Fiduciary responsibility: A complete guide with examples



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All nonprofit leaders have a fiduciary responsibility to their organization. Fiduciary responsibility is an obligation that prevents people from acting in their own interest rather than in the interest of the organization. Nonprofit leaders make this ethical commitment so their organizations can fulfill their missions.

Nonprofit board members must not only be aware of their fiduciary duties but also what constitutes a breach of their responsibilities. A lack of understanding or being uninformed about these duties creates liabilities for the organization and reflects poor board governance. Governance training can help directors avoid inadvertently violating their obligations.

In this blog, you'll discover the following topics:

- A definition of fiduciary responsibilities
- Why fiduciary duties are important and how they relate to corporate governance
- A list of board members' fiduciary obligations
- Examples of fiduciary responsibilities
- How can we assess our board members' knowledge of their fiduciary responsibilities?
- What are the legal frameworks behind fiduciary duties?

What is a fiduciary responsibility?



If you're new to nonprofit governance, the term may sound unfamiliar. What does fiduciary responsibility mean?

The term "fiduciary" originates from the Latin term for "faith" or "trust." A fiduciary responsibility speaks to the relationship between one party who is obliged to act in the best interest of another party.

In its truest sense, a fiduciary duty means that people who have this type of responsibility conduct themselves according to an ethical standard above legal requirements. A fiduciary duty requires a person to act in the best interest of the organization, regardless of the circumstances.

The responsibilities of fiduciaries are governed by federal and state laws, as well as common law. The Uniform Fiduciaries Act and the Uniform Trustees' Powers Act are two laws that guide fiduciary responsibilities.

Why are fiduciary responsibilities important?

Fiduciary responsibilities establish a high standard of care for individuals or organizations. In the case of nonprofit boards, members are responsible for managing the organization's interests, so they are bound to legal and ethical obligations, thus protecting the nonprofit from abuses of power or conflicts of interest.

Fiduciary responsibilities are important because they:

- Protect an organization's assets from misuse of power
- Prevent conflicts of interest
- Provide greater transparency and accountability
- Promote a higher level of professionalism from the organization's leaders

It's essential to note that nonprofit board directors are legally obligated to fulfill their fiduciary responsibilities. This is because governments need to ensure that nonprofit organizations — and all those involved with them — aren't profiting from the organization's efforts, which would otherwise subject them to taxation.

As a volunteer board member, you have legal obligations that carry personal liability. Understanding and upholding your fiduciary duties isn't just good governance — it's essential protection for both you and your organization. Our quick-reference guide breaks down the six core fiduciary duties every board member must understand, with examples of proper and improper conduct. Protect yourself and strengthen your organization's governance. Get the guide today.

Why ethical behavior and good governance are important

Fiduciary duties are fundamental to strong nonprofit board governance because they provide the legal and ethical framework that ensures board members act in the best interests of the organization and its mission. These duties help keep the nonprofit focused on its purpose, safeguard public trust and prevent misuse of charitable assets.

They also support legal compliance and encourage thorough, well-reasoned decision-making. When taken seriously, fiduciary duties strengthen accountability, enhance organizational performance and protect both the nonprofit and its stakeholders.

How important are fiduciary duties? According to the Association of Governing Boards of Universities and Colleges, “Fiduciary duties are at the heart of governance.”

What are the primary fiduciary responsibilities?

Nonprofit board members are responsible for three core fiduciary duties: the duty of care, which requires them to stay informed, participate actively and exercise sound judgment; the duty of loyalty, which obliges them to put the organization’s interests first and avoid or disclose conflicts of interest; and the duty of obedience, which ensures that the board adheres to the mission, follows laws and regulations, and uses resources appropriately.

Let’s look at the details of each duty:

Duty of care

Duty of care means that board directors must give the same care and concern to their board responsibilities as any prudent and ordinary person would manage their personal matters.

