

## Cal Poly Corporation (CPC) BOARD DIRECTOR: STATUS, DUTIES, AND LIABILITIES

The Cal Poly Corporation Board of Directors sets policy and oversees management of CPC. As a non-profit corporation, CPC is subject to state laws and regulations which govern, in broad terms, the status, authority, duties, and liabilities of Board members.

Director status and authority: Status as a director means status as a member of the Board of Directors. This is important because the Board--not individual acts of directors--must govern CPC affairs. Director status also involves being a representative of the Board and CPC when the Board has delegated that function to a Board member. A director also holds a character status similar to a trustee, involving, in essence, a duty to act for the good of CPC, rather than for one's own benefit or the particular interest of a segment of the campus community.

The authority of directors is *not* inherent in them as individuals, but rests with their collective Board actions. Those Board actions represent the legal, corporate voice of CPC.

Director duties and liabilities: Directors have a basic duty to exercise a standard of diligence, skill, and care of an ordinary person in a like situation. So long as a director exercises reasonable diligence and care, he or she is free from personal liability. Good faith is a principal test of the adequacy of a director's care and diligence.

Of course, a director is not responsible for acts of other directors committed prior to taking office, and a director is not liable merely by virtue of his or her office for the wrongful acts of employees or other agents of the corporation.

Directors are liable to the corporation for any loss suffered by it as a result of their fraudulent design. It is a felony for a director to defraud a corporation. Poor judgment by a director will not create personal liability to the corporation or to a third person, but the law does indicate that, before a director can be shielded from liability for erroneous conclusions or bad decisions, he or she must have exercised reasonable diligence in seeking and analyzing available information on which to base the decision.

Even if they wish to do so, directors may not lawfully abdicate their duty or responsibilities in favor of anyone else, although most management duties may be *delegated* if general supervision is retained by the Board.

Conflict-of-interest: State law provides that:

No member of the governing board of an auxiliary organization shall be financially interested in any contract or other transaction entered into by the board of which he is a member, and any contract or transaction entered into in violation of this section is void.

Limited exceptions to this rule are allowed upon adequate disclosure where the board's action was not dependent upon the member(s) with a financial interest and if the interest is limited. See California Education Code Section 89906-8. It is also unlawful for a board member to use information gained by reason of board membership and not a matter of public record for personal gain. See California Education Code Section 89006.