



**DAVE & BUSTER'S, INC.**

**GUIDELINES ON GOVERNANCE**

**April 25, 2003**

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**GUIDELINES ON GOVERNANCE**  
**Adopted by the Board of Directors**  
**of**  
**Dave & Buster's, Inc.**

**April 25, 2003**

Missouri corporation law provides that a corporation's business and affairs are to be managed by or under the direction of its Board of Directors.

The Board of Directors believes that the responsibility of Directors is to oversee the management of the Company, but not to manage. That responsibility includes:

- ❖ Promoting the best interests of the Company and its stockholders in directing the Company's business and affairs;
- ❖ Evaluating the performance of the Company and the Chief Executive Officer and taking appropriate action, including removal, when warranted;
- ❖ Selecting, evaluating and fixing the compensation of senior management of the Company and establishing policies regarding the compensation of other members of management;
- ❖ Reviewing succession plans and management development programs for members of senior management;
- ❖ Reviewing and approving periodically long-term strategic and business plans and monitoring corporate performance against such plans;
- ❖ Adopting policies of corporate conduct, including compliance with applicable laws and regulations and maintenance of accounting, financial and other controls, and reviewing the adequacy of compliance systems and controls;
- ❖ Evaluating periodically the overall effectiveness of the Board; and
- ❖ Deciding on matters of corporate governance.

The Board has adopted the following guidelines to assist it in the exercise of its responsibilities. These guidelines are in addition to and are not intended to change or interpret and Federal or State law or regulation, including Missouri General and Business Corporation Law, or the Articles of Incorporation or By-laws of the Company. The guidelines are subject to modification from time to time by the Board of Directors.

## **I. OPERATION OF THE BOARD; MEETINGS.**

### **1. Chief Executive Officer; Chairman of the Board.**

The Board believes that it is in the best interests of the Company to separate the office of the Chairman from the office of the Chief Executive Officer of the Company. The Chairman will be nominated and elected by the Board from among the outside Directors and will preside over the meetings of the Board. The Chairman of the Board is also designated by the Board to preside when the outside Directors meet in executive session outside the presence of the Chief Executive Officer and other Company personnel. The Chairman will serve as the interface between the outside Directors and the Chief Executive Officer in communicating the matters discussed during the executive sessions.

The Chief Executive Officer will be responsible to the Board for the overall management and functioning of the Company. The Board of Directors has delegated to the Chief Executive Officer, working with the other executive officers of the Company, the authority and responsibility for managing the business of the Company in a manner consistent with the standards of the Company, and in accordance with any specific plans, instructions or directions of the Board.

The Chief Executive Officer shall seek the advice and, in appropriate situations, the approval of the Board with respect to extraordinary actions to be undertaken by the Company, including those that would make a significant change in the financial structure or control of the Company, the acquisition or disposition of any significant business or the entry of the Company into a major new line of business.

### **2. Executive Sessions of Outside Directors.**

The outside Directors will meet in executive session outside the presence of the Chief Executive Officer and other Company personnel during a portion of each of its four regular meetings per year. In addition, any outside Director may request the Chairman to call an executive session at any time.

Each March, the outside Directors will meet in executive session to evaluate the performance of the Chief Executive Officer for the preceding fiscal year. In evaluating the Chief Executive Officer such Committee takes into consideration the executive's performance in both qualitative and quantitative areas, such as; leadership and vision; integrity; keeping the Board informed on matters affecting the Company and its operating units; performance of the business (including such measurements as total shareholder return and achievement of financial objectives and goals); development and implementation of initiatives to provide long-term economic benefit to the Company; accomplishment of strategic objectives and development of management. The evaluation will be communicated to the Chief Executive Officer by the Chairman and will be used by the Compensation Committee in the course of its deliberations when considering the Chief Executive Officer's compensation for the ensuing year.

### **3. Regular Attendance of Non-Directors at Board Meetings.**

The Chief Financial Officer and the General Counsel will be present at all times during the Board meeting, except where there is a specific reason for one or both of them to be excluded. In addition, the Chairman may invite one or more members of management to be in regular attendance at Board meetings and may include other officers and employees from time to time as appropriate to the circumstances.

