



WORKSHOP: SPECIAL WORKS

INCORPORATION AND GOVERNANCE

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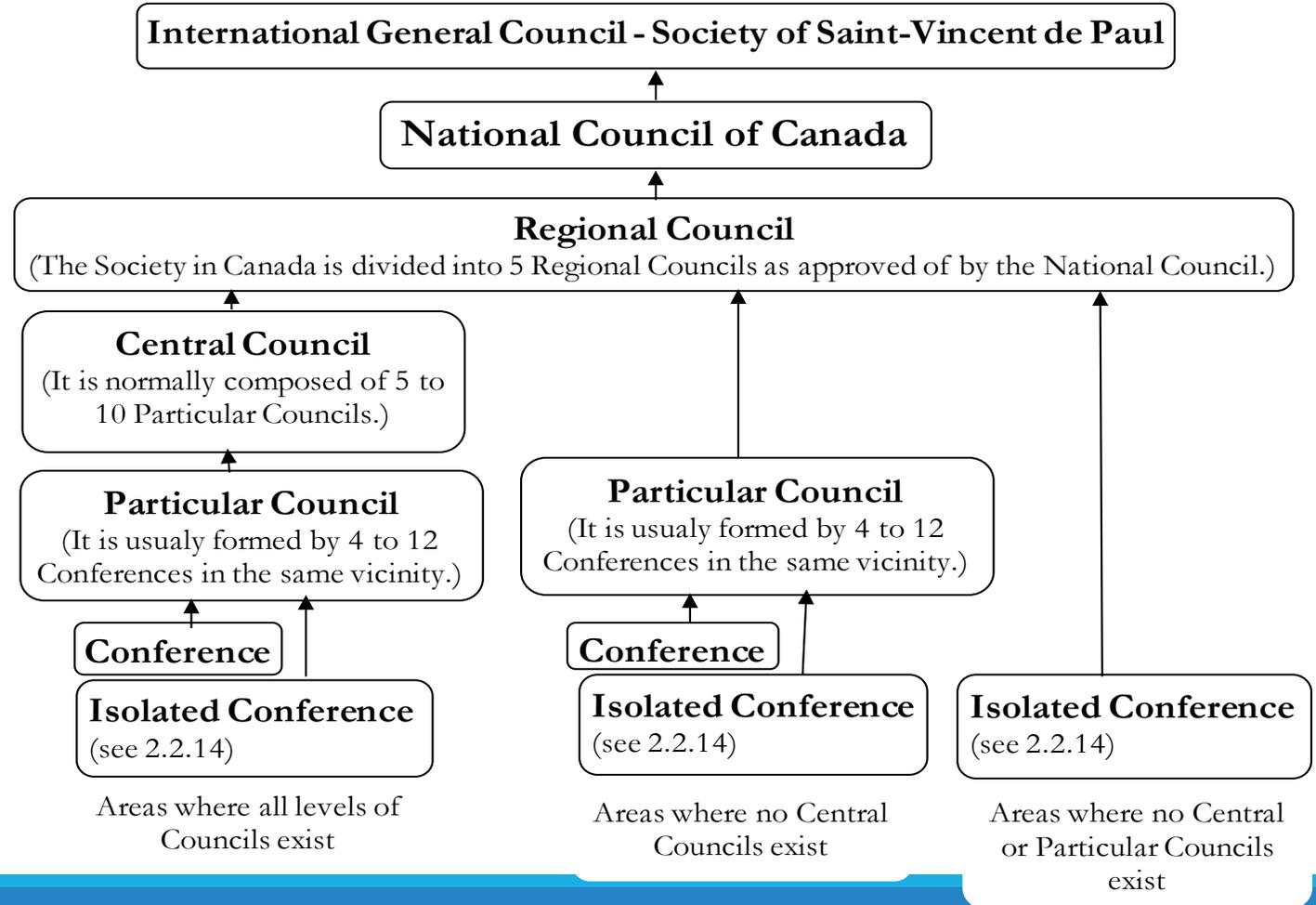
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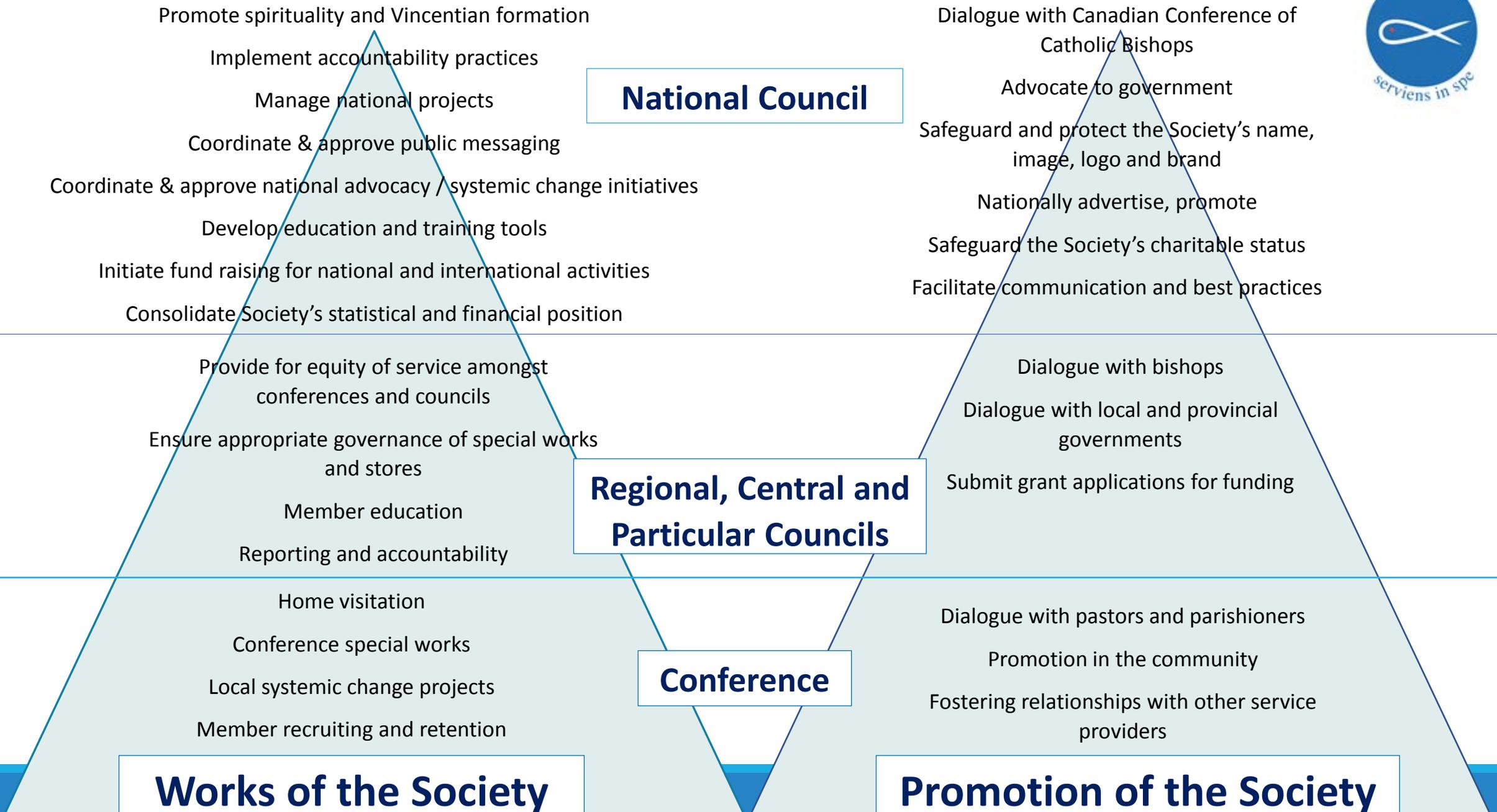
