



Firing the Executive Director: A Nonprofit Organization's Nightmare

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Abstract

This white paper will set forth a discussion on how a nonprofit board of directors can efficiently fire its Executive Director, while avoiding the kind of confrontation that can potentially have a severe negative impact on the entire organization.

This dilemma is more common than most board members realize and this paper will present some insights and suggestions that will take some of the mystery out of the process by starting with the proper evaluation process and keeping lines of communication open to ensure complete transparency and avoid the 'surprises' that lead to nasty conflicts.

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1. The Role of the Board in Executive Director Oversight

The way leadership works in a nonprofit organization represents a unique situation that simply does not occur in the corporate world. In the nonprofit world, board members who are the responsible fiduciary leaders of the organization are picked from a pool of volunteers who are rarely selected for their depth of experience and relevant skills. They are asked to join and become involved with the organization for a limited time frame only, serving out terms that expire after a specific number of years. Recognizing that the challenge of consistency and competency in nonprofit leadership is complicated by the process of automatic turnover, without term limits there would be no opportunity for fresh ideas and 'new blood' to help guide the group.

So governance is shaped and enforced by part time volunteers who undergo regular, mandated turnover! It is these volunteers who have the ultimate responsibility for the organization and its mission. Unfortunately they may or may not be fully knowledgeable and informed about all that transpires within the nonprofit, either on a day-to-day basis or even at higher, more strategic levels. They also may not have the time or inclination to become too involved, so they offer guidance and feedback based on information that they receive on a limited basis within a limited scope. Lastly, they have most likely joined the board because they want to 'do good' – but may not have realized the time commitment necessary to do the job well.

On the other side of the equation, it is the Executive Director (ED) who, in reality, deals with the daily issues and challenges of the group. It is the ED who brings consistency and continuity to the nonprofit, working with an ever-changing group of volunteers, many of whom come and go within a few short years, while remaining focused on achieving the mission. And it is the ED who typically best represents the organization in the community, building loyal followers and identifying contributors while seeking needy constituents.

Thus leadership presents a dual-responsibility situation for nonprofits, a role shared by the Board and the ED in an environment that touts its legacy as stewards of the community, acting above conflict and pettiness. The Board has, by law, ultimate authority for the organization. The CEO or Executive Director reports to the Board, but if something goes wrong, it is most likely the Executive Director who takes the blame and handles the problem – not the Board. So when a volunteer Board is responsible for a full-time, paid Executive Director, some challenges are bound to arise that can negatively impact the success of the group, especially when the ED is accused of underperforming.

The solution to this dilemma may be that a good defense is the best offense. In other words, in the nonprofit world this means that the Board should behave more responsibly when it comes to management, operations and leadership in order to prevent divisive

conflicts with the Executive Director. This is best accomplished by being preemptive. This requires recruiting high quality, mission-driven, board members (not resume builders) and conducting effective orientations to get and keep them engaged. A powerful Board that can successfully walk the fine line between micromanaging and being supportive is the best deterrent to a 'runaway' ED!

On the other hand, EDs who do not have active, dedicated board members are forced to do more on their own, taking on more responsibility and even usurping the Board's authority. To prevent this, the Board should be held accountable for owning their role, guiding and supporting the ED. Board members who prefer abdicating authority or hiding their heads in the sand may end up trying to solve conflicts down the road that could have been avoided with some upfront determination.

2. Evaluating the Executive Director: Professional Performance Reviews

Why do Executive Directors get fired? Most of the time, they are probably not doing their job well. Either the job description has changed as the nonprofit mission has evolved and they no longer have the right skills or the person has stopped being effective for other reasons. In many cases, though, they do not have much warning before being terminated. This means they do not have the chance to improve their performance and avoid being fired. The handwriting is on the wall, there for all to see, if performance reviews take place. It is hard to hide from the glare of honest and fair feedback. What about those nonprofits that do not conduct annual reviews? How do they measure and report progress, or lack of progress, to the ED?

