

This easy to use guide is designed to assist cooperatives in developing their own Directors Handbook. It is recommended that the handbook remain a working document— obsolete materials are removed or replaced and new materials added. A 3-ring binder can be used to accomplish this. Assembly should not be difficult as most materials should be on hand already.

Included you will find:

Parts 2 and 11 (blue colored pages): ready for insertion as is into your 3 -ring binder.

Parts 1, 3 - 10: guidelines for tailoring your own materials for your handbook.

Parts 1, 5, 6,7 (sections 1, 3, and 4), 8,9 and 10 (gold colored pages) are the minimum required for your handbook to be useful.

Parts 2,3,4, 7 (sections 2,5 and 6) (green colored pages) are added if your cooperative already has the material or is relevant to your cooperative.

Materials needed for assembly:

Guide to Assembling a Director Handbook

A 3- ring binder

Copies of materials suggested for inclusion in your Handbook

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PART I
Cooperative and Board Organization

Mission Statement

[A mission statement defines the philosophy and values of the cooperative and how it operates. It communicates who the members are, who the clients are and the scope of its operations. It sets the cooperative apart from others in the industry.]

Example

Latropica cooperative is a world leader in the marketing of quality tropical fruit products. Its members produce the finest quality bananas, papayas and other tropical fruits. Members benefit from the added value of marketing under the *Banana-banana* brand. The cooperative strives to provide the best services to its members, customers and employees.

History and Present Operations

[This section covers when and why your cooperative was started, the number of original members, and other historical facts about early operations. It should also reflect major changes that have occurred in operations, markets, membership, and growth of business. The description of the business today should include current membership, markets served, scope of operations, and other important statistics.]

Example

Latropica Cooperative was started in 1987 by 25 mini-banana growers after they were unable to receive a fair price for their product. Brokers were unfamiliar with the special needs of handling this fragile product. The cooperative contracted to share office and cooler space with a papaya cooperative. The cooperative quickly found a specialty niche market in Los Angeles Hispanic markets. Sales grew as the bananas became known as a better quality product than imports.

The cooperative then ventured into the export market when Costa Rica's production was wiped out by a volcanic eruption in 1993.

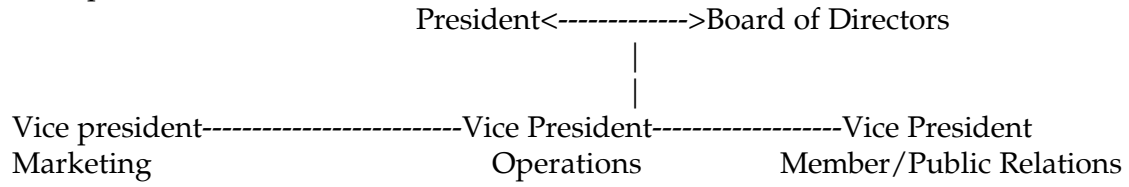
The papaya cooperative asked to merge with Latropica in 1994. This merger has increased sales because buyers prefer to one stop shop for their tropical produce.

Today, the cooperative has a membership of 160 mini-banana growers and 60 papaya growers. Sales were over \$3 million in 1994 with 30 percent from exports. The cooperative label, *banana-banana*, is recognized around the world as a quality product offered at a competitive price. The cooperative has recently started a subsidiary to process a pureed banana-papaya sauce and juice line. New products are now being test marketed.

Organizational Chart

[The organizational chart represents the corporate structure of your cooperative, including any subsidiaries.]

Example:



Location of Offices and Plants

Include the following information.

Headquarters:

Cooperative name
Address
Telephone
FAX
E-mail

Plant Locations:

Cooperative name
Address
Telephone
FAX
Activity at plant: (example: packing house)
Plant manager's name
Home address and telephone number of plant manager

Subsidiaries

Headquarters:

Company name
Address
Telephone
FAX
E-mail

Plant Locations:

Company name
Address
Telephone
FAX
Activity at plant: (example: packing house)
Plant manager's name
Home address and telephone number of plant manager

Board of Directors

Include the following information.

Officers:

(List names and titles of all officers)

Name	Chair
Name	Vice Chair
Name	President and CEO

Directors:

(List names of Directors not listed above)

Director Addresses

Include the following information.

Name of Director
Year elected to Board
Term on Board

Home:

Spouse's name
Address
Telephone.
FAX.
Mobile phone.

Work:

Company name
Address
Telephone.
E-mail
FAX

Director Background: [A brief description of each Director's business background, other Boards served on, and noteworthy accomplishments.]

Senior Officers

[Include the following information for top management, CEO, CFO, Vice Presidents, etc.]

Name

Title

Home:

Spouse's Name

Address

Telephone.

E-mail

FAX

Mobile phone

Work:

Address

Telephone

E-mail

FAX

Mobile phone

Job description:

Background:[A brief description of prior experience, accomplishments, etc.]

Board Committees:
Responsibilities and Membership

[List all committees, purpose, oversight areas, agenda items, and membership. Committees can include executive, audit, nominating, finance and budget, long-range planning, membership, and executive evaluation.]