At a minimum, the following fiduciary responsibilities fall under this duty:

- Participating actively in board meetings
- Serving on at least one committee
- Working to advance the nonprofit’s mission and goals
- Practicing oversight of programs and activities
- Choosing a qualified executive director
- Monitoring the budget and financial reports
- Questioning expenditures when necessary
- Engaging in strategic planning and goal setting

Duty of loyalty

Duty of loyalty means that board directors must always place the interests of the organization ahead of their own. Board members are required to publicly disclose

any conflicts of interest and not use board service as a means for personal or commercial gain.

Duty of obedience

Duty of obedience means that board directors must make sure that the nonprofit is abiding by all applicable laws and regulations and doesn't engage in illegal or unauthorized activities. The duty of obedience also means that board directors must carry out the organization's mission in conjunction with the purpose stated in their nonprofit organization's registration forms.

Other fiduciary responsibilities

In addition to the three main responsibilities, there are three more duties for board members to be aware of:

- **Duty of confidentiality:** Board members must keep certain types of information confidential. They must not use the information they see or hear in the scope of their position for personal gain.
- **Duty of prudence:** This duty refers to being aware of risks and exercising caution in decision-making. Board members are expected to handle matters with a high degree of professionalism and be accountable for approving expenditures wisely.
- **Duty to disclose:** Board members are required to be forthright in their speech and behavior. If they have information that would influence their decisions or impact the decisions of other board members, they have a duty to reveal that information.

Fiduciary responsibility examples

A few real-life examples of situations nonprofits have faced will make some of the fiduciary responsibilities for nonprofit organizations clear. Here are some examples:

- **Duty of care:** A nonprofit board learned its executive director had become incapacitated with a long-term illness. The executive director would not be able to return to work. Fortunately, the board had prepared for such a situation. They had a backup plan to appoint an interim director and a well-developed pipeline of qualified candidates to interview for the permanent position.
- **Duty of loyalty and duty to disclose:** When it came time to vote to renew the director's and officer's insurance policy, a particular board member abstained from the discussion

and voting. The board members made this decision because they worked for the insurance company offering the policy and needed to avoid a conflict of interest.

- **Duty of obedience and duty of prudence:** A donor offered a significant monetary contribution to a nonprofit if they agreed to use it for a purpose disconnected from the board's mission. The board voted not to accept the donation as it would require them to engage in activities that did not align with the nonprofit's purpose and goals.

Legal frameworks governing fiduciary responsibilities

Nonprofit board members' fiduciary responsibilities are shaped by a combination of legal frameworks that work together to ensure responsible governance and the protection of charitable assets. These frameworks include state nonprofit corporation laws that establish core duties; federal tax laws and IRS regulations that safeguard tax-exempt status; and state charity oversight rules that enforce compliance and proper use of donated funds.

In addition, common law principles, organizational governing documents and obligations tied to contracts or grants further define how board members must act. Together, these legal structures create a comprehensive system that guides ethical decision-making and accountability within nonprofit organizations.

Some examples of fiduciary frameworks include:

- **Uniform Prudent Management of Institutional Funds Act (UPMIFA):** Governs investment & spending of charitable endowment funds; adopted in most U.S. states and central to fiduciary rules about endowment spending and prudence.
- **ERISA (Employee Retirement Income Security Act):** Not a charity law, but essential to cite when discussing fiduciary duties related to employee benefit plans run by nonprofits. ERISA imposes strict fiduciary duties.
- **State nonprofit / corporation acts & Model Nonprofit Corporation Act (MNCA/RMNCA):** State corporate statutes (and the ABA/Model Acts) set standards for directors' duties (care, loyalty) and governance; enforcement often by state Attorney Generals (AG). AG oversight is an enforcement backstop.
- **Charities Act 2011:** Principal statute that sets out charity law and regulatory framework for charities in England & Wales.
- **Trustee Act 2000:** Establishes statutory duties and investment powers for trustees (important for trustees who are the board).
- **Companies Act 2006 (directors' duties):** Where charities are structured as companies (charitable companies), directors' statutory duties (which are fiduciary in nature) come from

Companies Act.

Fiduciary responsibility breaches

Before there can be a breach of fiduciary duty, there must be an established relationship between the fiduciary and the beneficiary. In the case of a nonprofit, the board members are fiduciaries and the nonprofit is the beneficiary.

