



# LEGAL ISSUES

Legal obligations, ethical integrity, and maintaining accountability  
for a Non-Profit Organization

# Basic Responsibilities

- Responsible for ensuring that the organization meets legal requirements and is operating in accordance with its mission and for the purpose for which it was granted tax-exemption.
- Ensure legal and ethical integrity and maintain accountability.
- The Board is ultimately responsible for ensuring adherence to legal standards and ethical norms.

# Conflicts of Interest

- Should be included in the by-laws
- Conflicts occur when a director has a material, financial, or personal interest in the impending transaction with the corporation
- Conflicts relate to ethical behavior, not just financial matters

# Legal Duties

- Louisiana Revised Statute 12:226.
- A. Officers and directors shall be deemed to stand in a fiduciary relation to the corporation and its members, and shall discharge the duties of their respective positions in good faith, and with that diligence, care, judgment and skill which ordinarily prudent men would exercise under similar circumstances in like positions.

# Liability Considerations

- Statute provides protection
- Look at particular organization
- D and O insurance
  - Cost
  - Defense costs
- Indemnity clause
- Even if no actual liability—reputation and hassle

# Liability Considerations

- §2792.1. Limitation of liability of director, officer, or trustee of nonprofit organization
- A person who serves as a director, officer, or trustee of a nonprofit organization qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code of 1954, as amended, and
  - Who is not compensated for such services on a salary basis
  - Shall not be individually liable for any act or omission resulting in damage or injury, arising out of the exercise of his judgment in the formation and implementation of policy or arising out of the management of the affairs of the organization while acting as a director, officer, or trustee of that organization,
  - Provided he was acting in good faith and within the scope of his official functions and duties, unless such damage or injury was caused by the willful or wanton misconduct of such person.

# Payroll Taxes

- IRC 6672(e)
  - No individual penalty for failure to pay for
    - Volunteer board member
    - Serving solely in an honorary capacity
    - Does not participate in day-to-day or financial operations
    - Does not have actual knowledge of failure to pay