Example:

Audit committee

Chair: name
name
name
name

Type of committee

standing or special

Purpose

The audit committee is a standing committee separate from the finance committee. It assists the Board in discharging its financial obligations by 1) selecting an independent auditor 2) reviewing the external audit report 3) reviewing internal accounting procedure and 4) reviewing systems of internal control. This committee acts as a liaison between the auditor and executive management and between the Board and members.

Agenda Items

The audit committee typically meets three times a year.

February

Review of annual report.
Recommendation of independent public accountants.
Review of annual internal audit performance report.

July

Review of audit arrangement letter.
Estimate of annual fees for arranged audit services.

November

Review of interim financial statements.

Board of Directors
Annual Calendar of Meetings

[Include dates, times and locations for all Board and Committee meetings, membership meetings, and other important dates.]

Example:

January 12	Board meeting* Membership committee
February 9	Executive committee**
March 12 Audit Committee	Board Meeting- Evaluation of CEO
April 12	Board meeting Nominating Committee
May 14-15	Strategic Planning Meeting-Monterey
June 25	Annual membership meeting

*Regular Board meetings are held at cooperative headquarters in the Board Room from 7:00 p.m. to 9:00 p.m.

**Committee meetings are held one hour prior to Board meeting at same location or as notified by committee chair.

Summary of Indemnification and Director and Officer (D&O) Liability Insurance

[State law limits the liability of corporate leaders and permits corporations to protect Directors from direct personal loss for decisions they make on behalf of the corporation. Indemnification should be included as a bylaw to encourage members to serve as Directors. Purchase of Director and Officer (D&O) Insurance avoids exposing Board member assets to unacceptable risk.]

Indemnification Bylaw¹

Example:

The association shall indemnify its officers, directors, employees and agents to the fullest extent possible under the provisions of the state law as it may be amended from time to time.

The association may purchase liability insurance coverage for any person serving as an officer, director, employee or agent to the extent permitted by applicable state law.

D&O Liability Insurance

[Briefly describe your cooperative's D&O insurance coverage. For an explanation of types of D&O insurance now available to your cooperative, consult your insurance broker.]

Example²:

The D&O liability insurance maintained on behalf of Directors and officers of Latropica to protect against liabilities incurred is summarized as follows:

Name Insured: Latropica Cooperative, its subsidiaries, and Directors and officers of Latropica.

Company: XYZ insurance company.

Amount/Limit: \$ ____ maximum coverage for each wrongful act.

\$ ____ maximum coverage in the aggregate for all wrongful acts.

Deductibles: \$ ____ reimbursement liability for each wrongful act NOT arising from nuclear operations.

\$ ____ reimbursement liability for each wrongful act ARISING from nuclear operations.

Coverage: \$ ____ retroactive coverage date to December 31, 1986 on Latropica's D&O coverage. Coverage protects against liabilities incurred, whether or not

Latropica would be required to indemnify as discussed above. Coverage against liabilities does not extend to acts found to constitute gross negligence or intentional wrongdoing.

Exclusions: \$ ____ Areas excluded from coverage include conduct relating to environmental matters, antitrust violations, or foreign corrupt practices.

¹ Adapted from *Sample Legal Documents for Cooperatives*. USDA, ACS Cooperative Information Report 40.

² Adapted from *Board Policy Manual of ABC Corporation: A Blueprint for Board Action*. National Association of Corporate Directors. Washington, DC

Director Compensation

[This section details Director compensation for attendance at Board meetings, travel, educational activities, annual retainers, etc.]

Example:

Retainer \$2,000 per year.

Meeting \$150 for each Board and Committee meeting attended.

Fees Each Director is reimbursed for usual and ordinary expenses incurred in connection with Board service and meeting attendance.

Insurance Directors and Officers liability insurance.

\$_____ benefit for accidental death while traveling on cooperative business.

Part II
Board Responsibilities and Evaluation

Overview of Director's Functions

Membership	Boards	Professional Management
1. Change articles of incorporation	1. Select and compensate general manager	1. Maintain fixed assets
2. Change bylaws	2. Purchase major fixed assets	2. Select and compensate employees
3. Consolidate e with another cooperative	3. Write policies	3. Interpret government regulations
4. Merge with another cooperative	4. Select auditor and attorney	4. Purchase day-to-day products
5. Liquidate	5. Choose levels of long- and short- term debt	5. Market members' products
6. Selection of Board	6. Decide levels of business activity	6. Allocate expenditures within budget accepted by Board
7. Recall Directors	7. Give management authority	7. Manage inventory
8. Sell majority of fixed assets	8. Select sources of supply	8. Assign personnel and promotions
	9. Design long-range plans	9. Make decisions (within Board policy)
	10. Balance bottom line with service to members	10. Set pricing and margins within budget and policy
	11. Set budget level for various types of expenses	11. Provide accounting and management information to Board
	12. Determine equity retirement	12. Handle patron complaints
	13. Refund cash patronage	
	14. Find sources of short- and long-term credit	
	15. Approve long-term leases/contracts	

Five Basic Roles for a Member of the Board of Directors

1) DECISION MAKER

- part of a group decision-making process which takes the whole cooperative into consideration
- Board decisions are central and superior to all other decision centers
- set the overall future direction; approve programs, operational plans and budgets; formulate, approve and adopt policies, select the chief executive officer; and approve and control the CEO's actions
- guide change and growth of the cooperative contained within a strategic plan

