

BOARD COMMISSIONER TRAINING

Board Roles and Responsibilities



2021

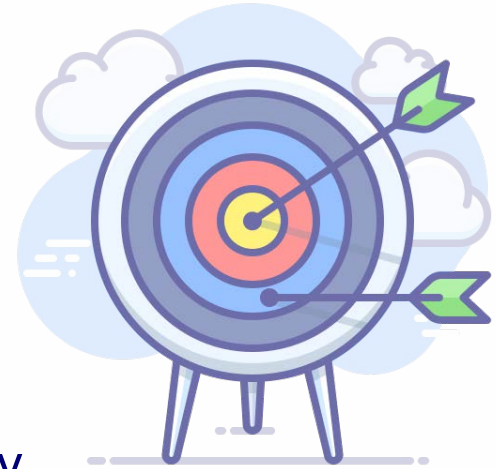
Developed in 2021 using HUD's Lead the Way training, adapted by Econometrica, as well as other sources.

ECONOMETRICA, INC.

Learning Objectives

After completing this module, you should be able to:

- Describe the role and functions of the Board.
- Discuss what Boards should know, including the history of the agency, mission, developments and property, regulations and policies, and more.
- Discuss the basics of public housing and Housing Choice Voucher (HCV) programs.
- Summarize the relationship between commissioners, public housing authority (PHA) staff, U.S. Department of Housing and Urban Development (HUD) and residents.
- Define the regulations for public housing conflicts of interest (COIs) and nepotism and the purpose of the Hatch Act.
- Understand unethical behavior in landlords and how to respond.
- Explain procedures for reporting litigation to HUD.
- Understand how Board meetings should operate.



Today's Agenda



- Public Housing Basics
- Roles and Responsibilities
- Ethics
- Meeting Protocols
- Know Your PHA



Public Housing Basics



Statutes and Regulations

U.S. Housing Act of 1937:

- Established permanent public housing funded by the federal government.
- Allows creation of municipal housing organizations/corporations (PHAs).
- Goal is to provide decent and affordable housing for all citizens.
- Created the Public and Indian Housing program.
- Now provides affordable housing to more than 2.9 million families.



Public Housing Overview

- **Purpose:** Provide decent, safe, sanitary rental housing for low-income families.
- **Ownership:** Funded by federal government. Established by state law. PHA holds property title but prohibited from leasing, selling, or mortgaging property under Annual Contributions Contract (ACC) without HUD approval.
- **Financing:** By federal subsidy (operating, capital, and special purpose), rental income from tenants and grants.



Public Housing Overview (Continued)

- **PILOT:** Payments in lieu of taxes to the city instead of taxes for local public services.
- **Rent:** Based on 30 percent of a family's monthly adjusted income.
- **Duration:** As long as compliant with lease and financially eligible for assistance.
- **Resident Services:** Programs that provide families with services and promote self-sufficiency.



Housing Choice Voucher, Section 8 Program Basics

- **Purpose:** Assist very low-income families to afford decent, safe, and sanitary housing in the private market.
- **Eligibility:** Determined by total annual gross income adjusted for family size. Families at less than 50 percent of area median income are eligible, but most served are at 30 percent of median income or below.
- **Housing:** Private market owned that meets HUD standards.



Housing Choice Voucher, Section 8 Program Basics (Continued)

- **Rent/Housing Subsidy:** PHA sets rent based on a local payment standard. The tenant pays 30 percent of their adjusted income toward the rent and HUD pays the remainder as a subsidy to the landlord.
- **Voucher Allocation:** Varies based on the amount of budget authority provided by HUD and the subsidy amount needed on each voucher.
- **Subsidy:** PHA calculates the maximum amount of housing assistance allowable based on Fair Market Rent and the PHA determined payment standard.



