

Fiduciary Duties of Commissioners

Directors are in a position of trust and accordingly have a legal duty to act primarily for the benefit and in the best interest of the corporation. These duties are further defined as follows:

1. Duty of Care

A director may not profit at the expense of his corporation and in conflict with its rights; he may not for personal gain divert to himself the opportunities which in equity and fairness belong to his corporation.

- Business Judgement Rule

Directors are required to use their independent judgement. In the discharge of their duties, directors must act honestly and in good faith and must exercise the degree of skill, prudence and diligence as an ordinary prudent person would exercise in the management of affairs of like magnitude and importance.

-This involves a duty of taking appropriate steps to become informed and making decisions after reasonable deliberation.

-Active engagement. Ask questions.

-The rule permits directors to rely on information, opinions, reports or statements, including financial statements and other financial data, if prepared or presented by:

- Other offices or employees
- Legal counsel, accountants for matters which reasonably fall within a person's professional or expert competence
- A committee that merits confidence

2. Duty of Loyalty

- A. Directors must act in the best interests of the corporation
- B. Directors must avoid any conflict of interest (showing-out). A conflict of interest is one which would reasonably be expected to exert an influence on the director's judgement if he were called to vote because of beneficial interest.
- C. Directors must not engage in self-dealing (Corporate Opportunity Doctrine)
Directors may not exploit their positions as fiduciaries to divert business opportunities to themselves
- D. Directors must be impartial and must not consider the interests of anyone besides the corporation when making business decisions.

3. Duty of Confidentiality

Directors have a duty to preserve the confidentiality of the affairs of the corporation. This includes, among other things, discussions and deliberations that occur during executive session and the records of schools under review.

4. Duty of Management

- Establish mission and purpose
- Engage in organizational planning/strategic plan
- Hire executive personnel/Director – periodically review performance
- Allocate and manage resources/budget