Unfortunately, recent studies indicate that nonprofits are much worse at conducting internal evaluations of all personnel, but especially when it means measuring the effectiveness of the Executive Director, than are commercial corporations. There is evidence that most of the time the evaluation process doesn't even happen at all. This is, in part, due to the nonprofits' conviction that they are less formal than their peers in the for-profit world. Less formal and less structured translates to mean less institutional, less rigid, more creative and more compassionate. This perception leads to the notion that well-planned performance reviews and employee evaluations are not necessary and can even impede the passion and spontaneity of the organization! This lack of a tradition of evaluations denies an organization and its ED the process it needs to operate at its best.

According to Vincent Hyman, who writes in "Evaluating the Executive Director," that effective performance evaluations in a nonprofit make a critical impact by:

- Monitoring whether the organization's goals are being achieved
- Helping the ED understand the Board's perspective on his or her strengths and limitations
- Providing directions for specific improvements; setting expectations and standards by which future performance can be fairly measured
- Maintaining a process and documentation that can help protect the Board if they terminate the ED
- Helping the Board look objectively at the accomplishments, not the personality, of the ED
- Identifying strengths, challenges and strategic questions before they become troubling conflicts

Most importantly, annual performance reviews enable the Board to maintain a formal, documented, fair and pragmatic course for providing feedback to the Executive Director and providing an opportunity to set new annual goals.

Organizations that do not have a legitimate platform for assessing their Executive Director and for communicating that evaluation are less likely to succeed and are more likely to find themselves in painful conflict with the ED – with no easy way out!. Every nonprofit Board, regardless of the size of the organization, should establish an executive evaluation policy as the valid basis for appropriately monitoring executive performance. The evaluation should include preparing a strengths and weaknesses evaluation, asking others for feedback, and meeting with the ED in a formal in-person setting while also documenting the entire review. This should be done at least annually, but ongoing monitoring should take place consistently and continuously throughout the year with the two goals of both recognizing how well the Executive Director is doing and identifying ways to improve performance. If this is done in a timely fashion, with honesty and sincerity, it is much like preventative medicine – assuring that insurmountable problems do not accumulate, lessening the likelihood of anyone being fired.

3. Firing an Executive Director

Despite a Board's greatest efforts, things can go wrong. Even if a fair evaluation policy is in place and the ED is forewarned and apprised of shortcomings and concerns, there still can be a major conflict, forcing a Board to determine that it has to take the final step and fire the Executive Director. Sometimes this difficult decision just cannot be pushed aside, despite the possible tumultuous consequences.

It is, perhaps one of the toughest jobs of all for a Board of Directors to make this decision. However, Board members who assume responsibility and recognize that the firing may be the key to maintaining the morale of the nonprofit, as well as to ensure its future sustainability, can take heart in knowing that they are not alone. The statistics show that many other boards have faced the same scenario; the results of a recent nationwide study indicate that fully one-third of all nonprofit executive directors are either fired or forced out of their role!

So, the question is - can this process be managed in a way that minimizes the conflict, protects the organization from legal jeopardy, maintains the integrity of the group and enables the Board to conduct some effective damage control in the community? And the answer is – yes, there are some key initiatives that can be adopted to help the Board move forward in a proactive and responsible manner.

Step one: When subtle and not-so-subtle complaints about the Executive Director reach the Board, they should immediately place the discussion on the agenda and move into executive session – without the Executive Director present – to discuss the problem. Conflicts of this nature rarely erupt suddenly. Dealing with small problems as they occur may help prevent a major disruption later. When the conflict is with the ED, rapid action by the Board may be the best solution. If it is decided that this is not a frivolous complaint, and is in fact one that needs to be taken seriously, the Board can establish a task force that is charged with investigating the situation and determining what the options are available for the group.

Step two: The task force should immediately meet with the Executive Director to be sure he or she understands the situation, sharing the complaints and the validity of the concerns. They should also meet with others who have a stake in the outcome, including donors, volunteers and paid employees who have consistent interaction with the Executive Director. In this way they can begin to gain complete clarity regarding the situation from various perspectives at every level.

These discussions should be carefully recorded and placed in a confidential personnel file. They should be reported to the executive committee and ultimately to the Board. The Board should not be kept in the dark any more than is necessary to maintain confidentiality

– it is critical that Board members do not learn of these sensitive issues from rumors generated in the community!

If the Board is uncomfortable or ill equipped to deal with this type of serious conflict, an outside mediator or an organizational consultant with conflict management skills may be called in to replace the Board chair, the executive committee or the special task force in these discussions and interviews.

