

Fiduciary Responsibilities

The word fiduciary itself comes originally from the Latin fides, meaning faith, and fiducia, trust. A fiduciary responsibility or duty is a **legal** relationship of confidence or **trust** between two or more parties. Conservation district supervisors, as elected public officials with fiduciary responsibilities and duties can be referred to as a fiduciary.



The fiduciary relationship is highlighted by good faith, loyalty and trust. A fiduciary is expected to be extremely loyal to the person they owe the duty (the "principal"): they must not put their personal interests before the duty, and must not profit from their position as a fiduciary, unless the principal consents.

As a fiduciary, a supervisor cannot have a conflict of interest. It has been said that fiduciaries must conduct themselves "at a level higher than that trodden by the crowd". It is a fiduciary duty to recognize potential conflicts of interest, and avoid anything that could even appear as a conflict.

Supervisors are responsible for district accountability and public credibility. "Accountability" is the state of being accountable, responsible, or liable. Being "credible" means supervisors are expected to always act in a way that entitles them and the district they represent to belief or trust. Supervisors build accountability and credibility by following state/federal laws, district bylaws, and sound business principles and practices.

Associate Board Members

35-70-107(1)(a)(I) of the Soil Conservation Act specifies that the "governing body" of a district consists of a board of elected supervisors or supervisor(s) appointed to an elected position. The Act requires that a board consist of a **set** number of supervisors that cannot be less than five and not more than eleven supervisors. This **set** number of supervisors **must be specified in the bylaws of the district and a range is not allowed**.

There is a tremendous diversity of land users and citizens in the District, representing varied interests, objectives and needs. It is impractical for a five-member Board of Supervisors to adequately represent such diversity and thoroughly understand the variety of needs and concerns that exist. Therefore, the Board relies on paid staff and Associate Supervisors for input and to help inform their decisions and disseminate information to the citizens of the District. There is no provision for an associate in the law to become a voting member. The district can appoint an associate if district bylaws allow for the appointment. An associate can attend meetings, participate in discussion and debate **but does not have authority to vote on official actions of the Board or be considered as a supervisor to meet the quorum requirement**. Associate board members also become familiar with the operations of the district and can fill a vacancy on the board in the future. A template for an Associate Supervisor Policy is provided [here](#).

Board responsibilities

- ❖ **Administration** - Act as administrative body of the district.
 - (a) Meet regularly and often enough to properly conduct the district's business.
 - (b) Have a definite agenda for each meeting for the chairman to follow in conducting the meeting.
 - (c) Require all supervisors to attend meetings regularly and promptly.
 - (d) Reach definite decisions and properly record those decisions.
 - (e) Develop a long-range program for the district.
 - (f) Keep accurate records of finances, assets and liabilities.



- (g) Conduct elections for the selection of members for the board of supervisors.
- (h) Invite landowners and other interested parties to meetings for consultation and advice.
- (i) Keep the public informed of district activities by utilizing all appropriate information techniques.
- (j) Use the Long-Range Program, Annual Plan of Work, and other guides in administering the activities of the district.
- (k) Employ help as needed to carry out the business and other responsibilities of the district.
- (l) Consult with and utilize agencies, groups, and individuals that can help further the program.
- (m) Consider various means for raising funds for the district and ensure district solvency and financial sustainability.
- (n) Encourage landowners to obtain district assistance in developing and applying conservation plans on their entire operating units.
- (o) Provide necessary information for development of natural resource plans.
- (p) Prepare and submit reports and other documents as required by state law.
- (q) Educate new board members on district policies and operations.
- ❖ **Policy** – Establish policies to guide the board and employees with day-to-day operations of the district
 - (a) Adopt technical guidelines and minimum standards
 - (b) Adopt operational policies such as personnel management, ethics, and equipment use.
- ❖ **District Programs** – Develop district programs
 - (a) Know local resource needs and issues
 - (b) Have knowledge of local, state and federal laws and how they may affect local district land owners
 - (c) Create & approve:
 1. Long Range Program - What do you need to do over a number of years?
 2. Annual Plan of Work - How and what are you going to do each year?
 - (d) Identify funds and technical assistance from district, other agencies, and organizations.
 - (e) Monitor/assess program relevancy and implementation.
- ❖ **Education**
 - (a) Identify groups needing information
 - (b) Create educational materials and information to deliver to identified groups
 - (c) Conduct demonstrations, workshops, and public meetings
 - (d) Distribute information
- ❖ **Staff Supervision**
 - (a) Hire and supervise district employees
 - (b) Establish workload priorities for employees and cooperating agencies
 - (c) Evaluate district employees' performance
 - (d) Create and maintain Personnel Policy Manual that follows state and federal employment laws
 - (e) Establish training and development program for all employees including safety training for all employees
- ❖ **Participation at local, state, watershed, and national levels**
 - (a) Be committed to attending District meetings
 - (b) Represent your district at local, county, state, and federal meetings and events
 - (c) Actively participate in CACD, NACD, and Watershed Association meetings, events, and tours
 - (d) Attend and represent your district at meetings and events of citizen organizations, environmental groups, and other groups with common natural resource interests/concerns
- ❖ **Supervisor Recruitment**
 - Maintain active, diverse, and effective citizen/landowner representation on district boards to ensure a diverse and broad base of support
 - Continually cultivate potential new board members.

