



Keep Your Head Above Water:

How to Help Your Head Avoid Costly Mistakes

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overview

- *based on observations, experience, rumor & ego*
- *what gets a head's head under water?*
 - failing to monitor the board (*who is the next chair*)
 - blind-siding trustees (*hearing on drop-off line*)
 - ignoring “politics” of school (*past termination*)
 - getting too far ahead of community (*Pat's mantra*)
 - acting inconsistent with culture (*house parties with alcohol*)
 - botching key legal challenges
 - ❑ *sexual abuse matter (current and historic)*
 - ❑ *employee terminations*
 - ❑ *governance*
 - ❑ *student discipline*
 - ❑ *HOS' employment scaffolding*



experienced (long term) vs. inexperienced (new) mistakes

- ***experienced (and or long term)***

- afraid/doesn't understand financials
- board snafus: over confident, fails to monitor, controls, disrespects
- doesn't keep tabs on community (parents, donors, key constituents)
- "old school" response to legal challenges (payment of HOS assistant)
- fails to make necessary changes (3rd grade math teacher "friend")

- ***new (and or inexperienced)***

- afraid/doesn't understand "financials"
- little board experience
- ignores or over reacts to legal issues
- threatened by CFO/ CFO board relationship
- new to fund raising
- makes quick or too many changes vs drinking coffee during first year



cfo/hos partnership essential to success

- **challenges of weak cfo/hos relationship**
 - reluctant to advise hos
 - confidence in making tough decisions: audit, form 990, “mistakes”
- **benefit of partnership**
 - open and honest communication without FEAR
 - impact, implication & fallout of financial decisions
 - supports head & head’s initiative (JUST LIKE BOARD/HEAD)
 - gives head sounding board
- **security of cfo critical!**
 - most important member of “management team”
 - multi-year contract
 - ❑ severance payout for termination (12 to 18 months)
 - ❑ salary based on comparable data (schools same as HOS)
 - ❑ other key benefits i.e. 457(b)



professional development for head & cfo

- *keeps everyone current, fresh and happy*
- *head of school*
 - not just “strategic thinking”, “curriculum”
 - *governance*: “leadership through partnership”, bylaws, legal implications
 - *legal issues*: current (abuse) and established (wage and hour)
 - *practical operations*: financials, budget, development, endowment, retirement
 - *local and national*: community of heads, associations,
- *CFO*
 - **GO TO CONFERENCES! GET OUT OF SCHOOL!**
 - **You have the time! Make the time!**
 - **STOP PUTTING YOURSELF LAST!** (same with your team!!!)
 - Stay current: especially on legal issues
 - Create a network of CFOs



legal issue: head of school contract

- **head needs to understand terms**
 - engage lawyer for review and consultation NOT negotiations
 - monitors renewal provisions
- **key provisions**
 - termination without cause
 - ☐ including 12/18 months severance; security to make tough decisions
 - coach
 - ☐ selected by head
 - down time (heads get cranky)
 - vacation, sabbatical, summer telecommuting
 - evaluation process
 - position and role on board:
 - voting vs non-voting, vote needed to terminate
- **cfo involvement:**
 - review of terms: life insurance cost, 403(b) contributions
 - obtain comparable data: for intermediate sanctions, fairness to head
 - share data with “board” & head: local and national sources



legal issue: sexual abuse of alumni

- **overview**

- abuse by faculty as well as by fellow students
- significant legal and reputational exposure
 - ❑ criminal and civil (against the school)
 - ❑ reputational exposure is extremely damaging (Lawrenceville, Choat)
- take all claims seriously and act quickly
- be proactive to avoid scrambling once claim comes forward
- claims via call, email, letter, newspaper article comes to the school

- **proactive steps**

- lawyer, crises management firm, investigator (best if they have worked together)
 - ❑ well versed in this area, interview for comfort and style
 - ❑ lawyer engages crises management and investigator for privilege
- establish a task force
- find insurance policies going back as far as possible
- consider reviewing personnel files of former employees
- create policies addressing
 - ❑ boundaries (between adults and students)
 - ❑ reporting allegations of current “abuse” or concerns by students, faculty others
 - ❑ reporting to child protective services



legal issue: decisions related to employees

- *no such thing as “employment at will”*
- *employees can bring the following claims*
 - discrimination based on protected category
 - ❑ age, race, national origin, gender, disability and other categories based on state law
 - breach of employment contract
 - breach of provisions in handbook
 - whistleblower claims
 - violations of other laws (fmla, workers compensation, wage & hour)
- *contracts are yearly but why isn't it renewed?*
- *plenty of lawyers that need work*
 - can't promise you won't get a law suit
- *have a justified, defensible reason for employment action*
 - performance or behavior (documented)
 - reduction in staff, program, enrollment
 - supported by contract, handbook, past practice, communicated to employee



legal issue: student discipline

- **numerous challenges by parents**
 - common college application
 - helicopter parents
- **clear policy is essential**
 - communicated to students, parents, faculty, (trophy spouse)
 - ❑ assemblies, parent meetings, enrollment agreement, handbooks, signed statements
- **establish definition of “consent”**
- **code of conduct for students addressing**
 - social media, dishonesty, 24/7 or just at school
 - consequences of violation of code of conduct
 - “behaviors inconsistent with the expectations of the school”
 - consider process of review or consideration
 - ❑ Faculty, students, administrators
 - ❑ Are parents, lawyers, faculty representative in attendance
 - ❑ Appeal process
 - ❑ Ultimate decision maker



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