

Welcome Aboard

A Handbook for Board Members of Charities
and Non-profit Organizations



Public Legal Education and
Information Service of New Brunswick

Published by:



Public Legal Education and
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Charitable and not-for-profit organizations rely on the support of volunteer board members to provide the overall management for the organization. Although charitable and non-profit organizations may have different board models, by-laws and challenges, all board members share a duty to support the organization and to take the time to fully understand their role within their organization.

This guide is intended for people who are getting involved as a member of a board of directors for a non-profit or registered charity and for those who are already sitting on a board who feel they need more information about their role and responsibilities. This guide will provide an overview of some of the things to consider and questions that will help you gather information relevant to the organization with which you are getting involved. For more specific or detailed information you can check out the resources listed throughout this guide.

Additional information for charities is also available from Public Legal Education and Information Service of New Brunswick (PLEIS-NB) includes the following resources:

Welcome Aboard Series

- The Roles and Responsibilities of Board Members (VIDEO)
- Becoming a Volunteer (pamphlet)
- Becoming a Board Member (pamphlet)
- Reporting Requirements of Registered Charities and Non-Profit Organizations

Charitable Giving – Be a wise donor

Guide to Law for Not-for-Profit Organizations in Atlantic Canada

Not-For-Profit Organizations: A Legal Guide

Public Legal Education and Information Service of New Brunswick (PLEIS-NB) is a registered charity. Our mission is to provide plain-language law information.

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This publication is not intended to contain a complete statement of the law in the area of charities and non-profit organizations, and changes in the law may occur from time to time. Anyone needing specific legal advice should consult a lawyer.

We would like to gratefully acknowledge the contribution of the many individuals who participated in our research, consultation and review process.

Information on your organization

General information

Official name: _____

Address: _____ Phone: _____

_____ Fax: _____

Website: _____

What is the mandate or mission of this organization?

Contact Information for Board Members

NAME	POSITION ON BOARD	PHONE NUMBER	EMAIL
_____	_____	_____	_____
_____	_____	_____	_____
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Making the Decision

There are many good reasons to join the board of directors for a charity or non-profit organization. Often people are drawn to a particular organization because they feel strongly about the cause or charitable services the organization delivers. Sitting on a board of directors gives you the opportunity to lend your support and to help shape the programs and policies of the organization.

There are also personal benefits to getting involved with an organization's board of directors. It is an excellent way to get involved in your community and it can provide valuable experience and skills as well as the opportunity to work with individuals you may not otherwise connect with in your personal or professional life.

Organizations may select new board members in a number of ways depending on how the organization has structured its board of directors. Board members may be appointed, elected or recruited for specific experience or skills. Generally, organizations want to have a board with a variety of skills and experience. It is this balance that helps the board to make informed decisions about the operations of organization. While some boards have requirements or screening practices, for many organizations becoming a member of the board of directors requires no specific training or professional qualifications. Accepting a position on a board means making a commitment to the organization and understanding your obligations and potential liabilities. It is wise to be fully informed about the role and responsibilities you will be assuming. Consider learning more about your obligations in the following areas:

Time Commitments

It is important to understand how much of your time you will be expected to donate to the organization. Give careful consideration to your availability and be realistic about time you are able to commit to the organization.

Management and Oversight of the Organization

Different organizations have different levels of board involvement in the day-to-day management and oversight of staff and programming. Understanding the board's role can help you assess the time and duties you will be undertaking.

Term Lengths

There are benefits to having long-serving board members, however, having new board members can bring a fresh perspective and new energy to an organization. Knowing how long the organization will expect you to serve on the board may affect your decision. Even when organizations do not have set term lengths or limits, it can be a good idea to set your own terms and to let the board know the length of time you are prepared to commit to the organization.

For more information:

CRA: Checklist for Charities

www.cra-arc.gc.ca/tx/chrts/chcklst

Information on your organization

Time Commitments

Regularly scheduled meetings

How often does the board conduct regularly scheduled meetings?

Where does the board regularly meet?

Are meetings generally scheduled for days, evenings or weekends?

How long are most meetings?

Annual General Meeting

When does the board hold its annual general meeting?

Strategic planning and committee meetings

How often are special meetings of the board or committee meetings held?

Management and Oversight of the Organization

How involved is the board in the day-to-day operation of the organization?

What is the board's role in hiring and supervising staff?

Who is responsible for authorizing expenses and signing on behalf of the organization?

What is the role of the board in obtaining funding and planning events?

Who is responsible for representing the organization publicly and dealing with media?

Term lengths

Does your organization have term lengths?

Is there a term limit for board members?

How long have the current members been serving on the board of directors?

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Joining the Board

Once you have decided to take a position on a board of directors you will need to have some background information and/or training. To make good decisions you will need to understand the mandate and charitable purpose of the organization and the rules set out in the governing documents.

Having a good understanding of how the organization works will help you make informed decisions. Ask about orientation and training for board members and opportunities to learn about the organization and the board. This can help manage expectations on both sides. It can also provide valuable background information and limit liability by ensuring you are aware of your new responsibilities.

Description of Duties and Expectations

Boards may informally discuss the duties and expectations with new board members; other organizations may have written job descriptions so everyone involved is clear about the responsibilities and expectations.

Overview of the Programs and Facilities

Gather as much information as possible about the organization. As a board member you are ultimately responsible for the programs, services, and staff that help the organization achieve its goals.

Mandate and Mission Statements

The organization's mandate or mission statement is important to keep in mind when making decisions as part of the board. This brief statement should represent the core purpose of your organization. It may contain information about the goals you wish to achieve, the way in which you will achieve your goals and/or the clients you aspire to help.

Bylaws

The bylaws and policies are the rules which an organization has set for itself. The bylaws typically contain information about the board such as:

- how board members are selected,
- how the board conducts its meetings,
- how officers are selected,
- terms and term limits
- committees
- liability

Policies

An organization's policies provide written instructions on practices and procedures. Having carefully written policies can help an organization ensure it meets various legal requirements and that programs and finances are well managed. Policies will be different for every organization; your organization may have policies to deal with employees, volunteers, financial or confidentiality issues.

