

# Nonprofit Law Blog

(<http://www.nonprofitlawblog.com/>)

NEO Law Group (<http://attorneyfornonprofits.com/>)

About Us (<http://www.nonprofitlawblog.com/aboutus/>)

Home (<http://www.nonprofitlawblog.com/>)

<input type="text" value="Search Nonprofit Law Blog"/>	<input type="button" value="Search"/>
--------------------------------------------------------	---------------------------------------

STARTING A NONPROFIT ([HTTP://WWW.NONPROFITLAWBLOG.COM/CATEGORY/STARTING-A-NONPROFIT/](http://www.nonprofitlawblog.com/category/starting-a-nonprofit/))

FISCAL SPONSORSHIP ([HTTP://WWW.NONPROFITLAWBLOG.COM/CATEGORY/FISCAL-SPONSORSHIP/](http://www.nonprofitlawblog.com/category/fiscal-sponsorship/))

BOARDS / GOVERNANCE ([HTTP://WWW.NONPROFITLAWBLOG.COM/CATEGORY/GOVERNANCE/](http://www.nonprofitlawblog.com/category/governance/))

FOUNDATIONS ([HTTP://WWW.NONPROFITLAWBLOG.COM/CATEGORY/PRIVATE-FOUNDATIONS/](http://www.nonprofitlawblog.com/category/private-foundations/))

MERGERS ([HTTP://WWW.NONPROFITLAWBLOG.COM/CATEGORY/MERGERS/](http://www.nonprofitlawblog.com/category/mergers/))

SOCIAL ENTERPRISE ([HTTP://WWW.NONPROFITLAWBLOG.COM/CATEGORY/SOCIAL-ENTERPRISE/](http://www.nonprofitlawblog.com/category/social-enterprise/))



BOARDS / GOVERNANCE ([HTTP://WWW.NONPROFITLAWBLOG.COM/CATEGORY/GOVERNANCE/](http://www.nonprofitlawblog.com/category/governance/))

## Board Meeting Minutes – Part I

By Emily Chan (<http://www.nonprofitlawblog.com/author/emily-chan/>) on February 18, 2011

### ABOUT US



Gene Takagi is the managing attorney of the NEO Law Group. Follow Gene on Twitter @GTak (<http://twitter.com/GTak>).



Erin Bradrick is senior counsel with the NEO Law Group. Follow Erin on Twitter @erinbradrick (<http://twitter.com/erinbradrick>).

### GET THE NONPROFIT LAW BLOG DELIVERED

<input type="text" value="Enter your email"/>	<input type="button" value="Subscribe"/>
-----------------------------------------------	------------------------------------------



(<https://www.facebook.com/neolawgroup>)



(<https://twitter.com/GTak>)



(<http://www.linkedin.com/company/neo-law-group>)



(<http://www.youtube.com/channel/UCiLO8LXtSNblpRYw-A5mnSw>)

### CATEGORIES

ADVOCACY & LOBBYING  
([HTTP://WWW.NONPROFITLAWBLOG.COM/CATEGORY/ADVOCACY-AND-LOBBYING/](http://www.nonprofitlawblog.com/category/advocacy-and-lobbying/))

Share 3 0



(<http://www.nonprofitlawblog.com/assets/6a00d834558ca469e2014e5f4d998e970c-pi>)

Board meeting minutes are an important but often undervalued form of recordkeeping for organizations. Minutes provide a memorialized chronology of key information such as board actions, elections of officers or directors, and certain reports from committees and staff. Additionally, meeting minutes can have important legal significance in an IRS examination and as evidence in

courts if, for example, someone challenges the validity of certain actions or positions.

Unfortunately, a variety of mistakes are commonly associated with the taking and keeping of minutes including:

- Failing to document a quorum was present;
- Failing to document or provide a clear description about a board action taken;
- Drafting a transcript of everything said at the meeting, including information that might be harmful to the organization if read by someone with access to the minutes (e.g., employees or members) or by a court reviewing a board action;
- Drafting and distributing minutes to directors after a lengthy period of time has passed;
- Waiting to approve minutes from past meetings until a substantial period of time has passed, decreasing the likelihood that mistakes will be caught and corrected; and
- Failing to maintain a reasonable document management system, resulting in the loss of minutes from past meetings.