2) ADVISOR

- act as advisor to both the chief executive and the members
- advise members of changes requiring member action or sanction
- notify CEO when operational goals, policies, programs, plans, or budgets are being formulated which fosters a sound working relationship with executive. Remember, the chief executive has the prerogative to accept, modify, or reject this advice

3) TRUSTEE

- act as a trustee for members, stockholders, creditors, and the general public by ensuring the responsible management of the cooperative.
- select an outside auditor to review the soundness of financial affairs and management

4) PERPETUATOR

- contribute to the ability of the Board as a whole to provide for the continuity of the cooperative as a growing concern
- perform these activities to further the above (1) select and guide capable executives, (2) ensure the Board is performing at an ideal level by setting standards and educating Directors so they can meet those standards, and (3) review the nature of products or services offered by keeping current with changes in demand and profitability

5) SYMBOL

- each Director, by the very nature of their position, is considered a symbol of strength and leadership
- within a cooperative, the Board of Directors can use its symbolic stature to guide the culture of the corporation
- outside a cooperative, the Board of Directors, and each Director, is seen as the embodiment of the cooperative; what it is and what it stands for

Five Basic Responsibilities for a Member of the Board of Directors

- 1) **CORPORATE**
 - define corporate direction, goals, and policies
 - select and evaluate performance of chief executive officer (including definition of executive's duties)
 - fill Board vacancies
 - approve major corporate on-going (e.g., annual budget) and special (e.g., expansion) plans and commitments
 - appoint corporate and Board officers
- 2) **LEGAL**
 - enforce articles of incorporation and bylaws
 - retain Board of Directors' legal counsel
- 3) **FINANCIAL**
 - approve long-term financial commitments
 - assure sound financial operations (i.e., engage firm for financial audit)
 - approve basic changes in corporate financial structure
- 4) **MEMBERSHIP**
 - assure member decisions are obtained in matters warranted
- 5) **ETHICAL**
 - stay informed
 - act in good faith
 - receive no special gains as Director
 - provide leadership
 - balance needs of diverse groups (employer, public, member, customer, employee, government)
 - foster high industry standards

Director Evaluation Form
designed by Dr. Bruce Anderson, Cornell University

DIRECTIONS: Please circle the response that best fits your attitude about each statement.

	<u>Strongly</u> <u>Agree</u>	<u>Agree</u>	<u>Neutral</u>	<u>Disagree</u>	<u>Strongly</u> <u>Disagree</u>
	(Circle One)				
SELF-ASSESSMENT: YOUR ROLE AS A DIRECTOR					
1. Understands and supports the cooperative's mission and objectives.	SA	A	N	D	SD
2. Exhibits sound, forward looking vision for the cooperative and the industry.	SA	A	N	D	SD
3. Always puts the cooperative ahead of personal, business or regional interests.	SA	A	N	D	SD
4. Is very knowledgeable about:					
- The role and responsibilities of cooperative Directors	SA	A	N	D	SD
- The potential liabilities of Directors	SA	A	N	D	SD
- The cooperative's marketing strategy	SA	A	N	D	SD
- Financial matters of the cooperative	SA	A	N	D	SD
- Member relation matters	SA	A	N	D	SD
- Critical issues facing the cooperative membership and the industry.	SA	A	N	D	SD
5. Attends all Board meetings and required events.	SA	A	N	D	SD
6. Is familiar with background material and is prepared for Board meetings.	SA	A	N	D	SD
7. Sticks to policy issues and avoids getting involved in operational issues.	SA	A	N	D	SD
8. Is an active participant in Board deliberations.	SA	A	N	D	SD
9. Is an independent thinker on Board issues.	SA	A	N	D	SD
10. Always looks at the "big picture" as to how issue impacts the cooperative.	SA	A	N	D	SD
11. Always puts the long-term interest of the cooperative ahead of the short-term interests of members.	SA	A	N	D	SD
12. Is articulate and a good communicator.	SA	A	N	D	SD
13. Judiciously asks good questions.	SA	A	N	D	SD
14. Asks questions in an objective, non-confrontational manner.	SA	A	N	D	SD
15. Is a team player that promotes Board/management unity.	SA	A	N	D	SD
16. Maintains an honest, open and professional business-like relationship with all other Directors and management.	SA	A	N	D	SD

	<u>Strongly Agree</u>	<u>Agree</u>	<u>Neutral</u>	<u>Disagree</u>	<u>Strongly Disagree</u>
17. Makes a positive contribution to the organization's planning process.	SA	A	N	D	SD
18. Does not bring up previous decisions unless they relate to current issues.	SA	A	N	D	SD
19. Outside the Board room is entirely supportive of Board actions, even if he/she did not agree with a decision.	SA	A	N	D	SD
20. Always uses the appropriate chain of command.	SA	A	N	D	SD
21. Keeps other Directors and management informed of developments among the membership.	SA	A	N	D	SD
22. Does not contribute to divisive Board politics.	SA	A	N	D	SD
23. Does not make special requests of management and employees.	SA	A	N	D	SD
24. Is a willing and good representative of the cooperative at other (industry and cooperative) meetings.	SA	A	N	D	SD

25. Based on your experience, **RANK** (1 for highest, 7 for lowest) the **PRIORITY** you feel this individual give in his/her decisions to the following groups:

- _____ All farmers
- _____ All cooperative's members
- _____ All farmers in his/her district
- _____ All cooperative members in his/her district
- _____ The cooperative, as an organization
- _____ Special interest groups within the membership
- _____ Other interests in the industry

26. Compared with other Directors of the cooperative, please rate this Director's contribution to Board deliberations and performance as a Director (vision, team player, independent thinker, takes the long-term view, puts cooperative first, etc.).