Non-Profit and Registered Charity Status

It is common for people to use the terms "non-profit" and "charity" interchangeably. The information in this guide is intended for individuals involved with incorporated non-profit and registered charity organizations. The following descriptions will give you a general understanding of the differences in the obligations and regulations for informal associations, incorporated non-profit organizations, and registered charities.

The terms non-profit and notfor-profit both refer to organizations that exist for a purpose other than to make money for the organization's stakeholders. Provincial and federal legislation or individual organizations may prefer the use of one term over the other but there is no difference in the legal status.

Unincorporated non-profit / volunteer association

People who share a common goal may create an informal non-profit group to help them coordinate their efforts. These groups may be formed for a single, short-term goal or may operate on a small scale. Members may decide they do not need the formal structure or protections of incorporation.

Despite the informal structure of these types of organizations there are obligations under the ***Income Tax Act***. These may include filing an annual income tax return or information return to the Canada Revenue Agency (CRA). Typically this becomes an issue when the organization begins hiring staff, accumulating assets or collecting money from investments or property. Check the resources section of this handbook for more information.

Incorporated non-profit organization

Incorporation is the process which makes the organization a legal entity. This means that the organization can own assets, enter into contracts, etc. Incorporation as a non-profit means that any profit the organization makes must be spent on the programs or goals of the organization. Incorporation may also provide protection for board members in the case of a lawsuit against the organization.

Incorporated non-profit organizations have to apply for incorporated status under federal or provincial laws. Incorporated organizations have an officially registered corporate name that will include words such as: 'Limited', 'Incorporated', or 'Corporation'. Incorporated organizations have requirements to file information returns and/or audited statements with Industry Canada or the provincial government department which has incorporated them.

Registered charity

Registered Charities are incorporated non-profit organizations that have applied for and received charity status under the Income Tax Act. This status allows charities to issue official tax receipts to their donors and to receive a rebate on the taxes they pay. While organizations can benefit from having charity status it also carries restrictions and additional filing requirements. These benefits and regulations are further discussed in this handbook.

Financial Information

Board members should be fully informed about the organization's finances. If financial statements are not provided to you, request copies of the recent statements and audits. Ask questions about the way the organization receives money and the policies and procedures dealing with money.

Minutes

Minutes of recent board meetings and committee meetings can help you quickly get informed about the board's activity, what they have been discussing and the reasons for the decisions they have made. Reviewing these records will help you make informed decisions.

Information on your organization

Orientation and Training for Board Members

Does the organization provide orientation materials or training for new board members?

Are there training opportunities through other organizations?

Does the board have periodic training sessions or engage in board development?

Overview of Programs and Facilities

- ☐ Program Summaries
- ☐ Site visit
- ☐ Meet Staff

Documents

- ☐ Written job description or duties
- ☐ Mandate and Mission Statements
- ☐ Bylaws
- ☐ Policies
- ☐ Incorporation Number

Date:

- ☐ Registered Charity Status Number

Date:

- ☐ Current financial statements
- ☐ Minutes of recent board meetings or committee meetings

For more information:

Board development training, accountability & governance in the Canadian Voluntary Sector

www.boarddevelopment.org

Corporate Registry of New Brunswick:

www.pxw1.snb.ca/snb7001/e/2000/2500e.asp

CRA: Incorporation Documents:

www.cra-arc.gc.ca/tx/chrts/pplyng/gdc

CRA: Applying for Registration:

www.cra-arc.gc.ca/tx/chrts/pplyng

Registered Charity vs. Non-Profit Organization

www.cra-arc.gc.ca/tx/chrts/pplyng/rgstrtn/right-eng.html

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Rights and Duties of Board Members

Board members are charged with making important decisions and carry the responsibility for the actions of the organization. It is important that they have access to information about the organization and the right to have input into the decisions made. The following are some of the rights given to board members to help them carry out their role in supporting the organization.

Rights of Board Members

Access to resources and files

Making an informed decision requires access to current and historical information about the organization. A board member has the right to access the records and resources of the organization to carry out their work.

Notice of meetings

Board members are entitled to reasonable notice of an upcoming meeting. The organization's bylaws should clearly outline how much advance notice is required for a meeting and the procedure for an emergency meeting if necessary.

Right to attend meetings

Board members have the right to attend meetings unless there is a conflict of interest. Attendance at meetings is essential for understanding the current issues and sharing opinions. If you are unable to attend a meeting you are entitled to copies of the minutes or any other documents from that meeting. If you have a conflict of interest you may be required to leave a meeting while the board deals with a particular issue. An example may be that a family member has applied for a job with the organization and it would be inappropriate for you to be involved with the hiring process.

Right to vote

Your vote on board decisions is important. It is your say in how the organization is managed.

Right to review and approve minutes

The minutes form the record of board decisions. You have the right to review minutes and to vote on their approval. It is important that accurate minutes be kept.

Introducing new business or raising concerns

As a board member you have a duty to bring forward relevant issues for discussion. You have the right to suggest agenda items and to have the opportunity to speak at meetings of the board.

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Duties of Board Members

The right to make decisions and have access to information is given to board members with the requirement that they exercise these powers to benefit the organization and in accordance with the law. The following are obligations board members have to the organization they serve. When you accept a position as a board member you are agreeing to abide by these legal duties:

To take care in your work by:

- acting in the best interests of the organization
- performing all tasks with diligence, care and skill
- gathering all the information you need to make informed decisions about the issues at hand
- acting responsibly when making decisions or acting on behalf of the organization
- avoiding negligent or careless acts
- taking reasonable steps to foresee and manage risks to the organization or others.

To be loyal to the organization by:

- putting the organization's interests ahead of your own
- avoiding conflict of interest
- keeping appropriate information confidential.

To obey laws, bylaws and regulations by

- learning about the laws, bylaws and regulations that impact your organization
- reading and asking questions to ensure you are complying with the organization's governing documents
- ensuring the organization's governing documents are current and accurate
- ensuring the organization is obeying provincial and federal regulations and laws.

While many of these duties appear to be common sense, it is important that you keep these obligations in mind when acting as a director within the

organization. Acting carefully, honestly, and in good faith will go a long way toward limiting personal liability.

Individual board members have power, rights and duties as a part of the board of directors. However, the board must work together as a team to make decisions, authorize expenses and manage the organization. The business decisions can only be carried out at a meeting of the board for which members have received notice, there are an appropriate number of members present (quorum), and a majority vote. It is possible for the board to appoint or authorize individual members or committees to conduct business for a specific purpose on behalf of the board.