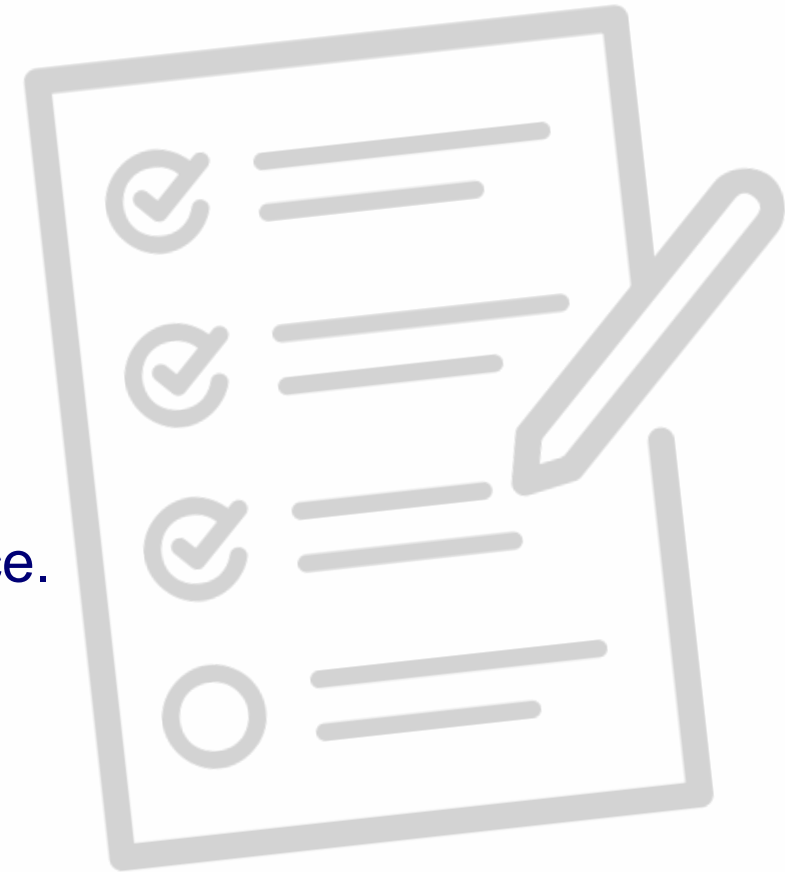
Annual Contributions Contract (ACC)

- Mechanism for receiving HUD funding.
- The ACC provides the terms and conditions between the PHA and HUD.
- HUD and the PHA's authorized official enter a Consolidated ACC.



PHA's Mission, Goals, and Plan

- Annual Plan and 5-Year Plan – PHA Plan.
- Documents:
 - Housing needs (waiting lists, including site-based).
 - Various PHA policies.
 - Homeownership programs.
 - Designated housing.
 - Project-based assistance.
 - Conversion of public housing to tenant-based assistance.
 - Capital improvement funding, including demolition and disposition, repositioning, and/or development.
- Must consult with Resident Advisory Board, public, and other stakeholders.
- Obtain Board approval.





