World Class Leadership

Board governance essentials
for Seventh-day Adventist Institutions

"Governance Conversations"
Loma Linda University Health
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Learning Objectives

1. To understand the organizational and governance structure of Seventh-day Adventist healthcare institutions.
2. To comprehend the authority and responsibility of an institution's governing board.
3. To know and appreciate the difference between governance and management.
4. To realize and commit to governance best practices in pursuit of excellence in the institution(s) where I serve as a trustee.

The Board performance challenge

"…there is one thing all boards have in common, regardless of their legal position. They do not function."

—Peter Drucker

Why Board processes matter:

1. <u>Organizational success</u> is ultimately the responsibility of the Board.
2. The <u>most important decisions</u> of the organization are made by a group—the Board.
3. <u>Effective group decisions </u>do not arise spontaneously. They require deliberate designs in structure and social dynamics.
4. Good governance <u>builds trust</u>; defective governance erodes trust.

Outline:

Section 1. SDA organizational structure—ecclesiastical and institutional.

Section 2. The Board's position and role in institutional structure.

Section 3. Governance responsibilities of the Board.

Section 4. Pre-requisites for effective governance.

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SDA Church organizational structures

Ecclesiastical Entities

- Local churches
- Conferences
- Unions
- General Conference and its Divisions
- Local church schools
- Local church community services

Special Purpose Entities

- Property holding corporations
- Institutions (education, healthcare, publishing…)
- Trusts
- Retirement Funds (where required by law)
- Service entities (ADRA, Adventist Risk Management, Adventist World Radio, Hope Channel…)

Legal structures in SDA organization:

- The bulk of church activity (<u>ecclesiastical functions</u> such as worship, proclamation, witnessing, and community service) is done through <u>unincorporated</u> organizations.

- The <u>business activity</u> of the Church (owning property, financial investments, operating institutions—colleges, universities, hospitals, publishing and media centers) is carried on through <u>incorporated</u> organizations.

SDA Church-sponsored incorporated entities :

- Support the overall identity and mission of the Church—they are <u>an expression of the Church</u> in action.
- Function in alignment with the Church but <u>do not have direct accountability to ecclesiastical administration</u>.
- Have <u>separate legal personality</u> from the church and from each other.
- Are <u>established by specific action</u> of an official SDA entity.
- Have a <u>constituency/membership that meets regularly</u>.
- Upon dissolution—<u>assets go to another SDA entity</u>.

Separate legal identity is not a basis for a mentality of independence.

In Seventh-day Adventist ethos the level of self-determination granted to any organization is to be exercised with an attitude of interdependence among, and mutual regard for, other Church entities and their role in the worldwide identity and mission of the Church.

SDA Institutions and the Local Church

1. The institution and the Local Church also have separate identities yet function very closely together.
2. The Local Church is an entity of the Mission/Conference.
3. Local Church pastor is an employee of the Conference.
4. Church building may be located on institutional campus.
5. Institutional and Local Church programs may create scheduling conflicts—reflecting a need for mutually supportive communication between church and institution.

Two SDA governance systems:

Ecclesiastical system

- "Executive Committee"
- Membership elects Exec Comm
- Membership elects officers…
- Each entity part of a chain of organizations
- Many employees on Exec Comm
- Exec Comm chair—internal
- Officers report to Exec Comm
- More involved in management
- Unincorporated status
- Business activity—internal focus

Institutional system

- "Board of Trustees/Directors"
- Membership elects board
- Board appoints officers
- Each entity a 'stand-alone' organization
- Few employees on Board
- Board chair—external
- CEO reports to Board
- Less involved in management
- Incorporated status
- Business activity—external focus

