

A VICTORIOUS BOARD **

The New World of Independent School Governance –
Accountability and Transparency and More!

Mary H. DeKuyper
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** “A good board is a *victory*, not a gift.”

Cyril Houle

The Really “Old” World of Independent School Governance

My Dear Sir:

It is my desire that this communication to you concerning your son and his iniquities will neither offend your sensibilities nor cause a diminution of the mutual esteem that we hold for one another.

I am expelling as of this date your son.

His very presence here bodes ill for my school. I will not tolerate a liar and a cheat.

Your obedient Servant,

The Headmaster

March 23, 1891

(Thanks to Pat Bassett, President of NAIS)

Today the World of Accountability and Transparency - Accountable

- Accountable

(OED) “Liable to be called to account, or to answer for responsibilities and conduct.”

Ex: Independent audit, accreditation, periodic financial reports to the board, government regulations, report to constituencies on the state of the school, etc.

Accountability and Transparency- Transparent

(OED) “Easily seen through, recognized, understood or detected; manifest, obvious, clear.”

Ex: Conflicts of interests managed appropriately, clearly understand financial reports, bylaws are well worded and followed; periodic board review of the mission statement and current practices, etc.

*(This does not mean that every board meeting should be open to the school community and all deliberations need to public. A few **independent** schools do have such processes, but it is not consider a good practice to do.)*

State of Nonprofit (Independent School) Governance

Governance structures and practices have been much the same for over 60 years and perhaps even since 1893, when the first edition of *Roberts Rules of Order* were first published.

State of Governance - continued

“A spotlight is now shining on nonprofits and a consensus has developed within the sector that trustees and managers of nonprofit organizations need to examine their governance structure and make sure it supports compliance with current legal obligations of nonprofits and also reflects “best practices.”

David E. Ormstead, *Holding the Trust*

State of Governance - continued

Recent Changes Due in Large Measure To:

- Outside Pressures
 - Current or potential governmental regulation (States and Federal Government) – nonprofit versions of the for profit Sarbanes-Oxley Regulations
 - Funders (Foundations, Grantors, Major Donors)
 - Media
 - Accreditators
 - General Public
- Research and Publications (Examples)
 - Richard P. Chait
 - BoardSource
 - NAIS
 - Independent School Management, etc.

State of Governance - continued

Three Stages of Organizations and their Boards:

- Founding: Small staff, board members often consumers of services and are deeply involved in day-to-day management.
- Organizing: Staff has grown to take on major management responsibilities, board is forming structures to fulfill their oversight and strategic role.
- Mature: Board operates in a focused manner on the future and exercises strategic, high level oversight and thinking. It can also do the new “generative” work proposed by Dick Chait et al. (More later!)

Partial List of Issues Board Are/Should Be Discussing

- Vision, Values, Mission
- Endowment Growth
- Conflicts of Interests
- Pandemics, WMD
- Global Education
- Financial Aid – Affordability
- Faculty & Administration Compensation
- Diversity (ethnic, racial, religious, socio-economic, disability, etc) for board, faculty, administration, students
- Technology
- Risk Management
- Security
- Green Schools
- Relationships w/constituents (Stakeholders not stock holders)
- New or Long Term Head
- Succession Planning (Transition)
- Evaluation – Head, Board, Chair/President
- Facilities
- Arts & Athletics
- Sustainability
- New Markets - Demographics

“ANOTHER WAY” OF DOING THINGS

(Opening of *Winnie the Pooh* by A. A. Milne)

Here is Edward Bear, coming downstairs now, bump, bump, bump, on the back of his head, behind Christopher Robin. It is, as far as he knows, the only way of coming downstairs, but sometimes he feels that there really is *another way*, if only he could stop bumping for a moment and think of it. And then he feels that perhaps there isn't.

What are the Best Practices?