### **4. Frequency of Board Meetings.**

The Board has four regularly scheduled meetings per year. Special meetings are called as necessary. It is the responsibility of the Directors to attend the meetings.

Long-term strategic and business plans will be reviewed annually at one of the Board's regularly scheduled meetings.

### **5. Board Access to Senior Management.**

Directors have open access to the Company's management, subject to reasonable time constraints. In addition, senior management of the Company routinely attend Board and Committee meetings and they and other managers frequently brief the Board and the Committees on particular topics. The Board encourages senior management to bring managers into Board or Committee meetings and other scheduled events who (a) can provide additional insight into matters being considered or (b) represent managers with future potential whom senior management believe should be given exposure to the members of the Board.

### **6. Selection of Agenda Items for Board Meetings.**

The Chairman establishes the agenda for each Board meeting, although Board members are free to suggest items for inclusion on the agenda. Each Director is free to raise at any Board meeting subjects that are not on the agenda for that meeting.

### **7. Information Flow; Pre-meeting Materials; Contact Between Meetings.**

In advance of each Board or Committee meeting, a proposed agenda will be distributed to each member. In addition, to the extent feasible or appropriate, information and data important to the members' understanding of the matters to be considered, including background summaries or presentations to be made at the meeting, will be distributed prior to the meeting. In addition, Directors routinely receive monthly financial statements, earnings reports, press releases, analyst reports and other information designed to keep them informed of the material aspects of the Company's business, performance and prospects.

Directors are encouraged to keep themselves informed with respect to the Company's affairs between Board meetings through direct individual contacts with members of the

senior management of the Company and its affiliates. The Secretary of the Company shall, whenever requested, assist in arranging and facilitating such contacts.

## **II. BOARD STRUCTURE.**

### **1. Majority of the Members of the Board Must Be Independent Directors.**

The Board believes that as a matter of policy a majority of the members of the Board should be independent Directors. The definition of “independence” shall be determined by the Board by reference to the standards for independence established by the rules of the SEC and the NYSE (or other applicable stock exchange or securities association) from time to time. Each Director’s compliance with the foregoing policy will be reviewed periodically by the Nominating and Corporate Governance Committee.

Directors have an affirmative obligation to inform the Board of any material changes in their circumstances or relationships that may impact their designation by the Board as “independent.” This obligation includes all business relationships between Directors and the Company and its affiliates or members of senior management and their affiliates, whether or not such business relationships are subject to the approval of the Board.

Furthermore, the Board believes that employee Directors should number not more than two. While such number is not an absolute limitation, other than with respect to the Chief Executive Officer who should at all times be members of the Board, employee Directors should be limited only to those officers whose positions or potential make it appropriate for them to sit on the Board.

### **2. Size of the Board.**

The Board currently has nine members. The By-laws prescribe that the number of Directors will be three or more, with the actual number to be fixed by resolution of the Board from time to time. The Board believes that the maximum number of directors which will allow efficient operation of the Board is nine members; however, this number shall be reviewed periodically by the Nominating and Corporate Governance Committee.

### **3. Service of Former Chief Executive Officers and Other Former Employees of the Board.**

Employee Directors shall retire from the Board at the time of their retirement as an employee unless continued service as a Director is requested and approved by the Board.

### **4. Annual Election of Directors; Classified Board.**

As provided in the Company’s By-laws, the Board is classified into three classes, and one class of Directors is elected annually to serve for a three-year term. Each class of

Directors will consist of a number of Directors which most closely approximates one-third of the entire Board, so that each class is as equal in number as possible. The Board believes that a classified Board is in the best interests of the Company at the present time; however, this structure shall be reviewed periodically by the Nominating and Corporate Governance Committee.