#### What should minutes look like?

Anyone reading an organization's minutes should be able to easily understand, at a minimum, what actions were taken and how they were approved.

#### CONTENT

There is no hard and fast rule regarding the level of detail to be included in minutes. Organizations are not required to, nor should they, record every detail or statement said at the meeting. However, there should be enough information to make the minutes useful should they ever be used for reference or offered as evidence that an action was properly taken or that directors fulfilled their fiduciary duties. Boards and secretaries tasked with recording or approving the minutes should use their best judgment about the degree of specificity provided in the minutes. Board minutes should include basic information such as:

- Date and time of meeting;
- Whether the meeting is a special or regular meeting;
- Whether notice was given or a waiver of notice signed by all directors;
- Names of directors in attendance and directors not in attendance;
- Names of other guests in attendance (and their titles or associations, if relevant);
- Whether a quorum was established;
- Any departures and re-entries of attendees; and
- Any board actions (e.g., approvals, delegations of authority, directives).

#### Suggestions:

- Include alternatives considered for important decisions to show diligence and reasonable care;
- Attach and briefly summarize key points from any reports given to the board (so long as they may not be misconstrued to be prejudicial to the organization or to the board);
- Know what vote is required by your bylaws (e.g., majority, supermajority) for certain actions and clearly indicate if such a vote was reached;
- Record recusals from discussions and abstentions from voting;
- Include those votes that were against a motion (see Part II); and
- Include action items, what people commit to do.

Boards should also be thoughtful with how they handle confidential or sensitive information. For example, organizations may choose to hold an executive session to discuss matters such as executive director reviews or pending litigation. According to Blue Avocado (<http://www.blueavocado.org/node/186>), "The minutes of the meeting should indicate that the board met in executive session, and report on the topic of the discussion, although the specifics (such as the amount of a lawsuit settlement) may be confidential and appear only in a set of confidential-to-the-board minutes or other notes." A separate recordkeeping system should be established for such confidential information, which is better not identified as "minutes" to prevent members and others from asserting the right to view such information.

#### FORMAT

Format is really a question about how to best organize the content. Again, there is no right answer. There are however a few guiding principles. Ideally, nonprofits should maintain consistency with the

#### BOARDS / GOVERNANCE

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/GOVERNANCE/](http://www.nonprofitlawblog.com/category/governance/))

#### CALIFORNIA LAW

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/CALIFORNIA-LAW/](http://www.nonprofitlawblog.com/category/california-law/))

#### COLLABORATIONS & MERGERS

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/MERGERS/](http://www.nonprofitlawblog.com/category/mergers/))

#### CURRENT AFFAIRS & OPINION

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/CURRENT-AFFAIRS/](http://www.nonprofitlawblog.com/category/current-affairs/))

#### DISSOLUTION

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/DISSOLUTION/](http://www.nonprofitlawblog.com/category/dissolution/))

#### DONOR-ADVISED FUNDS

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/DONOR-ADVISED-FUNDS/](http://www.nonprofitlawblog.com/category/donor-advised-funds/))

#### EMPLOYMENT LAW / VOLUNTEERS

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/EMPLOYMENT-LAW/](http://www.nonprofitlawblog.com/category/employment-law/))

#### EVENTS

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/EVENTS/](http://www.nonprofitlawblog.com/category/events/))

#### FEATURED NONPROFIT

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/FEATURED-NONPROFIT/](http://www.nonprofitlawblog.com/category/featured-nonprofit/))

#### FINANCIAL MANAGEMENT

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/FINANCIAL-MANAGEMENT/](http://www.nonprofitlawblog.com/category/financial-management/))

#### FISCAL SPONSORSHIP

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/FISCAL-SPONSORSHIP/](http://www.nonprofitlawblog.com/category/fiscal-sponsorship/))

#### FUNDRAISING & CHARITABLE GIVING

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/FUNDRAISING/](http://www.nonprofitlawblog.com/category/fundraising/))

