

## Topic: Library Board By-laws

### 1.30 Liability of Board Members

Board Motion Number:	<b>23.029</b>
Date of Original Board Motion Number:	<b>October 22, 2007</b>
Date of Current Issue:	<b>May 23, 2023</b>
Date of Next Review:	<b>2027</b>
Attachments:	

Signature of Board Chairperson (and Date):

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North Kawartha Public Library Board members are “Directors” in the sense that they deliver library services and thus their duties and liabilities must be considered. (Please refer to the Library Board Orientation information provided in the SOLS Governance Hub.)

1. The ‘Standard of Care’ required of Directors comes from the “common law” and encompasses the following:
  - Honesty- A Director must act honestly, in good faith and with a view to the best interests of the Library. It would constitute a breach of this duty to act fraudulently or to make a secret profit.
  - Loyalty- A Director's personal interest cannot conflict with her or his duty to the Library. As well, a Director cannot personally profit from her or his position.
  - Diligence- A Director is obligated to make those inquiries that he or she would make in managing her or his own affairs. This is a subjective test based on the knowledge and experience of the Director and takes the practical form of being prepared for and attending all Board meetings. A Director cannot relieve herself or himself of this duty by relying on other Directors or by doing nothing or by being wilfully blind to wrongful acts of the Board as a whole or other Directors individually.
  - Skill- The skill required of a Director is measured as the degree of skill expected from a person of the Director's knowledge and experience. If a Director has a particular skill or area of expertise, he or she must use that knowledge for the benefit of the Library.
  - Prudence- A Director must act carefully, deliberately, and cautiously, and must try to foresee the probable consequences of a proposed course of action.

Directors have liability with regard to the Corporations Act, the Employment Standards Act, the Occupational Health and Safety Act, the Pension Benefits Act, the Worker's Compensation Act, the Municipal Act, the Criminal Code, and the Income Tax Act.

2. Directors must conform with the following items (as a defence against legal action):
  - Attend all meetings of the Board;
  - Insist on receiving, and then reading, before each meeting, all documents and reports on which there will be a vote;
  - Review all minutes of meetings;
  - Board members must be aware of and adhere to Additional Policy 'O' Records Retention.
  - Records in possession of board members that are significant to Library Board business should be turned over to the Secretary of the Board at the end of their term.
  - Insist on written legal opinions (preferably from the Township Council's lawyer) for any important step about to be taken;
  - Insist on written professional opinions from specialists on whose advice the Board is expected to act. As well, if a Director is a specialist, but a matter comes up which is not within her or his area of expertise, at least put it on the record, if the Board does not get an outside opinion;
  - Insist on the minutes recording any disclosure made by any Director or a Director's refraining from voting or a Director's dissent;
  - Vote against any disbursement if there is any question of the solvency of the Board;
  - Send a letter by registered mail to the Board, with a copy to the Township Council, if the Secretary or Chairperson refuses to record a disclosure, a refraining from a vote, or dissent;
  - Be familiar with relevant legislation, such as the Public Libraries Act, 1984;
  - Be familiar with the Library's services and personnel;
  - Have regular meetings, more than required, if necessary;
  - Review the Township Council's insurance (for the Library) on a regular basis.