



# The Farmers' Cooperative Yardstick

## Boards of Directors for Farmer Cooperatives Powers—Responsibilities—Liability

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Within the bylaws approved by members, a cooperative's board of directors is elected as the organization's governing body. Acting as a group, the directors employ the manager, establish specific operating policies, and supervise the management of the cooperative. The directors are the members' elected representatives.

If you are elected to a board-level position, you should understand your powers, responsibilities, and liabilities. This fact sheet should help you do so.

### Board Powers

Board members have the power:

- (1) To prescribe the form and maintenance of membership records and to approve memberships.
- (2) To prescribe the form, extent, and nature of financial reports to members.
- (3) To change the bylaws (when the power to do so is vested in the directors).
- (4) To adopt, use, and alter the cooperative's seal.
- (5) To borrow money and issue any required evidence of indebtedness.
- (6) To give services, furnish supplies, and market products for members and patrons, according to the association's purposes as spelled out in the organization papers.
- (7) To commingle association funds from all sources and to decide whether to invest in other cooperatives and/or other businesses.

- (8) To employ and dismiss the general manager and determine his/her responsibilities, duties, and compensation.
- (9) To determine which employees are to be bonded, fix the amount of their bonds, and provide for adequate insurance protection for all facilities, equipment, and personnel.
- (10) To keep records of all board meetings.
- (11) To call special board meetings.
- (12) To elect officers of the board, remove them for cause and fill vacancies. (In some states, members elect board officers directly).
- (13) To provide for the installation of an accounting system.
- (14) To employ an auditor.
- (15) To establish rules and regulations regarding the transfer of memberships and of other evidences of equity in the association.
- (16) To issue and sell stock or other evidences of equity.
- (17) To determine the manner, form, and amount of patronage refund.
- (18) To declare dividends on stock and patronage refunds on business volume.
- (19) To enter into contracts, sue, and be sued.
- (20) To formulate and evaluate general and internal operating policies both for the short run and the long run.

## Board Responsibilities

Board members have the following responsibilities:

- (1) They have both a moral and legal responsibility to serve the best interests of the members whom they represent, rather than their own individual interests.
- (2) They have authority as a board in a duly called meeting and not as individuals.
- (3) They are responsible for hiring the best trained and most efficient manager that they can and for creating the best possible working conditions for him or her that are compatible with the members' interest and the co-op's success.
- (4) They should not interfere in the business' day-to-day operation but, with the membership, they should determine operation policies and should check that these policies are carried out.
- (5) They must know and understand the association's financial operations and satisfy themselves that accurate records are kept.
- (6) They should inform the membership about the cooperative and keep the entire organization ready to serve and respect the membership.
- (7) They should maintain the cooperative as an efficient business institution worthy of the good will of the community and area it serves.
- (8) Remuneration to any director should maintain the cooperative as an efficient business institution worthy of the good will of the community and area it serves.
- (9) No member of a director's family, either by birth or marriage, should be employed by the cooperative. Members should approve any exception at a regular meeting.
- (10) Directors should receive no preferential treatment when receiving association services.
- (11) No director should have a financial interest in private facilities or businesses providing supplies or services to the cooperative or competing with it.
- (12) Credit should not be extended to directors because they have to enforce the credit policies.
- (13) Directors have a responsibility to further their knowledge of and training in management and to familiarize themselves with the state's co-op laws, and their co-op's articles of incorporation and bylaws. Every director should have a copy of each for ready reference.

## Board Liability

It is possible for board members to be sued for certain acts committed against the members' best interest. To prevent such lawsuits, the board must act as a body, and the minutes should reveal the circumstances surrounding each of the board's decisions. Withholding information from members might serve as a basis for lawsuits.

Cases where directors have been held personally liable for their conduct as directors are based on one or more of the following:

- Breach of trust
- Negligence
- Acts in excess of their power
- Fraud
- Misappropriation or conversion of the cooperative's assets.

A director would not be personally liable for poor business judgment. The law recognizes that directors can make human errors. A director is not liable to his cooperative, unless damages to the cooperative can be proven to be a direct result of his or her acts or negligence.

Liability is addressed in more detail in **Kentucky Revised Statutes** Chapter 272, Section 272.321.

## Board Size

Incorporation law normally sets the minimum number of cooperative members serving on the board of directors. An extremely large board is cumbersome, slow, and expensive, while a small board is more vigorous, quick, and effective. Generally, small boards will have more frequent and more effective meetings.