Roles and Responsibilities



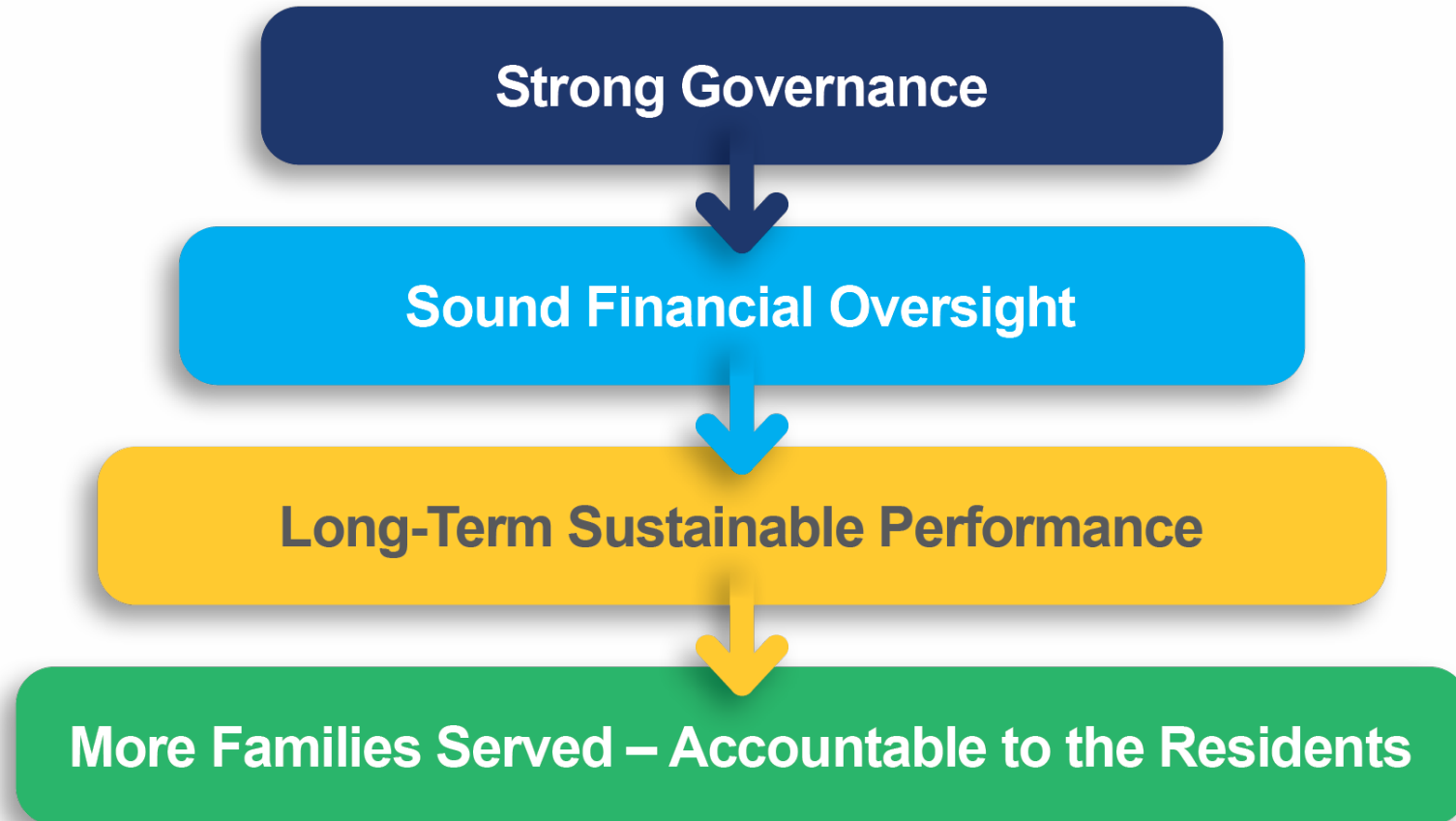
Board Appointment

- Individual state laws dictate Board of Commissioners composition and size.
- Most appointed by the local elected official(s).
- Federal law dictates the Board must have at least one resident member.*
 - Individuals who are residents of public housing are appointed to the Board through open elections.
 - Individuals bring unique skills and assets and perspective of living in public housing and the concerns of fellow residents.



* This exception does not apply to PHAs of less than 300 units, Section 8 only PHAs and in other unique situations.

Governance and Role of the Board



Board Role Components

- Leadership
 - Set and champion the mission.
 - Provide strategic direction.
 - Ensure financial solvency.
 - Speak up regarding concerns.
- Oversight
 - Compliance: Statutory, regulatory, contractual.
 - Financial: Budgets, financial documents, corrective actions, audits, expenditures.
 - Performance: Quality of the housing, services, and adherence to policies.
- Board proceedings/Board conduct/minutes/resolutions

How to Be an Effective Commissioner



Commissioner Responsibilities

- Stay informed on issues facing the PHA.
- Support, monitor, and evaluate the Executive Director.
- Represent the PHA within the community.
- Dedicate sufficient time to the job; review the materials, get training, and read trade publications.
- Provide fiduciary oversight; keep up to date on the agency financials.
- Ensure that the PHA remains financially viable.
- Evaluate PHA progress and recommend corrective actions when needed.
- Inspect the sites periodically.
- Respect staff, Board, and tenant confidentiality.

What Should You Know



Roles and responsibilities of the Board and key staff.



Governing documents: laws, regulations, and ACC.



Agency history, mission, vision, values, strategic direction.



Financials.



Programs and basic program requirements.



Agency properties.



Meeting procedures and requirements.