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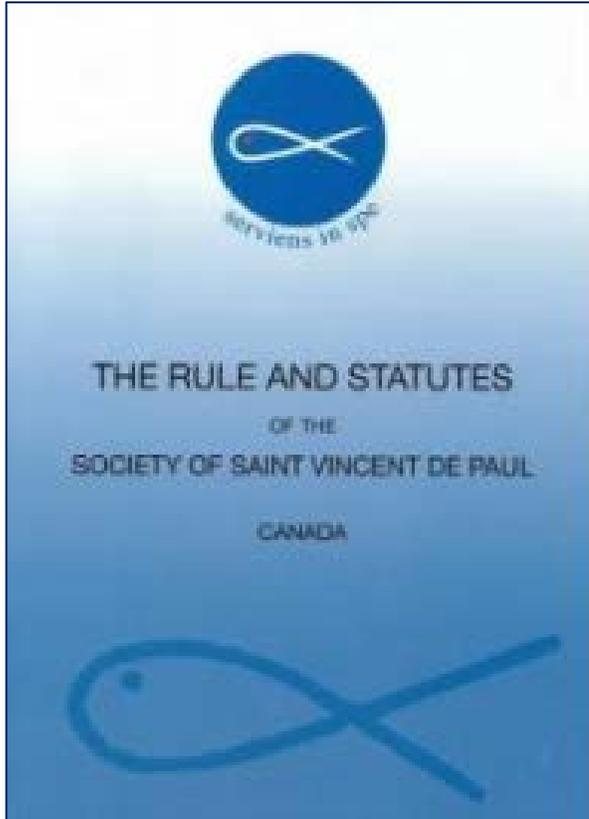
The content of this presentation may not be appropriate for the faint-of-heart as we discuss governance, laws, accountability and other legalise material.

