

KSECA Board of Directors Statement of Loyalty

What is posted below is in alignment with the Board's decision to further its knowledge of board member ethics and fiduciary duties.

QUESTION: Does the "duty of loyalty" mean I have to be supportive of a position reached by a majority of the board? Am I prevented from publicly disagreeing and making comments to support my position?

ANSWER: You can disagree and make non-supportive comments in a board meeting when the matter is being discussed by the board. However, once a decision is made, it's time to move on. You don't have to champion the board's decision but a director goes too far when he undermines the board or the agreed-upon course of action. Such behavior can result in a breach of the director's fiduciary duties.

Business Judgment Rule. When a homeowner is elected to the board, he/she automatically becomes a fiduciary and must follow the business judgment rule. That means the actions of a director must be in good faith, in the best interests of the association, and undertaken with prudent care. Stating you voted against the motion but support the board's decision is okay. Disrupting operations, attacking fellow directors and undermining an agreed-upon course of action is harmful to the association and falls outside the Business Judgment Rule. When that happens, disruptive directors face personal liability.

Dealing with Rogues. If a director goes rogue, the board may have no choice but to censure him and, when appropriate, form an executive committee to exclude the director from sensitive issues. Any director who believes he must win all votes is not suited to be on the board.

Recommendation: Once the board makes a decision, dissenting directors should either publicly support the decision or keep silent. They should in no way undermine the board. If the director cannot follow this policy, he/she should immediately resign from the board. Once off the board, the former director can publicly oppose the board's decision, provided he/she does not disclose any privileged information.