



CANADA

# Governance for Not-for-Profits and Sport Organizations

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# Governance



# Agenda

- What is Governance?
- Governance Models
  - Advisory Board Model, Management Team (Operational) Model, Current Governance Model, Policy Board Model
- Governance Basics
  - Board as the Steward, Board Main Functions, Corporate Structure
- Legal View
  - Fiduciary Duty, Conflict of Interest, Duty of Care
- Board Operation
  - Board Meetings, Decision Making Process, Committees and Charters
- Board Members
  - Defining the Needs, Choosing the Rights Members (Skills Matrix), Director Assessment
- Board Member Code
- References

# Governance - Definition



**governance** *noun*  
the activity of controlling a corporation or an organization; the way in which a company or institution is controlled

# Governance - Purpose



**“The purpose of governance is to ensure, usually on behalf of others, that an organization achieves what it should achieve while avoiding those behaviors and situations that should be avoided.”**

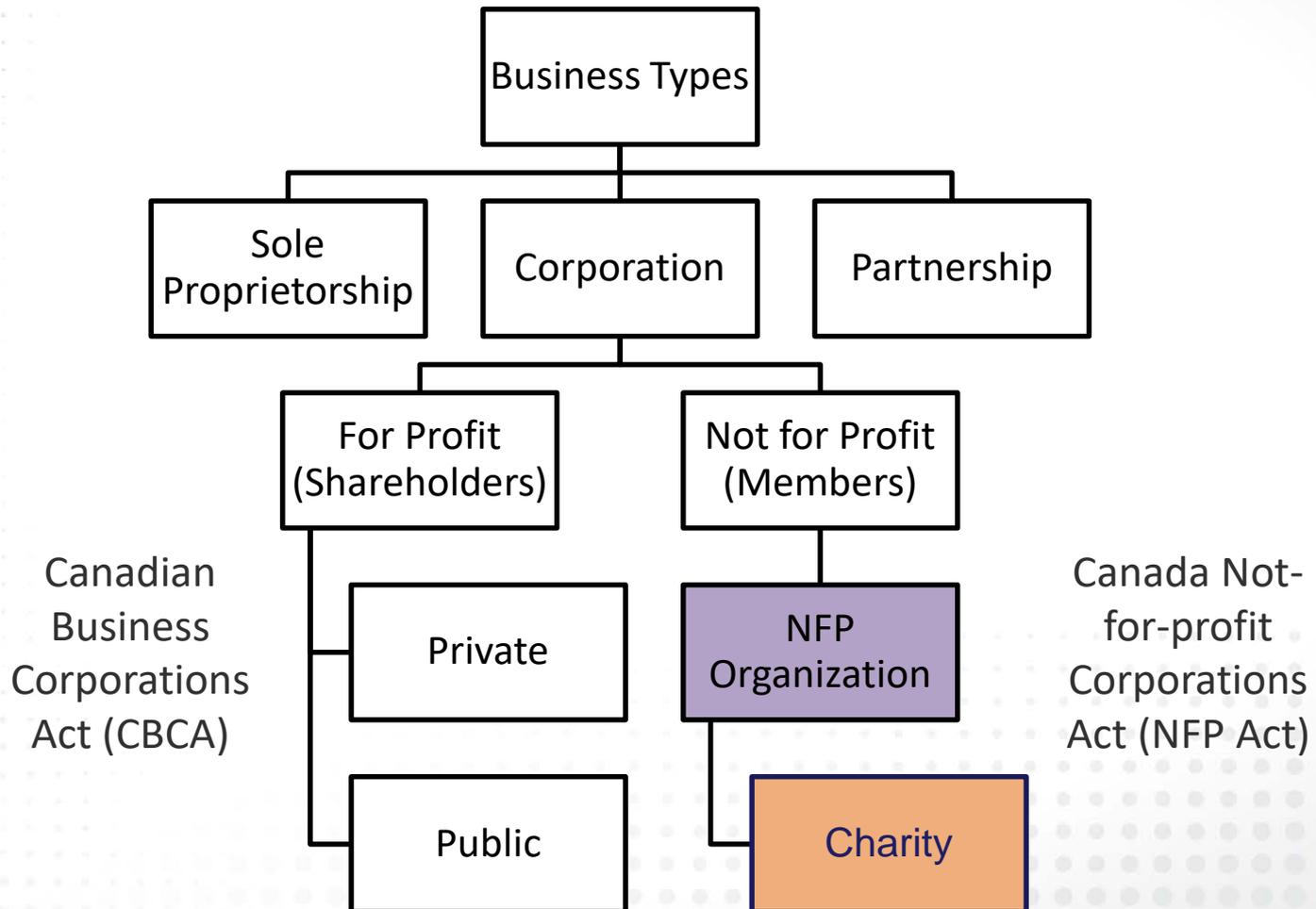
Source: “Boards That Make a Difference.”, John Carver



