

Role of Synods as Corporate Members of Lutheran Social Ministry Organizations

Within the ELCA synods and bishops participate with social ministry organizations (SMOs) in a variety of ways, some of them quite informal and occasional while other relationships are formal and prescribed. Participation in the installation of a new chaplain or attendance at the one-hundredth anniversary dinner are of the occasional variety. A more formal relationship might occur when a board seat is designated as having to be filled by the bishop of the synod in which the organization is located, whether in an ex-officio capacity, with or without full vote. The responsibility for being present at board meetings on a regular basis is implicit. The highest level and most formal way in which a synod participates in an SMO is by being the sole corporate member or part of a group of corporate members.

Corporate membership is the highest level of involvement because in reality “member” is equivalent to “owner.” According to *A Social Ministry Partnership* which details the criteria which a Lutheran entity must meet in order to be considered affiliated with the ELCA, the term “corporate member” means “An entity entitled to exercise the membership rights of participation in the election of board members and approval of changes to the organization’s governing documents.”

When the ELCA affirms the ministry of a new SMO through affiliation the governing documents are scrutinized to determine which expression of the church carries the responsibility for serving in the role of corporate member. It is important to the ELCA that the governing board of the SMO has a demonstrated link to a congregation, a group or congregations, a synod or group of synods, or the churchwide expression. We do not affiliate SMOs where organizational boards are self-perpetuating because we view the board as crucial to maintaining the mission of that social ministry. The synod’s mission and the SMO’s mission are interrelated and integral to each other. Therefore, the primary role of the synod as corporate member is to select all board members or endorse the nomination of a significant portion of them. Active membership in a Lutheran congregation is stipulated for board members in the affiliation criteria. It is hoped that the selection of board candidates can involve mutual dialog between the synod and SMO about qualifications. It is also hoped that all parties are seeking persons with special gifts and a vocation for board service. The synod staff and council should know the people selected for such board service on your behalf. Responsibility for timely action to fill board vacancies lies with the corporate member. A vacancy weakens the board particularly in this era when smaller boards are deemed to be more efficient.

The second role of the synod as corporate member is to approve those portions of the governing documents - Articles of Incorporation and By-Laws - which detail the expectations and obligations of the corporate member. Approval would be required when the corporation is being established and approval for changes in these sections is key every time change is proposed. The affiliation criteria require that the ELCA also review proposed changes. Timely response to requests for approving changes and attention to the nature of the proposed changes are both quite important. Maintaining a current file on each SMO for which the synod serves as

corporate member is strongly urged.

Two significant provisions required of all entities that become affiliated are related to declarations of fiscal responsibility and plans in the event of a dissolution. In both these sections of the Articles and By-laws the corporate member is named. The ELCA requires that the church in all its expressions be declared exempt from responsibility for the SMO's liabilities. Such a provision is not an ironclad guarantee of exemption from all quests for deeper pockets in the event of debts or lawsuits filed to address other grievances. However, having such a provision holds up before the board, the staff, and the corporate member the accountability for regular and frequent exchange of information about pending situations in which new liability might be assumed and in which liability is alleged from external sources. In the description of the distribution of remaining assets following a dissolution mention is frequently made of reversion to one or more expressions of the church. This may include the naming of a synod whether or not it is a corporate member. It is in the synod's best interests to be aware of such presumptions since in some instances what might appear to have been an asset may bring with it a set of problems and liabilities.

When several synods form the combined corporate membership of an SMO that crosses synod lines or when a synod shares corporate membership with one or more LCMS districts in the case of pan-Lutheran SMOs each corporate member is expected to play an equal role in board selection and governing document review. Communication among the corporate members is as critical as communication with the SMO to insure access to vital information and maintenance of the focus on mission.

Faithful corporate members seek the best interest of the organization for which they have accepted this responsibility. They fulfill this responsibility outlined in *A Social Ministry Partnership* by participating with the organization in securing the highest level of committed board candidates, by ensuring that they remain attentive to the SMO's stewardship of its mission and its resources - human and financial, and by publicly acknowledging the integral nature of the work of affiliated SMOs to the mission of the church.

BACKGROUND: CORPORATE MEMBERSHIP

“Incorporation is a concept that grew out of the Christian theological principle of the Corpus Christi, the ‘body of Christ,’ a way in which the Christian church has traditionally defined itself. . . . The concept of the Corpus Christi was used by the thirteenth-century Pope Innocent IV to form local parish corporation in England . . . The concept of an organization with *a collective membership of natural persons whose life continued beyond that of any one natural person* was in place before the advent of Christianity.” (emphasis added) [pp. 2-3], (Everson, H. (*The Corporate Person*, 1998).

