LEGAL DUTIES OF AN
INDEPENDENT SCHOOL BOARD

According to nonprofit corporation law, a board member should meet certain standards of conduct and attention to his or her responsibilities to the school. These are referred to as the Duty of Obedience, the Duty of Care, and the Duty of Loyalty.

Duty of Obedience

Obedience to the school's central purposes must guide all decisions. The board must also ensure that the school functions within the law, both the "law of the land" and its own bylaws and other policies.

Duty of Care

Board members must exercise due care in all dealings with the school and its interest. This includes careful oversight of financial matters and reading of minutes, attention to issues that are of concern to the organization and raising questions whenever there is something that seems unclear or questionable.

Duty of Loyalty

Conflicts of interest, including the appearance of conflicts of interest, must be avoided. This includes personal conflicts of interest or conflicts with other organizations with which a board member is connected.

THE BASIC RESPONSIBILITIES OF AN INDEPENDENT SCHOOL BOARD

1.   Determine the school's vision, mission, values and purpose.

2.   Select the school head.

3.   Support the school head and assess his or her performance.

4.   Ensure effective organizational planning.

5.   Ensure adequate resources/raise money.

6.   Exercise fiduciary responsibility and oversight.

7.   Determine, monitor, and strengthen the school's programs and services.

8.   Enhance the school's public standing.

9.   Ensure legal and ethical integrity and maintain accountability.

10.   Recruit and orient new board members and assess board performance.

INDIVIDUAL BOARD MEMBER RESPONSIBILITIES

General expectations:
1. Know the school's mission, purposes, goals, policies, curricula, programs, services, strengths and needs.
2. Suggest nominees for the Board.
3. Serve in leadership positions or undertake special assignments willingly when asked.
4. Avoid prejudiced judgments on the basis of information received from individuals and urge those with grievances to follow established policies and procedures through their supervisors.
5. Follow trends in the school's field of interest.
6. Bring a sense of humor to the board's deliberations.

Meetings:
1. Prepare for and participate in board and committee meetings, and other school activities.
2. Ask timely and substantive questions while supporting the majority decision.
3. Maintain confidentiality of the Board's executive sessions.
4. Speak on behalf of the Board when asked to do so by authorized persons.
5. Suggest agenda items periodically for board and committee meetings, to ensure that significant policy related matters are addressed.

Relationship with staff:
1. Counsel the school head as appropriate and offer support
2. Avoid asking for special favors of the staff, without prior consultation with the school head, board chair or committee Chair.

Avoiding conflict:
1. Serve the school as a whole, rather than special interest groups.
2. Avoid even the appearance of a conflict of interest, and disclose any possible conflicts to the board chair in a timely fashion.
3. Maintain independence and objectivity and do what a sense of fairness, ethics and personal integrity dictate.
4. Never accept or offer favors or gifts from or to anyone who does business with the school.

Fiduciary responsibility:
1. Exercise prudence with the board in the control and transfer of funds.
2. Faithfully read and understand the school's financial statements and otherwise help the board fulfill its fiduciary responsibility.

Fund raising:
1. Give an annual gift according to personal means.
   Assist the development committee and staff by implementing fund raising strategies through personal influence with others (corporations, foundations, individuals).

THE HUMAN SIDE OF GOVERNANCE
TEN RELATIONSHIPS THAT MATTER

A.   The Board Chair and the School Head

B.   The Board and All Staff

C.   The Board and Staff Attending Board Meetings

D.   The Board and the Board (Members with Members)

E.   The Board and the Board Chair

F.   The Board and the School Head

G.   The Board and Committees

H.   The Board, the School Head, and the Auditor(s)

I.   The Board and the School 'Community' (Including Funders)

J.   The School Head and the School 'Community' (Including Funders)

FORCES SHAPING THE BOARD'S ROLE

- ◆ History

- ◆ Habits

- ◆ Stage of organizational/school development

- ◆ Founders/leaders

- ◆ Strengths of individual trustees

DRIVERS OF CHANGE IN THE GOVERNANCE OF NONPROFIT ORGANIZATIONS

Technology

Laws, Regulations & Standards

Ethics, Accountability, Transparency

Generation Issues

Corporate Scandals

Changing Nature of Volunteers

September 11, 2001

Economic Challenges/Funding

BOARD TRENDS: FOCUS

■ From operational to strategic: rather than focus on how things are being done, focus on outcomes