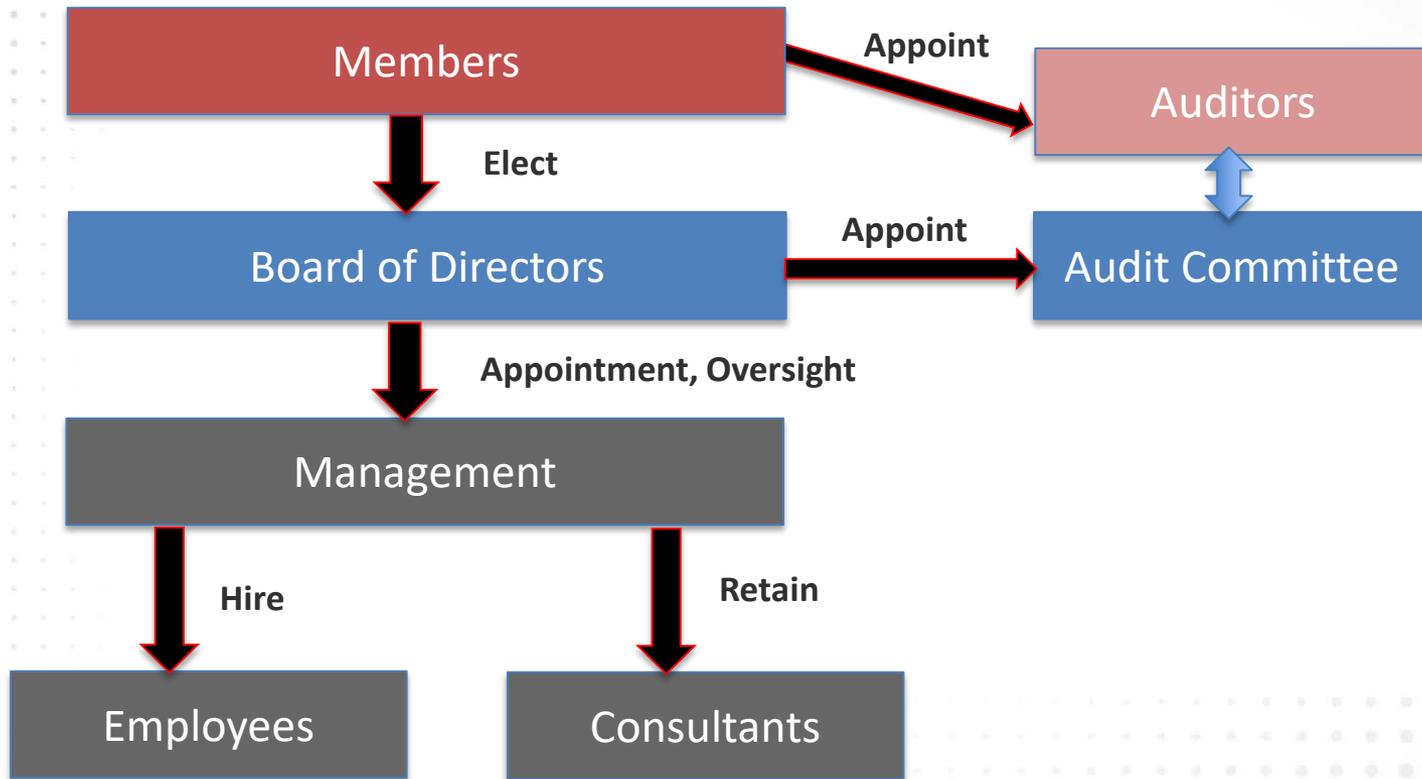
# Why is Governance important?

