



*Orientation for Candidates for KIUC
Board of Directors – 2011*

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To Acquaint Candidates with Serving as a Director of KIUC

I. Duties

II. Obligations

III. Responsibilities

- Not about the election process
- Not a replacement for required training from NRECA

Legal / Governance / Fiduciary Duties

- Legally binding expectations accepted by directors
- Not voluntary once you accept your position!



Rewards

- Public service is its own reward
 - Challenging
 - Stimulating
 - Educational
-
- \$193.43 / service-day stipend

Why Are Directors' Governance Duties Important?

- To do a good job
- Because it is a legal obligation
- Hint: What happens when you fail to meet a legal obligation?
- Your legal Director's duties are constantly being expanded
 - Sarbanes-Oxley
 - Disney v. Delaware

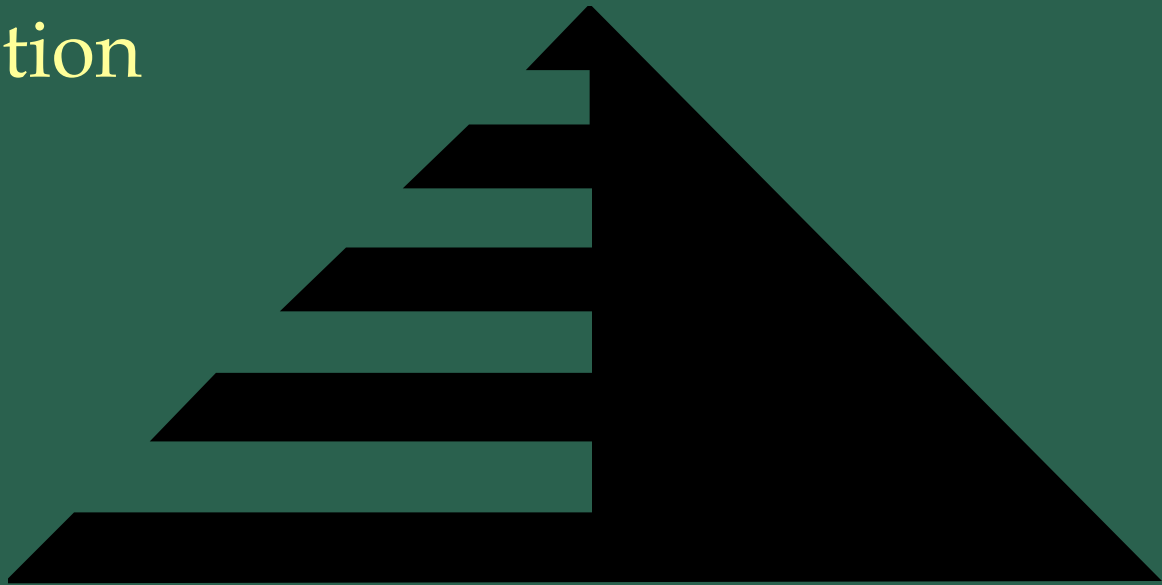
Fiduciary Duty

- "To prudently represent the interests of the cooperative and the interests of the members as a group, as the owners of the enterprise in directing the business and affairs of the cooperative within the law."
- But what does this really mean?

Pyramid of Authority

Where Legal Duties Come From

1. US Constitution
2. Laws
3. Regulation
4. Articles
5. Bylaws
6. Policy



Directors accept these
legal duties!

Directors' Governance Duties

- Attention 
- Loyalty
- Due Care
- Govern 
- Obedience

Attention – Make the Effort

- Spend the necessary time to govern
 - To prepare for board meetings
 - To attend board meetings
- Participate in discussions
- Review material
- Ask questions



Loyalty – No Self Dealing

- Always act in the best interest of members
- Maintain confidentiality
- You are prohibited from using
 - your position on the board,
 - influence resulting from your position,
 - any information resulting from your position