Responsibilities: Question 1



All the following are part of your oversight responsibilities **except**:

- a. Knowing the guidelines and policies that guide your PHA.
- b. Oversight of PHA finances.
- c. Being aware of the pitfalls that a PHA and its Board can face.
- d. The day-to-day operations of the PHA.
- e. Following your ethical and legal responsibilities.

Role of the Executive Staff, HUD, and Residents

Executive Director/ Managers	HUD
Manages PHA and staff.	Interprets congressional laws.
Oversees day-to-day operations.	Develops regulations.
Oversee PHA finances.	Resource for PHAs.
Executes Board-approved policies.	Distributes the funding to PHAs.
Ensures compliance with federal laws and guidance.	
Acts as a bridge between the Board, HUD, staff, residents, and the community.	
Responsible for all personnel functions.	
Maintains units and programs.	
Keeps commissioners informed.	

Responsibilities: Question 2



Which stakeholder in public housing provides an important voice to guide Board oversight?

- a. Other commissioners.
- b. Executive staff.
- c. Residents.
- d. HUD Field Office, Regional Office, and Headquarters.
- e. All of the above.

Commissioner Compensation

Annual Contributions Contract (ACC)

Part A, Section 14 Part (B), states, “No funds of any project may be used to pay any compensation for the services of members of the Board of Commissioners.”



Responsibilities: Question 3



True or False:

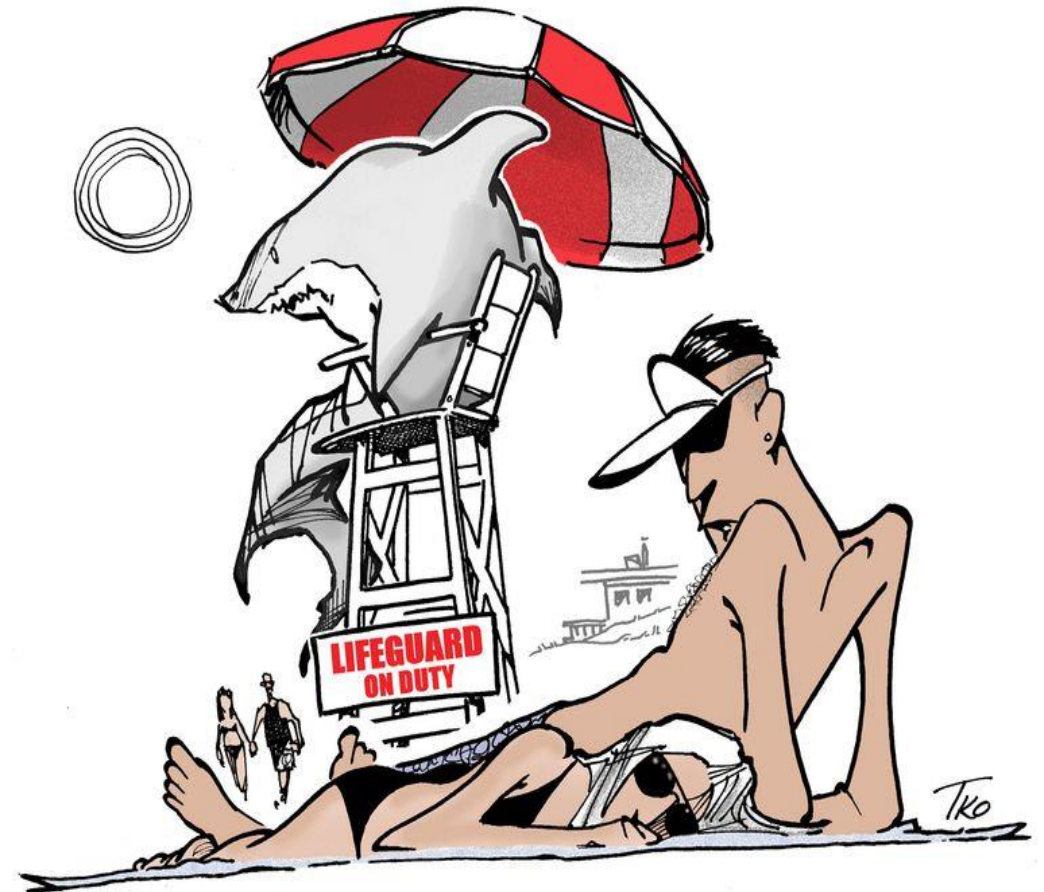
The Executive Director and commissioners should keep communication minimal, so that the commissioners do not get bombarded with day-to-day operational issues.

