



## Louisiana laws governing charitable organizations

### Formation, Elections, and Meetings

#### Nonprofit Corporations

Nonprofit corporations are governed by the Louisiana Nonprofit Corporation Law

La. R.S. Title 12, Chapter 2

#### Election of Directors

The number, classification, qualifications, compensation, terms of office, manner of election, time and place of meeting, and powers and duties of the directors, may, subject to the provisions of this Chapter, be prescribed by the articles or by the bylaws.

La. R.S. § 12:224(E)

#### Director Term

Unless the articles or the bylaws provide otherwise, the directors shall hold office for one year and until their successors are chosen and have qualified. No director shall be elected for a longer single term than five years.

La. R.S. § 12:224(B)

#### Meeting and Quorum Requirements

A majority of the board of directors shall be necessary to constitute a quorum for the transaction of business, and the acts of a majority of the directors present at a meeting at which a quorum is present shall be the acts of the board of directors.

La. R.S. § 12:224(E)(7)

### Reasonableness, Solicitations, and Volunteer Liability

#### Reliance on Disinterested "Others"

A director acting in reliance, in good faith, on a report made to the board of directors, or to any committee thereof, by an official of the corporation or by an appraiser selected by the board or by any committee thereof with reasonable care, or on financial statements or other records of the corporation represented as accurate by the president or other officer in charge of the corporation's books of account or of such records, or stated in a written report by independent or certified public accountants fairly to reflect the corporation's financial condition, shall not be held liable.

La. R.S. § 12:226

#### Charitable Solicitations

Charitable solicitations are governed by La. R.S. §§ 51:1901–1909.1. In general, only professional solicitors or a commercial co-venturer of the charitable organization are required to register with the Louisiana DOJ before soliciting charitable donations.

#### Volunteer Liability

A director, officer, or trustee of a qualified tax-exempt organization under Section 501(c) and who is not compensated for such services on a salary basis shall not be individually liable for any act or omission resulting in damage or injury, arising out of the exercise of his judgment in the formation and implementation of policy or arising out of the management of the affairs of the organization while acting as a director, officer, or trustee of that organization, provided he was acting in good faith and within the scope of his official functions and duties, unless such damage or injury was caused by the willful or wanton misconduct of such person.

La. R.S. § 9:2792.1

## Duties, Indemnification, and Interested Transactions

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### Director Duties

Officers and directors shall be deemed to stand in a fiduciary relation to the corporation and its members and shall discharge the duties of their respective positions in good faith, and with that diligence, care, judgment and skill which ordinarily prudent men would exercise under similar circumstances in like positions.

La. R.S. § 12:226(A)

### Indemnification

A corporation may indemnify any person who was or is a party or is threatened to be made a party to any action, suit, or proceeding, whether civil, criminal, administrative, or investigative, including any action by or in the right of the corporation, by reason of the fact that he is or was a director, officer, employee, or agent of the corporation if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification (unless ordered by the court) shall be made only upon a determination made (1) by the board of directors by a majority vote of a quorum of directors not party to such action, suit, or proceeding; or (2) if such a quorum is not obtainable or a quorum of disinterested directors so directs, by independent legal counsel, or (3) by the members.

La. R.S. § 12:227

### Interested Transactions

No contract or transaction between a corporation and one or more of its directors or officers, or between a corporation and any other nonprofit, business or foreign corporation, partnership, or other organization in which one or more of its directors or officers are directors or officers or have a financial interest, shall be void or voidable solely for this reason, or solely because the common or interested director or officer was present at or participated in the meeting of the board or committee thereof which authorized the contract or transaction, or solely because his or their votes were counted for such purpose, if: (1) the material facts as to his interest and as to the contract or transaction were disclosed or known to the board of directors or the committee, and the board or committee in good faith authorized the contract or transaction by a vote sufficient for such purpose without counting the vote of the interested director or directors; or (2) The material facts as to his interest and as to the contract or transaction were disclosed or known to the members entitled to vote thereon, and the contract or transaction was approved in good faith by vote of the members; or (3) The contract or transaction was fair as to the corporation as of the time it was authorized, approved or ratified by the board of directors, committee, or members.

La. R.S. § 12:228

# Fiduciary Obligations of a Nonprofit Board Member

All nonprofits must have a board of directors. The board's primary charge is ensuring that the organization fulfills its mission, while practicing good governance. Nonprofit board members have legal obligations to act in the best interest of the organization and owe fiduciary duties of care, loyalty, and obedience.

## Duty of Care

The duty of care requires board members to discharge the duties of their respective positions in good faith, and with that diligence, care, judgment and skill which ordinarily prudent people would exercise under similar circumstances in like positions. See La. R.S. § 12:226(A).

This means that board members must (at a minimum): attend meetings, read board reports, stay informed about the organization's activities, ensure that the organization has adequate resources, make short-term and long-term strategic plans for the organization, seek advice from experts, and provide proper financial oversight (e.g., review Form 990s).

## Duty of Loyalty

The duty of loyalty means that board members must put the organization's interests ahead of their own. This means disclosing any conflicts of interests and not using board service as a means for personal or commercial gain.

Board members may avoid a legal conflict if they disclose the conflict to the board and the board, in good faith authorizes the transaction by a vote of disinterested directors, or the transaction is fair to the corporation and is ratified by the board. See La. R.S. § 12:228. But even though there may be no legal conflict, board members will want to avoid conflicts altogether as to give no suggestion of impropriety.

## Duty of Obedience

The duty of obedience requires board members to ensure that the nonprofit complies with applicable laws and regulations and does not engage in illegal or unauthorized activities. This means ensuring that the organization adheres to its stated mission that qualifies it to be a tax-exempt organization. Board members must be sure that the organization has paid any required taxes in a timely manner and filed any required tax documents.

## Other Resources

[Greater New Orleans Foundation \(GNOF\)](#)

[Louisiana Association of Nonprofit Organizations \(LANO\)](#)

[BoardSource](#)

[Essential Keys to Nonprofit Finance](#)

[Robert's Rules of Order Cheat Sheet](#)

[Mel Gill, \*Now You See It, Now You Don't: Conflict of Interest Demands More Than Just a Policy\*,  
NONPROFIT QUARTERLY \(March 21, 2007\)](#)