to further any private interest

- *“But it helps us too”* is not a sufficient excuse



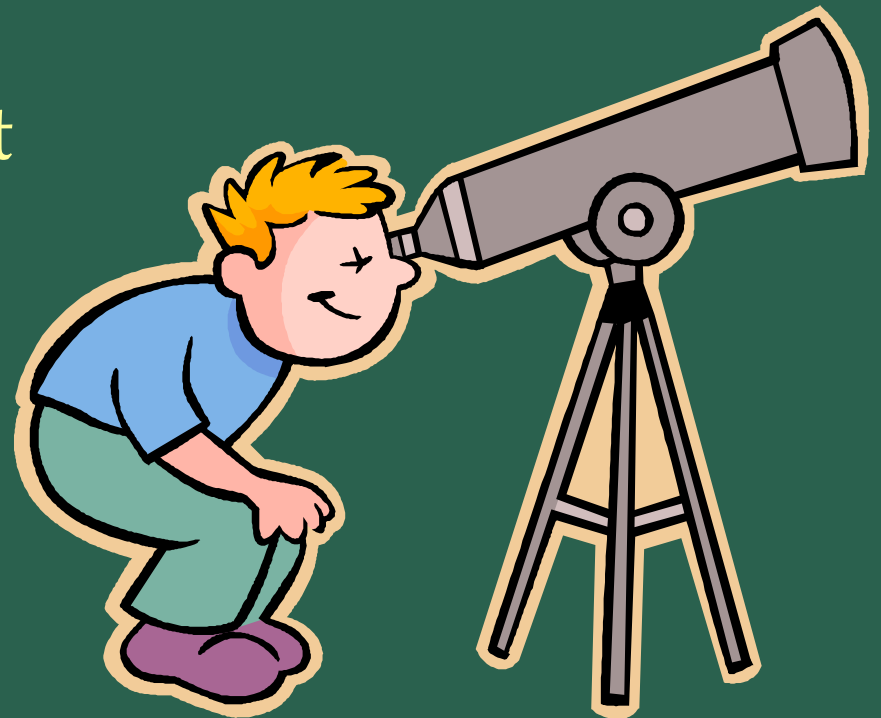
Due Care – Make Informed Decisions in Good Faith

- Use a good process for making decisions
- Keep adequate records of board decisions
- Be honest



Governing

- Set, review and confirm basic co-op objectives
 - Strategic planning
 - Annual budget
- Select a competent CEO and review their performance
- Monitor the performance of the co-op



But, Governing Is NOT Operating

- Directors should not take part in operations
 - Hiring
 - Purchasing
 - Applying policies to specific situations
 - Hanging around offices, plants, job sites
 - Usually... discussions with employees except as directed by CEP
- But any question, even regarding operations, is legitimate to address to the CEO



Staying Out Of Operations

- Is not a restriction of authority
- It is a division of authority
- Directors should be very specific
 - Policies
 - Strategic Initiatives
 - Budget
 - Corporate goals
 - CEO goals



Asking The CEO Questions

- Board meetings are the best place to ask the CEO questions
- Board meetings are the best place for the CEO to answer
- Advance notice (via agenda) is appropriate
- Questions should be asked / answered with the knowledge of the entire Board of Directors
 - Avoid one-on-one communications except as part of carrying out authorized delegations



Obedience - Follow the Rules

- Know and adhere to laws, regulations, bylaws¹, and policy
- Honor contracts
- Support Board decisions
 - Outside the boardroom, “The Board decided...”

¹ Available at www.kiuc.coop

Two Limitations on Director's Authority

- Directors have authority only in duly convened Board meetings
- Individual directors (and officers) have NO authority to act unless explicitly authorized
 - by the Board of Directors,
 - by bylaws, or
 - by state law



Disney v. Delaware

- “... a finding that a director did not act in good faith may make unavailable to the director the benefit of director liability exculpation provisions...”
- “It may also preclude indemnification of the director by the corporation”

- Alston+Bird LLP

Corporate Governance Advisory

July 16th, 2003



The Impact of Poor Decision Making

- Loss of direct benefits to community
- Possibly failure of the co-op

- If directors fail to carry out their duty
 - They may be targeted by lawsuit
 - Their personal assets are at risk



Other Director Liability Issues

- Directors are liable for damage from ultra vires activities
- Directors can be held accountable for acting independently
- Directors are liable for other director's wrongdoing
 - If they are aware of it, and
 - if they don't try to stop it



Sarbanes-Oxley Summary

- Sarbanes-Oxley doesn't apply to co-ops yet
- But good ideas are good for us too
- *Some financially literate directors*
- *Directors independence from management, especially decision making*
- *Auditors independent from management*
 - *Selected by and reporting to Board*
 - *Used only for audit*
- *CEO/CFO attest to Financial Statement*

Limiting Your Liability

- Take the time / Make the effort
- Ask questions
- Seek advice
 - Attorneys
 - Auditors
 - Consultants
- Act as Directors only in Board meetings
- Disclose relevant personal information



The Seven Cooperative Principles

Core Values of the 900 National Rural Electric
Co-ops Serving 40 Million Members

- Voluntary and Open Membership
- Democratic Member Control
- Members' Economic Participation
- Autonomy and Independence
- Education, Training, and Information
- Cooperation Among Cooperatives
- Concern for Community



Duties in the Co-op Environment – Voluntary and Open Membership

Cooperatives are voluntary organizations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political, or religious discrimination.