■ From internal focus to organizational context: changes in the environment, especially since September 11th

■ From stand-alone to collaboration: spectrum from cooperation to mergers

■ From the importance of operations to the importance of relationships in operations

BOARD TRENDS: PROCESS

■ Board communications: use of information technology for information dissemination, discussion, and routine decisions

■ Agendas: from show-and-tell to give-and-take; action focused committee reports

■ Generational Sensitivity

BOARD TRENDS:
SIMPLICITY AND STRUCTURES

- Size: whatever is needed to facilitate both active participation and effective decision making

- Committees: fewer standing committees, more use of ad hoc committees and time limited task forces

- Officers: move toward staff in treasurer and board secretary positions

BOARD TRENDS: INTENTIONAL BOARD/TRUSTEE DEVELOPMENT

■ Board Composition: from personal connections to strategic diversity

■ Board Orientation: from informal to formal

■ Board Education: mission related issues as well as board responsibilities

■ Board Evaluation: accountability; transparency

THE BOARD BUILDING CYCLE

Step 1: Identify board needs (Skills, knowledge, perspective, connections, etc., needed to implement the strategic plan). What do we have? What is missing? Identify sources of board members with the needed characteristics.

Step 2: Cultivate potential board members. Get them interested in your school and keep them informed of your progress.

Step 3: Recruit prospects. Describe why a prospective member is wanted and needed. Describe expectations and responsibilities of board members, and don't minimize requirements. Invite questions, and elicit their interest and preparedness to serve.

Step 4: Orient new board members to the school—curricula, history, bylaws, pressing issues, finances, facilities, organization chart— and to the board—recent minutes, committees, board member responsibilities, lists of board members and key staff members.

Step 5: Activate all board members. Discover their interests and availability. Involve them in committees or task forces.

Assign them a board "buddy." Solicit feedback. Hold everyone accountable. Express appreciation for work well done.

Step 6: Educate the board. Provide information concerning your mission area. Promote exploration of issues facing the school. Don't hide difficulties. Celebrate accomplishments.

Step 7: Rotate board members. Establish and use term limits. Do not automatically re-elect for an additional term; consider the board's needs and the board member's performance. Explore advisability of resigning with trustees who are not active. Develop new leadership.

Step 8: Evaluate the board and individual board members. Engage the board in assessing its own performance. Identify ways in which to improve. Encourage individual self-assessment.

Step 9: Celebrate! Recognize victories and progress, even small ones. Appreciate individual contributions to the board, the school, and the community. Make room for humor and a good laugh.

THE BOARD/SCHOOL HEAD PARTNERSHIP
Characteristics of an Effective Independent School Board-School Head Partnership

- Common Expectations

- Cooperative Planning

- Open and Honest Communications

- Respect

- Mutual Evaluation

...result in a clear and common understanding of...

- Where We Are Going

- Why

- How We Will Get There

- How We Will Know We Have Arrived

Factors Conducive to an Effective Board-School Head Partnership

Organizational health depends on an effective and flexible partnership between the board and the school head. It …

- Requires clarity and agreement about roles and responsibilities,

- Requires regular and open communication between the board chair and the school head, as well as an agreement about how to work together,

- Requires a willingness on everyone's part to clarify their own and each others' assumptions,

- Benefits from regular and systematic feedback and assessment,

- May need to be redefined as the school develops in size and complexity.

THE BOARD/STAFF PARTNERSHIP, PART 2

The Board of Trustees

Authorized by the state and the school's supporters, the board governs the life of the school.

- Establishes mission and direction, ensures the necessary resources, and develops guiding principles.

- Retains ultimate responsibility and power.

- Is accountable to the public trust and to the school's constituencies.

The School Head

Authorized by the board, the school head manages the daily affairs of the school.
- Supports the board with strategic information, ideas, and connections.

- Manages the affairs of the school by ensuring appropriate planning, coordination, and implementation of the programs established by the board to support the mission.

- Retains immediate, or operational, responsibility and power.

