

Introduction

There has been a great deal of discussion during the last five years over the role that boards should play in overseeing nonprofits and their activities. Some argue that too many boards are passive, failing to provide adequate oversight over scarce resources. These critics can point to all too many board failures that have resulted in fraud and mismanagement. Others are quick to respond that many boards are filled with volunteers, who want to do right by their nonprofits, but who face time constraints, limited knowledge, and other limitations.

Many who serve on boards aren't even clear as to what their role is. Should they come to the monthly meetings, enjoy the coffee and doughnuts, and serve as cheerleaders? Or, are they supposed to take an active role in managing the nonprofit, possibly coming in on Saturday to clean the office, reconcile the checkbook, or stack cans of food in a warehouse? Many know that they should be asking questions at board meetings, but what questions?

Some board members who have taken their roles seriously have asked for training or board orientation. That certainly is a start, but traditionally board training has relied heavily on a lecture format. That is a worthwhile start, particularly in outlining legal, accounting, and financial issues. Lecture is a tried and true format for imparting basic information.

Unfortunately, lectures cannot provide board members with a sense of the hard choices that boards often face. The 11 case studies that follow are designed to provide board members and nonprofit managers with a better sense of the issues that boards should be focused on and what it means to grapple with them. The boards in most of these cases failed miserably in defining and carrying out their oversight function. Sadly, those failures led to agencies closing, cuts in services, people losing their jobs, and skepticism by legislators and grantmakers over whether programs should be funded.

Most people who volunteer to serve on boards certainly don't do so because they want to promote failure. Just the opposite: They want to make a constructive contribution. The case studies are offered as teaching tool that will promote positive oversight and results. They aren't a substitute for hands-on experience, but they should come closer than a lecture in providing board members and nonprofit managers with a sense of the discussion that should be taking place during board meetings.

MEDIA ACCOUNTS

Each case is based on media accounts of a Community Action Agency or similar social service agency that experienced problems rooted in governance failures. In some cases, the media accounts have been supplemented with investigatory audits and reports prepared by government agencies and consultants.

IDENTITIES

Identifying information is provided if the CAA or other nonprofit no longer exists. This permits full citation to source material. In the case of agencies that still exist, fictitious names

have been substituted for actual names. In all cases, the intention is not to criticize agencies or individuals, but to use the mistakes that others have made as teaching opportunities.

PROVOCATIVE QUESTIONS

These cases studies were prepared by Jack B. Siegel of Charity Governance Consulting LLC. After the facts are set out, each case study asks a number of questions intended for discussion and then provides a brief suggested solution for the case. Some of the questions are intended to be provocative in order to generate a meaningful discussion. No inferences should be drawn from those questions as to the views of Jack or CAPLAW. The suggested solutions represent one viewpoint, but they are not necessarily the best or the only way to view the case.

DISCUSSION

There are 11 cases studies in this series. Those leading the session can use all the cases, or just a few. Whatever the choice, it should permit the participants to engage in a lengthy discussion of each selected case. This exercise will succeed only if the participants are permitted to grapple with the issues posed by the cases through group discussion and debate. That discussion and debate most likely will reveal a divergence of opinion, demonstrating that there is not one right or easy answer to the questions posed.

BACKGROUND MATERIAL

The case studies focus on business, governance, and personnel issues. Lurking in the background are legal considerations. To avoid overpowering the cases with legal rules and commentary, significant portions of the legal discussion has been placed in a document labeled “Background Material”. Each case makes reference to relevant portion of the background material. The background material also includes references to useful links and resources.

ABOUT THE AUTHOR

Jack B. Siegel, Esq., CPA, provides consulting services to nonprofits through Charity Governance Consulting LLC. He focuses on board and staff training, governance manuals, financial management, record retention, and special projects. He is the author of *A Desktop Guide for Nonprofit Directors, Officers, and Advisors: Avoiding Trouble While Doing Good* (Wiley 2006), a comprehensive 744-page book addressing the legal, financial, tax, regulatory, and governance issues facing nonprofit boards and senior officers. He also maintains a highly regarded blog, accessible at <http://charitygovernance.com>. Mr. Siegel holds an LL.M. in taxation from New York University and a master's of management from Northwestern University. He can be contacted at 773.325.2124 or by e-mail at jbsiegel@charitygovernance.com.

ABOUT CAPLAW

CAPLAW is a nonprofit membership organization dedicated to providing the legal resources necessary to sustain and strengthen the national Community Action Agency (CAA) network. For over 40 years, since they were first created by the Economic Opportunity Act of 1964, CAAs have been fighting poverty, helping individuals become self-sufficient, building communities, and changing lives. Nationwide, approximately 1,000 CAAs leverage almost \$10 billion in total funding, and provide a multitude of services, including job training, Head Start, economic development, energy assistance, and housing.

Through its in-house legal staff and a network of private attorneys, CAPLAW provides legal consultations, training, and publications on a wide variety of legal and management topics. This assistance enables CAAs to operate legally sound organizations and to promote the effective participation of low-income people in the planning and delivery of CAA programs and services, thereby enhancing CAAs' ability to provide the nation's poor with opportunities to improve their quality of life and to achieve their full potential.