Step three: If it is determined that the Executive Director might be given the chance to remain in the role, perhaps under probation, the task force can nominate a small group to supervise the ED. The expectation is that over time there will be an acceptable improvement in behavior. Even if this step ultimately does not work out as hoped, the obvious desire to try every option should make the termination process easier.

Step four: If it is eventually decided that the Executive Director cannot remain in the role, despite the efforts of the Board and the special task force, having a properly documented file will support the process and lend credibility to the decision. If the Executive Director has had regular performance reviews and has been given reasonable warning of concerns, there should be no surprises when termination is discussed.

Nonetheless, the reality is that there may be a significant amount of anger, frustration and resentment. The Board may try to mitigate this by making an offer to the ED to ‘resign’ as a gracious way of saving face and avoiding putting a negative spotlight on the organization.

Step five: Hire a competent, specialized attorney who can walk you through the legalities of termination. Be sure that every “I” is dotted and every “T” is carefully crossed to protect the organization and assure its donors of your intent.

Step six: Embrace effective communication. As the search for a new ED unfolds, the organization should be as transparent as possible with its volunteers and donors and the community at large. Firings can be messy, so without revealing personal and damaging issues, there must be a public announcement. As everyone knows, if the Board does not take control by making a statement and releasing information, the community will ‘fill in the blanks’ with rumors, suspicions and innuendos - often inaccurately. The end game is this - it is essential to control the message, share the truth and be sensitive to the circumstances. The news must be communicated to internal and external stakeholders in a way that eliminates the shock factor and maintains confidence in the organization and its goals.

Few Boards want to engage in a battle with an entrenched Executive Director, but breaking down the process into manageable stages can help take some of the pain out of the situation. Using outside experts can also help board members avoid direct interaction with the Executive Director.

4. Case Study

This case study is based on a real situation that existed in the early 2000s, although the name of the organization, its location and the names of the people involved have been omitted to protect their confidentiality.

In 1990, a business woman was profoundly influenced when she attended a conference on women and met with the leaders of an international organization that had been successfully promoting the case for women's rights, making great strides and having a significant impact improving the situation for many who were among the most vulnerable.

After listening to them, she developed a vision to create a nonprofit entity that would pick up the challenge and would, at the grass roots level, support a range of women's groups that needed financing, support and additional exposure in the community to achieve their mission. She left the for profit world and gathered together a strong group of women who believed, as she did, in the power of their passion. They formed a 501c (3) charity as an umbrella organization designed to help various women's groups in their area. For a number of years they were successful at shining the spotlight on their affiliates, helping them by making important introductions to influential donors and volunteers and also conducting some fund raising that created an additional revenue stream for them. The funds generated were not significant (and they were distributed across several organizations) but their effort was seen as a good starting point by the groups involved.

However, as the years went on, the founding Executive Director became more and more autocratic and the atmosphere in the organization became more turbulent and combative. As each board chair's two year term was ready to expire, she personally identified a woman who she thought would be appropriate to serve as the next board chair. She refused to work within the established nominating process, overruling the nominating committee and the board. In this way she ensured a deep personal relationship with the incoming board chair, enabling her to establish camaraderie and loyalty as well as to encourage a misguided sense of trust and obligation, resulting in her maintaining complete control of the board with each subsequent turnover. The previous board chairs were somewhat embarrassed by the situation and so they rarely shared their experience with the incoming board chairs. This meant that there was no way for the newly elected chair to realize she was about to step onto a field studded with land mines.

Fighting any type of strategic planning, the volatile ED continued to use force and her influence as the founder to make all the essential decisions for the group. She presented the board chair with the agenda for each meeting, met with the auditor privately – keeping the board somewhat in the dark regarding finances and budget, did all the hiring and firing of the administrative staff with little input from the Board, sat in on every committee and sub-committee meeting and refused to participate in any formal evaluation or personnel review of her own progress.

The Board of this organization understood that it is not uncommon for founding Executive Directors to believe they are invincible and untouchable. These EDs often see the organization as “belonging” to them. After all, they argue, they are the ones who had the vision, the foresight, the energy and the desire to create the group - and as a result, they do not feel they need to report to the board or be guided by the board in making decisions for the good of the group.