The Partnership

Organizational health depends on an effective **partnership** between the board and school head, which

- Requires regular and open communication between the board chair and school head,

- Requires willingness on everyone's part to examine assumptions,

- Benefits from regular and systematic feedback and assessment, and

- May need redefinition as the school grows in size and complexity.

Requirements for an Effective Partnership
☑ Clarity of roles
☑ Division of responsibilities
☑ Attention to working relationships

SHARING SCHOOL LEADERSHIP

The following are examples of typical board and staff leadership roles in the foundation:

The <u>board</u> takes the lead, for example, when it

- Articulates the guiding values of the school through policies that put the school's mission into action;

- Hires, supports, and evaluates the head of the school;

- Opens the doors to fund raising in the 'community';

- Monitors fiscal management, approves the annual budget, and assures that there is an annual audit; and

- Selects, recruits, and orients new trustees.

The <u>school head</u> takes the lead when he or she

- Develops and proposes policy questions for the board's consideration;

- Hires, supervises, and motivates staff; and

- Develops and implements programs.

The <u>board, board chair, school head, and staff</u> share the lead when they

- Develop a strategic plan;

- Create a fund-raising plan and strategies;

- Initiate and implement periodic organizational evaluations; and prepare for board meetings

- Develop the board to be more effective, i.e. orientation program, retreats

Board-Staff Relations

The School Head's Role in Developing the Board

1. Ensure that current job descriptions are in place for the school head and the board.

2. Maintain a healthy and mutually supportive relationship with the board chair.

3. Help the board maintain an effective governance/board development committee, and work closely with it.

4. Provide thorough orientation for new trustees.

5. Help the board to clarify and maintain its policy and oversight functions.

6. Keep board informed and adhere to the doctrine of "no surprises."

7. Advocate and help plan board retreats or special workshops, including periodic board self-study sessions of its responsibilities, membership, organization and performance.

8. Approach assessment as a tool to strengthen the school head's *and* the board's performance.

Adapted from *The Chief Executive's Role in Developing a Nonprofit Board* by Nancy Axelrod (NCNB, 1999). Reprinted with permission from, *BoardSource*, formerly the National Center for Nonprofit Boards. For more information about BoardSource, call 800-883-6262 or visit www.boardsource.org. This text may not be reproduced without written permission from BoardSource.

The Board Chair's Role in Supporting the School Head

1. Communicates openly and fairly with the school head.

2. Serves as a liaison between the board and the school head.

3. Takes the lead in and encourages the board to support and evaluate the school head.

4. Discusses issues confronting the organization with the school head.

5. Reviews with the school head any issues of concern to the board.

Adapted from *The Role of the Board Chairperson* by Eugene C. Dorsey (NCNB, 1992). Reprinted with permission from, BoardSource, formerly the National Center for Nonprofit Boards. For more information about BoardSource, call 800-883-6262 or visit www.boardsource.org. This text may not be reproduced without written permission from BoardSource.

THE ROLE OF THE BOARD IN SUPPORTING
THE HEAD OF THE SCHOOL

1. Communicates openly, fairly and consistently with the Head of the School

2. Coordinates its communication with the Head of the School and the staff to avoid confusion and conflicts

3. Periodically assesses the performance of the Head of the School in a fair and inclusive manner

4. Periodically leads in the process of evaluating the effectiveness of the school

5. Discusses issues confronting the organization with the Head of the School

6. Reviews openly and promptly issues of concern to the Board with the Head of the School

7. Accepts and fulfills leadership responsibilities for the Board and the school

8. Understands its governance role and acts accordingly

9. Understands and respects the workload of the staff

10. Is respectful and acts professionally in regards to the Head of the School and staff:

    - returns phone calls
    - meets deadlines
    - gives adequate notice of meetings and special requests to the school head/staff
    - announces policy changes to the Head of the School and staff prior to communicating them to the public

Should the School Head be a Voting Board Member?

What is the relationship between the School Head and the board?

The School head is the person who administers and manages the day-to-day existence of the school and the board is the entity that governs it. The two have a close working relationship. The school head informs the board on the status of the organization: its finances, program evolution, any challenges or breakthroughs. The board relies on this information as it ensures effective organizational planning and as it assesses the overall performance of the school.