Organizational Chart – Vincentian Family Tree Society of Saint Vincent de Paul in Canada





When is Incorporation Required?



Rule 3.10 -- Incorporation and registration as a charitable organization

Councils (Particular, Central) that operate a Special Works program such as a store, and have staff, should apply for incorporation of the council in accordance with National Council of Canada policy. The Special Work should not act as the incorporated body.

Basically, **if possesses real estate, have commercial operation or hires staff, incorporation is required.**

Special Works May Include:

- the operation of stores (Thrift)
- summer camps
- visiting homes for the aged
- visiting shut-ins
- prison ministry
- drop-in centres for women
- shelters and soup kitchens
- low-cost housing
- etc.



Not to be Carried on for Gain Incorporation

A corporation shall be carried on without the purpose of gain for its members and any profits or other accretions to the corporation shall be used in promoting its objects and the letters patent shall so provide, and, where a company is converted into a corporation, the supplementary letters patent shall so provide.

**Charity
&
Non-Profit**



Objects of Corporation must be Legally Charitable



If a corporation is to be a charity, its objects must be charitable in law. The legal meaning of charity is not the same as the popular meaning of the word. **A charity, in the legal sense, must be set up to carry out activities that fall within one or all of the following headings:**

- Relief of poverty;
- Advancement of education;
- Advancement of religion;
- Useful for the community
(provide a tangible benefit to the community)



Charitable Activities Useful for the Community



Other Community Benefits Recognized as Charitable Purposes:

- Health promotion
- Contributing to the appreciation of the arts by the public
- Environmental Protection
- Treatment and prevention of the special needs of children and young people face
- Treatment and prevention of problems facing families
- Relief of conditions associated with old age
- Relieving conditions associated with impairment
- Provide public services
- Promotion of Trade and Industry



Main Obligations of a Registered Charity

- Devote its resources (financial, human and real estate) to its charitable purposes and activities;
- Manage and direct the use of all its resources (financial, human and real estate);
- Ensure that official donation receipts are complete and accurate at the time of issuance;
- Maintain up-to-date accounting records in Canada and allow the *Canada Revenue Agency (CRA)* to review them upon request;
- File the annual T3010 form, *Registered Charity Information Return*, within six months of the end of the fiscal year;

Objects Must Promote a Public Benefit

A charity must benefit the community or a large part of the community - not only a few people.

All of the objects of a charitable corporation must be charitable.

A corporation which has some charitable objects and some non-charitable objects is not a charity.

**Charity
&
Non-Profit**

Incorporations Requirements

Incorporation requires:

- a governing board, with associated operational by-laws
- annual general meeting
- insurance to protect board members
- maintenance of documentation

Note: For Non-Incorporated Councils (/Conferences)

- Does not require a governing board
- But, do need to follow the Rule



Key Roles of the Board

The board of directors of an incorporated, non-profit organization is:

- **Legally responsible for the governance of the organization.**

Within that mandate is the expectation that the board will develop, implement and monitor policies that will allow the organization to carry out its work.

A board is elected by, and accountable to, its membership.