For more information:

Charities File: On Board

www.thecharitiesfile.ca

CRA: Toolbox for directors, officers and volunteers

www.cra-arc.gc.ca/tx/chrts/prtnng/tlbx/menu-eng.html

Primer for Directors of Not-For-Profit Corporations

http://www.ic.gc.ca/eic/site/cilp-pdci.nsf/eng/h_cl00688.html

Information on your organization

Access to resources and files

Where are the organization's files located?

Notice of meetings

How much notice is required before a meeting can be held?

Right to attend meetings

Have you made the board aware of any potential conflicts of interest that may arise?

Right to vote

Are there positions within the board that are excluded from voting?
(ex. honorary board members, executive directors)

Does the president or chair regularly vote or only in the event of a tie?

Right to review and approve minutes

What is the procedure for reviewing minutes?
Are they sent out ahead or are members given the opportunity to review the minutes at the start of the next meeting?

Confidentiality

Does the board routinely deal with employment or confidential issues?

Does your organization require board members to sign a confidentiality agreement?

Quorum

How many members must attend a meeting for decisions to be made?

Liability and Risk Management

Being on a board and responsible for the management of an organization can be a rewarding experience but it is also a serious responsibility. It is important to understand your rights, duties and liabilities.

Personal and Board Liability

A liability is a legal responsibility for a wrong or harm that has been caused, for example the wrongful dismissal of an employee. The act of incorporating an organization offers board members some protection from personal liability because the organization becomes a legal entity that can be held responsible for findings of wrong-doing or harm. This protection has its limitations; it is only extended to individuals acting on behalf of the organization. Individuals are most likely to be personally liable if they fail to abide by the duties of board members.

When someone is harmed or suffers a damage or loss caused by the organization, the board members may be personally liable if they did not take reasonable steps to ensure the safety of others. Boards can be liable for not having proper policies or not enforcing their policies. Some examples include sexual harassment or accidents that should have been prevented by some action by the organization. Liability becomes an issue when the board members knew, or should have known, about a problem.

Generally it is the organization, as its own legal entity, which will be responsible for paying any money owing for damages or compensation when harm has been caused. However, it is possible for individual board members to be found personally liable if they have acted carelessly or outside their powers and duties. Board members who are found personally liable will be personally responsible for any money that is legally owed.

When the organization enters into contracts the board of directors is responsible for ensuring the obligations are met. It is for this reason that board members should be reasonably aware of the details and deliverables of the contracts that are being

entered into by staff or officers on behalf of the organization. Employment contracts, professional services and funding agreements are a few of the types of contracts organizations may enter into in delivering their program and services.

Since incorporated organizations enter into contracts as their own legal entity, there is little risk of personal liability unless board members have entered into the contract without the proper signing authority, or have otherwise acted improperly or carelessly.

Board members are also responsible for ensuring the organization is informed and working in accordance with federal and provincial laws. The laws and legal requirements will be different for each organization depending on the nature of their work and the provinces in which they operate. The following are some areas of law under which charities may have obligations:

- Election and Appointment of Directors
- Taxes
- Employees
- Records and Reporting
- Health and Safety
- Environmental
- Donations, Fundraising and Events

It is important to know and understand the laws that impact your organization. The board may have a responsibility to seek professional or legal advice if there are questions about how the law impacts the organization or programs.

Risk Management and Limiting Liability

Dealing with legal issues and the risk of liability can be intimidating. The good news is that managing the risk and limiting liability can be simple. Being aware of your legal duties and taking reasonable steps to avoid problems can be enough for most organizations to avoid or limit liability.

Be proactive

Spend time discussing the potential problems specific to your organization or programs. Give thought to how policies or procedural steps could be put in place to prevent harm. Despite the best intentions and care, there is always a risk that something will go wrong; having a plan or policy for dealing with these situations can help limit the liability or damage. Some examples include protocol for adults working with children or vulnerable clients, harassment policies, or keeping building and equipment in good repair.

Consider the following questions

- What could go wrong?
- What can we do to prevent harm or liability?
- What can we do to lessen the impact or damages when something goes wrong?

Be informed

By learning as much as possible about the organization and its programs you can make informed decisions and can better identify potential problems. Having a written job description can help you ensure you are aware of your personal responsibilities. Do not hesitate to ask questions or seek advice, you are not expected to be an expert in any particular area but the board is responsible for taking steps to get accurate information.

Financial record keeping and reporting requirements

It is common to have one person, possibly a staff member, responsible for keeping records. While the board may delegate task such as preparing and filing returns to the Canada Revenue Agency (CRA), the board as a whole is ultimately responsible for ensuring the information is accurate and that the appropriate records are being kept.

Minutes

The purpose of taking minutes is to provide a formal record of the discussion and decisions made by the board. The bylaws will provide information on the formalities required by the organization. Having someone with experience take minutes at meetings can be a valuable asset to a board. However, many board members take on the role with little training

or experience and simply use templates, or the minutes from previous meetings, as a guide.

Well-written minutes will be an accurate summary of when and where the meeting was held, who attended, who participated in the discussion, the outcomes for motions and votes and what business was ultimately carried out by the board or committee. Having this information recorded can help if questions arise about the rationale for a decision or what action was taken to resolve a problem.

For this reason, it is important to ensure the minutes of the meetings accurately reflect the reason for a decision. If you have concerns or disagree with a decision made by the board be sure your dissent is recorded in the minutes.

Be insured

The board may purchase directors' and officers' liability insurance for additional protection. While the risk of a liability may be very low for many organizations it is worth taking the time to assess the risk to your organization. If your organization decides it is worth having insurance be sure to compare policies and understand the options and what activities are covered. As your programs and services change, be sure to reassess your risk and review your policy. You may need to make changes to your coverage or purchase 'event insurance' to cover the organization for special events.

For more information:

Board development training, accountability & governance in the Canadian Voluntary Sector

www.boarddevelopment.org

CRA: Operating a Charity

www.cra-arc.gc.ca/tx/chrts/prtnng

Examples of Minutes

www.law-nonprofit.org/25-2nfp.htm

Insurance and Liability Resource Centre for Nonprofits

<http://nonprofitrisk.imaginecanada.ca>

Information on your organization

Be proactive

Are there risks or hazards that you are concerned about?

