

## Seeking Ethical Advice

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**Q.** If I have a dilemma in my role as board member, and want to make sure I do the right thing, who can I ask for advice and how do I decide who to ask?

### Answer

What a great question! You are actually thinking ahead - and perhaps regretting some earlier choice.

The answer lies partly with who you trust, and partly with who has the right knowledge to help you avoid legal, financial or other pitfalls in the process of doing the right thing. Often, in areas outside our own expertise, we are simply unaware of what is perceived as ethical.

In general, I suggest you look for people who:

- Model ethical behaviour themselves as best you can tell;
- Ask you good questions relating to the outcomes you desire to achieve for your community, rather than jumping to proposed solutions;
- Have whatever knowledge and skills are needed; and
- Will keep your query confidential if asked.

No confidentiality rules in the world can keep people from asking those closest to them, like their spouse or parents, if those are the people they usually turn to with questions. They may or may not have the knowledge you need, but they can certainly be sounding boards (provided they are not directly involved with the organization in question). You can test out options, get their reactions, and therefore have a better idea of how at least one type of stakeholder might react.

You *know* whether they can keep a secret!

Unless the issue involves another board member or the ED, your best support should come from within. The board members and ED are there to support each other, and can have discussions within existing confidentiality agreements. Even if the problem involves a board member or the ED, remember that you may be misinterpreting an action or a statement; the individual needs a chance to be heard. If some disciplinary action is one of the options, be sure to follow due process and treat everyone fairly or your decision may be successfully challenged.

You may have other internal resources available to you. If there is a chief financial officer, that person can be asked to give advice to the board, directly or by way of an Audit or Finance committee, without the information being filtered through the ED. The board can also seek advice from the Privacy Officer, chief information officer, HR head and other such experts on staff, if your organization is large enough to have such internal positions.

Many dilemmas involve technical issues, and most people with technical knowledge have been trained primarily for the corporate sector. You cannot ask just any lawyer about bylaws and rely

on the response. There are lawyers who specialize in nonprofit law or at least have it as a major part of their practice. At minimum, you don't want to be their only nonprofit client or they will have no reason to keep up with that aspect of their field. For example, right now in Canada, any lawyer who is advising nonprofits about bylaws or incorporation without having studied the new *Canada Not-for-profit Corporations Act* is not competent, IMHO, to give such legal advice. Nonprofits incorporated provincially will likely be subject to similar new legislation soon too (only Saskatchewan has already passed their new legislation).

Similarly, accountants who are not familiar with how the Public Sector Accounting Board may be changing accounting standards for not-for-profits is probably not keeping up with other aspects of nonprofit accounting issues. Why would you want their advice?

At the other end of the continuum, fundraisers work primarily with charities and foundations. You would seek advice from those who can demonstrate compliance with an acceptable public set of standards such as those of the Association of Fundraising Professionals or the Canadian Association of Gift Planners.

Many other types of advisors, including those specializing in ethics, are part of unregulated professions without standards in common use (unfortunately, there are few nonprofit specialists that have accepted the standards at <http://www.epac-apec.ca/cont-ang/ethical-stds.htm> and I know of no equivalent in the USA). You are looking therefore at a combination of education and experience IN THE SECTOR, which may or may not be combined with corporate or government experience. If their work experience is entirely corporate or government, look for volunteer experience relevant to the type of advice you need. They should also be able to outline their professional development activities specific to nonprofits, such as conferences for the sector and active membership in umbrella groups like the Canadian Society of Association Executives. If they have none of this, why would you hire them? And if they are free, remember you often get what you pay for.

Let's say you want governance advice on the board-ED relationship issue. Governance by volunteers who act for their community is hugely different from corporate boards, and on average far ahead of corporate boards in adopting ethical practices (a topic for another column). For example, your ED is not likely on the board, and if on the board does not likely have a vote. Many corporate CEO are assured of votes at the board by having a number of their own direct reports on their board - luckily we don't see that at nonprofit tables. Everyone I regard as competent in nonprofit governance reads at least two new books a year specific to that topic, subscribes to regular publications devoted to nonprofit governance, and regularly attends workshops on the topic to learn from colleagues.

Apply similar thinking to other areas. If the issue is around information technology, does the advice to you need to consider security issues such as donor privacy, or tracking issues such as restricted funds? If HR, does the advice apply to volunteers as well as paid employees? You get the picture.

Remember that anyone you know might be able to give you a referral to someone they have found trustworthy and able to use sound judgment, without having to be told any details of the issue at hand. Remember also that if your current best option is keeping you awake at night, or would be uncomfortable to explain to a reporter, you probably need to keep searching for a better option.