure".

The ***business judgment rule*** presumes that when making a business decision, the directors of a corporation are acting on an informed basis, in good faith and in the honest belief that the action being taken is in the best interests of the company.

Obedience to the Law and the Duty of Oversight

If this duty is neglected, the director is denied the protection of the business judgment rule. One cannot argue that they broke the law for the benefit of the corporation. As the board of directors is charged with the duty of "Oversight", over the managers and employees of the corporation, if something illegal is happening – the director(s) may be held accountable.



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