Does the organization regularly discuss liability?

What policies and procedures are in place to prevent harm?

Are there policies or plans to deal with new issues or concerns as they arise?

Be informed

Are you comfortable with your knowledge of the programs and policies?

Do you have a written explanation of your duties to the organization?

Does the organization often seek legal advice or other expertise when questions arise?

Record keeping and reporting requirements

Who within the organization ensures accurate records are being kept as required?

If your organization is a registered charity, who within the organization keeps up-to-date on the CRA reporting requirements to maintain charity status?

Does the board check to ensure each new program or project falls within their charitable mandate or mission statement?

Who files the annual returns for the organization's incorporation as a non-profit?

Minutes

Who is responsible for taking minutes?

Be insured

Has the board assessed the risk of law suits or liability?

Does the organization have up-to-date liability insurance?

Is all of the organization's current work covered under this policy?

Are board members covered by this policy?

Employees and Volunteers

Employees and volunteers are often the individuals who will raise funds and deliver programs and services on behalf of the organization. While the administration and day-to-day operation may be delegated, the board is ultimately accountable for the actions of its employees and volunteers.

The level at which your board of directors is involved in the management of employees and volunteers will depend on:

- the size of your organization,
- the structure of your board,
- the number of employees and volunteers involved in your organization.

Having good policies, practices, and people can make it easier for your organization to reach your goals, meet your obligations and avoid potential liability.

Hiring Employees and Engaging Volunteers

It is important to have reliable and skilled people working for your organization. Many organizations regularly perform reference checks and/or require criminal record checks as part of the hiring process. This is to ensure that the person they are hiring has the skills and experience they claim to have and that they do not have a history of dishonest or criminal behaviour. This can be very important for charitable organizations where board members are generally not providing day-to-day supervision and management.

Screening

Staff and volunteers are often involved in collecting money, dealing with confidential information, or providing services to youth, seniors or vulnerable adults. It is important to take steps to ensure the people assuming these responsibilities are reliable. Consider making screening policies mandatory for staff, volunteers and board members. Taking the time to review references and police checks can give

the board the confidence to delegate tasks to staff, volunteers or individual board members. These steps may also reduce the risk of board liability if problems arise.

Job Descriptions, Training and Supervision

Clearly written expectations can improve job satisfaction for both staff and volunteers. Time spent creating contracts and job descriptions can prevent misunderstandings and discrepancy between the expectations of the organization and the expectations of the employee or volunteer.

Board members often delegate the work of the organization to staff and volunteers. This can relieve board members of much of the administration and program delivery. However, with these benefits comes the responsibility of providing training, direction and supervision. Even when an executive director or manager is hired to coordinate and supervise staff, it remains the duty of the board to ensure the employees are fulfilling the mandate of the organization and that staff and volunteers are treated fairly and in accordance with the law.

Policies

Organizations should consider implementing policies such as harassment policies, confidentiality or privacy policies, safety protocols and other standard employment policies. Being proactive and anticipating problems before they arise not only protects staff and clients from harm but can limit liability when problems do arise.

Reprimands and Dismissals

The staff and volunteers that work for the organization are generally committed to the work of the organization; however, there are occasions when their actions fail to meet expectations or are contrary to the mandate of the organization. It can be helpful to establish policies for reprimands and the dismissal of employees or volunteers. Having a process in place in advance can make it easier to address these difficult situations. Even when the management is

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delegated to an executive director or manager, in the end, the board is responsible for potential liabilities such as wrongful dismissal.

Charities and non-profit organizations can often find it more difficult to dismiss volunteers than employees. There are employment standards and guideline and organizations often have written job descriptions, policies and performance reviews that provide the basis for dismissing an employee. Volunteers are not protected by employment laws but it is just as important for organizations to have policies and guidelines for volunteers. Having established procedures and/or an appeal process can make it easier for the volunteer coordinator, manager or board to take action.

Board Members

Board members also benefit from direction and job descriptions and these can be included in the organizations bylaws or policies. Board members should not be exempt from the screening process. As the individuals ultimately responsible for the organization, it is important to ensure the members of your board are upstanding and reliable members of the community. References and criminal record checks are equally useful requirements for board members as they are for employees and volunteers.

The CRA Charities Directorate has an interest in who is serving on your board of directors. Registered charities must complete a form listing all directors and officers who have served on the board in the past fiscal year. The list of directors will be made public on the CRA database, however personal information such as address, phone number and date of birth are kept confidential. The CRA requires this information for every board member.

Conflict of Interest

A conflict of interest is a situation in which a board member has personal or business interests or obligations that may clash with the interests of the charity. Situations may arise where the business of a board may have a negative or positive impact on an individual board member, his/her family, or business.

Conflicts must be carefully managed to avoid any appearance of impropriety. Board members should bring any potential conflicts to the attention of the board so that steps can be taken to address the conflict and avoid having the board member unfairly influence the decisions of the board.

Removing Board Members

From time to time it may be necessary to remove board members who are unproductive or counterproductive to mandate of the organization. Unproductive board members fail to attend meetings, do not follow through with assigned tasks or otherwise do not meet the expectations outlined in the job description for board members. Counterproductive board members may have conflicts of interest, breaches of the organization's rules or failure to uphold the duties of a board member.

Most board conflicts or concerns can be dealt with informally as a board or in one-on-one conversations. Although it is rarely needed, boards should have processes in place to deal with ineffective, unethical or disruptive board members. These can be dealt with by having clauses in the bylaws to deal with absenteeism, term limits, and impeachment. Absenteeism rules will give boards the option to remove board members who fail to attend meetings. Term lengths and limits can provide an opportunity to refresh the board. If your bylaws contain impeachment processes then it may be possible to remove members with a majority or two-thirds vote of the board.

Information on your organization

Hiring Employees and Engaging Volunteers

Does the organization have employees?

What work is delegated to employees?

Does the organization use the services of volunteers?

Does the organization require screening of employees or volunteers?

Does the organization provide job descriptions, contracts and training for new employees and volunteers?

Does the organization have up-to-date employment policies and/or volunteer policies?