- All stakeholders benefit from good governance:
  - **Members**: More likely that the organization will deliver the programs and services to enable success.
  - **Funders**: Confidence that the funding will produce agreed results with low risk of fraud or misappropriation.
  - **Staff**: More stability and fairness in the organization.
  - **Partners**: Better interactions and higher probability of positive outcomes.
  - **Organization**: Higher credibility, more successful.

# Types of Organizations



# The Not-for-Profit Corporation



# Governance Models

- Advisory Board Model
- Management (Operational) Model
- Governance Board Model
- Policy Board Model

# Advisory Board Model

- Emphasizes the helping and supportive role of the Board and often occurs when the CEO/President is the founder of the organization.
- Role: Helper/advisor to the CEO/President.
- Skills: Trusted advisor, professional expertise, bring credibility and contacts.
- Meetings: Informal and task-oriented, agenda developed by CEO/President.
- Issues: Members can attract liability if they are deemed to be the board of directors. By law, the board has obligations and responsibilities and must maintain the senior position to the CEO/President.

# Management (Operational) Model

- Board and committee structure mirrors the functional lines of the organization. In small organizations, the board committees become the managers in the administration. Can work well for all-volunteer organizations.
- Role: Board members as doers in the organization.
- Skills: Functional skills to manage a specific area.
- Meetings: Informal and task-oriented.
- Issues: Tends not to work well in organizations with management and full-time employees. Can quickly become the Micro-Management Team Model with board members refusing to delegate authority. Often results in lack of consistency in decisions, dissatisfied board members, resentful staff and dangerous lack of attention to planning and accounting matters.

# Governance Board Model

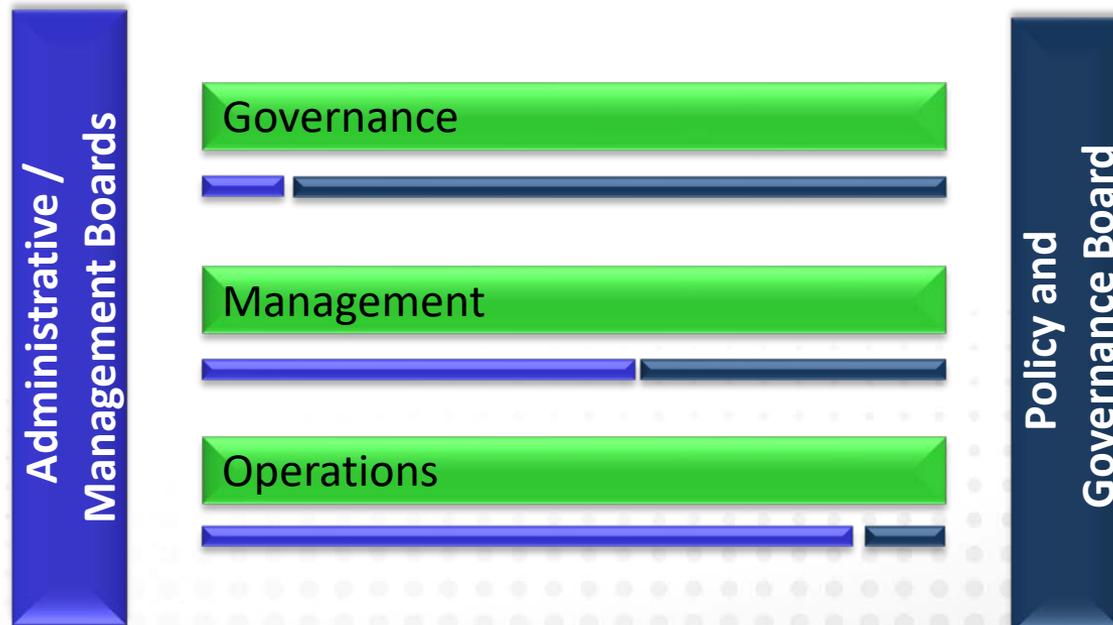
- Best practices for corporate governance today are defined by a mix of legal obligations (legislated) and a body of knowledge developed by a number of leading organizations like Imagine Canada.
- Role: The job of the board is:
  - To establish the structure, processes and policies to fulfill their oversight duties
  - To delegate responsibility and authority to those responsible for enacting the principles and policies (committees and management)
  - To monitor compliance with agreed principles and policies
  - To ensure that staff AND board are held accountable for their performance
- Skills: Trusted advisor, professional expertise, bring credibility and contacts.
- Meetings: Full board meetings on a scheduled basis, with reliance on committees to the extent necessary to fulfill obligations.
- Issues: Considered best practice for most organizations.