#### INTELLECTUAL PROPERTY

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/INTELLECTUAL-PROPERTY/](http://www.nonprofitlawblog.com/category/intellectual-property/))

#### INTERNATIONAL CHARITY

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/INTERNATIONAL-CHARITY/](http://www.nonprofitlawblog.com/category/international-charity/))

#### INTRODUCTION & DISCLAIMER

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/INTRODUCTION-DISCLAIMER/](http://www.nonprofitlawblog.com/category/introduction-disclaimer/))

#### IRS & FEDERAL TAX ISSUES

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/IRS/](http://www.nonprofitlawblog.com/category/irs/))

#### PRIVATE FOUNDATIONS / PHILANTHROPY

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/PRIVATE-FOUNDATIONS/](http://www.nonprofitlawblog.com/category/private-foundations/))

#### RESOURCES

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/RESOURCES/](http://www.nonprofitlawblog.com/category/resources/))

#### RISK MANAGEMENT

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/RISK-MANAGEMENT/](http://www.nonprofitlawblog.com/category/risk-management/))

#### SOCIAL ENTERPRISE

format of their minutes. This does not mean the format should not be improved over the years to be more readable, clear, and useful to the organizations and others; this does however mean that format should not simply change at whim or due to lack of institutionalized knowledge about appropriate ways to document meeting minutes. Unexplainable changes in format can make minutes more difficult to understand internally and can also raise suspicion for outsiders. For example, if the organization's January minutes provide detailed accounts of board discussion over a minor issue, it can raise flags if the organization's February minutes barely account for any discussion on a major issue such as increasing an executive's compensation amount by a substantial amount. Additionally, the format used should be one that is user- and reader-friendly.

#### Suggestions:

- Adopt and use a meeting "minute template;"
- Use a format that clearly indicates when a board action has been taken (e.g., "Resolved," "Action");
- Set apart important information such as "action items" (actions that directors have committed to doing).

#### TIMING

The revised Form 990 asks in Part VI, Section A, Question 8 whether there is contemporaneous documentation of the board and board committee meeting minutes or written actions. The Form 990 instructions then go on to say that "contemporaneous" means "by the later of (1) the next meeting of the governing body or committee (such as approving the minutes of the prior meeting) or (2) 60 days after the date of the meeting or written action." Organizations that do not conduct contemporaneous documentation must explain their practices or policies, if any, regarding documentation of board or board committee meetings or written actions. Although there is no outlined penalty for a failure to take contemporaneous minutes, the question's presence on Form 990 indicates that meeting minutes documentation is an area of concern for the IRS. Failure to adopt practices for better meeting minutes documentation may be a factor that weighs against the organization in the eyes of the IRS or courts. Additionally, a shallow explanation for poor practices may raise concern with funders, donors, and the public who have access to an organization's Form 990.

#### RETENTION

While the duration of record retention can vary widely depending on the type of record, the IRS has indicated in its compliance guides that the board minutes of 501(c)(3) public charities (<http://www.irs.gov/pub/irs-pdf/p4221pc.pdf>), private foundations (<http://www.irs.gov/pub/irs-pdf/p4221pf.pdf>), and other tax-exempt organizations (<http://www.irs.gov/pub/irs-pdf/p4221nc.pdf>) should be kept permanently by the organization. Other documents that the IRS directs to be kept permanently include an organization's determination letter, articles of incorporation and bylaws, again highlighting the importance of meeting minutes. Organizations should be aware of such a strong directive from the IRS supported by the opinion of many nonprofit lawyers.

"Board Meeting Minutes – Part II" can be viewed here (<http://www.nonprofitlawblog.com/home/2011/02/board-meeting-minutes-part-ii.html>).