The board hires, supports, fires and evaluates the school head. In practical terms, this makes the board the supervisor of the school head.

Statistics
A recent BoardSource survey reported that only 8% of the CEOs among the 1028 respondents were voting members of their boards, but the vast majority of CEOs attend board meetings in an advisory capacity.

Benefits of voting rights

- School head has a concrete method of voicing an opinion or a concern to the board.
- School head feels he/she has earned the full trust of the board and can function as a peer.
- The school head is able to vote on issues and go on record on behalf of his/her ideas.
- Enhances the school head's position of authority within the school. Strengthens the working partnership with the board.

Conflicts created by voting rights

- May introduce a potential for conflict-of-interest.
- May blur the distinction between the board's responsibilities and the school head's responsibilities.
- School head is a paid staff member; board members are volunteers working for the sole benefit of the school.
- Board assesses the school head's performance and determines compensation.
- Executive sessions often meet without staff members.
- Membership in certain committees would be inappropriate (audit, personnel).
- Relationships between the school head and certain trustees may become strained if the school head votes against a particular initiative or idea.

Other issues to consider
- Could the school head contribute to the board work most efficiently as an ex officio member?
- What are the underlying reasons for the school head requesting to become a Voting member?
- Does he/she feel 'out of the loop' or that the board is showing lack of confidence?
- How would the voting rights affect the relationship between the school head and other staff members?

If the school head becomes a voting member of the board of trustees, the school should establish clear guidelines on school head participation on issues such as determining executive salary, evaluation procedures, etc. Whatever the school head's official status, his\her insights into the daily operations of the school are essential to board decision making.

Resources
Houle. Cyril 0. *Governing Boards: Their Nature and Nurture.* San Francisco, CA: Jossey Bass Publishers, Inc. 1989 (Available from BoardSource; to order call 800-883-6262).

The School Head As Team Leader

- Assumes responsibility for developing the board.

- Builds strong relationships with the board chair and each board member.

- Facilitates interaction among board members.

- Monitors the environment and purposes strategic responses to change.

The School Head As Team Leader

- Encourages productivity and recognizes accomplishments.

- Maintains a structure for board work (procedures, schedules, objectives).

- Provides helpful, relevant information.

- Respects the board and its role.

Do you agree with this concept of the school head as the team leader? If not, why not? If so, are you working in this way?

HALLMARKS OF AN EFFECTIVE BOARD

■ Clarity about roles and responsibilities

■ Focuses time and attention on important issues

■ Restructures board work to get important things done

■ Views board composition as strategic

■ Uses evaluation to learn rather than criticize

■ Has the confidence to take risks

■ Has constructive relationship with school head and staff

■ Open and honest communication

■ Board works together as effective corporate unit

How is your board and school head accomplishing the above hallmarks? What challenges are there?

What are you planning to change in the future in order to work more effectively?

Adapted from "The New Work of the Nonprofit Board" by Barbara E. Taylor, Richard P. Chait, and Thomas P. Holland. (Harvard Business Review, September 1996).

Building a Partnership - Board/Staff Relations
What Ifs...?

For each of the following scenarios:

1. Identify the issues
2. Recommend what the school head/staff should do
3. Recommend what the board chair should do
4. Do other board members have a responsibility? What is it?

WHAT IF...NUMBER 1:

A member of the staff has concerns about the Head of the School's management of certain financial matters. One or two others on staff/faculty share her concerns. The staff member decides to approach a board member with whom she has worked on curriculum matters to report her suspicions. The board member wonders what to do with this information.

WHAT IF...NUMBER 2:

At a recent board meeting, a board member began to question a series of decisions made by the Head of the School, complaining that policy matters were involved and the board was not properly consulted. The board member has expressed his lack of confidence in the school head to a number of others on the board. Although most of the rest of the board feels the Head of the School does a good job, a number think the board should have been consulted about these particular decisions. At the meeting, they do not speak up

WHAT IF...NUMBER 3:

The chair of the board has asked to see weekly financial reports and spends at least one afternoon a week in the administrative offices of the school meeting with the school head and talking to staff. The Head of the School is upset at the level of the board chair's involvement in the day-to-day affairs of the school. She is unsure of what to do about it.