(Check One)

- _____ Top one third of Directors on this Board
- _____ Middle third of Directors on this Board
- _____ Lower third of Directors on this Board

27. In your opinion, what are the two (2) major strengths of this Director?

28. In your opinion, what are the (2) major areas requiring attention by this Director?

Board of Directors Evaluation Form
designed by Dr. Bruce Anderson, Cornell University

DIRECTIONS: Please circle the response that best fits your attitude about each statement.

	<u>Strongly</u> <u>Agree</u>	<u>Agree</u>	<u>Neutral</u>	<u>Disagree</u>	<u>Strongly</u> <u>Disagree</u>
THE BOARD AND ITS MEETINGS:	(Circle One)				
1. Prior to Board meetings, I receive all necessary materials (i.e. past minutes, an agenda and reports on major issues).	SA	A	N	D	SD
2. These materials are received in sufficient time to be studied for Board meetings.	SA	A	N	D	SD
3. The meeting agenda allots adequate time for discussion of all issues.	SA	A	N	D	SD
4. Meetings start on time, end on time and keep to the agenda.	SA	A	N	D	SD
5. Board meetings are just the right length.	SA	A	N	D	SD
6. There is a tendency for Board discussions to be repetitive and/or get side-tracked.	SA	A	N	D	SD
7. Some Directors tend to dominate Board meetings.	SA	A	N	D	SD
8. The Board does not get involved in areas which are the responsibility of management.	SA	A	N	D	SD
9. The Board is kept well-informed of the deliberations and actions of the executive committee.	SA	A	N	D	SD
DIRECTOR ISSUES:					
10. In general, most Directors are well versed in:					
* The role and responsibilities of Directors	SA	A	N	D	SD
* Potential liabilities of being a Director	SA	A	N	D	SD
* Member relations	SA	A	N	D	SD
* Contributing to & evaluating strategic plans	SA	A	N	D	SD
* Evaluating marketing plans & strategies	SA	A	N	D	SD
* Financial issues, evaluation & control	SA	A	N	D	SD
* Knowing the difference between policy matters and day-to-day operational issues	SA	A	N	D	SD
* Critical issues likely to impact on the co-op	SA	A	N	D	SD
11. Directors have a thorough understanding of the cooperative's mission and objectives.	SA	A	N	D	SD
12. Directors convey accurate expectations concerning the co-op's operations and services to members.	SA	A	N	D	SD
13. Directors should have more to say in how policy decisions are implemented.	SA	A	N	D	SD

	<u>Strongly Agree</u>	<u>Agree</u>	<u>Neutral</u>	<u>Disagree</u>	<u>Strongly Disagree</u>
14. After a policy decision has been made, the issue is not discussed at future meetings unless there is a major change in underlying conditions.	SA	A	N	D	SD
15. After a Board decision is made all Directors unite behind the decision, even if they argued or voted against the proposal.	SA	A	N	D	SD
16. Too often individual Directors make special requests of management and employees.	SA	A	N	D	SD
17. There are no "politics" on the Board.	SA	A	N	D	SD
18. Directors are kept well informed of important developments on Board level issues between meetings.	SA	A	N	D	SD
19. The chairs over the past few years have provided effective leadership in:					
* Encouraging all Directors to attend and participate in meetings	SA	A	N	D	SD
* Working effectively with all Directors	SA	A	N	D	SD
* Conducting productive Board meetings	SA	A	N	D	SD
* Arriving at the best decisions for the co-op	SA	A	N	D	SD
* Dealing with difficult issues	SA	A	N	D	SD
* Minimizing Board politics	SA	A	N	D	SD
20. The chairs and other officers do not become involved in areas of management responsibility.	SA	A	N	D	SD
ROLE OF THE BOARD AND MANAGEMENT:					
21. Directors have a clear understanding of the role of the Board and the role of management.	SA	A	N	D	SD
22. The Board has done a good job spelling out what is realistically expected of management.	SA	A	N	D	SD
23. The Board does a good job of evaluating management, indicating strengths and weaknesses and compensating management accordingly.	SA	A	N	D	SD
24. Management is responsible for developing goals, objectives and policies, while the Board is primarily involved in fine-tuning and approval.	SA	A	N	D	SD
25. Management and staff convey realistic expectations of the co-op's operation and services to members.	SA	A	N	D	SD
26. Management does a good job of keeping branch Directors informed and involved.	SA	A	N	D	SD
27. Management does a good job of keeping members informed and involved.	SA	A	N	D	SD
28. It is more difficult to be a manager or employee of a cooperative than a corporation.	SA	A	N	D	SD

Strongly
Agree Agree Neutral Disagree **Strongly**
Disagree

INDIVIDUAL VIEWS:

