



Advisory Boards

Dear Abby for Organizations

By Stefanie R. McNamara



Where do organizations go for advice? Lately, there seems to be a buzz around the concept of assembling an advisory board to assist organizations in reaching their short-term goals and achieving long-term success.

And rightly so.

Many organizations would benefit from an additional set of advisors with various skill sets, whose main task is to achieve success for the organization at minimal expense.

What Are Advisory Boards?

Advisory boards typically consist of a small group of individuals who are chosen to complement the existing management team in providing objective advice, professional skills, industry contacts and other expertise. Advisory boards do not have any fiduciary or management responsibilities. Following the advisory board's advice is discretionary.

The advisory board is formed mainly to assist the organization in meeting its goals, determine future trends and provide relevant insight and direction. While it is common for advisory board members to receive some compensation, it is usually not significant and may consist of either cash or stock consideration. For this reason, advisory boards often are used in situations where the organization is unable to afford to retain experts or outside consultants.

What to Consider When Forming an Advisory Board

An organization considering forming an advisory board should first determine its strengths and weaknesses and then determine what the objective of the advisory board will be—whether general or more specific in scope.

Once this has been determined, the organization can seek individuals to serve on the advisory board who have the skill set and expertise needed for the organization to address identified issues and meet its goals. Advisory board members are not members of the board of directors of the organization and are not elected by the shareholders of the organization.

As such, the advisory board does not have a right to vote on matters before the board of directors and it does not have any managerial or policy-making authority. The authority of the advisory board is limited to purely a consulting role, the scope of which is defined by management. The organization is under no obligation to implement or follow the advisory board's advice; it is within management's discretion to do so.

How to Choose Advisory Board Members

Ideal advisory board members should be individuals with a good reputation in the community, industry experience or other professional skills, such as financial or accounting expertise and networking contacts.

Individuals may be interested in serving on advisory boards for various reasons. They may have a genuine interest in the industry or organization, a personal relationship with a member of the management team or appreciate the opportunity to network.

Since members of the advisory board do not serve in a governance capacity and compensation is minimal, the right advisory board will not be swayed by internal politics or market

pressure. If the advisory board functions effectively, the advice and assistance offered should be honest and impartial—in other words, invaluable to the organization.

How Should the Advisory Board Function

Effective advisory boards should consistently be provided with relevant information and input from the organization. To this end, there should be regularly scheduled meetings of the advisory board. Depending on the organization's needs, meetings may be scheduled monthly, quarterly or as needed.

Aside from meetings, a system should be in place, whether by email, teleconference or otherwise, for management to provide information or updates to members as to the status and progress of tasks and projects involving both the organization as a whole and the issues and objectives that are being addressed by the advisory board. Providing advisory board members with a periodic flow of information will assist the members in maximizing their input to the organization.

Furthermore, systematic monitoring of the advisory board by the organization can ensure that the advisory board is operating consistent with the duties and responsibilities defined by management.

Liability Issues

As discussed above, advisory board members are not part of the board of directors and have no decision-making authority within the organization. Advisory boards are not afforded the same statutory protections as boards of directors with respect to liability to and indemnification by the organization. Given the solely advisory nature of the appointment, it is not typical for advisory board members to be held liable for the actions of the organization.

However, it is not impossible. Several steps may be taken to minimize this risk.

First, the organization's directors and officers' liability insurance policy should be reviewed to confirm whether advisory board members are protected if they are sued in connection with their role on the board. If not, the organization should contact its carrier to confirm whether coverage may be cost effectively obtained.

The organization should set forth specific written goals and responsibilities of the advisory board and consistently monitor the advisory board to ensure it is functioning within such parameters. The advisory board also should keep minutes of its meetings and interactions.

The organization's governing documents should be reviewed to determine whether the organization will be obligated to indemnify advisory board members. If the governing documents do not provide for this, the organization may wish to consider entering into indemnification agreements with the advisory board members whereby the organization agrees to indemnify the members in the event they are sued for matters related to their appointment on the advisory board.

Advisory boards have much to offer all types of organizations. In most situations, the properly formed advisory board will provide the organization with numerous benefits, which outweigh the relatively minimal expense in administration. ▲

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