Duties in the Co-op Environment – Democratic Member Control

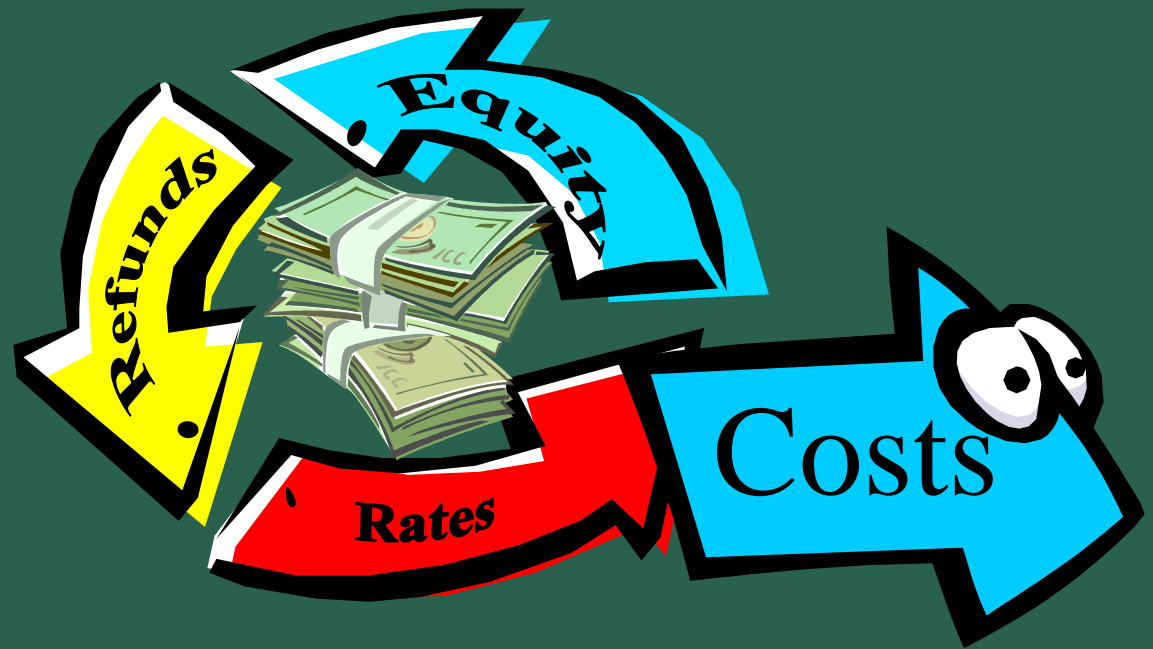
Cooperatives are democratic organizations controlled by their members, who actively participate in setting policies and making decisions by electing Directors who are accountable to the membership. Members have equal voting rights.

*One member,
One vote!*



Duties in the Co-op Environment – Members' Economic Participation

Members contribute equitably to, and democratically control, the capital of their cooperative.

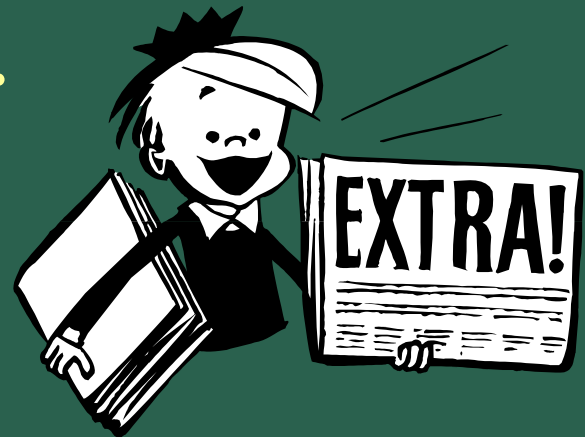


Duties in the Co-op Environment – Autonomy and Independence

Cooperatives are autonomous organizations controlled by their members. If they enter into agreements with other organizations, including governments, or raise capital from external sources, they do so on terms that ensure members' democratic control and autonomy.

