Board Member
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✔CHECKLIST

How Board Members Can Avoid Personal Liability

As recent scandals remind us, nonprofits are often ripe targets for embezzlement, fraud and other financial improprieties. But what about the boards of directors—can they be held personally liable? The short answer is, in some cases, yes. Board members can minimize their risk of personal liability by:

✔ Being completely prepared before making decisions, including making sure materials (including legal and financial documents and analyses by experts) pertaining to major decisions are reviewed in advance;

✔ Becoming actively involved in deliberations during board meetings, commenting as appropriate and asking questions where prudent;

✔ Making decisions deliberately and without undue haste or pressure;

✔ Keeping written records of board preparation and deliberation (creating a "paper trail" showing due diligence);

✔ Insisting that meeting minutes accurately reflect any comments or votes in opposition to matters acted upon at meetings;

✔ Requesting that a legal opinion be obtained on any matter that has unclear legal ramifications;

✔ Requesting that independent accountants assess and evaluate any matter that has significant financial ramifications;

✔ Obtaining and carefully reviewing both audited and unaudited periodic financial reports of the organization;

✔ Attending the organization's meetings, reading the organization's publications and keeping fully apprised of important policies and activities;

✔ Reviewing from time to time all articles of incorporation, bylaws and other governing documents; and

✔ Completely avoiding any conflicts of interest in dealing with the organization, and disclosing any potential conflicts.

This issue's checklist was contributed by Jeffrey S. Tenenbaum, an attorney with the nonprofit practice group of the Washington, D.C., law firm of Galland, Kharasch, Morse & Garfinkle, P.C.