Ethics



Public Housing COIs

- Federal and state laws –
Most strict rule applies.
 - NC Statute Chapter 157.7
- 2 CFR 200.317–326 –
Procurement.
- ACC – HUD-53012A, 7/95.



*“So, I’m the only one who sees a
conflict of interest here?”*

Procurement COIs

- **PHA Employee or Representative (Board Member) may not participate in contract selection IF:**
 - They may be awarded the contract.
 - They have financial or other interest in the firm selected for award.
 - The firm awarded employs or is about to employ them.*7460.8 rev. 2/ and 2 CFR 200.318(c)*
- **PHA may not enter into contract if the following individuals have an interest in the firm during or 1 year after their PHA tenure:**
 - Present or former PHA staff or Board members.
 - Public officials, state or local legislators, or family associated with the PHA.
 - PHA employees or immediate family members who were involved in procurement.*ACC Section 19(A)(D)*

Scenario 1: Harrisboro Case Study



- Harrisboro Housing Authority is well run by Executive Director Bill Watts and has solid performance scores.
- The PHA put out an RFP for parking lot sealing using Doty & Sons Engineering to oversee the contract. Doty & Sons is owned by Ben Doty.
- Jones Construction was selected for the contract. Arnold Jones owns Jones Construction.
- Ben Doty and Arnold Jones are stepbrothers.

Scenario 1: Question 1



- Can Harrisboro Housing Authority award the contract?
- a. Yes, because although the owners of the two companies are stepbrothers, Harrisboro Housing Authority secured the bid by sealed competitive bid.
 - b. Yes, because Ben Doty and Arnold Jones are not immediate family members.
 - c. No, a COI exists because Ben Doty and Arnold Jones are immediate family members.
 - d. No, because Ben Doty will be administering funds being paid to Jones Construction.

Note: This is a procurement of construction services allowed under 2 CFR 200.317 through 2 CFR 200.326.

Other COIs

Member of Congress	Resident Council (RC) Officers
No member of Congress can participate in ACC or benefit from it. <i>(ACC Section 20)</i>	RC Officers may not serve as contractors or employees if they are in policymaking or supervisory roles at PHA. <i>(24 CFR 964.145)</i>

Mixed Finance
The PHA must certify in its mixed-finance proposal that it will:
Use open and competitive process.
Ensure there is no COI in partner/owner selection.
Partners must comply with procurement and COI requirements.
<i>(24 CFR 905.604)</i>

Ethics Question 1



Are there limits on the political activities you can be involved in as a commissioner?

- a. No, as long as you disclose your role on the Board to the Election Commission.
- b. Yes, there are limitations. For example, you cannot run in a local election where PHA-appointing officials may be elected.
- c. Yes, there are limitations. For example, you cannot run for office as the candidate of a political party.

Lobbying

- No lobbying with PHA funds.
 - Payments for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress.
- Must certify that it will not lobby.
 - Use Standard Form LLL—Disclosure of Lobbying Activities.



Public Housing Nepotism

- ACC Section 19(B).
- The PHA may not hire an employee if they are an immediate family member of:
 - A present or former member or officer of the Board.
 - An employee of the PHA who makes policy or influences decisions.
 - A public official who exercises functions or responsibilities with the PHA.



"We were very impressed by your resume.
Especially the part where you mention that your grandfather is our CEO."

Public Housing Nepotism (Continued)

- The prohibition applies during and for 1 year after the Board member's term.
- Board members must disclose family ties to the PHA and to HUD.



"We were very impressed by your resume.
Especially the part where you mention that your grandfather is our CEO."

Scenario 2: Family Conflict Scenario

- Anxious Annie, the City US HA Executive Director, is worried that if her brother wins election to the City Council, there will be an actual or perceived COI.
- The PHA has more than 200 units of public housing under ACC with HUD.



Should Annie be worried?