Who is responsible for ensuring the organization is acting in accordance with employment laws?

Who is responsible for providing training, direction and supervision of employees and volunteers?

Board Members

Does the board have a screening process for board members?

What personal information must board members provide and who has access to that information?

How does the board deal with a conflict of interest or the perception that there may be a conflict of interest?

What are the grounds or processes for removing a board member?

For more information:

Board development training, accountability & governance in the Canadian Voluntary Sector

www.boarddevelopment.org

Carters www.charitylaw.ca

Charity Village Volunteer Guide

www.charityvillage.com/CV/faq/faq_adv_vol.html

HR Council Forum

www.hrcouncil.ca/hr-forum/home.cfm

HR Council - HR Toolkit for Non-Profits

www.hrvs-rhsbc.ca/hr-toolkit/home.cfm

Volunteer Canada www.volunteer.ca

Funding and Financial Accountability

Understanding how your Organization is Funded

Charitable organizations may receive funding from many sources or may rely on one or two sources for support. It is important for boards to understand how an organization gets its funding and how programs, projects and administrative costs are covered. Funding will differ from one organization to another. This basic explanation of how charities are funded may help new board members better understand their organization's funding.

Core funding

Core funding refers to money for the basic administration and overhead costs of the organization. There are expenses related to operating a not-for-profit organization. These expenses generally include salaries, rent, utilities and other costs associated with keeping an office and essential staff. Organizations often find it harder to find funding for office space and administrative staff than it is to find grants or project funding for specific programs or services. Core funding may come from a government department, foundation, or some other organization. Funders who provide core funding may place limitations on the types of expenses that may be paid.

Grants

Grants are money available from government, corporations or foundations which allow qualified individuals or organizations to apply for funding. Applicants must meet the criteria or conditions set out by the funder to be awarded funds. However, once the money has been awarded the organization can determine the best way to spend those funds.

Project funding or contribution agreements

Organizations may apply for project funding or contribution agreements to help with a specific initiative or program. Applying for these funds often involves writing lengthy applications which describe the proposed project in detail including budgets, timeframes and work plans. Applications

are reviewed by the funder and rated on how well they match the purposes or objectives of the funding organization.

This type of funding comes with strict rules on how money can be spent and the expectations of the funder in terms of deliverables, acknowledgements, reporting and audits. If the money is not spent on the equipment, programs or items specified in the contract it will have to be paid back.

Gifts and donations

Individuals and organizations may give money to organizations with or without directions on how that money is to be spent. Donations can be gifts of money, land, artwork or other property. If your organization is a registered charity you may be able to issue official tax receipts for some or all of the value of these gifts. If your organization issues tax receipts the board of directors is responsible for ensuring your organization is following CRA regulations and that official tax receipts meet the CRA's requirements.

Fundraisers and events

While any solicitation for support can be considered fundraising, it is generally used to refer to the sale of goods or services to raise money for the organization's programs or charitable purposes. While fundraisers and events can be a great source of revenue they often require a lot of careful planning and preparation. People involved in raising money for charities and non-profits need to know the laws, restrictions and reporting requirements that come with fundraising.

Depending on the specific fundraiser or event there may be provincial licenses or permits which are required. Lotteries, raffles and bingo games may require a government license if the prize value is over a specified amount. Organizations may have to plan for liquor licenses if alcohol is being served or federal copyright fees for music played at an event.

Your organization may want to consider event insurance to protect the organization and the board of directors in the event of an injury or cancellation. Special event insurance can be purchased to cover costs that may arise from weather, property damage or injury. The cost of this insurance will vary greatly depending on the size and type of event. For example, the cost is generally more expensive for events where alcohol is served. The organization will have to carefully consider the risk of liability or cancellation and compare rates to determine whether it is appropriate for the size and type of event being planned.

Using the services of professional fundraisers or other fundraising partnerships may have benefits; however, board members should be fully informed about the true cost to the organization including any percentage or commission being deducted from donations. The CRA Charities Directorate and savvy donors are paying closer attention to the cost of fundraising and how much of the donated money is going directly to the organization or specific programs. Check the CRA guidelines on fundraising and the resources listed below for more information on allowing outside agencies to raise money on your behalf.

Donations and receipting can be complicated when events or products are involved. When the donor is offered a product or service in exchange for their donation, the organization should become familiar with split-receipting and how to determine the value of a donation. The general principle is that if a person receives a gift or benefit for their money the value of that gift or benefit should be deducted from the value of the money or property for the purpose of the donation receipt.

Example:

Ticket for fundraising dinner:	\$100
Cost of dinner:	- \$30
Donation Receipt:	\$70

In the same way that businesses and governments must take steps to protect the personal information of their clients, charities and non-profits must take ensure that identity and financial information is secured and only used appropriately.

Managing Contracts and Funding Agreements

It is important for the board members to know what obligations the organization is bound to by contracts or agreements. Board members should request copies of all project proposals and funding agreements regardless of the structure of the board or their role in managing contracts and agreements. The board will be responsible for ensuring the organization completes the work and meets the reporting requirements and deadlines. Having copies of the work plans and budgets can be important when making decisions about expenses, staffing and performance reviews.

Fiscal Responsibility and Financial Accountability

No matter where an organization gets funding, board members are responsible for ensuring the money is spent wisely and within the mandate of the organization. While it helps to have a treasurer with bookkeeping or accounting skills it may not be necessary for many smaller organizations. Having clear policies, being organized and keeping a system of checks and balances can help board members stay on top of the finances. Charities must be aware of their financial reporting requirements to the CRA Charities Directorate. There are many helpful resources to explain how to complete the Annual Information Return (T3010).

Authorizing expenses

Most organizations require board members to authorize expenses. The bylaws generally require one or more board members with signing authority. If your position on the board involves signing authority you should be clear about the types of expenses or contracts you are authorized

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to make on behalf of the organization. For some organizations it may be necessary to authorize the manager or another staff member to make payments for expenses. Giving a staff member signing authority may save time but it should not be done lightly. It requires a great deal of trust and clear policies on the types of expenses and amounts that can be spent without prior approval from the board of directors. Be sure to review the invoices and cheques carefully, ask questions about the expenses and how they relate to specific programs or administration needs. A few precautions may protect the organization from oversights or abuses.

