Nonprofit Risk Management Center

Governance Matters

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Resource Type: Risk eNews

Topic: Governance

Strengthening the governance practices at your organization requires more than a checklist or handbook touting "do's" and "don'ts." Leaders who want to inspire good governance must take the time necessary to look beneath the surface of often complex governance issues and commit to remedying issues that stand in the way of the board discharging its legal duties and providing exemplary leadership.

Lessons about good governance sometimes arise in my work as NRMC's CEO. Many years ago a brand-new Nonprofit Risk Management Center board member questioned our lack of a CEO succession plan. Despite my experience teaching leaders that succession planning is a key component of risk management, my visceral reaction was that the new board member was possibly planning (plotting?) my "early" retirement! Upon reflection I realized that the new board member was raising a critical risk management issue that had been long overlooked by this CEO and his fellow board members. Within months we created and adopted what I consider a state of the art succession plan.

"Best practices" in governance is a hot topic these days. Many organizations, including NRMC, have published articles, checklists and guides on governance practices. Too often, however, materials on good governance offer a far too narrow view of complex issues. At a workshop led by my colleagues Paula Cozzi Goedert of Barnes & Thornburg LLP and Jeff Tenenbaum, Paula and Jeff offered insights on a dozen governance topics, including the subject of conflicts of interest involving board members.

Conflicts of Interest

Paula and Jeff explained to their audience that despite the prevalence of conflict of interest policies and annual disclosure statements, many board members do not understand the concept of conflicts and their completed forms reflect this lack of understanding. It is essential that every member of a nonprofit board understand their nonprofit's definition of "conflict of interest" and recognize whether they have a conflict. Each board member must also be familiar with the process the nonprofit uses to address conflicts. As Jeff Tenenbaum pointed out, a nonprofit's policies should not bar conflicts—not all conflicts are bad for the organization and in many cases conflicts are unavoidable. For example, your board may include employees of your top institutional donors, representatives of competing nonprofits, individual donors, and others whose roles may put them in a situation that requires specific action to avoid inappropriate participation in key decisions by the board. Policies that bar conflicts altogether are often impractical and may work against the mission of nonprofit.

The key for all nonprofits is to carefully define the term conflict and develop an effective procedure to remedy a conflict. Paula reminded the audience that there is no single right or wrong procedure to remedy a conflict. One area where a conflict may be a good thing and even necessary is where there are parent and subsidiary boards with overlapping memberships. Research has shown that harmony and institutional effectiveness increase where there is substantial overlap between the boards of parent and subsidiary nonprofits. Also keep in mind that sometimes conflicts of interest don't involve personal financial gain—e.g., serving on the board of a competing organization. Paula cautioned attendees that there should be a mechanism to enable the treatment of conflicts "on the spot"—versus deferring to a committee that will review the matter at a later date.

Melanie Lockwood Herman is Executive Director of the Nonprofit Risk Management Center. She welcomes your feedback on this article and questions about the Center's consulting services at Melanie@nonprofitrisk.org or (703) 777-3504.