

What Makes An Officer An Officer?

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The word officer is used widely in the law. For example, there are judicial officers, peace officers, and constitutional officers. Even lawyers are often described as "officers of the court". See, e.g., *Hickman v. Taylor*, 329 U.S. 495, 510 (1947) ("Historically, a lawyer is an officer of the court and is bound to work for the advancement of justice while faithfully protecting the rightful interests of his clients."). But what makes a corporate officer, an officer?

The California General Corporation Law does not define the term, but Corporations Code Section 312(a) does require that a corporation have "(1) a chairperson of the board, who may be given the title of chair of the board, chairperson of the board, chairperson, or a president or both, (2) a secretary, (3) a chief financial officer, and (4) such other officers with such titles and duties as shall be stated in the bylaws or determined by the board and as may be necessary to enable it to sign instruments and share certificates". The first three categories of persons are officers by virtue of their *titles*. Persons in the last category must fulfill at least three conditions. First, they must have a *title*, second, they must have *duties*, and third they must be necessary for the corporation to sign instruments and share certificates. Both the title and duties must be either stated in the bylaws or determined by the board of directors.

It should be noted, however, that Section 312(a) is a statement of what officers a corporation *must* have. It does not state that persons are officers only if they fall into one of the four mandated categories of officers. Thus, the California General Corporation Law leaves open the possibility that persons, not described in Section 709, are officers.

The word "officer" is of Latin origin - a combination of *opus*, meaning work, and *facere*, meaning to do or perform. Etymologically, therefore, an officer is simply one who does work. The word is related to "office", which is a place where work is done.

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National Law Review, Volume XIII, Number 107

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