- a. Yes
- b. No

HCV COI Regulations

Procurement Restrictions

None of the following people shall have direct or indirect interest in an HCV contract during their tenure or for 1 year thereafter, and PHA contractors/subcontractors may not enter into contract in connection HCV programs if any of the following people have interest:

Present or former members/officers of PHA (except tenant).

Employees, contractors, subs, agents who are in decision-making role.

Public officials who have functions regarding program.

Members of Congress.

24 CFR 982.161 Conflict of Interest, Section 8 HAP Contract, ACC Section 2.18 (Moderate Rehabilitation)

Within the Section 8 HAP contract, there are many different HAP contracts and HAP COI provisions that govern PHAs that administer Project-Based Assistance.

HCV COI Regulations (continued)

- COIs must be disclosed to the PHA and to HUD.
- COI prohibitions may be waived by the HCV office in HUD Headquarters on a case-by-case basis.



Scenario 3: Harrisboro Case Study

Lucille Hanson, the owner of a large real estate business in town, also administers two apartment projects that participate in HUD's HCV program through the Harrisboro Housing Authority.

The mayor of Harrisboro just released a list of possible new commissioners, and Lucille, based on her real estate expertise, has been included on that list.



Scenario 3: Question 1



Can Lucille Hanson accept the position as commissioner as offered by the mayor?

- a. Yes. There is no COI as long as she does not abuse her dual role as commissioner and administrator.
- b. Yes, because the commissioner does not directly oversee HCV program funding.
- c. No, a COI exists. She must resign as administrator or not accept the commissioner offer.

HCV Integrity Issues

Participant

- ✓ Nondisclosure of income
- ✓ Nondisclosure of family members
- ✓ Not using unit as prime residence

PHA

- ✓ Ghost tenants
- ✓ Waiting list fraud
- ✓ Inspectors seeking/taking bribes

Landlords

- ✓ Require side payments
- ✓ Misrepresent ownership
- ✓ Owner lives in assisted unit
- ✓ Owner receives HAP after tenant vacates
- ✓ Require tenant pay utilities included in rent
- ✓ Attempt to evict tenant for unpaid HAP
- ✓ Bribe or attempt to bribe PHA staff

Hatch Act

- To prohibit employees in the executive branch of the federal government from engaging in partisan political activity.

As a public housing Board member:

YES

- Be a candidate in nonpartisan elections.
- Attend political meetings/conventions.
- Contribute money.
- Campaign in partisan elections.
- Hold office in political parties.

NO

- Be a candidate in partisan elections.
- Use political influence to interfere in elections.
- Coerce political contributions from subordinates in support of political parties/candidates.

Litigation Reporting

- All litigation, such as a settlement with a terminated employee, or suit against a contractor, among others, must be reported to HUD.
- HUD Regional Counsel must approve any legal action or contract with private legal counsel.



Ethics Question 2

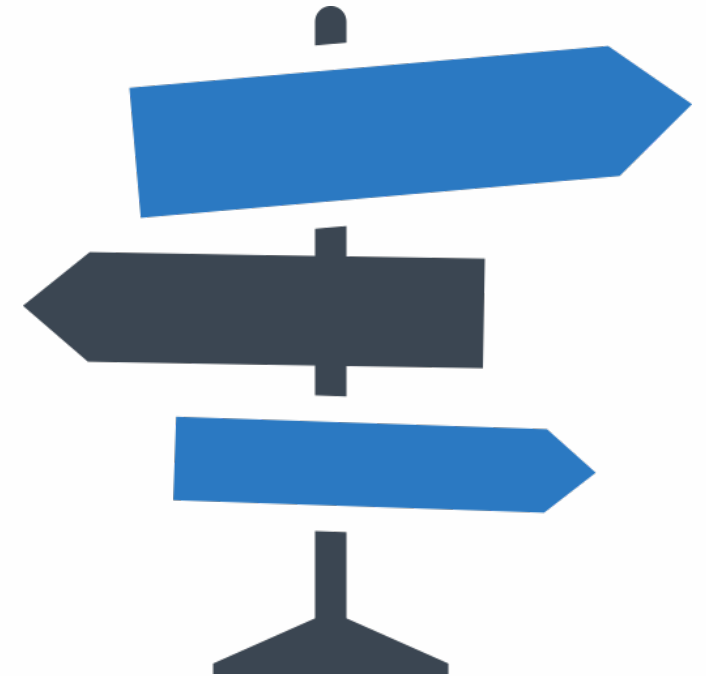


Which of the following are allowable in your position as a commissioner?

