A NEW WAY FORWARD: REIMAGINING THE NONPROFIT WORKPLACE

Virtual Engagement Series
Strategic, Supportive and Equity-Centered:

Board Best Practices We Need Today
Today’s Program

• Welcome & Housekeeping Notes
• Panelist Conversation
• Q&A Opportunity
• Presentation Featuring Legal Guidance
• Q&A Opportunity
• Closing Comments
• Lobby Available for Continued Conversation
Housekeeping Notes

• This webinar is being recorded.
• Dedicated Q&A time is built into each portion of the program.
• Use the “Chat” function to share your questions throughout the session.
• Conversations are based on our best understanding at this time.
• The attorney presentation features legal guidance, not legal advice.
Next in Our Series

Planning for Your Nonprofit Financial Health

Mergers, Collaborations, Dissolutions & Asset Transfers

Advocacy & Civic Engagement
Yodit Mesfin Johnson
President and CEO, NEW
Randy Maiers
President and CEO, Community Foundation of St. Clair County
COLLABORATIVE PARTNERS
E.g. Joint governance decisions about expected outcomes and metrics create complexity in managing accountabilities and risk

CAPACITY-BUILDERS
E.g. Accreditors set governance expectations through their evaluation tools; Capacity building organizations and consultants create resources and education shaping how governance is performed

FUNDERS, PHILANTHROPISTS
E.g. Expecting a treasurer on the board; set priorities

LEGAL & REGULATORY REQUIREMENTS
E.g. Federal and provincial legislation set requirements that must be met by boards of directors as trustees

CULTURE
E.g. Individual and organizational values and mindsets lead to biases and assumptions which influence choices about who has a voice and how decisions are made

MANAGEMENT TEAM, BOARD MEMBERS
E.g. The mix of competencies of the CEO, management team and board members enable or impede good governance

BENEFICIARIES
E.g. Influence governance decisions via AGM, forums

ORGANIZATION’S CIRCUMSTANCES
E.g. The lifecycle stage of an organization influences the degree of governance formality. Resource capacity (leadership training; recruitment strategies; access to technology; availability of staff to do operational work)

Influences Shaping Governance

* E.g. Government funding priorities and policy directions set an organization’s outcomes; Economic conditions influence the availability of time to commit to volunteer leadership; The depopulating of rural communities presents recruitment challenges

** E.g. Public perceptions create assumptions, like non-profit organizations should be volunteer-led or funds should not be diverted to capacity-building; Intensified public scrutiny increases concerns about liability and lowers risk tolerance, making governance work less attractive

EXTERNAL FACTORS
INTERNAL FACTORS
ORGANIZATIONAL INFLUENCES
SYSTEM-LEVEL INFLUENCES
Audience Q&A

Eric Wimbley
CEO, Pretty Lake Camp

Yodit Mesfin Johnson
President and CEO, NEW

Randy Maiers
President and CEO, Community Foundation of St. Clair County
Mark Lezotte

Lawyer and Shareholder, Butzel Long
Board and Organization Meetings and Action

• Good news overall: Michigan law is flexible, accommodates different ways of meeting and acting
• May depend on type of entity (public, private, religious)
• Different rules and processes for board and member meetings
• Pay attention to governing documents (articles, bylaws)
Board Meetings and Action

• Act allows meetings of a board “by means of conference telephone or other means of remote communication if all individuals ... participating ... can communicate with the other participants.”

• Consider board members’ fiduciary duty—discussion, consideration, listening
Board Meetings and Action

- Communicate with each other
- Must be an interactive way to make this happen
- Can never use proxies
- Video meetings should meet this, email-only “polling” of directors won’t
- Consent without meeting only allowed if unanimous
Some complications for particular organizations

- Ecclesiastical corporations; some entities formed under old laws
- Public bodies (elected, appointed, charter schools):
  - Open Meetings Act: in-person requirement temporarily suspended
  - Still requires notice, access, opportunity to participate.
  - Open attendance, no limits
  - Access and equity issues: how can people participate
Members; Annual Meetings

- Allows meetings with similar language to that for boards
- Other provisions also allow for proxy voting and ballots
- Difference between member individual interest and director fiduciary duty
- Legal requirements:
  - “reasonable measures to verify that each person ... present ... by means of remote communication is a shareholder, member, or proxy holder”
  - “reasonable measures to provide each shareholder, member, or proxy holder a reasonable opportunity to participate in the meeting and to vote on matters submitted ... including an opportunity to read or hear the proceedings of the meeting substantially concurrently with the proceedings.”
Member; Annual Meetings

• Consider:
  – prior notice; copies of relevant documents provided in advance
  – members identify themselves; cross-check the roster to confirm
  – live/real-time presentation with chance to ask questions before any vote

• Some organizations postpone meetings or elections, rollover terms
  – Understandable, but may need to amend bylaws
Handling Meetings Effectively

• Plan ahead!
  – Notice
  – Provide information, documents
  – Test technology. What about access?
  – Quorum issues? Check the bylaws, and note different provisions for board or members
  – Hearing, vision, speech issues?
• And simply dealing with fatigue…
Consider Updating Governing Documents

• Process changes as discussed above: quorum, notice, election of directors and officers, terms
• But also liability protection language—protect directors/officers/volunteers in uncertain times
• Law was amended in 2015—review your documents to be up to date
References and resources:

- BoardSource (documents, forms) [www.boardsource.org](http://www.boardsource.org)
- BoardEffect (management software, but also whitepapers on key issues) [https://www.boardeffect.com/whitepapers/](https://www.boardeffect.com/whitepapers/)
- Blue Avocado [https://blueavocado.org/about-us/](https://blueavocado.org/about-us/)
- Independent Sector [www.independentsector.org](http://www.independentsector.org): “Principles for Good Governance and Ethical Practice”
- Council of Michigan Foundations [https://www.michiganfoundations.org/](https://www.michiganfoundations.org/)
- Michigan Community Resources [https://mi-community.org/](https://mi-community.org/)
- Michigan Nonprofit Association [https://www.mnaonline.org/](https://www.mnaonline.org/)
- Nonprofit Enterprise at Work [https://www.new.org/](https://www.new.org/)
- Co.Act Detroit [https://coactdetroit.org/about/](https://coactdetroit.org/about/)
Audience Q&A

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Thank you for being a part of today’s conversation!

Please be sure to complete the evaluation at the end of the session.