29. As a Director, I feel well versed in:					
* The role and responsibilities of Directors	SA	A	N	D	SD
* Potential liabilities of being a Director	SA	A	N	D	SD
* Member relations	SA	A	N	D	SD
* Contributing to & evaluating strategic plans	SA	A	N	D	SD
* Evaluating marketing plans & strategies	SA	A	N	D	SD
* Financial issues, evaluation & control	SA	A	N	D	SD
* Knowing the difference between policy matters and day-to-day operational issues	SA	A	N	D	SD
* Critical issues likely to impact on the co-op	SA	A	N	D	SD
30. I am thoroughly familiar with the background material sent to me prior to Board meetings.	SA	A	N	D	SD
31. I feel I have made an important contribution to Board deliberations.	SA	A	N	D	SD
32. I feel I have enough information to be an excellent spokesperson for the cooperative.	SA	A	N	D	SD
33. The real decision making control of the co-op rests in:					
* Members	SA	A	N	D	SD
* Districts	SA	A	N	D	SD
* The entire Board	SA	A	N	D	SD
* Board committees	SA	A	N	D	SD
* Management	SA	A	N	D	SD
* Other (indicate)_____	SA	A	N	D	SD

34. As a Director, you have a role to look out for the interests of several groups and entities. Please **RANK** (1 for highest, to 5 for lowest) the degree of responsibility you, **AS A DIRECTOR**, feel toward each of the following:

- _____ My own operation
- _____ All farmers
- _____ All cooperative members
- _____ Members in my districts
- _____ The cooperative, as an organization

ORGANIZATIONAL AND PERFORMANCE ISSUES:

	<u>Strongly Agree</u>	<u>Agree</u>	<u>Neutral</u>	<u>Disagree</u>	<u>Strongly Disagree</u>
35. The cooperative has a well-defined mission, and set of objectives and goals.	SA	A	N	D	SD
36. The co-op's goals are realistic and attainable within a specified period of time.	SA	A	N	D	SD
37. The co-op has a well developed, written strategic plan.	SA	A	N	D	SD
38. Members have a realistic idea of the mission, objectives and goals of the cooperatives.	SA	A	N	D	SD
39. Conflicts in the following areas are currently having a negative effect on the co-op's performance:					
* One district versus another district	SA	A	N	D	SD
* One state versus another or other states	SA	A	N	D	SD
* Districts versus headquarters	SA	A	N	D	SD
* Different factions on the Board	SA	A	N	D	SD
* Board versus management	SA	A	N	D	SD
40. The Board is too dominated by interests of:					
* Average sized farmers	SA	A	N	D	SD
* Large commercial farmers	SA	A	N	D	SD
* Small farmers	SA	A	N	D	SD
* National industry issues	SA	A	N	D	SD
* Other segments of the industry	SA	A	N	D	SD
* Management	SA	A	N	D	SD
* Other (indicate) _____	SA	A	N	D	SD
41. The cooperative has excellent credibility delegates.	SA	A	N	D	SD
42. The cooperative has excellent credibility with members.	SA	A	N	D	SD
43. The cooperative has excellent credibility with non-members.	SA	A	N	D	SD
44. In the next 5 years, the co-op is likely to increase its membership above what it currently has.	SA	A	N	D	SD
45. What do you view as the two (2) primary strengths of the Board ?					

46. What do you view as the two (2) primary **weaknesses** of the **Board**?

47. What are the two (2) primary **strengths** of the cooperative as an **organization**?

48. What are the two (2) primary **weaknesses** of the cooperative as an **organization**?

Director Liability*

[This section does not replace legal advice from an attorney.]

Duty of Loyalty

There are two principal areas in which your loyalty is required: the first is to avoid conflicts of interest; and the second is to forego corporate opportunities.

Conflicts of Interest: As a Director, you must avoid voting on, or participating in, matters as to which you have a conflict of interest. What is a "conflict of interest"? The standard legal definition is: A conflict of interest between a Director and cooperative arises whenever the Director has a material financial interest in a contract or transaction that affects the cooperative, its members, or to which the cooperative is a party.

Conflict of interest exists when the Director has a financial interest in the matter or transaction before the Board which is different from that of other members, or at least other members in the district which you represent. Thus, any transaction which would treat you differently from other members, or at least those in your district, probably creates a conflict of interest. For example, a proposed contract between the cooperative and a processor in which you own a financial interest would present a conflict of interest if your personal interest in the proposed transaction were different from that of any other member. Other examples of typical conflicts include situations where the Director has a financial interest in a company that proposes to supply services or goods to the cooperative, or where the Board is asked to approve a loan to a Director or any other transaction unique to him/her.

When confronted with a potential conflict of interest you do three things: you make full disclosure to the Board of your interest in the proposed transaction; after you have made the disclosure and answered any questions, you offer to excuse yourself from the meeting; and if you stay in the meeting, you abstain from the vote. For the transaction to be approved by the Board, it must receive a majority of the votes of the disinterested Directors; and it must be just and reasonable to the cooperative at the time approved.

The "just and reasonable" requirement still leaves room for the Board to be second-guessed and, in the case of the Director who has a financial interest in the transaction, still leaves him/her potentially liable to the cooperative if the transaction should prove unjust or unreasonable. There is a way, however to avoid this problem: obtain the approval of the membership for the transaction. Of course, going to the membership for a vote is cumbersome, but if the transaction in question is of sufficient importance to the cooperative, it is the prudent course to follow.

