



Got Bylaws?



Having a set of well-thought-out bylaws is the best way to protect your organization in case of internal conflicts.

By Henry Sollenberger

Relationships between nonprofit employees don't usually include fist fights and shouting matches. Most nonprofits strive to cultivate a harmonious culture. But despite all efforts, conflicts do occur. Should a dispute materialize, a nonprofit organization needs to have a system in place to handle the situation.

Most nonprofits owe their beginnings to people who united in an effort to accomplish good work. In a twist of irony, trouble spots usually arise due to personality conflicts resulting from a collection of strong egos. Many of these conflicts fall into a regular pattern. With a little forethought, the initial organizers can set tools in place so that future staff and board members can handle the vast majority of likely conflicts.

Thus, one of a nonprofit's key tasks is to draft a good set of bylaws. The following case study illustrates the point.

New pastor proves problematic

Two attorneys in a Midwestern community were approached by a man we'll call John, a distraught board member of a small, local, nondenominational church.¹ John

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described the difficulties encountered by his daughter, who ran a daycare that shared the congregation's facilities. It was becoming increasingly clear that their pastor was trying to force the daycare to leave. Further, John suspected that the pastor wanted to liquidate the congregation's assets and move the whole church into a neighboring community.

According to John, the trouble started soon after the pastor came to the church. His attitude toward John's daughter and her daycare changed from cordial to curt and contentious. He started complaining that the church's utility bills were too high and that the daycare didn't pay enough for using the facility.

The pastor had done some other alarming things. When he first arrived, he brought a few of his

friends into the congregation. After some time, he announced that these friends were now on the church board in place of longtime board members. The replaced board members just happened to be among the people who had disagreed with the pastor on one issue or another.

A few weeks earlier, the pastor had notified the board that the church's name had been changed. A little investigation revealed that the church's new name was the same as the name of the ministry the pastor had "left" for his new position. Apparently, the ministry was still active in a neighboring town.

Fortunately for all involved, the challenge never came.

The final thing John told the attorneys proved the most telling. When built, the church sat on the outskirts of town. Now it was situated on the edge of a developing business district where property values had skyrocketed. The land

Bylaws: Rules to Follow

Rules for a nonprofit organization's founders:

- **Find** an attorney who isn't a member of the board to help draft the organization's initial bylaws and to examine any major subsequent changes.
- **Tailor** bylaws to meet the organization's mission.
- **Consider** the organization's potential short-term growth, and build flexibility into the bylaws. Then, as growth dictates, the board can propose changes.

Rules for board members as the organization grows:

- **Review** bylaws on an ongoing basis, and revise as needed.
- **Contact** an attorney to sign off on any substantial revisions to your bylaws.
- **Remember** that if bylaws aren't upheld during a time of unrest and dispute, board members could be held liable for breaching their duty to the organization.
- **Be sure** to re-evaluate bylaws whenever your organization creates a major subsidiary program.

had become very valuable. To sell now would bring in a considerable sum of money. This fact, it seemed, was not lost on the new pastor.

It was clear that the pastor believed he could exercise absolute control over a congregation that looked to him for wisdom and leadership. He planned to exploit this church — and its attractive assets — for his own personal gain.

The attorneys resolved to do what they could to help John and his congregation.

The solution is in the bylaws

The attorneys asked to see a copy of the church's bylaws. Many small organizations don't have bylaws, but that's a mistake.²

Fortunately, this church had reorganized 10 or 15 years earlier, drafting new bylaws.

As the attorneys reviewed the bylaws and board minutes, they were impressed with the thorough job the previous board had done. The bylaws contained specific procedures for appointing board members, removing board members, appointing a pastor, and removing a pastor. The board-meeting minutes showed how the pastor ignored procedures outlined in the bylaws.³

From the minutes and bylaws, the lawyers were able to determine the identities of the remaining legitimate board members. The lawyers contacted these board members, and they met as a group. With the lawyers' help, the legitimate board took the action

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prescribed under the bylaws to remove the pastor. At the next Sunday service, the board as a group talked to the congregation about the situation and answered the congregation's questions.

The attorneys were ready to handle a legal challenge from the pastor. Knowing that the board had based its action on solid legal ground, they weren't worried. Fortunately for all involved, the challenge never came.

This small church made some mistakes, and the situation nearly got out of hand. However, the fact that the board of a decade earlier took the time to write a set of bylaws gave current board members the guidance they needed to handle the situation when it arose. ■

Footnotes

¹Disclaimer: This article is based on actual events, but names and some events were altered to protect the identity of those involved.

If bylaws aren't upheld during a time of unrest and dispute, board members could be held liable for breaching their duty.

²For steps to creating a complete set of bylaws, see "Bylaws: the Blueprint for Success," *Nonprofit World*, Vol. 6, No. 1, www.snpo.org.

³For more on the importance of keeping good board-meeting minutes, see "If It's Not in the Minutes, Did It Happen?," *Nonprofit World*, Vol. 14, No. 6, www.snpo.org.

Recommended Readings

For more ways to protect your organization from conflict and legal trouble, and strengthen your board, see these *Nonprofit World* articles at www.snpo.org:

- **How to Assess and Improve Your Board's Performance** (Vol. 24, No. 1)
- **Eight Steps to Managing Conflict** (Vol. 20, No. 4)
- **Improving Nonprofit Boards: What Works & What Doesn't?** (Vol. 15, No. 3)
- **How Effective Is Your Board? A Rating Scale** (Vol. 8, No. 5)
- **A Message from Your Lawyer** (Vol. 22, No. 6)
- **Must You Inform the IRS of Bylaw Changes?** (Vol. 21, No. 3)
- **How to Manage Internal Conflict** (Vol. 12, No. 6)

Also see Learning Institute programs on-line: Board Governance (www.snpo.org/li).

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