Transparency on the Board

Bob Harris, CAE

Last year a member of the board gave his entire meeting packet to a vendor associated with the industry. It included a financial report, roster of members, a member grievance and confidential proposals. When asked why, he said, “We’re nonprofit, we have to share the information.”

Faulty Thinking

Associations and chambers of commerce have minimal public records (documents and information that must be disclosed upon request.) They are not-for-profit entities recognized by the IRS as exempt from federal income tax.

In contrast, governmental bodies must reply to public record requests. These laws are referred to as “government in the sunshine,” “open records” and “freedom of information. (FOIA)”

The public records for most associations and chambers are generally limited to three documents: 1) IRS Information Return, 2) IRS Letter of Determination and the 3) IRS Application to be exempt. State laws may prescribe additional public records. Further, acceptance of public or governmental income may broaden requirements for public records.

Directors sometimes confuse the transparency required of governmental bodies with that of associations and chambers.

Guiding Principle

In membership organizations one can expect that requests for information will be made. We want to accommodate the requests without advocacy, governance and management, for instance.

Confidential Discussions

Meetings of the board of directors should be viewed as a safe place for discussions. There should be no fear that statements would be disclosed inappropriately or documents distributed beyond their intended purpose.

Do not let transparency affect the greater need to protect confidential information.

The concept of transparency should not be interpreted as a decree to disclose every document upon request. There will always be a need to maintain confidentiality in areas such as personnel matters, positions, grievances, contracts or negotiations.
Balance

There is a cost associated with efforts to be transparent, including consistent application, allocating staff time, copying, summarizing, legal, security, etc. Most agree this is a small investment to support openness.

Policy Sample

Start with a policy that the organization complies with all laws regarding public record laws; and promotes openness with its members. The policy will be used to guide leadership and staff when requests are made for information.

If a policy on transparency exists, apply it consistently.

If one should be developed, consider including these elements.

- Timeliness in responding to requests.
- Official channels for receiving and responding to requests.
- Compliance with public record laws.
- Bearing the costs for responding.
- Items never to be disclosed.
- Violations of transparency policy.

- Record retention and document destruction guidelines.

Responding to Requests

There are smart practices and concerns when responding to information requests. For example, if a member requests:

Define the Question – Often a request for more information from members is based upon confusion. Listen carefully to the request, discuss the reason or purpose, and try to answer the concern. For example, they may not want a copy of an entire budget when they are really asking, “was our educational program profitable this year?” Be careful not to provide (overwhelm) more than was requested.

Financial Information – Direct them to IRS official tax returns for the most accurate information. If they are seeking a budget, offer to provide a pie chart that can answer general questions about income or expenses.

Personnel Information – Anything related to staffing must remain confidential for a variety of reasons.

Meeting Minutes – Meeting minutes are a document to record actions in accordance with laws, i.e. Quorum, disclosure of conflicts, due diligence. They are not a newsletter. When requests for minutes arise, determine the reason and offer to provide insight by defining the concern and having the right persons (officers, CEO) respond. Many organizations create an executive summary of meetings but do not release the minutes.

Open Meetings – The board has governing duties. Some organizations allow or encourage guests and members to attend. Define in policy whether or not guests may view or participate in board and committee meetings. If guests are allowed, prescribe that they adhere to the same standards of confidentiality, rules of order, etc. that the board follows.

Finally, be sure to rely on legal and accounting counsel regarding organization documents and requests.

Bob Harris, CAE, provides free governance tips and templates for associations and chambers at www.nonprofitcenter.com bob@rchcae.com [2016]

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