Reviewing financial statements

While many organizations hire an outside auditor to review the accounts at the end of the fiscal year, it is good practice to institute spot checks and internal audits. These informal audits are not only a good idea for preventing fraud or theft but they promote good recordkeeping and errors may be corrected more easily than during a year-end audit. It is also a good opportunity for board members to keep up-to-date on the organization's finances.

Unfortunately, it is common for board members to accept the financial reports submitted by staff or treasurers without ever reviewing the supporting documentation. Taking time to periodically review bank statements or invoices will provide the board with assurances that the money is being spent appropriately and that the financial reports accurately reflect the organizations financial standing.

Audits

Many organizations can benefit from the services of an external auditor. This annual review may or may not be required by funding agencies, but it is a good way to assure the organization's members and donors that you are operating in a responsible manner. An accountant can help identify errors and help set the financial records straight before they impact on the new fiscal year.

Accounting practices

Small non-profit organizations may not have the funding to hire an accountant on a full or part-time basis but they may consider hiring a professional to provide a consultation or training on good accounting practices. An accountant who has experience working with registered charities can help organizations set up their bookkeeping in a way that will meet the requirements of the CRA, Charities Directorate and make it easier to complete the Annual Information Return (T3010B) required by the CRA, Charities Directorate.

For more information:

Charity Central

www.charitycentral.ca

Charity Village: Fundraising Q&A

www.charityvillage.com/cv/archive/afundqa.html

Charity Village: Sources of Funding

www.charityvillage.com/cv/ires/fund.asp

CRA Guidance: Fundraising by Registered Charities

www.cra-arc.gc.ca/tx/chrts/prtnng/ctvts/thr-eng.html#fund

Public Legal Education and Information Service of New Brunswick:

Charitable Giving

www.legal-info-legale.nb.ca/en/index.php?page=charitable_giving_booklet

The Charities File: Fundraiser's Receipt Book

thecharitiesfile.ca/en/receiptbook

Information on your organization

Understanding how your Organization is Funded

How does the organization raise the money it needs to provide services or programs?

Core Funding:

Grants:

Project Funding:

Gifts and Donations:

Does the organization issue official tax receipts to donors?

Does the organization have policies and documentation that meet the requirements of the CRA?

Fundraising and Events:

Does the organization provide services or the sale of goods to raise money?

Who ensures the proper permits and licenses are secured?

Does the organization purchase event insurance?

Does the organization use the services of professional fundraisers?

Managing Contracts and Funding Agreements

What is the role of the board in ensuring the organization is meeting the obligations it has with regard to contracts and funding agreements?

Does the board regularly request and review copies of proposals, work plans and project budgets?

Audits and Financial Accountability

Who has signing authority on behalf of the organization?

What are the policies or procedures that set the limits for the individuals with signing authority?

Does the board routinely review financial statements and perform internal audits?

Does the organization have an external audit completed at the end of the fiscal year?

What training or experience do the staff and board members have with regards to bookkeeping and accounting practices?

Registered Charity Status

Much of the information and recommended practices in this guide apply to both non-profit and registered charities. However, there are additional considerations when sitting on the board of a registered charity.

Registering for Charity Status

There are several reasons why an organization may choose to apply for registered charity status. Charities have tax exemptions on their income under the **Income Tax Act** and may qualify for a partial rebate on the GST/HST they pay when purchasing goods and services. Only registered charities can issue official tax receipts for donations they receive.

If a charity chooses to issue official tax receipts they must ensure the receipts meet the requirements of the CRA and that they are aware of the regulation on how receipts are issued and recorded. These tax receipts allow the donor to reduce the amount of tax they pay on their own income. This can make donating to a registered charity more attractive to some donors. Individuals and organizations may also have greater confidence when donating money to a registered charity because of the reporting requirements and regulation of the CRA.

Registered charities may also have greater access to funding programs or grants. The **Income Tax Act** allows charitable organizations and foundations to give money to other charitable organizations. Many funding programs require that the applicants have registered charity status to qualify for funding.

Requirements for Registered Charity Status

The first requirement to qualify for registered charity status is that the organization must be a charity. Although the term charity is often used to describe any organization that does good deeds, the common law defines a charity as an organization which focuses on one or more of the following mandates:

- the relief of poverty;
- the advancement of education;
- the advancement of religion; or
- certain other purposes that benefit the community in a way the courts have said is charitable.

Organizations that apply for registered charity status must make a commitment to only undertake activities or expenses which help the organization achieve the charitable goals outlined in their application. For this reason, board members should review the organizations mandate and ensure that the activities and services provided by the organization still fall under that mandate.

Charitable organizations must be legal entities and can be established as a corporation, a trust or under a constitution. Information on the organization's directors and governing documents must be submitted when the organization applies and the CRA requires notification of any changes after the organization is registered.

A charity will not qualify for charity status if it provides a benefit or profit to the directors or shareholders of the organization beyond what would be considered reasonable compensation for services provided. Political organizations are not considered charitable and charities must limit the amount of political activity they are engaged in. Illegal activities or purposes which are contrary to the laws and policies of Canada are also grounds for disqualifying an organization.

Maintaining your Organization's Charity Status

If your organization has charity status, your responsibility as a board member is to maintain that status. With the benefits of charity status come a number of obligations. In addition to staying within your charitable mandate, charities are responsible for providing information to the CRA and following guidelines for fundraising and expenses. Filing your Annual Information Return is critical to keeping your charity status. The CRA requires an Annual Information Return (Form T3010) six months after the organization's fiscal year ends. This is not an income tax form; the information they are collecting is not used to assess taxes. The information helps the CRA determine how the organization raised money to support its activities and the types of expenses incurred. The CRA requires organizations to provide the following information:

Identification – The CRA requires basic information including any changes to the name, location or web address of the charity.

Directors/trustees and like officials – The CRA needs to know who is legally responsible for the organization. Although directors are required to provide addresses, phone numbers and birthdates this information is confidential and is never made public.

Programs and general information – This section allows you to tell the CRA, and subsequently the public, about the programs and services your organization provides. This section also asks for information about your fundraising activities in the previous year.

Financial information – The CRA requires general information about the organization's revenues and expenditures and the financial position of the organization at the end of the fiscal year.