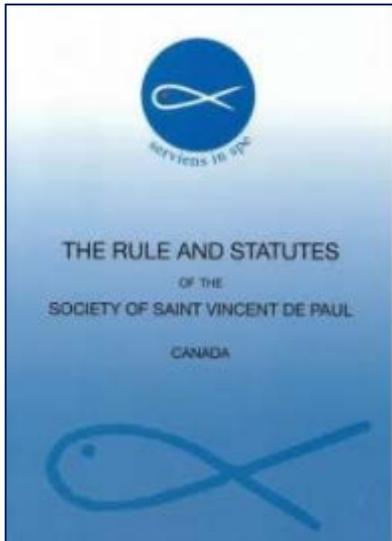
- While a board may appoint staff and/or committees to carry out specific work related to its policies, programs and services, **the board is ultimately responsible for meeting organizational outcomes.**

Incorporation Implications

Rule 2.1.1 -- Incorporation, Revision of By-laws and Annual Review

It is mandatory for any council or conference that decides to incorporate under provincial law, to send its proposed by-laws and its request for authorization to incorporate, through the higher-level councils, to the National Council, for review and approval. As a rule, Conferences should not apply for incorporation because both their financial resources and the number of their members generally do not warrant it. However, there are exceptions.

Each council or conference, once incorporated under provincial law, must proceed with an annual review of its by-laws and send any proposed significant revisions to the National Council, through the higher-level councils, for review and approval.





Advantages of Incorporation

As the corporation is a **separate legal entity distinct from its members and has the capacity to own property, to sue and be sued, it affords limited liability protection to its members.** This means that individual members are not personally liable in certain instances, for the corporation's debts and obligations.

The corporation is not affected by changes in its members, be it due to death or any other reason. Therefore, it is easier to enter into a number of transactions in the name of the corporation such as, banking, owning real estate or signing a lease or contract.

A majority of the members of the corporation have the power to bind the others by their acts.



Disadvantages of Incorporation

As the corporation is a creature of statute, it is subject to some supervision by the Government and it must conduct its affairs in accordance with the applicable statutes.

- For example, the constitution or by-laws of the corporation, the election of directors and the calling of meetings of members are all governed by the "***Corporations Act***". In addition, a corporation is required to report certain information on a regular basis to certain departments of the Government.

Failure to comply with reporting or disclosure requirements could render the corporation and its directors and officers liable to certain penalties, including the cancellation of the corporation.

Composition of a Governing Board

Minimum composition of a board of directors with associated Officers (with voting rights)

- **President**
- **Vice President**
- **Secretary**

Other members of the board can be added as required; an organization's board is specified in the organization's constitution and by-laws.

- specified in the organization's constitution and bylaws, this number can be changed with the approval of the Board and the membership.

There is no single right structure for all non-profit organizations, and it may be necessary to change models over time.

Pros and Cons of Small and Large Boards

Small Board	Large Board
<ul style="list-style-type: none">■ Easier consensus on difficult or challenging issues■ Less or no need for committees■ Less or no need for executive members or an 'inner board'■ Requires board to function together in all decisions	<ul style="list-style-type: none">■ Increases chances for greater diversity on the board■ Increases opportunities for greater representation of the community or specific target groups of the community■ Easier to establish quorum at board meetings■ Opportunity for committees and for board members to specialize or hone skills



The Board Must:

- Determine a governance model and ensure that appropriate organizational policies and structures are in place
- Participate in the development of a mission and strategic plan for the organization
- Hire and ensure that an effective senior management team is in place (i.e. Executive Director)
- Maintain effective partnerships and communication with the community, the organization's members and its stakeholders
- Maintain fiscal responsibility, including raising income, managing income, and approving and monitoring annual budgets
- Ensure transparency in all communication to members, stakeholders and the public
- Evaluate the organization's work in relation to a strategic plan
- Evaluate the work of the board of directors, ensuring continuous renewal of the board, and plan for the succession and diversity of the board



Individually, each Board Member Must:

- Act in the best interests of the organization
- **Understand the roles and responsibilities of being a board member**
- Be familiar with the organization's bylaws, policies and procedures, strategic plan, mission, etc.
- **Ensure he/she avoids conflicts of interest including operating in the best interest of the organization not in self-interest or the interest of a stakeholder group**
- Respect confidentiality policies that pertain to membership and board discussions
- Keep informed about the organization's financial activity and legal obligations
- Bring his/her own skills, experience and knowledge to the organization
- Attend board meetings regularly and arrive prepared for meetings
- **Support board decisions once they have been voted on**



Board Member Job Description

Clearly written job descriptions help board members understand, and agree to, the **role they are expected to play in an organization.**

Job descriptions, which need to be approved by the board, can also serve a purpose in evaluation and recruitment of board members.