Everson also commented,

If the corporation is that artificial person defined by law, then the governing board of the corporation is that artificial person defined by law, then the governing board of the corporation is the embodiment/incarnation of that artificial person. The board - which exists by authorization of the corporate members - is the actual living, breathing, thinking, acting, flesh-and-blood entity that represents the corporate owners, members, and stakeholders who comprise and surround the corporation. In turn, the members limit their control and agency by conferring them to the board. They delegate the board to act on their behalf. Since it exists at the will of the corporate members who elect it, the board is therefore understood by the state to be the ultimately responsible *person*. [p. 5] He concludes with this observation, “The church would do well to rediscover its corporate heritage and its involvement in the development of the not-for-profit corporation, and from that history reclaim its understanding of what it means to live and work corporately as one body.” [p. 7]

The decision on whether or not to have members has significant implications, according to the National Center for Nonprofit Boards in a guide to creating bylaws (1997). Some nonprofit corporations have a category of members who “govern the corporation by electing the board of directors.” A few states require nonprofit corporations to have at least one member. One way to meet this requirement is to specify an affiliated nonprofit corporation as a member. Although most states require that the articles of incorporation state whether there will be members, some states allow the bylaws to stipulate whether the organization will have members and the qualifications necessary for members, as well as the relations, rights, and duties of the members to each other and to the organizations. When stipulating these qualification, the organization may include among the categories that of corporate member. Because of the importance and frequency of issues relating to members, the categories of members and their related voting rights, even if stated in the articles of incorporation, should be reiterated in the bylaws. (See model language in attached reprint from *A Social Ministry Partnership*.)

According to Board Source, formerly known as the National Center for Nonprofit Boards, governance issues arise when an organization is growing or contracting. In the contracting or dissolving situation especially the framework for making these decisions is the by-laws which should be kept consistent with the current needs of an organization. The most current version of these by-laws must be kept on file by each of the corporate members so that their constituents can be aware of their position *vis a vis* that of the nonprofit for which they serve this important

function.

Nationally recognized nonprofit board expert John Carver prefers the term “moral owners” over “corporate members.” The relationship of the organization to moral owners according to Carver may be typified by these statements:

1. Owners are those on whose behalf the board is accountable to others (in the case of ELCA synods - to the members of that synod);
2. Owners are a special group of stakeholders, similar to stockholders in an equity corporation
3. The board’s trust relationship to owners supercedes its relationship with staff;
4. Fidelity to those in whose name mission is created is dominant over fidelity to the current mission, since mission is a continuing creation of the board itself.

Carver goes on to speak of linkage with moral owners as attitudinal, statistical, and personal. The board of an SMO would do well to educate itself regarding values of the moral owner and act under the influence of those values. Concomitantly, the moral owner needs to be aware of the goals and strategies by which the SMO and its board are pursuing mission fulfillment. The board is responsible to report to its owner regarding its stewardship of mission and its resources.

Through affiliation a unique and dynamic ministry partnership is established which is dependent upon mutual commitment, responsibilities and support. As Bishop Gregory Pile recently said, “It is not a matter of church versus SMO - one being better or stronger or more important in the relationship than the other. It is a matter of the Almighty empowering us as Church so that we might be open to the bountiful opportunities and endless possibilities that the Gospel in its freedom gives us.” The three guiding principles of affiliation are 1) A Shared Mission, implying a ministry of service in response to God’s love; 2) A Ministry Partnership in which each part of the church’s ministry finds its place and through which each is strengthened by the other; and 3) Faithful Stewardship which recognizes God’s ownership of all human and financial resources (from *A Social Ministry Partnership*, 1997).

Seven requirements are set for governing documents of ELCA-affiliated social ministry organizations total seven. All seven deal with some aspect of the relationship between the SMO and the expression of the church to which it has some measure of accountability, in some cases synods, in many cases congregations or groups of congregations and in three cases with the churchwide expression. These seven requirements are:

1. Declaration of intent to be affiliated
2. Lutheran corporate and board membership
3. Endorsement of board members
4. Rotating, limited terms
5. Declaration of fiscal responsibility
6. Changes to governing documents
7. Dissolution

(See *A Social Ministry Partnership*, Appendix 3, pp. 12-13).

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