A board member is considered to have breached a fiduciary duty when they did or said something that was not in the nonprofit's best interest. In a legal sense, the breach must also have resulted in some loss for the nonprofit. Furthermore, the breach must have directly caused the damage.

Common ways that board members breach their fiduciary responsibilities include:

- **Failing to attend meetings or stay informed** results in uninformed decision-making.
- **Approving budgets or financial statements without proper review** or understanding.
- **Allowing conflicts of interest to go unmanaged** or participating in decisions that benefit them personally.
- **Not ensuring restricted or grant funds are used as intended** by donors or funders.
- **Overlooking compliance requirements**, including IRS filings, state registrations, or internal policy adherence.
- **Failing to provide adequate oversight of the executive director,** including compensation, performance and accountability.
- **Ignoring warning signs of financial mismanagement** or not following up on audit findings.
- **Not safeguarding data and digital assets,** such as failing to support cybersecurity controls and risk monitoring.
- **Entering into contracts or commitments without due diligence** or without understanding the risks.
- **Allowing mission drift** by approving programs or partnerships that do not align with the organization's purpose.
- **Failing to document decisions appropriately** weakens transparency and accountability.
- **Not acting in the best interests of the organization**, including prioritizing personal, professional, or external loyalties.
- **Assessing your board's understanding of their fiduciary responsibilities:** Nonprofit board directors frequently recruit and accept volunteers who are invested in the mission of

their organization and willing to serve. Recruiting board directors with little or no board experience can be an excellent way to refresh a board, as long as they get proper training on their duties and responsibilities. The best way to do this is to include a section on fiduciary responsibilities for nonprofit organizations in your board orientation program, which you can store securely on your BoardEffect software.

Annual board evaluations are a good time to assess whether each board director understands their fiduciary duties. Board evaluations also reveal whether directors understand how their fiduciary responsibilities relate to strategic planning, risk management and oversight.

Board members should spend some time at each meeting discussing ways that the board could be exposed to liability for breaching their fiduciary duties. These discussions may form the basis for new organizational policies or changes to existing policies.

How BoardEffect helps with fiduciary responsibilities

BoardEffect helps board members fulfill their fiduciary responsibilities by providing tools that promote the core duties of care, loyalty and obedience:

Duty of care

- **Centralized information hub:** All relevant documents — financial reports, strategic plans, past meeting minutes and bylaws — are stored in a single, secure library, ensuring directors have constant and immediate access to the information needed to make informed decisions.
- **Streamlined meeting preparation:** It automates the preparation and distribution of board packets, ensuring directors receive materials well in advance of meetings, giving them ample time for review and preparation.
- **Enhanced engagement and discussion:** Features such as annotation tools, surveys and polls facilitate ongoing discussion and allow members to ask questions, share insights and engage in informed deliberation, even outside of formal meetings.
- **AI-powered insights:** AI features, like AI Smart Prep and AI Smart Summary, can distill long, complex documents into concise, actionable insights and discussion prompts, helping directors quickly identify key issues and focus on strategic thinking.

Duty of loyalty

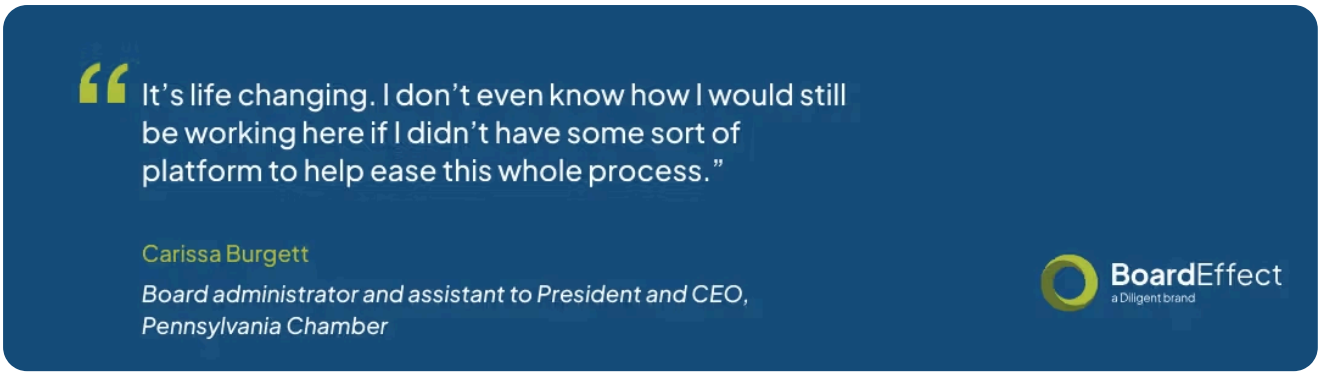
- **Conflict of interest management:** The survey tool can be used for annual collection and documentation of potential conflicts of interest from board members, making the disclosure process easy to manage and track.
- **Transparency and documentation:** BoardEffect creates a clear audit trail of all actions, from document access to voting records, ensuring transparency and providing documentation that all decisions were handled properly and in the organization's best interest.
- **Secure communication:** It provides a secure environment for sensitive discussions, preventing the accidental disclosure of confidential information that might occur over less secure channels like email.