Certification – A director/trustee or officer of the organization with signing authority must certify

that the information in the return is accurate. The person signing the form is expected to take reasonable steps to ensure the information is accurate and complete before signing the form.

Confidential data – The CRA has the right to conduct audits of charities and organizations are required to provide information about the location of the charity's books and records and who completed the T3010 return.

The form also has a number of schedules which must be completed if they are relevant to your organization. These schedules ask for additional information on:

- foundations
- charities operating or funding activities outside of Canada
- information on professional fundraisers and donors who are not Canadian residents
- non-cash gifts donated to the charity
- detailed financial information
- information on directors/trustees and like officials
- donations made by your organization to other individuals or organizations.

Once your return has been processed by CRA you will receive a letter with your organization's disbursement quota for the coming year. The disbursement quota is the minimum amount of money you are required to spend in the current fiscal on charitable programs. The general rule is that the amount will be 80% of the receipted donations you received in the previous fiscal. While the CRA will do the calculations based on your T3010 your bookkeeper or accountant should be generally familiar with the rules and exemptions. The CRA website and other resources provide more detailed information on this subject.

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Financial Accountability

While bookkeepers, accountants and treasurers are the individuals keeping records and completing the forms, it is the board of directors as a whole who must ensure the information is completed accurately and submitted on time. If you have concerns about the information being submitted to the CRA or the financial management of the organization consider contacting an accountant or the CRA for guidance. You may also consider seeking training opportunities and resources to help your organization properly maintain the appropriate records.

Keeping Accurate and Complete Records

Charities are required to keep records and documents for audit purposes. These records should be organized and safely stored to make the auditing process easier for everyone. While it may be helpful for volunteer treasurers or secretaries to have the records at their home, it is a good idea to have a back-up copy of the files kept at the organization's head office. The organization's minutes must be maintained and changes to the governing documents should be properly documented. The following chart outlines how long some of the organization's documents must be kept.

Audits

When the CRA processes your annual return it is not performing an audit. Organizations can be selected at random for an audit. Other organizations may be selected for an audit because the Charities Directorate is reviewing specific legal obligations relevant to the organization. The CRA may also order an audit in response to concerns or complaints about a specific organization. If a charity has its status revoked, the CRA may conduct an audit after the fact to ensure that the organizations assets have been properly distributed.

Length of time	Records which must be maintained
Keep these records for 2 years	Copies of official donation receipts
Keep these records for as long as the organization has registered charity status plus 2 years	Records of 10-year gifts Minutes of directors/trustees/executive meetings Minutes of Members Meetings All governing documents and bylaws
Keep financial records for 6 years from the end of the last tax year to which they relate.	General Ledgers Financial Statements and Documents Copies of the T3010 Annual Information Return

Letters, Sanctions and Revocations

When the CRA becomes aware of an organization's error or failure to comply with the ***Income Tax Act***, or the guideline and policies of the Charities Directorate they may take one of more of the following actions.

Education letter – A letter informing the organization of a problem and instructing the charity on how to correct the error.

Compliance agreement – Where a charity has made an error or oversight, the Charities Directorate may enter into a written agreement with the organization to have the appropriate action taken within a specific timeframe.

Sanctions – The Charities Directorate can impose a financial penalty or other sanctions including suspension of the organization's ability to issue donation receipts or to accept gifts from other charities.

Revocation – The revocation of an organization's charity status is not taken lightly. It is generally reserved for serious transgressions or organizations with numerous or repeated compliance issues. Losing registered charity status means the organization is not permitted to issue donation receipts, is no longer tax-exempt, and may be required to pay a tax that is equal to the value of the organization's total assets.

Some organizations which have had their charity status revoked are able to reapply and regain registered charity status. There is a great deal of time and some expense that is incurred when applying for charity status. The organization must meet the CRA's current eligibility criteria. Some organizations that were registered previously would no longer qualify under the current criteria and would not be able to regain charity status.

Voluntarily withdrawing from registered charity status

Charities which are winding-down operations or have found that the obligations and regulations outweigh the benefits to their organization may apply in writing to have their charity status voluntarily revoked. An organization considering this type of transition should consult with the CRA, a charities lawyer or accountant to discuss the process and implications of withdrawing.

Information on your organization

Maintaining your Organization's Charity Status

Reviewing the organization's previous T3010 forms can give you a good overview of the organization and its activities in recent years. Have you reviewed the organization's T3010 forms?

Much of the information submitted on the T3010 is made available to the public and can be found on the CRA website. Does the information available online clearly reflect the organization's current activities and mandate?

Keeping Accurate and Complete Records

Small charities which do not have office space may have listed a board member's address as contact information for the CRA. Does the CRA have current contact information for the organization?

Where are the records of the organization kept?

Letters, Sanctions and Revocations

Has the organization had compliance issues in the past?

For more information:

Capacity Builders

www.capacitybuilders.ca/clip

Charity Central

www.charitycentral.ca

CRA: Books and records

www.cra-arc.gc.ca/tx/chrts/prtnng/bks-eng.html

CRA: Charitable purposes and activities

www.cra-arc.gc.ca/tx/chrts/pplng/cpc

CRA: Penalties

www.cra-arc.gc.ca/tx/chrts/plcy/csp/pnlts-eng.html

Leaving the Board of Directors

Winding-Down an Organization

There are a number of reasons why an organization may choose to shut down its operations or to merge with another organization. Organizations may have made a shift in the programming, funding, or mandate and the board of directors may no longer feel the organization is viable or productive. Whatever the reason, the board of directors involved in the winding-down of an organization should take great care to make sure the proper steps are taken and assets are appropriately distributed.

Directors should invest in advice from a lawyer, accountant, the CRA and/or the provincial or federal agency under which they are incorporated. There are specific requirements for giving notice, dealing with the assets, taxes, and the length of time the organization must keep different financial and governing documents. The board members involved in the winding-down or merger may put themselves at risk of liability if they do not take the appropriate steps.

Leaving a board of directors does not necessarily mean leaving behind your liability. Individuals can be held responsible for the actions or inaction during the time they served as part of the board of directors. If your reasons for leaving the board involve concerns about the practices or decisions of the board you may be wise to reference these objections in your letter of resignation. If you are concerned about your personal risk of liability you should seek legal advice.