Will cover:

- Structure
 - Board Composition
 - Size
 - Diversity
 - Role of the Head
 - Term Limits
 - Committees/Task Forces
 - Evaluation
 - Conflict of Interest
- Meetings - Board
 - Number & Frequency
 - Preparation for Meetings
 - Who Attends
 - Attendance
 - Agenda
 - Executive Session
 - Minutes/Notes
 - Committee Meetings

Board Structure - Composition

- *Size: 15-22*
- *Diversity*
 - *Reflect community you serve*
 - *Skills and experiences matching strategic plan and school needs*
- *Head: Can be ex-officio or ex-officio w/o a vote or a non-member.*
- *Faculty Members*
- *Term Limits: Examples two 3 year terms, three 3 or 2 year terms, two 4 year terms*

Board Structure – Committees/Task Forces – Committees I Have Seen

- Academic Affairs
- Admissions
- Audit
- Buildings & Grounds (Facilities)
- Committee on Trustees (Board Development, Governance, Nominating)
- Development (Advancement)
- Executive
- Finance
- Financial Aid
- Head Support
- Marketing (PR)
- Personnel
- Strategic Planning
- Student Life

Board Committees/Task Forces - continued

- Board Committees Should Have:
 - High level oversight
 - Generate and review institutional, broad policies in an ongoing manner
 - Future oriented
- Board Committees Should Not:
 - Be mostly advisory
 - Mirror the administration
 - Do administrative work
- Exception: Development (Advisory) is a “doing” committee, as well as being an oversight, policy and future oriented committee

Board Structure – Board Committees/Task Forces - continued

- Academic Affairs (no)
- Admissions (no)
- **Audit**
- B & G (advisory)
- **Comm. on Trustees**
- **Development**
- **Executive** (if over 15 trustees)
- **Finance**
- Financial Aid (no)
- Head Support (Exec. Comm. can do)
- Marketing/PR (advisory)
- Personnel (no)
- Strategic Planning (task force)
- Student Life (advisory)
- **Task Forces** (focus on strategic issues and involve board and others)

Board Organization - continued

Evaluation

- Based on strategic plan
- Annual goals agreed to at start of school year and evaluated at end of school year
- Head of School
 - Facilitated by small group (2 or 3)
 - Whole board involved in evaluation
 - Participate in evaluation input
 - Participate in discussion of evaluation summary (w/o Head and any other employees)
 - Participate in agreeing to compensation (w/o Head and any other employees)
- Board Self-evaluation based on board annual action plan.
- Board Chair/President

Board Organization - continued

Conflict of Interest

- Board Policy
- Yearly Signed Trustee Statement
 - Acknowledge read statement
 - Identify conflicts
 - Agree to identify conflicts arising after signing the statement
- Key component of both **accountability and transparency**.

BOARD MEETINGS

Boards only exist legally when they are convened in a board meeting. It is a single collective entity

Board Meetings Should:

- Inform/educate
- Allow for full and careful discussion of issues and deliberations that remain confidential
- Provide for considered decision-making
- **Inspire**

Board Meetings – Continued

Preparation for Board & Committee Meetings

- Head/Administration – Very time consuming. Ask question: “Do we really want our Head and his/her team spending time on monthly meetings or doing other critical activities?”
- Committees – Very time consuming. Ask question: “Is this meeting the very best use of the precious time available to trustees?”

Board Meetings – continued – Number and Frequency

Number and Frequency

- No less than 4 per year
- Six per year (MDeK's favorite) – could be five plus a retreat
- Every 6 weeks during the school year
- Not meet monthly
- Committee Meetings as needed
 - Hold at least 2 weeks before board meeting.
(Boarding Schools need to involve technology)
 - Report to the board ready for pre-board meeting mailing.

Board Meetings – continued

Who Attends

- Trustees
- Head of School
- Administration, if Head and Board agree- often:
 - CFO/Business Manager
 - Director of Fund Development
 - Associate/Assistant Head
 - Others
 - Division Directors/Deans (Head and Assoc./Asst. Head should be point person for academics)
 - Administrators/faculty whose subject matter expertise is needed for board discussion attend during the specific discussion.

Board Meetings – Continued

Attendance

- Part of trustees' legal (fiduciary) duty is to attend meetings.
- Standard is to attend all meetings; reality is that one should attend most. There should be 85% of the trustees present at each board meeting as a minimum.
- All trustees are legally responsible for board actions, whether they were present or not at the meeting.
- Include a bylaw with sanctions for those not attending board meetings only if you enforce it.

Board Meetings – continued Board Agenda (Percentages – Time to be Allotted.

- Call to Order
- Consent Agenda **(2%)**
 - Minutes
 - Ratification of Emergency Actions
 - Routine Business
- Reports [All reports mailed in advance and only time for questions allowed, unless motion is involved] **(30%)**
 - Treasurer
 - Head
 - Chair/President
- Old Business
- Strategic Issue Discussion, Education/Training, Assessment **(50%)**
- New Business [Items that came up in the meeting that were not originally on the agenda] **(5%)**
- Assignment of Next Steps **(10%)**
- Meeting Evaluation **(3%)**
 - What worked?
 - What could be improved?

