

## Non-Profit Legal Matters

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In this issue...

### What 2011 May Bring for the Nonprofit Sector?

**Also in this issue:** As those of you who are on boards or run non-profits know, there's more to sitting on a board than just paying dues and attending a few meetings. Unfortunately, newcomers to boards often don't know what they should know about an organization before joining its board. Below is a rundown of what a prospective board member should ask before joining a board.

#### 2011 . . .

2010 was a challenging year for the non-profit sector, just as it was for the rest of the economy. 2011 will bring some challenges of an altogether different nature. Congress is poised to consider elimination of the charitable deduction and state and local governments across the nation are scrapping various tax exemptions previously afforded non-profits.

We will blog on these topics throughout the year and a later winter edition of *Non-Profit Legal Matters* will feature an article on how non-profits can lobby to defeat such measures without jeopardizing their tax-exemption. [Follow our blog](#) for up-to-date information and our [Twitter feed](#) (@law4nonprofits) to be apprised of when we make new blog posts.

With these new political challenges, non-profits more than ever need great boards filled with capable, committed directors. Recruiting new directors should be a top priority. The best recruits will want to know about your organization. The remainder of this newsletter and [a more detailed article that can be downloaded](#) will guide them in obtaining this information. As a current board member or non-profit executive, you, too, should know these questions – and the answers.

### What To Ask When Asked To Join A Non-Profit Board

**You've been asked to take a board position with a non-profit. Now what? Here are some questions to ask before you answer.**

As an attorney who has spent his career working in the non-profit sector, and myself a veteran of board service, I know that the decision to serve on a board is not one that should be taken lightly. The commitments and responsibilities can be significant and may include time, money, expertise, and even personal liability.

Over the years I have developed a list of questions potential board members should ask before agreeing to join a board. They fall into three broad categories.

**THE ORGANIZATION TODAY:  
THE GOOD, THE BAD, AND THE UGLY**

The first—and most important—category a potential board member must explore is the organization's fundamentals, starting off with its mission. In fact, while many potential board members do think they know an organization's mission, many do not know the full depth and breadth of the organization's work. It is critical that a potential board member know both before making the commitment to join a board.

Potential board members should also know the organization's programs, activities and constituencies. Once these are known, the board members should assess how successful the organization is at addressing them. Also, is there a strategic plan in place? Is the organization staying on track to meet its mission?

Once a good overview of the organization's mission, strategies and activities is known, the would-be director should make sure to understand the organization's governance structure and who her fellow directors will be. She should meet with them, in particular the board chair and executive director. In addition, she should be sure to obtain a copy of the organization's bylaws and ask if the board adheres to them.

The organization's finances are another important area for the director-to-be's due diligence. Inquire into the financial operations and financial health of the organization. Is the budget realistic? How closely do revenues and expenditures track the budget? Is there adequate reporting? Do the non-profit and its accounting firm adhere to GAAP standards? Are all tax and other filings accurate and timely? Likewise, the board recruit should have an understanding of how funds are raised and how the funds flow from donor to organization.

Knowing all of this, the critical issue is whether the prospect would be comfortable serving as a board member of the organization. To address this, there must be clarity regarding the would-be director's time, financial and fundraising responsibilities, as well as her personal objectives in serving as a board member. In other words, is there a good fit?

## **LOOKING OUTSIDE IN, AND INSIDE OUT**

Just as important as it is to view the "inside," it is important see the organization from the outside. Potential board members should look at what is known by the "outside world." What has been reported about the organization in the press and on the web? What does the organization's own website say about the organization? Is it accurate and up-to-date? What does the organization's promotional material say – and not say?

## **ASKING THE ALL-IMPORTANT "I" QUESTIONS**

Finally, with answers to all the nuts and bolts of the organization, it's time for the would-be director to look in the mirror and ask herself some specific questions. She must make an honest assessment of the time, financial effort and commitments board service will require. For example: "Do I have the time and energy to take on this commitment?" and "Do I think I can bring value to this board?"

In addition, the board prospect should ask how she will react if expectations are not met (hers or the organization's). Though it may have been asked earlier in the process, she should revisit the question of her reasons for wanting to join the board and what she hopes to get out of it. Perhaps

a final question is: “How will I grow personally and professionally by joining this board?” If the answer is not satisfying, proceed with caution – if at all.

**NEED TO LEARN MORE?**

There’s a lot to consider when considering a non-profit board position. For a comprehensive list of specific questions and an in-depth look at what one should know before joining a board of directors, we have posted an article on our website called “**WHAT I SHOULD ASK BEFORE JOINING THE BOARD.**” [Just click here.](#)

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