# Policy Board Model

- Developed by John Carver more than 20 years ago and generally the model advised for all large publicly-traded corporations.
- Role: The job of the board is:
  - To establish the guiding principles and policies
  - To delegate responsibility and authority to those responsible for enacting the principles and policies
  - To monitor compliance with those principles and policies
  - To ensure that staff AND board are held accountable for their performance
- Skills: Trusted advisor, professional expertise, bring credibility and contacts.
- Meetings: Full board meetings on a scheduled basis, not much reliance on committees.
- Issues: Considered best practice for significant organizations but not yet widely implemented. Seldom used for small not-for-profits.

# How Operational is your Board?

- Do you have staff resources? Volunteer resources?
- Is there a CEO in place?
- Is the board managing or operationally running the organization?



# Governance Models - Summary

- Many small organizations, especially not-for-profit corporations, commence operations with the board members being very hands-on during daily activities.
- Larger organizations naturally require much more structure and rigorous process and as a result tend toward the Carver Policy Model over time as they mature.
- Mid-sized organizations need to strike the balance between having sufficient structure and process in place to enable effective governance while also being mindful that too much heavy governance is not efficient (or often required) for a well-run organization.
- While many organizations aspire to the Carver Policy Model, it is generally not appropriate until the organization has achieved sufficient scale. Management needs to be robust enough to fully operate without regular help from the board.

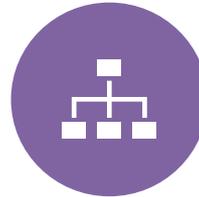
# Board as Steward of Corporation



STRATEGIC  
PLANNING  
PROCESS



RISK  
IDENTIFICATION  
AND MITIGATION



SUCCESSION  
PLANNING –  
MANAGEMENT  
AND BOARD



COMMUNICATIONS  
POLICY FOR  
CORPORATION



MANAGEMENT  
INFORMATION  
AND FINANCIAL  
CONTROLS

# Boards Have Three Main Functions



Keeping the Right Management in Place

Chief Executive Officer (President, Executive Director, Manager)



Approving the Direction for the Corporation

Strategic plan for the longer term  
Budgets and operating plans for the short to medium term



Monitoring the Operation of the Corporation

Performance relative to budget  
Unexpected/unanticipated expenditures  
Risk mitigation

# Fiduciary Duty

- Required for each individual board member
- Requires Director to act honestly, in good faith and in the best interests of the corporation
- Prevents Director from disclosing confidential information about the corporation (Duty of Confidentiality)
- Obliges Director to share certain information with the corporation (Duty to Disclose)
- Breaching fiduciary duty carries significant ramifications
- Conflict of Interest and doing business with the corporation – *see next slide*
- Irreconcilable differences => Resignation

# Conflict of Interest

- Director does business with the corporation directly
- Director is an officer or director of an entity that does business with the corporation
- Director has a material interest in an entity that does business with the corporation
- Appropriation of corporate opportunity
- Conflict of Interest procedures:
  - Written notice to the corporation
  - Abstain from voting
  - Fair and reasonable transaction
  - (Disclosure and approval by the members)
  - Resignation when necessary

# Duty of Care

- Each Director must exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.
- Requires spending the time necessary to make an informed business judgment.
- Must apply whatever knowledge, education and experience that they have to the business and affairs of the corporation. When particular skills or expertise is required that directors do not possess, seek out experience and expertise from others.
- All directors have the same Duty of Care.