One job description can be developed for general board members and then specific descriptions can be developed for each executive officer member (President, Vice President, Treasurer and Secretary).



Distinguish Governance from Operations

It is very common for a board to get **involved and stuck** in Operations

Governance: The board develops policies that give overall direction to the agency.

Management: The board takes actions and makes decisions to ensure that there are sufficient and appropriate human and financial resources for the organization to accomplish its work.

Operations: These are the activities related to the delivery of services or programs of the organization. (The degree to which this occurs depends on the board governance structure.)



Board-Staff Relations

One of the key responsibilities of board members is to hire a senior staff member to ensure effective management is in place. In most cases in non-profit organizations that means hiring the **Executive Director** (also may be known at the Chief Executive Officer, Administrator, Manager, etc.).

From there, the **Executive Director (ED) hires other staff**. The ED is the link between the board and other staff, and the board communicates its directives or human resource policies to other staff through the ED.

Board and committee meetings are usually the place for the board and ED to communicate, share information and decide on work related to the organization. **The ED is usually considered an 'ex-officio' member of the board, meaning he/she attends board meetings, participates in discussion, and receives and provides reports but has no vote.**



Board Members Agreements

Confidentiality and/or Privacy Agreement: Board members are asked to respect the confidentiality of information gained as a result of serving on a board such as client information, personnel, membership, finances, etc.

Conflict of Interest: Requires a board member to declare if he/she has a personal interest in an area that is of interest to the organization. Being in a conflict position does not automatically disqualify a board member, but not disclosing the conflict can lead to a breach of the agreement.

Code of Conduct: Boards may develop codes of conduct that cover everything from communication protocols, use of expense accounts, dress codes and language used at board meetings. Generally, non-profit organizations with volunteer board members are less formal on conduct rules; however, there may be overall rules and expectations about respect for the organization and other members.



Board: Creating a Mission and Vision

One of the board's key responsibilities is to define the mission of the organization. **The mission, or purpose, is the reason the organization exists. The mission informs the organization's values, objectives, policies and procedures.** The board, its committees, its staff and its members work to achieve the mission while ensuring the organization works with integrity, transparency, efficiency and accountability.

Vision is based on a future state the organization is working toward.

- For example, every adult will have access to free literacy services is a vision understood by everyone in the organization and forms the basis for decision making. Mission is the way in which the vision is realized.



Board: Creating a Strategic Plan

Strategic planning is a critical role for boards. It involves looking ahead, making decisions and taking appropriate action to avoid pitfalls and bring about improvements in an organization. This process results in a strategic plan for the organization that often covers a 2 to 5 year period.

Both the process and the plan provide direction and goals for the organization but also have a direct impact on programs and services, the number and role of committees, resources needed, governance and staff structures



Risk Management: Financial

Directors should ensure:

- Auditors are appointed annually and audit reports are reviewed thoroughly
- Finance committees are in place and financial reports are provided and reviewed regularly
- Safeguards are in place for financial resources, including banking and back-ups of financial reporting documents
- Policies are in place and monitored that are related, but not limited to, investing, use of credit cards, signing authorities and fundraising
- They are knowledgeable about revenues and costs of the organization



Risk Management: Human Resource

Board members should be knowledgeable about:

- Employment insurance and income tax laws and payroll related standards and regulations
- Workplace safety and liability
- Workplace hazardous waste and material handling (if applicable)
- Consultant and non-employee regulations
- Employment legislation and standards
- Discrimination and Harassment Guidelines