- Strive for board membership representative of all types of landowners or operators, community groups, and conservation interests in your district.
- Focus board recruitment on skills that are needed for the board (including interpersonal skills). For example, maybe the district's educational programs aren't as strong as desired.... recruit a supervisor with a strong educational background

Executive Sessions

There are times when the board of supervisors believes that they should call for an executive session that is not open to the public to discuss a matter. However, executive sessions can only be called for those reasons listed in CRS 24-6-402(4)(a-h) and the specific reason must be declared prior to going into the executive session. An affirmative vote of two-thirds of the quorum present is required to enter into an executive session. CRS 24-6-402 (II) (A) also states that



“Discussions that occur in an executive session of a local public body shall be electronically recorded. If a local public body electronically recorded the minutes of its open meetings on or after August 8, 2001, the local public body shall continue to electronically record the minutes of its open meetings that occur on or after August 8, 2001; except that electronic recording shall not be required for two successive meetings of the local public body while the regularly used electronic equipment is inoperable. A local public body may satisfy the electronic recording requirements of this sub-subparagraph (A) by making any form of electronic recording of the discussions in an executive session of the local public body. Except as provided in sub-subparagraph (B) of this subparagraph (II), the electronic recording of an executive session shall reflect the specific citation to the provision in subsection (4) of this section that authorizes the local public body to meet in an executive session and the actual contents of the discussion during the session.” Executive sessions are only for the discussion of an item of concern and no decisions are to be made during the session. Furthermore CRS states the record of an executive session of a local public body shall be retained for at least ninety days after the date of the executive session.

Refer to [CRS 24-6-402\(4\)\(a-h\)](#) for complete statute listing the specific reasons an executive session can be called. In general terms, the reasons follow below:

- (a) The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest.
- (b) Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions.
- (c) Matters required to be kept confidential by federal or state law or rules and regulations.
- (d) Specialized details of security arrangements or investigations.
- (e) Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators;
- (f) Personnel matters
- (g) Consideration of any documents protected by mandatory nondisclosure provisions.
- (h) Discussion of individual students

Meeting Quorum



According to West's Encyclopedia of American Law, “a quorum is the number of people required to be present before a meeting can conduct business.” A quorum for a conservation district is sometimes established in the district's bylaws. However, unless stated differently in bylaws, a quorum is usually a simple majority of supervisors. The purpose of a quorum is to give decisions made by the district board quorum enough authority to allow binding action to be conducted.

Open Meetings

The board shall meet regularly at a time and in a place to be designated by the board. Not only is it important, but it is required by state law that the conservation districts always provide the general public the opportunity to attend board meetings to be informed about the activities of the district. The general public should be given the opportunity to have input into the decisions of the board of supervisors regarding the operations of the district. Both of these objectives can be achieved through giving proper **notice** of the district meetings or what is commonly referred to as having “open meetings”.



State law requires **ALL** official business of the board shall be conducted only during regular or special meetings at which a quorum is present, and all meetings shall be open to the public. The board shall meet regularly at a time and in a place to be designated by the board



Sunshine Law

The “Sunshine Law” - CRS 24-6-402, officially known as “Colorado Sunshine Act of 1972”, applies to conservation districts as political subdivisions of the state. The Act defines a “political subdivision of the state” to include, but not limited to, any county, city, city and county, town, home rule city, home rule county, home rule city and county, school district, special district, local improvement district, special improvement district, or service district. Districts need to be aware that the Act also defines “meeting” as any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by other means of communication.

Notice of meetings is spelled out in the “Sunshine Law” as it applies to a conservation district board of supervisors deemed a “local public body”. **CRS 24-6-402 (a)** defines a local public body as “any board, committee, commission, authority, or other advisory, policy-making, rule-making, or formally constituted body of any political subdivision of the state and any public or private entity to which a political subdivision, or an official thereof, has delegated a governmental decision-making function but does not include persons on the administrative staff of the local public body.”

The Act says that “a local public body shall be deemed to have given full and timely notice if the notice of the meeting is posted in a designated public place within the boundaries of the local public body no less than **twenty-four hours** prior to the holding of the meeting. The public place or places for posting such notice shall be designated annually at the district’s first regular meeting of each calendar year.”

Minutes of any meeting of a local public body at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or could occur shall be taken and promptly recorded, and such records shall be open to public inspection.