In this particular situation, ironically enough, the Executive Director was quoted as saying she believed she could fire the board if she chose to, never fully acknowledging that they, in fact, had the authority to fire her.

Although they knew other groups faced similar challenges, the Board’s problem was somewhat exasperated by their meek approach. Preferring to sweep the issues under the rug rather than face the wrath of the ED, they never conducted a formal annual review (when the idea was raised each year, she would say it was not necessary and the board chair would relent). The lack of written documentation meant that there was no paper trail, no confirmation of concerns throughout the years, and no proof of poor or inappropriate behavior recorded anywhere that they could refer to, which would have helped to make the path to termination much smoother.

Over time, some of the board members had simply quit rather than confront the ED. But eventually the Board gained the courage it needed to do the right thing. They hired an employment lawyer with experience working with organizations in the nonprofit sector under similar circumstances. He guided the leaders, ensuring they behaved with careful thought and decorum, and following his sage, legally sound advice, they fired the Executive Director.

As importantly, he also made strong suggestions on how to manage the negative public reaction that was sure to develop. As Founder, this Executive Director’s name had been virtually synonymous with the organization since its inception and they needed to be very careful in what they said and how they behaved. Although they all knew that this should have been done many years before, they were relieved to have been able to accomplish this highly emotional and potentially risky task with minimum damage to the group’s reputation.

While the founder was very angry and extremely bitter, the nonprofit was not destroyed as had been feared and, with a new Executive Director in place, they continued to thrive.

5. Conclusion

One thing is obvious: all Boards need to have policies that are in place to guarantee that they conduct regularly scheduled personnel evaluations for everyone on staff. This serious commitment establishes a foundation for open discourse within the organization without fear of reprisal or discord. Every nonprofit organization needs to institute an honest and fair evaluation process – even though that can occasionally result in firing an employee, perhaps the ED. Establishing this process as a best practice can improve communication, establish measurable goals and minimize conflicts between the Board and the Executive Director.

But when the circumstances arise, and termination is inevitable, there are practical measures that can be adopted that can help lessen the stressfulness of the confrontation. Whether the decision is made because the group is moving in a new direction and requires a different vision from the top, or the current leadership has proven to be unsatisfactory over time, the Board must act thoughtfully and without haste – but must also be willing to make hard and perhaps unpopular decisions after gathering meaningful information from a wide and balanced range of sources.

Sometimes nonprofit board members do not react to the obvious signs of trouble, letting conflicts and disagreements with the ED simmer for years, undetected or ignored, until they boil over and grow quickly out of control. But as the research in this paper shows, those board members who are willing to take on the challenge of managing, evaluating and, if necessary, firing the Executive Director, are to be commended for accepting their responsibility.

6. About the Authors

Bridget Hartnett, CPA

Bridget Hartnett, CPA, a Member of the Firm at Sobel & Co., has more than fifteen years of experience in public accounting, which she draws on to provide high level services for clients.

Experience in the Nonprofit Niche

Bridget spends most of her time working closely with clients in the social services and nonprofit areas, including educational institutions. As a member in the firm's Nonprofit and Social Services Group, Bridget supervises the audit engagements conducted by Sobel & Co. for the Cerebral Palsy Association of Middlesex County, the Youth Development Clinic of Newark and Catholic Charities of the Trenton, Metuchen and Newark dioceses, Freedom House, and C.J. Foundation. In addition, she handles all of the firm's education audits and holds a Public School Auditor's license. Bridget is also responsible for reviewing and overseeing the preparation of nonprofit tax returns.

Philanthropic and Social Service Commitment

Bridget carries her commitment to social services beyond the work place to include her personal involvement in several areas, such as at St. Benedict's school in Holmdel where she is always available for volunteering for projects and special events as needed as well as giving her resources and time to various children's charities, such as the New Jersey Chapter of Make-A-Wish and others. She is also a volunteer with professional business groups in the New Jersey community, including Monmouth Ocean County Nonprofit Committee and the Western Monmouth Chamber of Commerce where she is Treasurer and helped to found both the Young Professionals' Group and the Nonprofit Committee. Bridget is also an active member of the New Jersey CPA Society's Nonprofit Interest Group.