You are the person in the best position to know whether a conflict exists, and it is your responsibility under the law to step forward when it happens.

Corporate Opportunities: Your duty of loyalty requires you not only to avoid conflicts of interest, but also to give up business opportunities that may be of value to the cooperative, unless the Board decides not to take advantage of the opportunity. As a Director, you are precluded from personally taking advantage of business opportunities that would also be of

value to the cooperative, unless the cooperative decides not to take advantage of the opportunity.

For example, suppose you have a packing operation and a grower asks you to market his fruit; if the cooperative could also market that fruit, you cannot take advantage of the opportunity unless the Board turns it down.

If you are confronted with an opportunity that would also be of value to the cooperative, you follow the same procedure outlined for conflict of interest.

The penalty for violation is severe: you give up all the benefits of the transaction, including profits, and are liable in addition to any out-of-pocket damages you may have caused the cooperative.

Duty of Care

In fulfilling your legal responsibilities as a Director, you must also behave like a "prudent person." Here is the legal definition of a Director's duty of care: A Director shall perform the duties of a Director, including duties as a member of any committee of the Board upon which the Director may serve, in good faith, in a manner such Director believes to be in the best interests of the corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

There are three practical categories:

Attention to Cooperative Matters: As a Director, you need to attend to the business of the cooperative. It is ultimately your responsibility that the business of the cooperative is taken care of. Make sure that the items called for in the bylaws (for example, the annual audit) gets done.

Delegation of Duties: How does the Director make sure the business of the cooperative is taken care of? You hire managers and delegate tasks to them. You must use due diligence in hiring your managers (interviews, reference checks, etc.) and monitoring their on-the-job performance.

You may also rely on professionals — lawyers and accountants — but not blind reliance. You have a duty to review underlying facts and documents on which an opinion is based and to question the professional about his/her opinion. It is the job of Directors, not management, to oversee the audit process including hiring an independent auditor.

Decision-making: You are not liable for a bad decision unless you were dishonest or careless in your duties. That is a substantial shield against personal liability. You are protected against personal liability by the "business judgment rule."

If a decision made or approved by the Board of Directors proves to be unwise or unprofitable, the Directors do not incur personal liability unless the complaining party can show that the Directors were uninformed, acted in bad faith, engaged in fraudulent conduct or were negligent in carrying out their duties.

There are two instances where a Director is not entitled to the protection of the business judgment rule.

First, if you had a material financial interest in the transaction, and you did not disclose it and disqualify yourself. If you had a conflict of interest, then you may avoid personal liability for the unprofitable decision only by proving that it was "fair and reasonable" at the time it was made.

Second, if you fail to make reasonable inquiry before voting on the matter. You must inform yourself before you vote. In other words, to avail yourself of the protection of the business judgment rule, you must be a prudent and informed Director.

Increasingly, Directors of cooperatives will be called upon to make decisions which affect competing interest within the membership — decisions which are deemed to be for the good

of the cooperative, but which may help or hurt certain individual members more than others. Two of the most heavily litigated areas in recent years have been equity redemption for former members and dealing with members who are in debt and face bank foreclosure. Directors will be called upon to make hard decisions, but the business judgment rule will protect you provided you have no special financial interest in the decision and you make reasonable inquiry into the facts before casting your vote.

*adapted from: *Director Liability: An Overview for Directors of Agricultural Cooperatives* by Stephen Zovickian, Center for Cooperatives, University of California, Davis, Working Paper Series, No 2-A, July 1989.

Part III

Board Policy Statements

Writing Policies

[A policy is a statement that provides guidelines for actions to attain the established objectives of the cooperative and reflect the cooperative's basic philosophy. Operating policies are usually recommended by management and approved by the Board. Policies increase managerial effectiveness by standardizing many routine decisions.]

Policies are in writing to prevent misinterpretation. They are stated broadly to serve as guidelines for those managing the business.

Guidelines for writing, implementing and evaluating policies are:*

1. Identify—Cooperative leaders must select the general areas to be covered by policy such as purpose, operations, Board and management relationship, and Board process.
2. Formulate—Ideas for changing current policy or introducing new policy may come from the members, Directors, management, employees, or paid consultants.
3. Adopt— The Board, after considering the various recommendations, should agree on a final format that clearly explains all aspects of policy. Before finalization, obtain policy acceptance by getting opinions and reactions of all those affected. A majority vote is needed for adoption.
4. Distribute—Policy that has been identified, formulated and adopted has no value unless all persons who are affected by the policy know and accept its content. All policy should be in written form, collected in a manual, classified as to subject matter and distributed to persons concerned with administering them. Knowledge and acceptance help to ensure consistent application.
5. Implement—The manager is responsible for carrying out Board policy by developing procedures to be followed, issuing instructions, and making sure concerned individuals understand, accept, and observe adopted policies.
6. Control— This is the Board's management job. It is the Board's responsibility to determine if the manager is carrying out the established policy. Periodic reports from the manager on aspects of the cooperative's operation are necessary all yer-round.
7. Review and Evaluate—This is the job of the Board and management in judging the effect of any given policy. Evaluating how well policies worked is best determined by the level of understanding and acceptance of the policies by the entire organization.

