

# Section VI A 8

Toastmasters International  
***POLICIES AND PROCEDURES***

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## **BOARD CONFIDENTIALITY POLICY**

This policy is designed to address the need to keep certain items, considered by the Board of Directors, as well as the report out of such items, confidential so that the best interests of Toastmasters International will be protected. The intent of this policy is that most items should become unrestricted so that the outcome of the Board's deliberations will be as visible as possible to the membership. The need for confidentiality may arise from many different circumstances, such as:

- \* Confidential attorney-client communications, which are privileged because in order to get the best advice, clients must be able to be completely candid with their legal counsel;
- \* Personnel and disciplinary matters, where an individual's privacy rights are involved. Also, the organization may risk a defamation suit if negative information about a person is publicized and turns out to be false;
- \* Protecting the organization's proprietary trade secrets, business opportunities, and negotiations with third parties may require confidentiality so that the organization can maintain its advantages in the marketplace; and
- \* The internal decision-making process within the Board may require that various options, e.g., a realignment of Districts within Regions, be explored without generating premature discussions and rumors throughout the organization.

On the other hand, in a public benefit corporation accountable to its membership, openness is an important value. For instance, members will have more trust in their elected leaders if they are able to hear about and understand the decisions made by those in leadership.

In many cases, it is useful to be able to discuss matters with and get input from the people who will be most affected before the agenda item comes to the Board, such as the formation of a new District.

In other situations, where rumors or misinformation may be circulating within the organization, it may be necessary for the Directors, following the lead of the International President, to write and speak openly in order to set the record straight.

### **Legal Principles**

A confidentiality policy must be based on the following legal principles:

1. Directors, Officers, employees, and other agents (including consultants) of the organization have fiduciary duties of care and loyalty, to protect the best interests of the organization.

## Section VI A 8

These duties arise when they enter into a fiduciary relationship with the organization, and may even continue after the relationship has ended.

2. Part of the fiduciary duty of care is the duty to protect the confidences of the organization. After a person ceases to be a Director, Officer, or other agent of the organization, he or she may possess information received while in the capacity of a fiduciary. If the person uses or reveals such information in a manner damaging to the organization, the organization may take legal action.
3. The decision as to when and to whom confidential information, received in a fiduciary relationship with an organization, is disclosed to others belongs to the organization, not to the individual. Only those Officers authorized by the organization to disclose confidential information may do so.
4. The law does not require that meetings of a nonprofit public benefit corporation Board of Directors be open to the public or even to voting members of the corporation. Board materials properly classified as confidential may be withheld from the public and from members.

### Procedures

Considering these principles, the following procedures shall be used to protect the confidences of the Board of Directors of Toastmasters International:

1. Each document provided to Directors in connection with Board business (an "item") shall be classified under one of these three categories:

- a. Highly Confidential

Items classified as "Highly Confidential" shall not be photocopied for, shown to, or discussed with anyone except members of the Board of Directors and those employees, agents, or members of the corporation authorized by the Executive Director to receive the information.

Examples include materials containing attorney-client communications, personnel and disciplinary matters, background/position/problem documents, draft agendas, draft policies, and draft procedures, and other reports, plans, budgets, and commentaries prepared for committee and Board deliberations.

- b. Restricted

Items classified as "Restricted" shall not be photocopied for, shown to or discussed with anyone except members of the Board of Directors, those employees, agents, or members of the corporation authorized by the Executive Director to receive the information, and those past members of the Board who have agreed to receive such information in confidence.

## Section VI A 8

Examples include final committee and Board agendas, Executive Committee minutes, and matters submitted to the Advisory Committee of Past Presidents.

### c. Unrestricted

Items classified as "Unrestricted" have no limitation on distribution or discussion. Directors, Officers, employees, and agents of the organization must use good judgment and discretion when handling such information, keeping the best interests of the organization uppermost.

Examples include Board approved policies and procedures (though they may have been classified as "Highly Confidential" or "Restricted" at an earlier stage), minutes of the Annual Business Meeting, and Board Meeting minutes. Some matters contained in Board minutes might remain "Highly Confidential" or "Restricted."

2. When items are prepared for distribution by World Headquarters staff, the Executive Director shall tentatively classify each item. In some instances, a particular page or attachment may be classified differently from the rest of the item.
3. An item may be classified as "Highly Confidential" or "Restricted" until a specific time, after which the item becomes "Unrestricted" and may be openly discussed. All those receiving such an item in confidence shall observe the restriction until the prescribed time.
4. If someone receiving "Highly Confidential" or "Restricted" information believes it would serve the best interests of the organization to disclose the matter to, or discuss it with, someone outside of the restricted group, he or she may request approval from the Executive Director to do so.
5. After consultation with the Executive Director, the International President may change the tentative classification of an item. The Executive Committee may change a classification made by the Executive Director or by the International President. The Board of Directors may change a classification made by the Executive Director, the International President, or the Executive Committee. In all cases, the Board has the ultimate responsibility for establishing the level of confidentiality to be maintained, observing the requirements of applicable law.
6. Once a year, the Executive Director shall mail a notice to all Past International Presidents and Past International Directors currently receiving Board materials, giving them the option whether to continue receiving Board materials, including "Restricted" items which they must agree to keep confidential. Only those past Board members responding in writing that they wish to receive such materials subject to the confidentiality restriction shall be sent such materials, until the next annual notice is mailed to them for their response.

## Section VI A 8

7. The distribution of Board agendas and materials, committee agendas and materials, and the Minutes (with attachments) of Board and committee meetings, is set forth in Introduction 2 and Organization Guide V 16. Each document may indicate that its contents are "Unrestricted," except for those items classified as "Highly Confidential" or "Restricted." If a document distributed to Past International Presidents, Past International Directors, or District Governors contains "Highly Confidential" material, such items shall be redacted or deleted in order to preserve confidentiality.
8. At Board briefings which are open to members of the organization, the Board shall brief the audience on such items as the Board selects, and any mention of "Highly Confidential" or "Restricted" items shall be made in a manner which does not compromise the confidentiality of those items.
9. In addition to a "Highly Confidential" or "Restricted" classification, an item or a portion of an item may be marked "Confidential Attorney-Client Privilege" where the material contains or reflects a matter communicated between the organization and legal counsel in confidence. Disclosing such matters to others may result in a waiver of privilege, causing the organization to lose the protection of the privilege in the event of litigation.
10. Specifics of Board deliberations, including how individual Directors voted, shall be "Highly Confidential." If a Director wishes that his/her vote on an "Unrestricted" item to be disclosed, that vote may be made "Unrestricted."
11. Any breach of the confidentiality policy set forth here shall be immediately reported to the Executive Director.
12. The Board minutes and other corporate records of Toastmasters International open to inspection by voting members of Toastmasters International (Delegates at Large and authorized representatives of member clubs) under California Corporations Code Section 6333 shall be limited to "Unrestricted" materials, and only those "Highly Confidential" and "Restricted" materials that the Executive Director determines may be inspected for a purpose reasonably related to such person's interests as a member.

Any violation of this policy by any Director, Officer, employee, agent, or member of this organization shall subject the violator to removal, termination, expulsion, suspension, or other disciplinary action as may be appropriate under the Bylaws of Toastmasters International, the District Administrative Bylaws, the Club Constitution of the club to which the person may belong, the personnel policies of World Headquarters, or the terms of any contract with the individual.

Reference: Introduction II 2  
Organization Guide V 16