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Snippet #158 Term Limits

Term limits are good when you want to get rid of someone. Term limits are bad when you want to keep someone. Therein lies the rub.

First, why do you need term limits? Are you trying to ensure that new people continually populate the board? Is this a geographically-based board or is there at-large voting? Do you have one or two people in mind, or is this something you are thinking about on principle? Be very wary of legislating the solution to a problem. The same situation seldom occurs twice, but new issues arrive all the time. Don't write bylaws that take into account only one possible combination of events. Remove all names and past transgressions from the discussion. Once everything fits together, the bylaws can be written to make it happen.

There are quite a few pitfalls when term limits are applied and it's vital to think about as many situations as possible before codifying such rules. The way the term limit is phrased in the bylaws can have major consequences. Recognize that terms are constant; the people fit into the terms, the terms don't adjust to the people. For example, if someone resigns during the second year from a position that has a three year term, the person who fills the vacancy always fills it *for the remainder of that term*. The new person is *not given a new term*.

Sometimes the number of terms is limited. Are the terms limited by position? Are the terms consecutive or aggregated (all occurrences added together)? Are partial terms included in the limit?

Suppose the time limit is for a certain number of years – for example, a six year time limit with terms of three years. A person filling a vacancy could serve a partial term, and then a full term, but if elected to a second term he or she would time out partially through that second full term when the six year limit is reached. For this reason, a term limit should specifically state that partial terms served do not count toward time limits. This can also be a factor if there is a term limit for an office, such as for the president. If the president is only allowed to serve one term, a problem is created if the president-elect fills a vacancy prior to the usual time he or she would have become president. Here again, the bylaws should state that, when filling a vacancy, the president-elect serves the remainder of the term, followed by the full term to which he or she would have been entitled.

Another pitfall is to set a term limit that never expires. Do you really want to tell a young board member that once she has served for a set period of time she will never be allowed to run for office again? Prior board service and a hiatus can give a director valuable insight. Consider whether a person can bring value by stepping away from board service for a period of time. If so, the bylaws should state the time period with the term limit.

Here are some examples of term limits, using a limit of two three-year terms:

- A director may serve no more than two consecutive terms. (*Six years consecutive maximum, then forever ineligible, or single and partial terms without limitation*).
- A director may serve no more than two terms in the aggregate. (*Six years total, including consecutive and partial terms*).
- A director may serve no more than two terms in the aggregate, excluding partial terms. (*Six years total, plus any number of partial terms*).
- A director may serve no more than two consecutive terms, and shall be eligible again after a [*x year or x term*] absence. (*Full eligibility reinstated after hiatus*.)

Term limits are a double-edged sword. They should be handled very carefully!