Board Meetings – continued

Executive Sessions

- Without Head and other administrators/faculty: Head's evaluation and compensation
- Without other administrators/faculty: Sensitive issues, such as faculty compensation
- Routine executive sessions are not considered best practices by the National Association of Independent Schools and MDeK
 - Takes a very skilled Board Chair/President to preside over this part of the meeting
 - Can turn into a gripe session (rarely are positives discussed)
 - If concerned with the Head's performance, than the issue needs to be addressed directly with the Head by the Chair/President or individual trustees or the board as a whole.
 - Leads to violation of “no surprises” rule.

Board Meetings – continued

Minutes/Notes

- Minutes and Notes are business records and can be subpoenaed
- Need to record those “present,” absent with an excuse,” and absent
- They should be “bare bones.”
 - Actions /motions (no numeric vote taken)
 - If critical for history, actions not taken and why
 - Never put specifics about personnel and disciplinary issues in minutes/notes. They should seldom come to the board anyway.
 - Never record the actual deliberations of the board not the names of people involved in the discussion.
 - Never “approve,” “adopt,” or “accept” a report” Only do so for motions. This is particularly critical for non-audited financial reports.

Three Modes of Governance

- Type I – the *fiduciary mode*, where boards are concerned with the stewardship of tangible assets.
- Type II – the *strategic mode*, where boards create a strategic partnership with management.
- Type III – the *generative mode*, where boards provide a less recognized but critical source of leadership for the organization.

(*Governance as Leadership: Reframing the Work of the Nonprofit Board*, Richard P. Chait, William P. Ryan, and Barbara Taylor.)

Three Modes of Governance – continued: Generative Mode

- Focuses on a “new sense of things” – “a sense of problems and opportunities.”
- Flourishes in an environment that prizes diverse points of view on the current reality.
- Recognizes that ideas should be played with.
- Honors robust conversation.

Three Modes of Governance – continued: Generative Question Examples

- If we were going to establish a new school, what would it be like?
- **What could be a major change to our mission? (Ex: Single sex school to coed, Adding a new division)**
 - Positive outcomes?
 - Negative outcomes?
- What was a recent great Board/School success and why was it a success?
- **What was a recent bad Board/School decision and why was it so bad?**


Fun Generative Questions

- What would your board be like if your mother was the chair?
- **What would your school's epitaph be if it went under tomorrow?**
- What about your board work reminds you of what you hated at school?
- **What would your board be like if you had never been a member?**
- What would happen if your board instituted a one year ban on meetings?
- **Who would be most likely to solve your most stubborn board structure or operations problem: a master psychologist, a venture capitalist or an enforcer from the mob?**

[Adapted from "Rattle Your Board" article by Sandra R. Hughes, BoardSource]

Healthy/Effective Board of Trustees (Not in priority order)

- Uses the school's mission as a guide star.
- Raises funds and friends
- Focused on meaningful board, not administrative, work ("NIFO"- Nose in, Fingers out)
- Publicly supports the Head, the board and the school
- Evaluates on pre-determined goals, with measurements, when appropriate
- 90% attendance at board meetings
- People want to serve as trustees and officers
- Head and Board Chair/President have a positive relationship
- Strategic road map forged with the Head, with an end destination, and the ability and willingness to change when necessary.
- All trustees understand the finances
- Confidences are kept



To love what you do
and feel that matters
– how can anything
be more fun?

Katharine Graham

Resources

- California Association of Independent Schools (www.casica.org)
- National Association of Independent Schools (NAIS) (www.nais.org)
- BoardSource (www.BoardSource.org)
- Mary H. DeKuyper, *The Trustee Handbook: A Guide to Effective Governance for Independent School Boards, 9th Edition*, NAIS, 2007. (dekuyper@ix.netcom.com)
- David Ormstedt, *Holding the Trust: An Independent School Trustee's Guide to Fiduciary Responsibility*, NAIS, 2006
- Richard P. Chair, William P. Ryan, and Barbara E. Taylor, *Governance as Leadership: Reframing the Work of Nonprofit Boards*, BoardSource, 2005.