## **5. Board Membership Criteria.**

Candidates nominated for election or re-election to the Board of Directors should possess the following qualifications:

- ❖ Personal characteristics:
  - ❖ highest personal and professional ethics, integrity and values;
  - ❖ an inquiring and independent mind; and
  - ❖ practical wisdom and mature judgment.
- ❖ Broad training and experience at the policy-making level in business, law, government, education or technology.
- ❖ Expertise that is useful to the Company and complementary to the background and experience of other Board members, so that an optimum balance of members on the Board can be achieved and maintained.
- ❖ Willingness to devote the required amount of time to carrying out the duties and responsibilities of Board membership.
- ❖ Commitment to serve on the Board over a period of several years to develop knowledge about the Company's principal operations.
- ❖ Willingness to represent the best interests of all stockholders and objectively appraise management performance.
- ❖ Involvement only in activities or interests that do not create a conflict with the Director's responsibilities to the Company and its stockholders.

The Nominating and Corporate Governance Committee is responsible for assessing the appropriate mix of skills and characteristics required of Board members in the context of the perceived needs of the Board at a given point in time and shall periodically review and update the criteria as deemed necessary. Diversity in personal background, race, gender, age and nationality for the Board as a whole may be taken into account in considering individual candidates.

The Nominating and Corporate Governance Committee will evaluate the qualifications of each Director candidate against the foregoing criteria in connection with

its recommendation to the Board concerning his or her nomination for election or re-election as a Director.

## **6. Selection of Directors.**

The Board is responsible for nominating members to the Board and for filling vacancies on the Board that may occur between annual meetings of stockholders. The Nominating and Corporate Governance Committee, with direct input from the Chief Executive Officer and other Board members, is responsible for identifying and screening candidates for Board membership.

## **7. Director Retirement.**

The Nominating and Corporate Governance Committee, in consultation with the Chief Executive Officer, will review each Director's continuation on the Board annually in connection with the recommendation to the Board concerning his or her nomination for election or re-elections as a Director.

It is the policy of the Board that each non-employee Director shall retire from the Board immediately prior to the annual meeting of stockholders following his or her seventieth (70<sup>th</sup>) birthday. Employee Directors shall retire at the time of their retirement from employment with the Company unless continued service as a Director is approved by the Board.

## **8. Director Compensation Review.**

It is appropriate for senior management of the Company, together with such outside consultants as shall be retained by the Board, to report periodically to the Compensation Committee on the status of the Company's Director compensation practices in relation to other companies of comparable size and the Company's competitors.

Changes in Director compensation, if any, should come upon the recommendation of the Compensation Committee, but with full discussion and concurrence by the Board.

## **9. Conflicts of Interest.**

For the purpose of minimizing the risk of actual or perceived conflicts of interest (but without affecting any determination of Director independence), any monetary arrangement between a Director (including any member of a Director's immediate family) and the Company or any of its affiliates or members of senior management or their affiliates for goods or services shall be subject to approval by the Board of Directors as a whole. Such approval shall not be required where:

- (a) the Director's sole interest in the arrangement is by virtue of his or her status as a director, executive officer and/or holder of a less than 10% equity interest

- (other than a general partnership interest) in an entity with which the Company or any of its affiliates has concluded such an arrangement;
- (b) the arrangement involves payments to or from the entity that constitute less than 5% of the entity's annual gross revenues; and
  - (c) the Director is not personally involved in (i) the negotiation and execution of the arrangement, (ii) performance of the services or provision of the goods or (iii) the monetary arrangement.

If an actual or potential conflict of interest develops because of a change in the business operations of the Company or a subsidiary, or in a Director's circumstances (for example, significant and on-going competition between the Company and a business with which the Director is affiliated), the Director should report such matter immediately to the Chairman of the Board for evaluation. A significant conflict must be resolved or the Director should resign.

If a Director has a personal interest in a matter before the Board, the Director shall disclose the interest to the full Board and excuse himself or herself from participation in the discussion and shall not vote on the matter.

### **III. COMMITTEES OF THE BOARD**

#### **1. Number and Types of Committees.**

A substantial portion of the analysis and work of the Board is done by standing Board Committees. A Director is expected to participate actively in the meetings of each Committee to which he or she is appointed.