Duties in the Co-op Environment – Education, Training, and Information

Cooperatives provide education and training for members, elected officials, managers, and employees so they can contribute to the development of their co-op. They inform the public, young people and opinion leaders, about the nature and benefits of cooperation.



Duties in the co-op environment - Cooperation Among Cooperatives

Cooperatives serve their members most effectively and strengthen the cooperative movement by working together through local, national, regional, and international structures.



Duties in the co-op environment – Concern for Community

While focusing on member needs, cooperatives work for the sustainable development of their communities through policies accepted by their members.



Summary of Governance Duties

- Attention
- Loyalty
- Due Care
- To Govern
- Obedience
- The 7 Cooperative Principals



KIUC Structure

■ Board of Directors

- Officers: Chair, Vice-chair, Treasurer, Secretary (Executive Committee)
- Finance and Audit Committee
- Government Relations Committee
- International Committee
- Member Relations Committee
- Policy Committee
- Strategic Planning Committee

■ CEO

- Department Heads
 - Staff



I. Duties

II. Obligations

III. Responsibilities

Obligations - Time, Effort, and Costs Required of KIUC Directors

- Meetings / Training / Workshops
- Preparation
- Education
- Knowledge / Skills / Competencies



Obligations - Meetings

- Board meetings
 - 1 each month
 - 4-8 hours per meeting
 - 75-150 pages to read
- Committee meetings
 - 1-4 each month
 - 2-3 hours per meeting
 - Preparations / reports / work
- 20-40 hours / month attending and preparing for meetings:
 - Daily emails, phone calls, member Q&A, etc.



Obligations - Training

- NRECA Credentialed Cooperative Director Training Required
 - Understanding the Electric Business / Board Roles and Relationships / Director Duties and Liabilities / Strategic Planning / Financial Planning
 - 1 - 2 days / class
 - Classes include tests
- Continued education expected
- 1 - 3 weeks / year - *usually on the mainland*



Obligations – Workshops

- Strategic Planning
 - To set next years goals and initiatives
 - Intense
 - 2 - 3 days

- Financial Planning
 - To review budget and set financial goals
 - Financially technical
 - 2 - 3 days

Obligations – Educating

- Directors educate lawmakers for co-op support
- Directors are expected [not required] to contribute to state, local and national candidates on behalf of KIUC and co-operatives
- Directors are expected to contribute time to NRECA's lobbying
- About 1 week / year



Obligations - Other Activities

- Community economic development
- Working on common issues with other cooperatives
- Supporting other cooperatives
- Often require travel
 - One - three weeks / year

Obligations - Time and Effort Summary

Meetings+	20 - 40 hours / month
Training	6 - 21 days / year
Workshops	6+ days / year
Lobbying	1 - 5 days / year
Conferences	10 - 20 days / year
Misc	4 - 10 days / year

TOTAL	20 to 40 hours each month plus 27 to 60 full days/year
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- Equivalent to 40% of fulltime

Obligations - Knowledge / Skills / Competencies

- Engineering knowledge not required
 - General knowledge provided by NRECA training
- Financial technical skills REQUIRED
 - Capital... Equity... EBITDA... Amortization...
 - Reading financial reports: Cash flow / P & L / Assets
- PC skills required: email, MS Office
- Self – training expected



- 
- I. Duties
 - II. Obligations
 - III. Responsibilities

Responsibilities - Tasks Performed by Directors to Fulfill their Duties

- Hire and review of CEO
- Goal setting and strategic planning
- Financial planning
- Audit
- Review Results
- Membership Advocate
- Board Policy Development
- Effective Meetings



Hire and Review the CEO

- CEO is the only staff hired by the board
- Board and CEOs must share complete confidence
- CEO is responsible to the Board for implementing the strategic plan and financial plan
- Board sets specific, measurable goals for the CEO
- Board formally reviews CEO's performance



Goal Setting and Strategic Planning

- Formal process
- Produces KIUC Mission Statement
- Analyzes strengths, weaknesses, opportunities, threats
- Annual / synchronized with the annual budget
- Produces specific, measurable, high level strategic initiatives



Financial Planning: Setting the Annual Budget

- Thorough analysis and approval of the annual budget proposed by management
 - Revenue
 - Expenses
- Defines targets
- Tracked