# Engaging all Stakeholders

- **Vision**: A vision statement sets out the long-term desired state of the organization. It is a powerful and bold statement of your preferred future.
- **Mission**: The mission statement clearly articulates what you do for your constituents. It provides a connecting force to remind stakeholders what you stand for.
- **Values**: Values are statements of conviction that express what the organization most believes in.

# Choosing the Right Board Members

## What skills do you need?

- Integrity and Accountability
- Informed Judgment
- Board Experience
- Financial Literacy
- Legal
- Industry Knowledge
- Governance
- Grant Writing and Fundraising
- Marketing and Communications
- Sport Knowledge and Experience
- Leadership Experience
- Government Relations
- Media Relations
- Revenue Generation
- Risk Management
- Strategic Planning
- Technology

# Choosing the Right Board Members

## What perspectives will help?

- Diversity and inclusivity:
  - Gender
  - Geographic region
  - Under-represented groups and minorities
  - Age
  - Sport Level

# Board Meetings



## Notice

To all members  
Reasonable  
timeframe



## Agenda

In advance,  
confirmed at  
start  
  
Consider  
consent agenda  
  
Include time  
for in-camera  
session



## Chairperson and Secretary

Confirmed at  
start of  
meeting



## Conflict of Interest

Declared at  
start of  
meeting



## Conducting of Meeting

Decisions  
(independence,  
unfettered)  
  
No vote by  
proxy  
  
In-person  
versus  
teleconference  
  
Written  
resolutions  
  
In-camera  
meetings



## Minutes and records

# Board Decision Making

- Information
  - Appropriate form and timely
  - Sufficient time to consider the information
  - Ability to ask questions, seek more detail if required
- Process
  - Board independence (from management)
  - Diligence (sufficient information, enough time, right expertise)
- Business Judgment
  - Product of background, experience, insight and instincts of directors to make the best decisions
- The best legal defense is that there was a robust approach to making decisions – the decisions do not always have to be RIGHT!!

# General Recommendations

Board Size: Less than 10 members if possible

Board Meetings: 4 to 6 meetings per year

- Schedule board / committee meetings a year in advance
- Agenda circulated to Board in advance for comment.
- Board materials circulated two business days in advance.
- In-camera session at each board meeting.

Corporate Governance

- Board mandate / responsibilities document reviewed and approved by the board annually.
- Term limits for all board members, often two 3-year terms.
- In-person attendance preferred for board meetings, especially strategy session. Attendance records reviewed annually.
- Term limit for President, Vice President, Treasurer



# Board Committees

## Types of Committee

- Audit/Finance
- Nominating/Governance
- HR/Compensation
- Risk Management
- Executive Committee
- Specialized and Temporary

## Structure

- Charter (Terms of Reference) defined and approved by the Board
- Members selected by the Board, can include non-Board members
- Report to the Board
- Chairperson chosen from members of committee

## Best practices

- Charter reviewed and members refreshed annually



## Governance:

- Bi-annual review of major policies (e.g. expense/travel, conflict of interest, external communications, etc.)
- Annual board effectiveness / evaluation on-line survey and recommendations to the board

## Nominating:

- Board and committee skills matrix to assist in recruiting of new board and committee members
- Annual board member update and orientation session.

Recommendations - Committees

### Audit and Finance:

- Bi-annual review of major policies (e.g. expense/travel, conflict of interest, external communications, etc.)
- Chair is often also the Treasurer

### Risk Management:

- Assesses the major risks for the organization and monitors changes periodically.
- May be combined with the Audit and Finance Committee.

Recommendations - Committees

### HR/Compensation:

- Annual performance review of CEO or Executive Director.
- Sets policy for salary and perq changes.
- Responsible for succession planning for CEO or Executive Director and oversight of succession for senior staff.

### Executive Committee:

- May be required in Board gets too large.
- Can be beneficial but also adds complications.