Professional Credentials

As a licensed Certified Public Accountant in New Jersey, Bridget is a member of both the American Institute of Certified Public Accountants (AICPA) and the New Jersey Society of Certified Public Accountants (NJSCPA).

Educational Background

Bridget graduated with her Bachelor of Science degree from Montclair State University.

Ron Matan, CPA, CGMA

Ron Matan is the Member in Charge of Sobel & Co.'s Nonprofit and Social Services Group. Ron brings a unique blend of public accounting and business acumen to every client engagement. A key member of Sobel & Co.'s Leadership Team since joining the firm in 1997, Ron works primarily with non-profit organizations, including United States Department of Housing and Urban Development ("HUD") projects, A-133 engagements, and low income housing tax credit programs ("LIHTC").

Experience in the Nonprofit Niche

As member in charge of the firm's Nonprofit and Social Services Group (A-133 and HUD audits and LIHTC programs), Ron is responsible for the firm-wide quality of this practice area and is the firm liaison for the AICPA's Government (Nonprofit) Audit Quality Center. With over 35 years of experience in public and private industry and accounting experience with all types of nonprofit and social service organizations, Ron brings a unique blend of knowledge and insight to these specialized engagements. Ron is a Certified Tax Credit Compliance Professional and is listed in the Guide which is circulated to all State Agencies Allocating Tax Credits as well as the Internal Revenue Service. He has also taken courses in advanced training for peer reviews and performs peer reviews of other accounting firms.

Philanthropic and Social Service Commitment

Ron is a member of the Board of Directors of the Neighborhood Health Services Corporation, headquartered in Plainfield, New Jersey, where he serves as Treasurer and Chairman of the Finance and Audit Committees. Ron also serves on the Union County Educational Services Foundation Board. Ron was the former Treasurer and Board Member of Kids Peace Treatment Centers for emotionally disturbed children, located in Bethlehem, Pennsylvania.

Professional Credentials

Ron is a Certified Public Accountant licensed to practice in New Jersey, New York and Pennsylvania. He is a member of the American Institute of Certified Public Accountants and the New Jersey Society of Certified Public Accountants (NJSCPA). Ron has been elected to PKF North America's Nonprofit Committee, and in June 2004, Ron was appointed to the New Jersey Society of Certified Public Accountants Peer Review Executive Committee. Ron is also a member of the NJSCPA's Nonprofit Interest Group. He is also an instructor at Fairleigh Dickinson University in their Center for Excellence – Certificate in Nonprofit Board Leadership Program.

Educational Background

Ron is a graduate of Kings College in Wilkes-Barre, Pennsylvania, where he received a Bachelor of Science Degree in Accounting.

7. About Sobel & Co.

Sobel & Co. is a regional accounting and consulting firm located in Livingston, New Jersey that has been providing nonprofit and social service organizations in the New Jersey/New York metropolitan area with audit, accounting, tax and advisory services since its inception in 1956.

The firm is distinctive in its approach to the nonprofit community because of its sincere passion for serving this sector. As it says on the Sobel & Co. website, “We work with the nonprofit sector because we feel good helping those who do good; we have a passion for helping nonprofit organizations achieve their mission of helping the world's most vulnerable.”

The firm currently works with more than 185 nonprofit organizations with revenues ranging from \$100,000 to over \$65,000,000. Based on this depth of experience, the professionals in the nonprofit group are keenly familiar with the issues facing nonprofits and they will apply this knowledge to bring added value to every engagement.

As a further demonstration of the firm’s commitment to the nonprofit community, several complimentary programs are offered throughout the year. These include quarterly webinars, roundtable discussions, special workshops and an annual symposium on timely and relevant topics.

We also encourage you to visit our website at www.sobel-cpa.com and click on the Not-For-Profit niche page. Once there please browse our resource library where you will find published white papers along with a variety of articles. We provide a Desk Reference Manual for Nonprofits, a Survey of Nonprofit Organizations that contains interesting insights on nonprofits, a wide range of tools and benchmarking data, a monthly e-mail newsletter that offers relevant information to organizations like yours and links to other key sites that are valuable for the nonprofit community.



8. Citations and References

The research for this white paper was conducted using various resources and documents, including:

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