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/SOCIAL-ENTERPRISE/](http://www.nonprofitlawblog.com/category/social-enterprise/))

#### SOCIAL MEDIA

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/SOCIAL-MEDIA/](http://www.nonprofitlawblog.com/category/social-media/))

#### STARTING A NONPROFIT

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/STARTING-A-NONPROFIT/](http://www.nonprofitlawblog.com/category/starting-a-nonprofit/))

#### SUPPORTING ORGANIZATIONS

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/SUPPORTING-ORGANIZATIONS/](http://www.nonprofitlawblog.com/category/supporting-organizations/))

#### TWEETS OF THE WEEK

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/TWEETS-OF-THE-WEEK/](http://www.nonprofitlawblog.com/category/tweets-of-the-week/))

#### UBIT / UNRELATED BUSINESS

([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/UBIT/](http://www.nonprofitlawblog.com/category/ubit/))

#### UNCATEGORIZED


([HTTP://WWW.NONPROFITLAWBLOG.COM /CATEGORY/UNCATEGORIZED/](http://www.nonprofitlawblog.com/category/uncategorized/))

#### META

- Log in (<http://www.nonprofitlawblog.com/wp-login.php>)
- Entries RSS (Really Simple Syndication) (</feed/>)
- Comments RSS (Really Simple Syndication) (</comments/feed/>)
- WordPress.org (<https://wordpress.org/>)

## Comments

1.  Gaylegifford (<http://profile.typepad.com/gaylegifford>) says:  
February 22, 2011 at 7:27 am (</board-meeting-minutes/#comment-372>)  
Great post. Very comprehensive. It's in my bookmarks and I'll share with my many board clients.
2.  Emily Chan (<http://profile.typepad.com/1217817519s23770>) says:  
February 22, 2011 at 8:46 am (</board-meeting-minutes/#comment-373>)  
Thank you! I'm glad you enjoyed it!

3.  Davispolk Polk (<http://profile.typepad.com/davispolk>) says:  
December 27, 2011 at 1:54 am (/board-meeting-minutes/#comment-374)  
Wow, This is excellent article about meeting minutes.. This could be helpful for me.. Thanks..
4. For Purpose Law Group | Breach of Fiduciary Duty By Ogling The Doughnuts - For Purpose Law Group (<http://www.forpurposelaw.com/breach-fiduciary-duty-ogling-the-doughnuts/>) says:  
October 10, 2014 at 9:09 am (/board-meeting-minutes/#comment-10954)  
[...] if there's dissension brewing among board factions over an important issue or course of action taken? If a lawsuit erupts, what will be key evidence in the case? You guessed it: the Board [...]

6 comments

[Add a comment](#)**Mia Dolney Askim**

I am aware of a situation where a board president wants to see the meeting minutes to make changes before the next board meeting. Is this legal?

[Reply](#) · [Like](#) · 1 · [Follow Post](#) · January 15 at 12:34pm

**Kathy Loberger Kowalski** · Office Manager at West Foundation

What are the pros and cons of recording board meetings? Is this a common practice?

[Reply](#) · [Like](#) · [Follow Post](#) · November 3, 2014 at 2:37pm

**Chaz Prato** · [Follow](#) · San Bernardino Valley College

Can a city council exclude public comments and speakers on public safety issues? Also at the same meeting my first amendment was violated by the county sheriff. I wasn't loud rude or disrespectful. I was taking notes after I spoke. Was removed and not invited back into the city council meeting. I contacted my congressman the next day. What are any thoughts or advise?

[Reply](#) · [Like](#) · [Follow Post](#) · September 27, 2014 at 12:20am

**Ken Becht** · Top Commenter

Great information.... thank you so much!

[Reply](#) · [Like](#) · [Follow Post](#) · June 30, 2014 at 5:36am

**Maureen Baisden** · Top Commenter

Should the person making suggestion/ideas have their name placed in the minutes for who made the suggestions Or should we keep it generic? Also, what do you do when you don't have a President who can lead the meeting, no agenda, and is very disengaged while the meeting is going on.

[Reply](#) · [Like](#) · [Follow Post](#) · June 14, 2014 at 6:19pm

**Debi Hanuscin** · Columbia, Missouri

I'm wondering when board members should expect to be provided minutes from a meeting they were unable to attend. For example, I'm on the board of an organization that meets twice a year. I was attending another association meeting in official capacity as a board member, and when I requested minutes from the meeting I missed, I was told I would receive them in October-- a week prior to the next board meeting. Are there any regulations concerning this?

[Reply](#) · [Like](#) · [Follow Post](#) · April 7, 2014 at 5:30pm

Facebook social plugin