Recommendations - Committees

# Recommendations - Committees

## Advisory or Technical Committees:

- Often used in organizations to bring in more technical expertise for guidance and advice.
- Should generally report into management but Board may want to oversee the formation and policies.
- Common Advisory Committees in Sport organizations:
  - Sport Development (Athletes, Officials, Coaches and Competitions)
  - High Performance Development

# Performance and Succession

- ❖ The CEO should have a performance review annually measured against the annual Operating Plan and achievement of annual objectives.
- ❖ Complete an annual review of the mandate and succession plan for the President, VP, Treasurer, CEO and committee Chairs.
- ❖ Ensure that the CEO has completed a performance review and outlined a succession plan for all senior staff members.
- ❖ Ensure that there is an emergency succession plan in place for all key roles.

## Other Recommendations

- ❖ Secure, On-line Information Repository
  - ❖ All past agendas, minutes, presentations, reference materials.
- ❖ Ensure that Terms of Reference for Board and Committees are drafted, reviewed, and approved by the Board and included in the Board Manual.
- ❖ Annual strategic review of organization with full-day off-site session for board and senior management. Outcome: Strategic Plan (3 to 5 Year Outlook).
- ❖ Management should prepare an annual Operating Plan (deliverables for the year) in conjunction with the Budget preparation – Board should review and approve.

1. Manage the Business and Affairs of the Corporation
2. Function as a Trustee and Consultant
3. Take the Job Seriously and Do It Well
4. Do What is Right
5. Support Those Who are Worthy
6. Use the Board Routines and Infrastructure
7. Get the Information You Need
8. Build Good Relationships Within the Board
9. If Necessary, Rock the Boat

# The Board Member Code



# Policy Suggestions

- Privacy Policy
- Conflict of Interest Policy
- Ethics and Code of Conduct Policy
- Appeals Policy
- Employment Policy
- Harassment Policy
- External relations Policy
- Signing Authority / Delegation Policy
- Fundraising Policy
- Social Media Policy
- Travel and Expense Policy
- Emergency Succession Policy

# References and Reading Material

- “Governance Models: What’s Right for Your Board”, Nathan Garber, 1997.
- “Boards That Make a Difference – A New Design for Leadership in Nonprofit and Public Organizations. 3<sup>rd</sup> Edition”, John Carver, 2006
- “Corporate Boards That Create Value Governing Company Performance from the Boardroom.”, John Carver and Caroline Oliver, 2002.
- “Corporate Governance – What Directors Need to Know”, Carol Hansell, 2003
- [PolicyGovernance.com](http://PolicyGovernance.com)
- [ImagineCanada.ca](http://ImagineCanada.ca) (Standards Program) – updated 2018
- [ClubExcellence.com](http://ClubExcellence.com)







# Claude Haw Background

- Claude Haw, P.Eng, ICD.D is Executive Lead for the Strategy & Governance practice at Business Sherpa Group where he works with not-for-profit and sport organization and owner/operator corporations. He is also President of Venture Coaches, a private management consulting and investment company. Leadership development is also an area of focus.

- Over the past 20 years, Claude has served on more than 35 boards, including 10 not-for-profit organizations, and chaired most committee types. Claude is a board member, Vice-Chair and Governance committee Chair at Public Services Health and Safety Association (PSHSA) and also serves on three other boards. From 2009 to 2011, he was President and CEO of OCRI (now Invest Ottawa), Ottawa's lead economic development agency. He has more than 40 years of experience in a variety of technical, general management, advisory and investment roles in the technology and not-for-profit sectors.

- Claude is a charter member of TiE Ottawa, a global network of entrepreneurs and professionals. He received the TiE-Ottawa Contribution to Entrepreneurship award in 2017. He is a founder and President of Mindtrust Inc., a youth leadership development organization with more than 850 alumni. He completed the ICD Director Education Program and attained the ICD.D designation in 2012. Claude received the Queen Elizabeth II Diamond Jubilee medal in 2012 for contribution to innovation in Canada and the City of Ottawa Mayor's medal as an Agent of Change in 2010.

- More information available at: [ca.linkedin.com/in/claudehaw](https://ca.linkedin.com/in/claudehaw)