Resigning or Ending a Term on a Board

Some organizations have life-long board members but most directors will come and go from the organization. When you are leaving a board, regardless of whether you are at the end of a fixed term, being replaced by a newly elected member or

resigning your post, there are steps you can take to help with the transition.

Infrequently a board may ask a board member to resign or will remove the member from the board of directors because the person has come into conflict with the organization's bylaws or rules. Removing board members can be a delicate situation and could potentially damage the organization's reputation or the individual's status in the community. If board members understand their roles and responsibilities, organizations may rarely, or never, need to remove members. However infrequently the situation arises, it can pay to have clear expectations and a removal process outlined in your by-laws. When an organization has a change in board members it is important that the change be recorded with the provincial or federal agency under which they are incorporated. Registered charities must remember to list all directors serving on the board during the fiscal year they are reporting on in the annual return for the CRA.

The board may implement training and orientation for new board members; however, parting members can be an important source of information and experience. As you begin your role as a new board member, make note of the tips and information that made it easier for you to take on this new responsibility. As you prepare to leave the board, consider passing along resources such as this guide and the **Welcome Aboard** video to your replacement or other new board members.

For more information:

CRA: Making Changes

www.cra-arc.gc.ca/tx/chrts/prtnng/chngs/menu-eng.html

Guide to Law for Non-Profit Organizations in Atlantic Canada

www.legal-info-legale.nb.ca/en/non_profits

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Other Resources

ACLE

www.envision.ca
www.atlanticcharities.ca

Board development training, accountability & governance in the Canadian Voluntary Sector
www.boarddevelopment.org

Canada Revenue Agency: Charities and Giving
www.cra-arc.gc.ca/tx/chrts/menu-eng.html

Canadian Association of the Deaf: Compliance in the Disability Charity Sector
www.cad.ca/en/projects/cra

Canadian Council for International Co-operation
www.ccic.ca

Capacity Builders
www.capacitybuilders.ca

Centre Point: Advancing Nonprofit Management
www.thecentrepoint.ca

Charity Central
www.charitycentral.ca

Charity Tax: Imagine Canada
charitytax.imaginecanada.ca

Charity Village
www.charityvillage.com

Community Futures South Fraser: BC Centre for Social Enterprise
www.centreforsocialenterprise.com/index.html

Cultural Human Resources Centre
www.culturalhrc.ca

Educaloi
www.educaloi.qc.ca/en

Global Philanthropy
www.globalphilanthropy.ca

HR Council for the Voluntary and Non-Profit Sector
www.hrcouncil.ca

Imagine Canada
www.imaginecanada.ca

Industry Canada:
www.ic.gc.ca

Legal Information Society of Nova Scotia
www.legalinfo.org

Mount Royal College, Institute for Nonprofit Studies
www.charityfilingguide.ca

New Brunswick Corporate Registry
<https://www.pwx1.snb.ca/snb7001/e/2000/2500e.asp>

Public Legal Education and Information Service of New Brunswick
www.legal-info-legale.nb.ca

Public Legal Education Association of Saskatchewan
www.plea.org

The Charities Files
www.thecharitiesfile.ca
www.youtube.com/user/TheCharitiesFile

Volunteer Canada
www.volunteers.ca

Women on Boards: A guide to getting involved
www.caaws.ca/e/leadership/boards

Notes

Welcome Aboard

Notes

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Feedback Survey

Your feedback on this publication is very important to us. It was developed to help board members understand their role and responsibilities. How well did we do?

Please take a few minutes to answer these questions.

1. Please tell us about yourself:
 - ☐ I am a board member.
 - ☐ I am thinking about joining a board.
 - ☐ Other:

Province:

2. The information in this publication was
- ☐ helpful
 - ☐ somewhat helpful
 - ☐ not helpful

Comments:

3. PLEIS-NB strives to provide publications in plain language so that the information is clearly explained. The information in this publication was:
- ☐ easy to understand
 - ☐ somewhat easy to understand
 - ☐ difficult to understand

Comments:

4. Please rate your understanding of the role and responsibilities of a board member.

A) **Before** using this handbook:

1 2 3 4 5 6 7 8 9 10
Very Little Very Knowledgeable

B) **After** using this handbook:

1	2	3	4	5	6	7	8	9	10
Very Little					Very Knowledgeable				

5. Has this handbook increased your awareness of the regulations and reporting requirements for non-profit and registered charity organizations?

- ☐ yes
- ☐ maybe
- ☐ no

Comments:

6. Did you use find the questions in the “Information on your organization” sections helpful in gathering information specific to your organization?

- ☐ helpful
- ☐ somewhat helpful
- ☐ not helpful

Did you use the handbook to record information about your organization?

- ☐ yes
- ☐ no

Comments:

Feedback Survey

7. Would you recommend this publication to others who are board members or are thinking about joining a board of directors?

- ☐ yes
☐ maybe
☐ no

8. This publication is distributed by many organizations and departments. Where did you receive this copy?

- ☐ Public Legal Education and Information Service
☐ Other:

How did you access the guide?

- ☐ I received/ordered a copy
☐ Online

Comments:

9. General comments or suggestions?

Comments:

Thank you for taking the time to provide this feedback.

Please send your comments to



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Available Products

Visit our website or contact PLEIS-NB for other free products available in the *Welcome Aboard* Series.

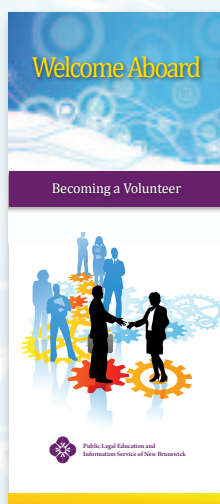
Welcome Aboard - The Role and Responsibilities of Board Members (DVD)



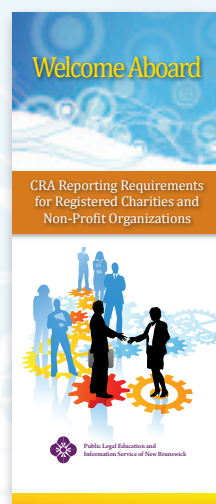
Welcome Aboard Pamphlets



Becoming a Board Member



Becoming a Volunteer



Reporting Requirements of Registered Charities and Non-Profit Organizations



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