Fiduciary Responsibilities

Board Briefs are a series of "at-a-glance" resources to assist board volunteers in supporting their Clubs. They are designed for use at board meetings as subject matter for a five-minute educational opportunity. They can be discussed in their entirety or in sections. Different questions from the same brief can be posed at different meetings. The CVO can use them or ask an appropriate committee to lead the conversation (e.g., finance, governance, etc.).

Executive Summary

Maintaining financial accountability is a prime responsibility of board members. It's essential that board members understand financial basics and establish and monitor key financial indicators. Boards must be sure to understand the changes in requirements for filing the revised Form 990 and exercise appropriate oversight in conducting the annual audit. The board can establish committees to lead the board's work in financial oversight, but ultimately the full board is responsible for financial oversight.

Fiduciary Responsibilities of Board Members

Maintaining financial accountability is a prime responsibility of board members. They act as trustees of the Club's assets and must ***exercise due diligence*** to ensure that the Club is well managed and that its financial situation remains sound.

Fiduciary duty requires board members to stay objective, unselfish, responsible, honest, trustworthy, and efficient. As stewards of the public trust, they ***must act for the good of the Club rather than for the benefit of the board members themselves***. They need to exercise reasonable care in all decision making, without placing the organization under unnecessary risk.

Understanding Financial Basics

Not every board member can be a financial wizard. Each one, however, needs to be a ***financial inquisitor***. It is essential to understand the basic terminology, be able to read financial statements and judge their soundness, and have the capacity to recognize warning signs that might indicate a change in the overall health of the Club.

Board members must be willing to find answers to information that they do not understand. Here are some of the ***specific questions board members should ask***:

- Is our financial plan consistent with our strategic plan?
- Is our cash flow projected to be adequate?
- Do we have sufficient reserves?
- Are any specific expense areas rising faster than their sources of income?
- Are we regularly comparing our financial activity with what we have budgeted?
- Are our expenses appropriate?
- Do we have the appropriate checks and balances to prevent errors, fraud, and abuse?
- Are we meeting guidelines and requirements set by our funders?

Establishing and Monitoring Key Financial Indicators

With the proper tools to monitor and evaluate financial performance, board members have the capacity to judge the Club's health. This includes

- ensuring adequate ***control mechanisms***
- approving the ***budget***
- overseeing the ***audit***
- overseeing the Club's ***legal obligations***

Financial Basics

Typical financial statements of nonprofit organizations include the following:

- **Statement of Financial Position** summarizing ***assets, liabilities, net assets***.
- **Statement of Activity** that includes support, revenue, expenses and ***changes in fund balance***.
- **Statement of Functional Expenses** prepared for same period as statement of activity, showing ***expenses by category*** in the primary functional classifications.
- **Statement of Cash Flows** prepared for same period as statement of activity, reporting ***cash receipts and cash payments*** during the period by operating, investing, and financing activities.
- ***Annual*** **Financial Statements** (Independent Auditor's Report, Notes to Financial Statements and Supplemental Information).
- ***Interim*** **Financial Statements** covering any period of time that is not annual.

Public Disclosure Requirements

Nonprofit boards must keep abreast of laws and regulations that oblige organizations to make certain documents available to the public. The primary public disclosure document is the **IRS Form 990**.

Form 990 is an annual information return that must be filed with the Internal Revenue Service (IRS). It provides information so that IRS can determine whether or not the nonprofit continues to fulfill the requirements to retain its tax-exempt status.

For the first time in 30 years, the IRS has overhauled the form that nonprofits use to report their activities and finances to the federal government. A new Form 990 goes into effect for forms filed on fiscal years 2008 and beyond. According to the IRS, "the new 990 aims to give both the IRS and the public an improved window into the way tax-exempt organizations go about their vital mission."

This new version asks significantly different questions than the previous document, with issues impacting nearly all aspects of nonprofits, including governance, finances, fundraising, and program administration.

Beginning with 2008 tax years, a nonprofit organization may file a Form 990-EZ (rather than a Form 990) if it satisfies both the gross receipts and assets tests set forth in the following table.

May file 990-EZ for:	*If gross receipts are:*	*If assets are:*
2008 tax year (filed in 2009)	> $25,000 and < $1 million	< $2.5 million
2009 tax year (filed in 2010)	> $25,000 and < $500,000	< $1.25 million
2010 and later tax years	> $50,000 and < $200,000	< $500,000

If the gross receipts and assets exceed the stated amounts, the organization must file the Form 990. In addition, all organizations with receipts less than $25,000 (less than $50,000 after 2010) must now file Form 990-N Electronic Notice (e-Postcard).

In regard to governance, the new Form 990 contains a

- new section on Governance, Management and Disclosure Information where organizations are asked to respond yes/no to questions asking whether the organization does or does not have particular policies (e.g., conflicts of interest, whistleblower, etc.) and procedures in place
- new Questionnaire on Organizational Policies that are in place
- revised section regarding the organization's mission statement
- revised section on key employee and executive compensation.

While the IRS claims no direct authority over the structure of a nonprofit's governing body, it cites the relationship between governance and fiscal oversight as sufficient reason to ask questions related to a nonprofit's governing structure and managerial procedures. Boards should ensure that their Clubs have the following policies in place, among others:

- conflict-of-interest policy
- document retention and destruction policy
- whistleblower policy
- chief executive (CPO) compensation policy

Important Financial Committees

Many nonprofits form committees to assist with financial oversight; the committee structure depends on the size of both the board and the Club and might include the following committees:

- The **finance committee,** which takes the lead in monitoring how revenue and expenses track against the approved budget.
- The **audit committee,** which oversees the annual review of the organization's financial systems and reporting practices.

BGCA recommends a separate audit committee for organizations with budgets that exceed $2,000,000. It is essential to note that while the above committees help the board fulfill its fiduciary responsibilities, they do not substitute for oversight by the entire board.

Audit Oversight

Audits are increasingly important for earning the public trust and ensuring transparency. BGCA has the following requirements:

> Cause an audit of its financial accounts to be made and reported upon annually by an independent certified public accountant and cause a copy of such audit and management letter, if issued, thereof to be sent to Boys & Girls Clubs of America and shall maintain its financial records in accordance with generally accepted accounting principles for nonprofit organizations. Member organizations with annual revenues totaling less than $100,000 may submit a review of financial statements by an independent public accountant in lieu of such audit.

Typically, an audit committee's responsibilities include

- recommending the selection of an auditor to the full board
- changing auditing firms periodically
- reviewing the auditor's performance and fee
- recommending changes in the lead auditor within the same firm (perhaps every five years)

Whether the board appoints an audit committee or handles this issue as a whole board, it is the board's legal duty to ensure comprehensive oversight of the audit process.

All board members should receive the audit report and have the opportunity to meet with the auditor in private to ask questions prior to the meeting at which the audit is discussed and accepted.

Questions for Discussion:

The following questions can be used for discussion at board meetings:

- What does the board do well in terms of carrying out its fiduciary duties? What could it improve on?
- Are we all aware of our duties for financial oversight? If not, how can we rectify this?
- Do we have an effective committee structure in place for providing financial oversight and oversight of the audit? What changes might the board need to make in order to ensure we have an effective committee structure in place for providing financial oversight and oversight of the audit?

Additional Resources

- Boys & Girls Clubs of America, Board Volunteer Training.
- www.Guidestar.org
- Lang, Andrew S., *Financial Responsibilities of Nonprofit Boards*, Second Edition (BoardSource, 2009).

Revised: January 2009