Example:

Compensation and Benefits**

With respect to employment, compensation, and benefits to employees, consultants, contract workers, and volunteers, the General Manager may not cause inexplicable discrimination or allow jeopardy to fiscal integrity or public image.

Accordingly, he/she may not:

1. Allow compensation and benefits other than those established by the pay schedule.
2. Fail to apprise staff that employment is neither permanent nor guaranteed.
3. Fail to establish current compensation and benefits which:
 - A. Represent the geographic or professional market for the skills employed.
 - B. Are based on revenues that can be safely projected.
 - C. Represent internal equity.
 - D. Adhere to policies adopted by the Board and distributed to the staff.

This policy shall be monitored annually by internal report.

*Adapted from *Sample Policies for Cooperatives*, Agricultural Cooperative Service, USDA. Information Report 39. 1993.

**Adapted from *Carver Governance Design*, Carmel IN. 1993.

Part IV Strategic Plan

[A strategic plan is critical to the long-term success of a cooperative because it defines the long-term direction. Developing a strategic plan is an important part of being an effective Board. Boards can employ outside facilitators to assist them in writing their strategic plan, but it is the responsibility of the Board to evaluate the results.]

[Insert your cooperative's strategic plan]

Part V
Annual Operating Plan

[An operating plan is part of the strategic plan and is reviewed by the Board annually. An operating plan is concerned with how to manage key organizational units within a cooperative business (plants, sales districts, distributions centers) and how to perform strategically significant operating tasks (materials purchasing, inventory control, maintenance, shipping, advertising campaigns). Involving operating managers in the development of functional strategies improves the likelihood that the plan can be successfully carried out.]

[Insert your cooperative's annual operating plan]

Part VI
Financial Information

[Financial information should include:

1. Annual Report or Financial Reports for the past 2 years including:

- **Statement of Financial Position**
- **Statement of Operations**
- **Statement of Stockholder or (Member) Equity**
- **Statement of Cash Flow**
- **Explanatory Notes for Financial Statements**
- **Independent Auditor's Report**

2. Annual Budget]

Part VII

Contracts

Membership Agreement

[The membership agreement serves official notice that an applicant has been granted membership status by other members of the cooperative.]

[Insert your cooperative's membership agreement]

Marketing Agreement

[A marketing agreement is the contract between each individual member of the cooperative and the membership as a whole. This contract establishes the obligations of the member and the cooperative for terms of sale, payment, delivery, and other items important to a commercial transaction.]

[Insert your cooperative's marketing agreement]

Management Contract

[A management contract defines terms of employment, salary and benefits, description of duties, and method of evaluation.]

[Insert your cooperative's management contract]

Evaluation of CEO

[The performance evaluation process is designed by the Board with input from the manager. The evaluation should include financial performance as critical part, at least 50 percent.]

Example:

PERFORMANCE EVALUATION
President and Chief Executive Officer
Latropica Cooperative

I. FINANCIAL CONDITION AND RESULTS (50%)

Satisfactory performance has been attained when:

1. operating expenses do not exceed budget
2. funding requirements are satisfied
3. favorable credit rating

Needs Improvements	Acceptable	Satisfactory	Highly Acceptable	Superior
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Comments:

II. PLANNING (10%)

Satisfactory performance has been attained when:

1. a written financial plan for the calendar year has been approved by the Board of Directors
2. a written long range strategic plan has been approved by the Board and updated periodically, no less than annually
3. leadership has been provided in implementing the plan

Needs Improvements	Acceptable	Satisfactory	Highly Acceptable	Superior
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Comments:

III. ORGANIZATION (10%)

Satisfactory performance has been attained when:

1. a current organizational chart; updated at least within the last six months; has been circulated to key personnel and Board of Directors
2. position descriptions and standards of performance are in place for officers and management positions
3. standards of performance for the President are submitted to the Board for review and approval at least once each calendar year
4. management team is functioning and performing successfully
5. succession issues are addressed

Needs		Highly		
Improvements	Acceptable	Satisfactory	Acceptable	Superior

Comments:

IV. MANAGEMENT DEVELOPMENT (10%)

Satisfactory performance has been attained when:

1. at least one candidate for promotion or transfer has been identified prior to the time a vacancy occurs for positions reporting directly to the President
2. consistent efforts are made to foster an environment that inspires improvement in the performance and growth of each individual manager
3. management staff is provided the opportunity and encouragement for professional growth and development.

Needs		Highly	
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Improvements Acceptable Satisfactory Acceptable Superior

Comments:

V. BOARD RELATIONSHIPS (10%)

Satisfactory performance has been attained when:

- 1. the annual operating plan have been presented to, discussed with, and approved by the Board each calendar year
- 2. the Board is provided key financial information prior to regularly scheduled meetings
- 3. the president communicates with the Board on a regular basis concerning significant events or changes

Needs			Highly		
Improvements	Acceptable	Satisfactory	Acceptable	Superior	

Comments:

VI. MEMBER AND PUBLIC RELATIONS (5%)

Satisfactory performance has been attained when:

- 1. members are kept informed of Latropica performance and activities
- 2. membership surveys indicate satisfaction
- 3. public relations techniques keep non-member parties informed

Needs			Highly		
Improvements	Acceptable	Satisfactory	Acceptable	Superior	

Comments:

VII. PUBLIC RELATIONS, INDUSTRY, AND COOPERATIVE INVOLVEMENT (5%)

atisfactory performance has been attained when:

The President provides leadership in public affairs, including community, cooperative, and industry activities, spending not less then 5% nor more than 25% of his/her time, in an effort to insure a positive and favorable opinion about Latropica, and a report is made to the Board of these activities at least annually.

