Co-op Directors 101: Director Responsibilities

May 6, 2020
Housekeeping

Today’s webinar will run for approximately 60 minutes

Participant phone lines are muted

Webinar Format: presentation followed by live answer session

Questions can be submitted in the Chat box during the presentation

This webinar is being recorded and will be posted to the UWCC Website – uwcc.wisc.edu.
Presenter

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1. **Members**
   - Elect the board and approve changes to the bylaws

2. **Board of Directors**
   - Sets policy, selects and supervises management

3. **Management**
   - Carries out policies, hires and supervises employees

4. **Employees**
   - Carry out the tasks needed to operate the cooperative
Legislative Authority

WI Chapter 185.31: All powers of the cooperative shall be exercised by or under the authority of, and the business and affairs of a cooperative shall be managed under the direction of, the board, except as otherwise provided in the chapter.

https://docs.legis.wisconsin.gov/statutes/statutes/185

WI Chapter 193.401: Board governs cooperative. A cooperative shall be governed by its board which shall take all action for and on behalf of the cooperative except those actions reserved or granted to members. No director or group of directors may act for or on behalf of the cooperative unless authorized by the board or this chapter. A director may advocate interests of members or member groups to the board, but the fiduciary duty of each director is to represent the best interests of the cooperative and all members collectively.

https://docs.legis.wisconsin.gov/statutes/statutes/193
Directors as Fiduciary Agents

The highest legal duty of one party to another, being a *fiduciary* requires being bound ethically to act in the other's best interests.

“The ultimate authority ... comes from the cooperative’s members. The cooperative is theirs, and without members’ desire to create and perpetuate the cooperative, the board would not exist. Members place their trust, their needs, and authority in a board of directors of their own choosing.”

By law, the board is responsible for leading the co-op.

• The board can delegate *TASKS* to hired management

• But the board cannot delegate this *RESPONSIBILITY*

*Ideal – strong board and a strong manager that work well together as a team*
Board Responsibilities

1) Represent co-op members
2) Establish co-op policy
3) Hire and supervise management
4) Acquire and protect the co-op’s assets
5) Preserve the co-op’s character
6) Assess the co-op’s performance
7) Communicate and inform co-op members
Represent co-op members

• Be an unbiased “voice” for all members
• ALL of the directors represent ALL of the members
• Balanced representation
• Member expectations and needs
• Conflict resolution role
Establish Co-op Policy

• Develop broad objectives and policies
  • Start from a well-defined vision and mission
  • Policies reflect what members want in their business

• Policies provide guidelines for action
  • They are flexible
  • Fairly broad rather than specific
  • Allow for some individual judgment by management in implementation
Hire and Supervise Management

• Making the perfect match
• Clear communication
  • Communicate policies that must be implemented
  • Set deadlines and follow up
• Succession plan
• Annual appraisal and evaluation
Acquire and Protect the Co-op’s Assets

- Entrusted with members’ assets
- Checks and balances – there must be follow through
- Accounting system
- Make wise use of resources, including time
- Audits and response to audit reports
- Ask for help
Preserve the Co-op’s Character

• Stay true to co-op values
• Educate staff about co-op principles and how this must be reflected in daily operations
• Provide ongoing co-op education to members
• Examine “the way you do things” and create written policies
Seven Co-op Principles

1. Open & Voluntary Membership
2. Democratic Member Control
3. Member Economic Participation
4. Autonomy & Independence
5. Education, Training, & Information
6. Cooperation Among Cooperatives
7. Concern for Community
Assess Co-op’s Performance

• What are your criteria and objectives?
• Financial metrics – the bottom line
• Are members’ needs being met?
• Is the Board effective?
Communicate and Inform Members

• Emails, newsletters, meetings, celebrations
• Annual membership meeting (required by law)
Fiduciary duty: Protect the interests of both the members and the co-op

• Build a culture of education and openness
• Board members must understand and be able to oversee:
  • mission, vision, values of the cooperative
  • financial statements and the budget
  • the cooperative bylaws and policies
Director Standards of Conduct

• Duty of Loyalty
• Duty of Care
• Duty of Obedience
Duty of loyalty

- Don’t represent special interests (that includes yourself!)
- Check your personal agenda at the door
- Disclose conflicts of interest
- Act in good faith
Ways to Meet the Duty of Loyalty

• Designated board spokesperson/people
• Publicly share only the final decisions that were made, not your individual opinion
• Conflict of interest policy
• Non-compete policy
• Executive session at the end of each board meeting
Duty of care

- Good faith, prudence, and judgment
- Be competent
- Stay informed
- Expected to have the degree of skill, diligence, or reasonable care that an ordinarily prudent person would exercise in similar circumstances

Directors will be held accountable for what they know - and - what they should know.
Ways to Meet the Duty of Care

• Attend meetings, read minutes, review financial documents
• Final review/approval of grant and other proposals
• Seek information/training on board responsibilities
• Clear job description/expectations for management/staff
• Annual evaluation of staff
• Clear goals for cooperative and indicators/criteria for whether they are being met
• Annual board evaluation
• Executive session at the end of each board meeting
Duty of obedience

Directors must comply with the following:
• Federal, state, and local laws
• Articles of incorporation
• Bylaws
• Policies
Ways to Meet the Duty of Obedience

• All directors have up-to-date copies of relevant cooperative and State documents
• Clear Board and Officer responsibilities outlined in writing
Director Liability

• “The business judgment rule says that, absent fraud or self-dealing, business judgments made by directors will not be overturned by the courts and will not lead to director liability.”

• Directors are not personally liable for mistakes while exercising their informed, best judgement.

• Legal audits

• WI Ch. 185 requires a cooperative to “indemnify a director, to the extent he or she has been successful on the merits or otherwise in the defense of a proceeding, for all reasonable expenses incurred in the proceeding ...”

• Directors and Officers insurance
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Best practices in summary

• Develop effective systems of delegation and accountability
• Speak with one voice
• Build relationships that can withstand stressful situations
• Never stop learning
• Eyes in, fingers out
• Build an influential team, capable of opposing management when necessary
Acknowledgments

Margaret Bau, USDA Rural Development

*The Circle of Responsibilities for Co-op Boards* by James Baarda
Questions?

Please use the Chat on the righthand side of your screen to send questions.
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Thank you!!!!