- a. Visit housing developments and get to know residents.
- b. Find a job for a friend.
- c. Influence the PHA to do something that financially benefits a family member.

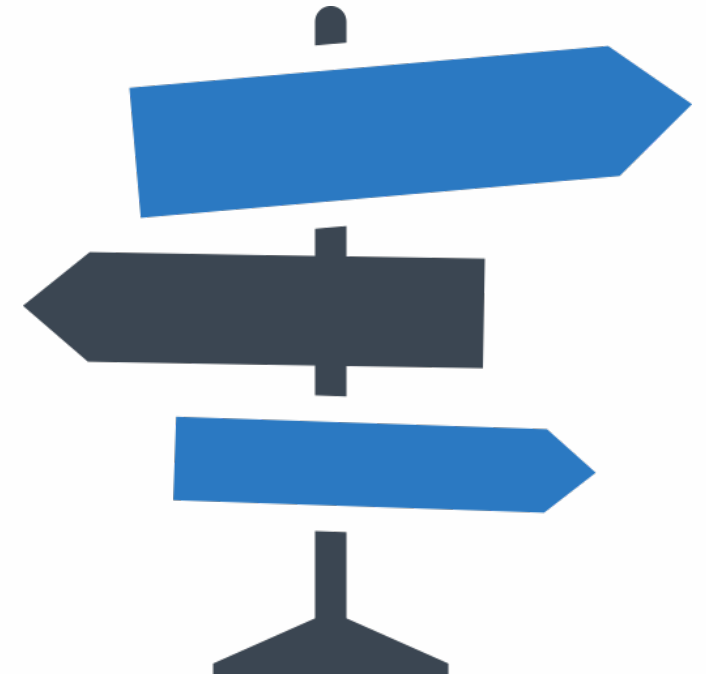
Responding to Unethical Behavior

- What to do?
 - Have the PHA code of ethics as part of your bylaws and personnel policy and consult it when needed.
 - Speak with the PHA legal counsel.
 - DO NOT contact the suspected individual; allow an investigative body to investigate.
 - Observe strict confidentiality.



Responding to Unethical Behavior (Continued)

- Possible Repercussions:
 - Follow the sanctions in the bylaws or personnel policy.
 - Some states have laws regarding public ethics standards.
 - Oral or written warnings or reprimands.
 - Suspension with or without pay for a period.
 - Termination of employment.
 - Dismissal from official/agency position.



Ethics Question 3



What should you do as a commissioner if you think there might be a COI involving another commissioner, the Executive Director, or other staff?

- a. Confront the person of interest and ask for clarification about the suspected behavior – it might all be a big misunderstanding.
- b. Review the housing authority's bylaws and consult the PHA's legal counsel.
- c. Do a little investigating on your own to determine if your concerns have any validity.
- d. Contact local law enforcement so that they might conduct their own independent investigation.



Meeting Protocols



PHA Bylaws

- At a minimum, establish:
 - Definition of a quorum.
 - How often Board meets.
 - Location of meetings.
 - Meeting date and time.
 - Meeting attendance policy.
 - Regular agenda.



PHA Bylaws (Continued)

- May also include:
 - Requirements for Board seat retention and attendance.
 - Participation on a committee or Board leadership.
 - Annual certification requirements for ethics, procurement, COIs, and others.
 - Training requirements.
 - Board selection and removal process.



Who Makes Up the Board of Commissioners?

- Recommended skills/attributes of a commissioner:
 - Administration (financial, reporting, legal).
 - Outreach and marketing (speakers, media contacts).
 - Service provision (service experts, training contacts).
 - Avoid political entanglements.
- Recommended experience of a commissioner:
 - Past service to other agencies in the public, private, and nonprofit sectors.
 - Real estate, housing, education, workforce development, social service, building/development.
 - Known positive reputation.
 - Community connections.