Duty of obedience

- **Policy and compliance documentation:** Governing documents, policies and regulatory guidelines can be stored securely in the resource library, ensuring they are always accessible and serving as a constant reference point for board actions.
- **Training and onboarding:** BoardEffect supports robust onboarding and ongoing training for new and existing members by providing a structured way to deliver governance education, helping members understand their legal and ethical responsibilities.
- **Workflow management:** Customizable approval workflows help ensure policies and procedures are followed consistently and that all necessary approvals are obtained within the defined process.

Pennsylvania Chamber of Business and Industry uses BoardEffect to meet its duty of loyalty and care. They collect certified digital signatures on conflict-of-interest forms directly in BoardEffect and track RSVPs to ensure quorum accountability and visibility across a very large board.

The complexities of communicating with and engaging a large board have been simplified with BoardEffect. The platform is now the single source for information and board members and their assistants don't have to search through old emails for what they need, saving time.



A practical approach to fiduciary responsibilities

It’s vital to ensure that new board members understand what fiduciary duties are and why they are important. It’s common for situations to arise where fiduciary duties are called into question. When a fiduciary responsibility is in question, members must be willing to call it to the board’s attention and discuss it openly.

BoardEffect helps board members fulfill their fiduciary responsibilities by providing tools that promote the core duties of care, loyalty and obedience. Request a demo today to see it in action.

Fiduciary responsibility FAQs

How do fiduciary responsibilities apply when a nonprofit receives restricted or grant funds?

Boards must ensure that restricted and grant funds are used **only for their intended purposes**. This includes monitoring compliance with grant terms, maintaining accurate financial records and ensuring that reports to funders are complete and submitted in a timely manner.

What happens to fiduciary responsibilities when a nonprofit merges, restructures, or dissolves?

During major transitions, fiduciary duties **intensify**. Boards must conduct due diligence, protect charitable assets, document decisions carefully and follow all regulatory steps to ensure assets continue to support the mission.

How do fiduciary responsibilities intersect with cybersecurity and data privacy oversight?

Cybersecurity is part of the board's **duty of care.** Directors must ensure policies, controls and training are in place to protect sensitive data and they should regularly review cyber risks and incident-response preparedness.

How should a nonprofit board evaluate its performance in fulfilling fiduciary responsibilities?

Boards should use regular self-assessments, review financial oversight practices, confirm compliance with legal requirements and evaluate how effectively they monitor risk, internal controls and audit follow-up actions.

What are the unique fiduciary considerations for board members who are also paid employees of the nonprofit?

These board members face heightened risks of conflict-of-interest. They must recuse themselves from decisions related to their employment and the board must use an independent, transparent process for setting compensation and evaluating performance.

Mark Wilson is an Account Manager at BoardEffect which is a division of Diligent Corporation. In his role, Mark works with a range of organisations from government departments, HEIs, Healthcare, schools, and charities across UK & Ireland. Having been working within Governance for over 7 years, Mark understands how BoardEffect's governance platform can be used to achieve an organisation's governance strategic aims. Mark has over two decades of experience working in the technology sector.

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