Needs		Highly		
Improvements	Acceptable	Satisfactory	Acceptable	Superior

Comments:

VIII. SUMMARY EVALUATION OF OVERALL PERFORMANCE

Needs		Highly		
Improvements	Acceptable	Satisfactory	Acceptable	Superior

Recommendation or Comments

Certification

This evaluation of performance for 199__ was reviewed and discussed with the President on _____.

President and Chief Executive Officer

Chairman of the Board

[Insert your cooperative's Evaluation of CEO]

Current Loan Agreements

[Current loan agreements include line of credit with banks, other financial institutions, and other types of loans.]

[Insert your cooperative's current loan agreements]

Business Agreements

[Current legal agreements for joint, subsidiary, or other business agreements define financial commitment, length of agreement, and other conditions of business arrangement.]

[Insert your cooperative's current business agreements]

Part VIII
Support Resources

[Include all resources utilized by your cooperative and the Board including outside counsel, lenders, independent auditor, state and national associations and other resources.]

Example:

Outside Counsel:

Name of attorney(s)

Name of firm

Address

(Include specialties such as tax, cooperative law, etc.)

Year began:

Lender(s):

Bank name

Contact person

Address

Phone, FAX, and E-mail

Describe type of loans, account, etc.

Independent Auditor:

Name of auditor

Name of firm

Address

Phone, FAX and E-mail

Year began:

State Association(s):

Agricultural Council of California

PO Box 1712

Sacramento 95812-1712

Donald G. Gordon, Jr., President

916-443-4887

FAX: 916-443-0601

List other state agricultural or cooperative organizations, commodity groups, and other organizations.

National and Regional Association(s)

National Council of Farmer Cooperatives

50 F Street, NW Suite 900

Washington, DC 20001

202-626-8700

FAX: 202-626-8899

National Cooperative Business Association
1401 New York Avenue, NW Suite 1100
Washington, DC 20005
202-638-6222
FAX: 202-638-1374

National Association of Accountants for Cooperatives
6320 Augusta Drive Suite 8026
Springfield, VA 22150
703-569-3088

List other national or regional agricultural or cooperative organizations, commodity groups, and other organizations.

Other Resources:

Center for Cooperatives
University of California
Davis, CA 95616
Mahlon G. Lang, Director
916-752-2408
FAX: 916-752-5451

USDA, RBS/Cooperative Services
Ag Box 3250
Washington, DC 20250-3250

Part IX
Organizational Documents

[This section includes background information. Information includes:

- 1. Articles of Incorporation and amendments**
- 2. Bylaws and amendments**
- 3. Copy of State statute cooperative was incorporated under]**

Part X
Agendas and Minutes of Board Meetings

[This section includes agendas and minutes of Board meetings. At each Board meeting the manager or the president should distribute minutes of the previous meeting plus the new version of any document that has been modified or adopted since the last meeting.]

Part XI
References

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- _____. *Understanding Cooperatives: Legal Foundations of a Cooperative.* Rural Business and Cooperative Development Services, Cooperative Information Report 45, Section 9. Washington, D. C.: U. S. Department of Agriculture, 1995.
- Garoyan, Leon and Paul O. Mohn. *The Board of Directors of Cooperatives.* Publication 4060. Oakland, CA: Cooperative Extension University of California Division of Agriculture and Natural Resources, 1985.
- Lang, Mahlon G. and Karen J. Spatz. *Cooperative Director Compensation, 1995.* Center for Cooperatives, University of California. Davis, CA: 1995.
- National Association of Corporate Directors. *Board Policy Manual of ABC Corporation: A Blueprint for Board Action.* Washington, DC: National Association of Corporate Directors, 1995.
- Nampkin, Jerry C. And Galen W. Rapp. *Strategic Planning Handbook for Cooperatives.* Cooperative Services, Cooperative Information Report 48. Washington, DC: US Department of Agriculture, 1994.
- Reilly, John D. *Cooperative Marketing Agreements: Legal Aspects.* Agricultural Cooperative Service Research Report 106. Washington, DC: US Department of Agriculture, 1992.
- Sample Policies for Cooperatives.* compiled by Galen Rapp. Agricultural Cooperative Service Cooperative Information Report 39. Washington, DC: US Department of Agriculture, 1993.
- Wissman, Roger A. *Working with Financial Statements: Guide for Cooperative Members.* Agricultural Cooperative Service Cooperative Information Report 43. Washington, DC: US Department of Agriculture, 1991.
- Zovickian, Stephen. *Director Liability: An Overview for Directors of Agricultural Cooperatives.* Center for Cooperatives' Working Paper Series 2-A. Davis, CA: University of California, 1989.