Board Meeting Basics

- Meetings must be conducted in a businesslike manner, using parliamentary procedures.
- Annual meetings must be held in accordance with the bylaws.
 - Officers are elected at the annual meeting.
- Board meetings are open to the public (i.e., Sunshine Law/Public Meetings Act).
- Notice of regular and special Board meetings must be provided in advance.
- All Board actions require a majority vote to pass.
- A quorum is required to hold regular, annual, and special meetings.
- Standardize agendas, minutes, and reporting; follow examples in the bylaws.
- Minutes must be approved and signed by the Board Chair and Secretary/Treasurer.

Sample Agenda

- Call to order, roll call.
- Approval of the agenda.
- Approval of previous meeting minutes.
- Public comment.
- Report of the Secretary-Treasurer.
 - Financials.
 - Program performance.
 - Compliance: Corrective action plan status, audit findings, HUD reviews, other concerns.
 - Approval of financial statements/disbursements.
 - Correspondence.
- Reports of committees.
- Old business.
- New business.
 - Resolutions.
- Executive session (if necessary).
- Adjournment.



Annually:

- Election of officers.
- Executive Director appraisal.

Meeting Rules

- Follow Robert's Rules of Order and Public Meetings Act.
- Include meeting rules in bylaws.
- The Chair or Secretary-Treasurer run meetings and follow the agenda.
- Questions should be asked before an issue is voted on and approved. All votes should be recorded.
- Public comments should have time limits per speaker but allow for all those who wish to be heard have that opportunity.



Board Packet

- PHA.
 - Copy of the agenda, prior meeting minutes, resolutions, and other materials to include financial, performance and compliance reports to be discussed at meeting.
 - Received at least several days prior to meeting.
 - Include written reports from the Executive Director and major departments, all of which can be data driven and brief.
- Board members.
 - Review materials prior to meeting.
 - Prepare questions.



Meeting Minutes

- Minutes are the official record of Board meetings.
- The Board Secretary is responsible.
- Completed within 1 week of meeting so Board Chair can follow up on action items in a timely manner.
- Maintained in binders and ideally online.
- Chair and Secretary-Treasurer sign, date, and seal the minutes.



Meeting Minutes (Continued)

- Minutes should follow the agenda and record:
 - Date and time.
 - Type of meeting.
 - Board members and PHA staff in attendance.
 - Votes for previous minute approval and business matters, including how each Board members votes (yea or nay).
 - Summary of discussions and other notable items, including questions from the Board and audience (not word-for-word transcription).
 - Public comments.



Board Best Practices

- Provide a training and orientation to all new Board members prior to their first meeting.
- Provide each Board member with a notebook, which should include, at a minimum:
 - List and contact information for all Board members and PHA staff.
 - Board bylaws.
 - PHA ACCs.
 - Current PHA operating budget, Financial Data Schedule, and audit report.
 - Current PHA Plan and Capital Fund Plan/budget.
 - All current PHA policies (i.e., Procurement, Admission and Continued Occupancy Policy (ACOP), Administrative Plan, Personnel, Financial Management).
 - PHA lease.
 - Latest PHAS, Section 8 Management Assessment Program (SEMAP), and Real Estate Assessment Center (REAC) scores.
 - Executive Director position description and performance evaluation form.
 - Last several Board packets.
- Ethics materials, a HUD acronym list, any management plans, or prior Board training is also helpful.

Executive Directors and Boards Working Together





Know Your PHA



Key Resources

- Admission & Continued Occupancy Policy (ACOP).
- Section 8 HCV Administrative Plan.
- PHA Plan (Annual and 5-year).
- Capital Fund Plan (Annual and 5-year).
- PHA bylaws and code of ethics.
- Other policies:
 - Maintenance
 - Personnel.
 - Procurement.
 - Travel.
 - Vehicle.
 - Capitalization.
 - Drug-free workplace.
 - Financial management and internal controls.
 - Investments.
 - Nonsmoking housing policy.



How Do I know?

- List some of the major plans and projects that your PHA is undertaking.
- What are some of the upcoming projects?
- Have they been scheduled?
- Is the proper funding and budgeting in place to support these projects?
- Do you know why you have the designation that you have (“troubled,” “standard,” or “high performer”)?
- Do you know what to look for and how to make it better?



Thank you
for your commitment and service to
your PHA and its residents!