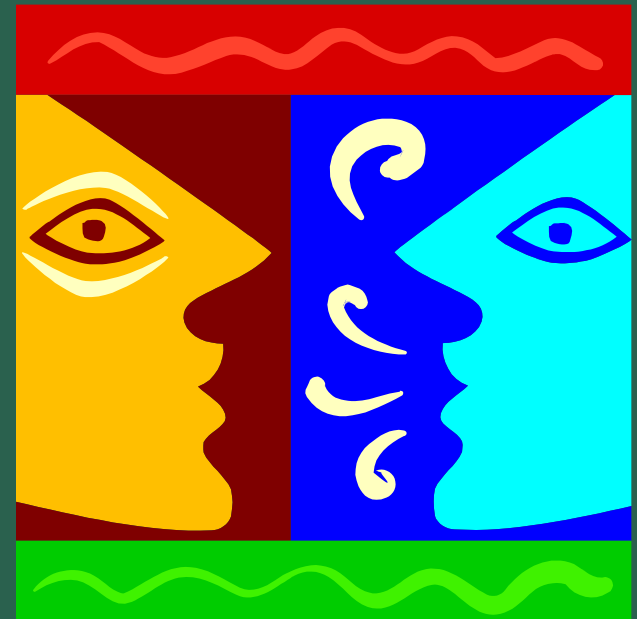
The Audit

- Annual audit is performed for the Board
- Board of Directors hire the auditors
- Audit report delivered to the directors via the Finance and Audit Committee
- Directors are legally and morally responsible for the financial integrity of the corporation



Review Co-op Results

- Tell the CEO what you expect the corporation to achieve
 - With clarity
 - With specificity
 - Without ambiguity
- Financial Results
 - Review financial metrics monthly
 - Board / CEO define necessary reports and metrics
- Safety / Reliability / Projects
- Track strategic initiatives



Advocate for the “Membership”

- Insure the co-op best serves the interests of the members
- Reflect the concerns, needs, complaints of the members
- Advocate collective, not individual interest
- Advocate the corporation to the “members”



Governance (Board) Policy Development

- Policies define how the board operates
 - Attendance, Conflict of interest, Expense reimbursements, Director Stipends, Open board meetings
- Policies define how the corporation operates
 - Financial reporting, Investments, Internal controls, Privacy, Public information, Non-retaliation
- Policies define the authority of the executive
 - Delegations
 - Authority for all executive action
- Living Documents
- Executive defines additional “company” policies



Effective Board Meetings

- Respect
- Meeting Etiquette
- Role of the Chair
- Group Decision Making



Respect - Anything Less than 100% Respect is Corrosive

- Arrive on time for all meetings
- Cell phones – Just say No!
- Listen to understand, not to refute
- Never make it personal – Never let it become personal
- Assume disagreements are the result of misunderstandings
 - Theirs or Yours
- 100% honesty



Board Meeting Etiquette

- Only as formal as necessary (Roberts Rules of Order as guidance)
- Speak only when recognized by chair
- Speak only on topic
- Every Director gets a chance to speak at least once on every topic
- Chair usually speaks last
- Points of privilege, information, and order are always in order
 - Privilege - 5 minute break, please?
 - Order – Don't we need to vote?



Role of the Chair

Run Board Meetings

- Recognize speakers fairly
- Keep board meeting on track gently
 - Focuses on topic at hand
 - Controls interruptions
 - Sets the pace
- Responsible for meeting's effectiveness
- Speaks least & last
- May vote
- Decisions of the Chair can be appealed
- *No more authority than any other Director!!!*



Effective Group Decision Making

- Groups make better decisions than individuals
- Consensus decision-making is NOT just voting
- Some conflict is required for best decisions:
The Abilene Paradox
 - Groups wrongly believe they reach agreement, if
 - Individuals fail to communicate their desires / beliefs (sometimes communicating opposite desires / beliefs) because they assume the group intention and want to fit in
 - Once started, a falling-domino consensus occurs

KIUC Director Duties

■ Legal Duties

- Attention / Loyalty / Due Care / Govern / Obedience / 7 Co-op Principles

■ Obligations

- Meetings / Training / Workshops / Preparation / Education / Knowledge

■ Responsibilities

- Manage CEO / Strategic Planning / Financial Planning / Audit / Review Results / Membership Advocate / Effective Meetings

