



**NATIVE GOVERNANCE  
CENTER**

*Sovereignty Matters*



# **Governing in a Time of Change**

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# Agenda

- Introductions
- Basics of Good Governance
  - Legal Perspective
  - Tribal Governance Perspective
- Three Current Challenges
- Wrap-Up

# Introductions



# Basics of Good Governance

## Legal Background

- What is the role of the Board?
- What are the duties of individual Directors?
- How does a Board work?

# Board of Directors

- Role of the Board
  - The business and affairs must be managed by or under direction of a board of directors

# Two Categories of Board Work

## Fiduciary Oversight

- Oversee management (but do not manage)
- Clarify and probe assumptions
- Review materials and keep up to date on business operations
- Understand risks and how they are managed
- Financial oversight, audit
- Approve major transactions
- Approve key policies

## Long-Range Planning

- Define the mission, vision and values
- Define the desired future state and develop plans to get there
- Adopt long-range financial plans
- Review and approve annual operating and capital budgets
- Monitor progress against plans and refine as necessary
- Monitor external forces and modify plans as needed

# Duties of Individual Directors

- Fiduciary Duties:
  - Duty of care
  - Duty of loyalty
  - Duty of obedience
- Related Concepts:
  - Reliance
  - Delegation
  - Exoneration



# Duty of Care

“Directors must discharge the duties of the position ... with the care an ordinarily prudent person in a like position would exercise under similar circumstances”

- Allows directors to exercise their judgment
- Balance risk and rewards of particular action
- Act with common sense and informed judgment





# Loyalty and Obedience

- “A Director shall discharge the duties of the position ... in good faith, in a manner the director reasonably believes to be in the best interests of the corporation...”
- Directors have duty to follow the organization’s governing documents, to carry out its mission and ensure its funds are used for lawful purposes

# Related Concepts

- Reliance
  - In discharging duties, a director may rely on information, opinions, & reports prepared by the following unless director has knowledge that reliance is unwarranted:
    - Committees, employees, legal counsel, accountants, other professionals
- Delegation is permitted (and expected)
- Exoneration – not personally liable

# How Does a Board Work?

- Board can only act as a body
  - At a duly held meeting, with votes
  - Action in writing between meetings, with majority approval
- Board speaks with one voice
  - Debate + Vote = One Voice

# Tribal Governance Perspective



# Native Nation Building

Five principles of good governance:

1. Spirited Leadership
2. Capable Governing Institutions
3. Cultural Match
4. Strategic Orientation
5. Practical Sovereignty

# What does Tribal Governance have to do with board governance?

Remember back to Sarah's sixth slide:

- Oversee management (but do not manage)
- Clarify and probe assumptions
- Review materials and keep up to date on business operations
- Understand risks and how they are managed
- Financial oversight, audit
- Approve major transactions
- Approve key policies
- Define the mission, vision and values
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Good governance principles are universal.



# Three Challenges Facing Boards Today

- How to disagree and then move forward
- How to transition new Board members in
- Engaging ownership over program direction between Board and staff leadership



# Disagreement vs. Decision-making

- Differentiating robust discussion and deliberation from downright arguing
- Calling the question and moving on
- How do we know when an issue has been decided?

# New Board Member Transitions

- Need for balance
  - Fresh perspective
  - Respect for history and traditions

# Board vs. Staff

- Balance need for engagement and ownership against micro-managing?

# One Model

## Board

- Defines enterprise-wide strategic direction and planning, working closely with the Leadership Team
- Approves major business decisions only

## Committees

- Oversee operations within functional areas
- Approve important business decisions within functional areas
- Inform strategic direction by bringing expertise in functional areas
- Provide advice and guidance to Leadership Team in functional areas

## Leadership Team

- Supports and informs the Board's efforts to define strategic direction and planning
- Executes the vision and strategy
- Runs the business
- Engages with the Board and Committees, seeking perspective, guidance and assistance as needed

# Wrap-Up

# Speakers

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