## Board Officers

The board officers are usually elected from the board members. Board members are elected by members of the co-op. Board officers are:

- The president, who presides at all meetings, carries out the members' will, and watches over the association's affairs.
- The vice president, who takes over the president's responsibilities in the latter's absence.
- The secretary, who is sometimes also the treasurer. He/she serves as secretary for the board and general membership meetings. Responsibilities include:
  - Keeping the minutes and records and attending to correspondence.
  - Being official custodian of the cooperative's seal, the stock book, and the membership records.
- The treasurer, who keeps watch over the bookkeeping and accounts to ensure accuracy and proper handling. He/she also makes periodic reports.

## Board Election Procedures

The procedures for nominating and electing board members may include nominations from the floor, use of nominating committees, members' caucuses, nomination petitions, or mail ballots.

Nominating committees are recommended because making nominations deserves careful and considered judgment. Tips about the nominating committee:

- It should be set up before the regular annual business meeting and should prepare its slate before the meeting.
- Directors, the manager, or staff members should not be on the nominating committee.
- Former directors usually make good members for the nominating committee.
- The nominating committee should be elected by the members to serve during the coming year for the next regular annual business meeting.
- It should have a minimum of three and a maximum of five members.
- It must be familiar with the qualifications for directors laid down in the law and in the co-op's articles and bylaws.
- It is better for the nominating committee to bring in extra candidates or a double slate, so as to require an election.
- The membership should be told the names of nominees before the meeting, so they can think about the election carefully.
- Members should always have plenty of opportunity to nominate from the floor.

## Board Tenure

Board members' length of service should be regulated in some way to avoid extremely long tenures. One recommendation might be to limit service to two or three 3-year terms. After an absence of one year or more, board members could be subject to reelection.

Another plan, more unique, merits consideration. All directors are elected for one year. Subsequently, the existing board is renominated, but only the two-thirds of its members receiving the largest number of votes is retained. The other one-third of the board membership is chosen from a slate of new candidates.

This type of rotation plan accomplishes several things:

- It protects an association from having the entire board change at one time, even though all directors are elected for one year and all terms expire simultaneously.
- It enables an association to get rid of a poor director in one year, rather than be stuck with him for three years,

by enabling the membership to diplomatically rotate undesirable directors off the board promptly.

- It enables an association to constantly upgrade its directors by retaining its strong board members indefinitely rather than rotating them off the board automatically at the end of some predetermined period.

## Board Policies

On taking office, a co-op board must define policies including:

**(1)** Finance policy, which includes determinations of equity and creditor capital, revolving funds, rates of expansion or contraction, operating budgets, construction programs, etc.

**(2)** Service policy, which includes the type and scope of services to be offered or provided the membership.

**(3)** Pricing policy, which includes markup practices, quantity discounts, etc.

**(4)** Credit extension policy, which includes the type and terms of credit extended, credit application procedures, collection methods, etc.

**(5)** Membership relations policy, which includes newsletters, member grievances, etc.

**(6)** Public relations policy, which includes joining trade groups and co-op councils, working with youth groups, releasing information, etc.

**(7)** Employee relations policy, which includes salary and wage scales, incentive and training programs, promotions, fringe benefits, collective bargaining, etc.

**(8)** Internal operations policy, which includes the status and organization of the business, operating and technical records, etc.

**(9)** Management development policy, which includes a program of seminars, courses, workshops, etc., for the managerial staff and directors.

## Board Functioning

Suggestions as to how a board should function include:

- (1) Have regular meetings, usually monthly.
- (2) Select a good president or chairperson and expect him or her to take the time to plan each meeting in advance.
- (3) Insist on attendance. Pay directors' expenses for meetings, but do not pay them when they do not attend.
- (4) Insist on good minutes. It is not necessary to write down everything that is said, but understandable records of all actions are essential.
- (5) Do not waste time on minor details. A board that spends its time approving bills, etc., is lost. The time to control expenses is before they are incurred, not after the bills have arrived.
- (6) Insist on a regular report, including financial statements, from the management.
- (7) Use special committees to look into particular problems when the need arises. Use standing committees to keep abreast of certain ongoing concerns, such as finance, membership, etc. The work of active committees saves the time of other board members.
- (8) Prepare an agenda before every meeting. Circulate it, together with relevant facts, to board members before the meeting.

*See your County Extension Office for the entire series of publications on agricultural cooperatives.*