The Board has established the following standing Committees: Audit, Compensation, and Nominating and Corporate Governance. Each Committee's charter is to be reviewed periodically by the Committee and the Board.

#### **2. Composition of Committees.**

It is the policy of the Board that only independent Directors serve on Board Committees.

A Director who is part of an interlocking directorate (i.e. one in which a Chief Executive Officer or another executive officer of the Company serves on the board of another corporation that employs the Director) may not serve on the Compensation Committee. The composition of the Compensation Committee will be reviewed annually to ensure that each of its members meet the criteria set forth in applicable SEC and IRS rules and regulations.

### **3. Assignment and Rotation of Committee Members.**

The Nominating and Corporate Governance Committee, with direct input from the Chief Executive Officer, recommends to the Board the membership of the various Committees and their Chairmen and the Board approves the Committee assignments. In making its recommendations to the Board, such Committee takes into consideration the need for continuity, subject matter expertise, tenure and the desires of individual Board members.

### **4. Frequency and Length of Committee Meetings.**

The Board and Committee meeting schedule for each year is submitted and approved by the Board in advance. In addition, the Chairman of a Committee may call a special meeting at any time if deemed advisable. Accommodations will be made on a case by case basis should a Committee agenda require more time than originally scheduled.

### **5. Committee Agendas; Reports to the Board.**

Appropriate members of management and staff will prepare draft agenda and related background information for each Committee meeting which, to the extent desired by the relevant Committee Chairman, will be reviewed and approved by such Chairman in advance of distribution to the other members of the Committee. A forward agenda of subjects (the degree they can be foreseen) for each Committee to be discussed during the year will be prepared and furnished to all Directors. Each Committee member is free to suggest items for inclusion on the agenda and to raise at any Committee meeting subjects that are not on the agenda for that meeting.

Reports on each Committee meeting are made to the full Board. There will be no report of executive session meetings to the full Board.

## **IV. OTHER BOARD PRACTICES.**

### **1. Management Succession and Review.**

Periodically the Chief Executive Officer of the Company shall meet with the non-management Directors to discuss potential successors as Chief Executive Officer. The non-management Directors shall meet in executive session following such presentations to consider such discussions. The Chief Executive Officer shall also have in place a confidential written procedure for the timely and efficient transfer of his or her responsibilities in the event of his or her sudden incapacitation or departure, including recommendations for longer-term succession arrangements. The Chief Executive Officer shall review this procedure periodically with the Governance and Nominating Committee.

The Chief Executive Officer shall also review periodically with the non-management Directors the performance of other key members of the senior management of the

Corporation, as well as potential succession arrangements for such management members. Any waiver of the requirements of the Company Code of Business Ethics with respect to any such member of senior management shall be reported to, and be subject to the approval of, the Board of Directors.

## **2. Director Orientation.**

It is the sense of the Board that an orientation program be developed for new Directors which will include comprehensive information about the Company's business and operations; general information about the Board and its Committees, including a summary of Director compensation and benefits; and a review of Director duties and responsibilities. Some of such topics may be covered in meetings with key executives.

## **3. Board Interaction with Institutional Investors and Other Stakeholders.**

The Board believes that it is senior management's responsibility to speak for the Company. Individual Board members may, from time to time, meet or otherwise communicate with outside constituencies that are involved with the Company. In those instances, however, it is expected that Directors will do so only with the knowledge of senior management and, absent unusual circumstances, only at the request of senior management.

## **4. Advisors**

The Board shall have the authority to retain, at the Company's expense, independent legal, financial, strategic, compensation and other advisors ("Advisors") as it deems necessary to fulfill its responsibilities under these Guidelines and determine the terms of engagement and compensation of such Advisors.

## **5. Periodic Review of These Guidelines.**

The operation of the Board of Directors is a dynamic and evolving process. As such these Guidelines will be reviewed periodically by the Nominating and Corporate Governance Committee.