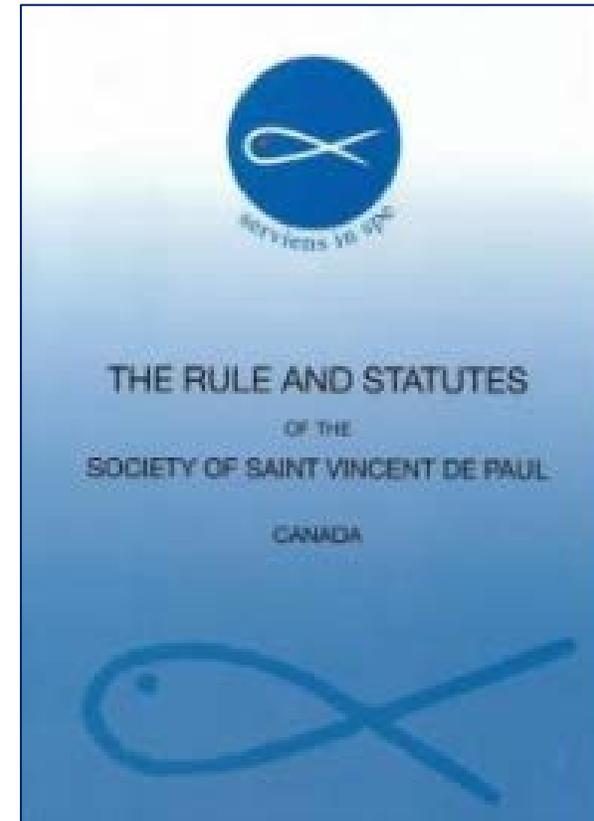
New Board Member Orientation

Orientation occurs when a new member joins a board, and training occurs throughout the term of the board. Both are **important for sustaining members' interest and contributing to a healthy organization**. Orientation may take the form of a meeting or workshop complemented by a manual or guidebook.

Whatever the format, it is more than just reviewing the organization's policies. It includes discussion about the values and mission of the organization, details about governance and bylaws, information about committees, and getting familiar with the organization's office and staff.

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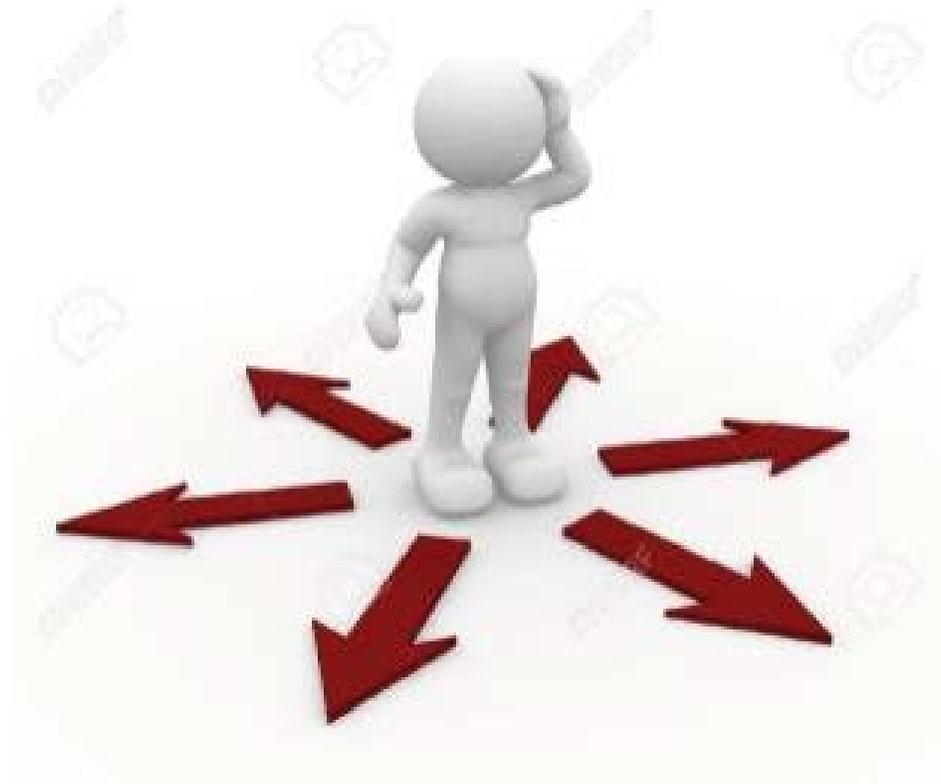




Operational Requirements: Incorporated and Not Incorporated



- All conferences and councils should implement good governance and best practices
 - Please refer to the Operational Manual
<https://www.ssvp.ca/operations-manual>
- Comply with SSVP reporting: Financial and Statistics
 - Forms 9.3
<https://www.ssvp.ca/annual-reports>
- Comply with SSVP good record keeping: screening (forms 9.9, 9.10, 9.11, 9.12, 9.23) and visitation tracking (form 9.25)
https://www.ssvp.ca/operations-manual#anchor_forms
- Comply with Canada Revenue Agency (CRA) -- Operating a registered charity
<https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity.html>



Q&A

Backup
