

Conflict of Interest for Nonprofits

What should happen when a board member affiliated with your nonprofit has a conflict of interest but does not recognize it or won't acknowledge it? Is joining a board acceptable if you have an apparent conflict of interest?

These are both questions with which many boards struggle. Educating board members about the potential and perceived conflicts, having appropriate policies and procedures in place, and ensuring that these policies are respected are the beginning steps in eliminating bias from decision-making.

What is a Conflict of Interest for Nonprofits?

A conflict of interest exists when a member of the nonprofit board has a personal interest that may influence them when making decisions. While the law focuses primarily on financial interests and provides some guidelines, nonprofit organizations contend with various potential and perceived conflicts of interest. Examples might include:

- The organization's chief executive is a spouse or close relative of the board member.
- The board candidate is also the chief executive of an organization with a similar mission and program structure.

- The board candidate is expected to participate in fundraising but is affiliated with an organization that is competing for the same funding.

Can You Be a Nonprofit Board Member with a Conflict of Interest?

While avoiding conflicts of interest is impossible, boards can identify and follow a process for handling them effectively. An active board member often has numerous professional and personal affiliations; undoubtedly, some of them cross paths with their activities as a board member of your nonprofit organization. Someone may have been chosen as a board member because of these particular associations or contacts. However, suppose a board candidate has a significant obstacle in fulfilling the duty of loyalty, one of the main legal obligations of nonprofit board service. In that case, it may be necessary to re-evaluate the suitability to serve on the board while this obstacle exists. How an organization ensures open and honest deliberation affects all aspects of its operations and is critical to making good decisions, avoiding legal problems and public scandals, and remaining focused on the organization's purpose.

What Should a Conflict of Interest Policy for Nonprofits Include?

As conflicts of interest are inevitable, the only way to handle them is to deal with them in an organized manner. Without a solid **conflict of interest policy**, it is difficult to address disputable situations. A comprehensive policy defines the purpose of the policy and includes a statement of commitment and understanding of this purpose by each board member. A policy incorporates a disclosure form that every board member signs annually after listing all financial, professional, and other relevant affiliations that might affect their decision-making during the coming year. This disclosure is kept on file and updated as necessary. The policy also describes how it addresses board members with a conflict. Each board member should be expected to bring up any unexpected conflicts of interest that may arise during deliberations.

Conflict of Interest Policy Implementation

- The entire board needs to discuss how to implement the policy. A few boards allow board members with a conflict of interest to participate in the discussion of the issue but not in voting. Most boards require that the board member in question leaves the room altogether before any deliberation begins to allow for a free and unencumbered exchange of opinions. All board members need to respect the chosen approach and be responsible for self-monitoring.

How to Solve a Conflict of Interest for Nonprofits

What is the appropriate course of action when a board member does not realize that they have a conflict of interest or seems to forget they need to leave the room before deliberation? The chair should take responsibility for handling this situation. While creating the agenda the chair can prepare by reviewing the disclosure documents. Next, during the meeting, the chair should inform the board member in question of their conflict of interest and ask them to recuse themselves. The reminder can be a gentle comment, and if necessary, the chair should enforce the policy and stop the discussion until all disqualified members have left the meeting.

If a board member disagrees that they have a conflict of interest in an issue on the agenda, the final solution—to avoid public embarrassment—is for the chair to call an executive session. Deliberation of the initial motion should wait until the conflict has been reviewed and resolved. The minutes should reflect the names of the participants who voted, and the outcome of the vote.

Managing Conflicts of Interest

Help your board avoid a significant conflict of interest through vigilance and adhering to the following:

- Keep board composition diverse and board size adequate to encourage robust discussion and bring all viewpoints to the table. Don't allow a significant conflict of interest to dominate or derail your board.
- Be proactive and address the potential issue before it escalates.. Discuss potential conflicts and how your board deals with them while recruiting new board members.
- Talk about conflict of interest with the authority that chooses your board members if you have government or other publicly mandated positions on the board.

- Familiarize your board members with the duty of loyalty.

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Resource: *Managing Conflicts of Interest: The Board's Guide to Unbiased Decision Making;*
Sample Conflict of Interest Policy