



Talking About Governance

Practical and Legal Tips for Effective Management of Boards and Committees



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Agenda

- Introductions
- Governance in the Real World
- Legal Basics and Underpinnings
- Five Key Tips for Effective Governance
- Conclusion/Questions



Governance in the Real World

- Background on DC Central Kitchen
- Board structure
- Committees/other volunteers
- Board-staff relationship
- Lessons learned
- Board Guiding Principles



Legal Basics and Underpinnings

- What is governance from a legal perspective?
 - Statute vs. bylaws
 - Best practices vs. legal requirements
 - What *must be* a board decision?
 - When *must* the members vote?
- How much does tax-exempt status come into play?



Legal Basics and Underpinnings

- Basic corporate concepts
 - Corporate status and the protection it provides
 - Articles of incorporation
 - Bylaws
 - Policies

AMENDED AND RESTATED BYLAWS

of

THE D.C. CENTRAL KITCHEN, INC.

(A District of Columbia Nonprofit Corporation)

ARTICLE I

Name

The name of this corporation is The D.C. Central Kitchen, Inc. (hereinafter referred to as the "Corporation").

ARTICLE II

Purposes and Limitations

Section 1. The nature of the business and the purposes to be conducted and promoted by the Corporation shall be:

- To coordinate and effectuate the collection, preparation and distribution of food to homeless individuals in the District of Columbia metropolitan community;
- To provide job training and experience to unemployed and/or low-income individuals from the Washington, D.C. metropolitan community through the operation of a kitchen, in preparation for placement in full-time food service jobs in the Washington, D.C. metropolitan area;
- To provide such other services as may be considered necessary or beneficial in the furtherance of the Corporation; and
- To exercise any other powers conferred upon corporations organized pursuant to the provisions of the District of Columbia Nonprofit Corporation Act, as the same may be amended or supplemented (hereinafter referred to as the "Act").

Section 2. The Corporation is organized exclusively for charitable and educational purposes, including, for such purposes, the making of distributions to organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended ("IRC").

Legal Basics and Underpinnings

- What goes where—articles, bylaws, policies
 - Articles of incorporation—very bare bones; avoid governance-related provisions unless required by law
 - Bylaws—there are many must-have provisions for the bylaws:
 - Member categories and rights
 - Suspension, termination of membership (high level)
 - Dues (how, not what)
 - Board #, qualifications, quorum, manner of acting, removal
 - Meeting notice
 - Officers—titles, responsibilities, manner of appointment, removal
 - Reference to staff officers/other staff (high level)
 - Committees
 - Board vs. non-board
 - Manner of acting
 - How to name additional committees
 - Indemnification
 - How to amend

Legal Basics and Underpinnings

- What goes where—articles, bylaws, policies
 - Policies—too many to list; examples:
 - Conflict of interest
 - Expense reimbursement
 - Compensation
 - Employment policies
 - Dues
 - Committee charters
 - Whistleblower
 - Records

Legal Basics and Underpinnings

- Hierarchy of authority
 - Board is (almost) always at the top of the chart
 - Designated body concept
 - Members
 - Executive committee
 - Other committees of the board
 - Advisory committees
 - Role of staff, volunteer officers
 - Authority of individual directors

Legal Basics and Underpinnings

- Board rules of the road
 - Board should act only at meetings
 - Board is typically viewed as setting the strategy and mission of the organization, with staff charged with implementation
 - Not everyone agrees
 - Fiduciary duties—care, loyalty, obedience





Five Key Tips for Effective Governance for Today's Nonprofits

1. Take steps to manage board size, composition

- This will *not* happen overnight
 - Entitlement—real and imagined
 - Documentary hurdles (articles, bylaws, policies)
 - Membership opposition
- Look to the community you serve—could be the actual geographic community, the profession or trade the organization represents, etc.
- Leadership buy-in needed at the outset
- Nominating and leadership development committees
- Member voting still needed?

2. Avoid surprises

- Budget, program issues
 - Keep board apprised
 - Anticipate needs for changes of course
- Regular communications with chair, key committee leaders

3. Choose your battles

- How much “in the weeds” discussion will you/should you tolerate?
- Strategies for redirecting focus:
 - Helps to have advance buy-in from board chair
 - Well-crafted agenda and discussion times for each item
- When to be more assertive:
 - Conflict of interest issues
 - Antitrust
 - Actions contrary to exempt status
 - Splinter groups and whispers

4. Develop new leaders

- Funders, general trends support term limits, shorter terms
- Creates ongoing need to nurture, develop new leaders
 - Look to individuals with proven records with committees, task forces, other volunteer opportunities
 - Don't limit yourself, though—consider other qualifications as well
 - Funding ability
 - Background and reputation

5. Make it worth their while

- Most nonprofits do not compensate directors
- Exposure, recognition, visibility
 - Association, nonprofit events
 - Speaking opportunities
 - Social media shoutouts

Conclusion/Questions



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