Structural pattern for SDA organizations:
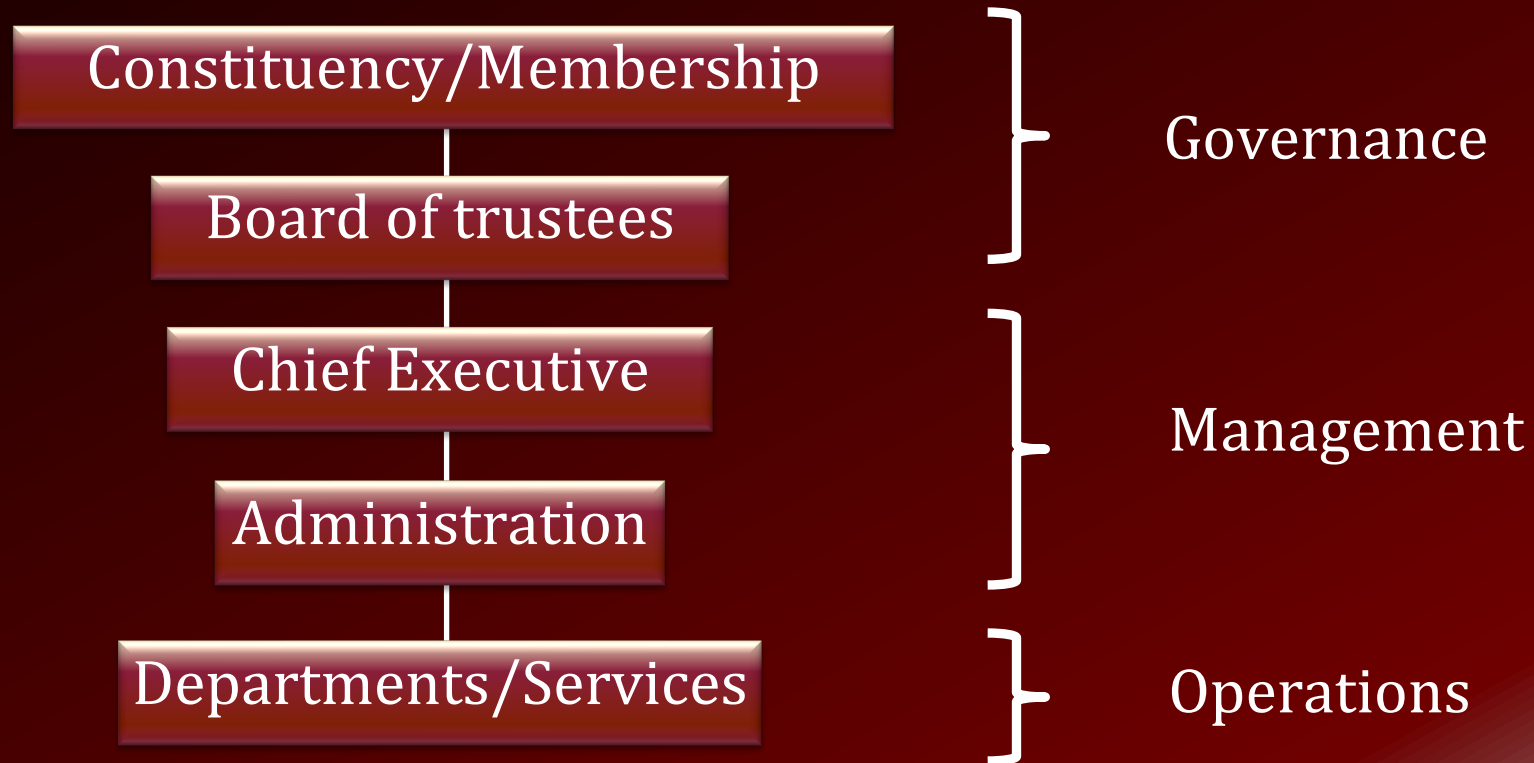
Institution Constituency:

1. Unless local regulations (i.e. University Charter) require otherwise the constituency shall be drawn from the sponsoring organization (i.e. union, division, GC) and all members shall be SDA members or SDA-affiliated entities.
2. Entrusted with ownership rights and obligations.
3. Maintains close relationship with sponsoring body.
4. Primary functions:
   - To review progress in alignment with SDA identity and mission
   - To appoint a board of trustees with authority to govern the institution
   - To adopt/amend governing documents (Constitution & Bylaws) of the entity

Outline:

Section 1. SDA organizational structure—ecclesiastical and institutional.
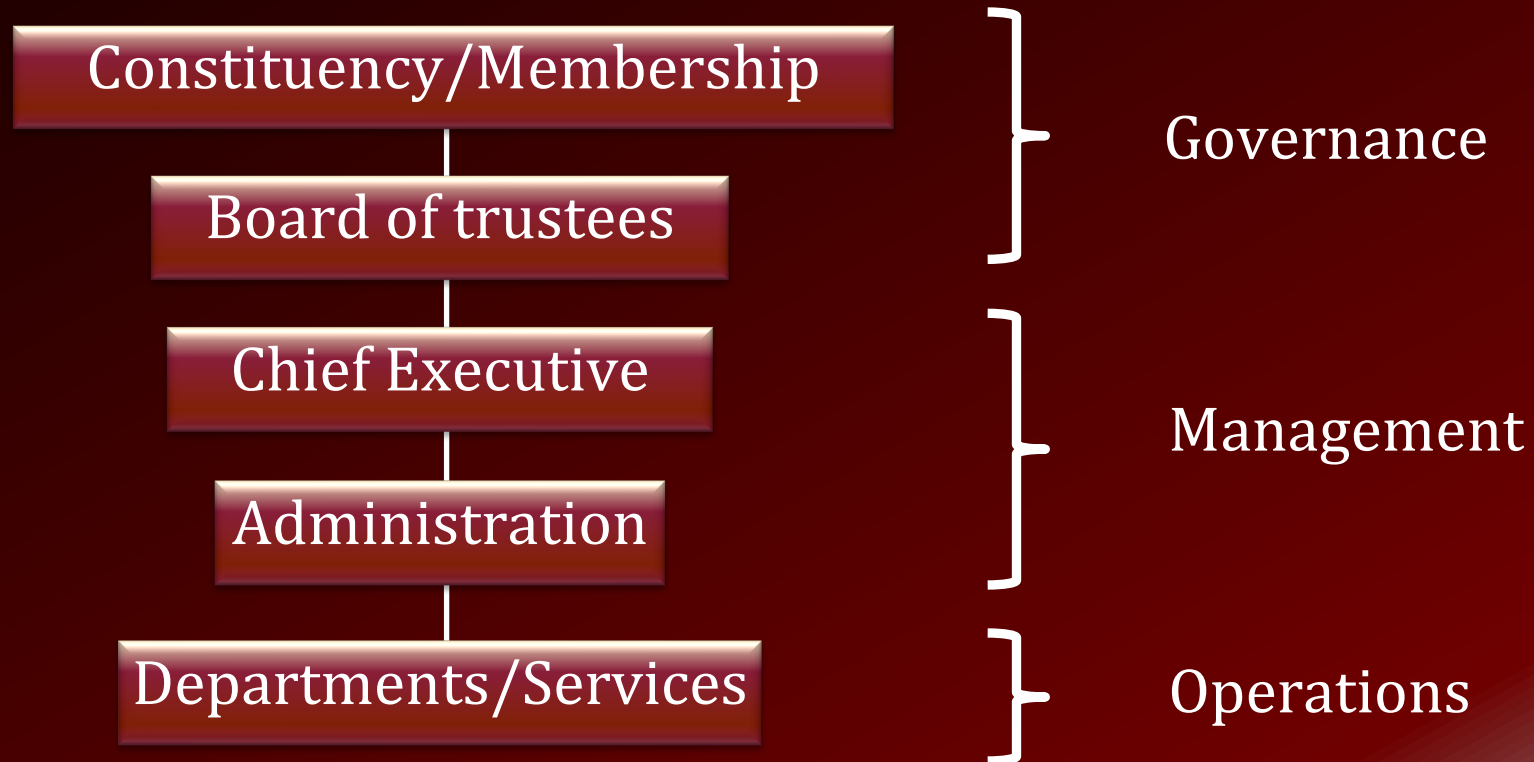
Section 2. **The Board's position and role in institutional structure.**

Section 3. Governance responsibilities of the Board.

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Structural pattern for SDA organizations:

Constituency/Membership

Board of trustees

} Governance

Chief Executive

Administration

} Management

Departments/Services

} Operations

The Governing Board:

- Has ultimate corporate authority

- Total authority matched by total accountability

- Can be superseded only by organization's 'owners' or by the State. (In SDA structure the owner is the constituency, or "membership" defined in the bylaws.)

- Regulatory agencies (licensing authorities, accrediting agencies, etc.) may have significant impact on the Board's exercise of authority.

Governance documents:

- Fundamental Beliefs of Seventh-day Adventists
- General Conference/Division/Union *Working Policy*
- Constitution/Articles and Bylaws
- Institutional registration/licensing authority
- Local regulatory environment (city/district/county)
- Constituency decisions
- Board policies (as adopted/amended from time to time)

Primary governance documents:

- Constitution (or Articles) and Bylaws

    - Foundational documents with legal requirements and validity
    - Define identity and nature of organization (what the organization is and does)
    - Outline operating procedures (how the organization works)

Constitution/Articles—Who, what, why…?

- Name of the entity
- Type of entity and registration details
- Purpose(s)
- Relationships (to Union, Division, etc.)
- Membership/Constituency (who functions as the owner)
- Bylaws—procedural authority (who can make/amend them)
- What happens to assets if the organization is dissolved
- Amendments to the Constitution/Articles

Bylaws—How the organization functions

- Principal Office
- Membership/Constituency Meetings
- Delegation of authority
  - Board of Trustees—membership, meetings, duties, authority
  - Officers—number, duties, authority
- Internal structure—departments, subsidiaries, etc.
- Finance, Budget, Employee Compensation, Audit
- Indemnification of trustees, officers, employees, agents
- Amendments to Bylaws

Comparing Governance and Management

Governance

- Reflect interests of owner(s) in adopting strategic plan and policies
- "Doing the right things."
- Oversight of overall institution
- Clarify long-term vision of how to achieve mission
- Appoint/evaluate management personnel

Management

- Implement strategic plan and policies of governance
- "Doing things right."
- Day-to-day operations
- Initiate and co-ordinate activities to achieve mission
- Employ/evaluate staff personnel

Is it governance or management?

- Developing organization's strategic plan
- Employment/termination of staff
- Appointment/termination of officers
- Approve construction of new facilities
- Selection of X-ray equipment
- Approve of physician contracts
- Approve of institutional policies
- Approve annual operating & capital budgets
- Approve affiliation/partnership with other organizations
- Re-model of the Emergency Department space

Governance vs Management

There is not always a sharp line distinguishing governance from management. Organizational size, complexity and stability of the business influence the relationship.

Governance   Management   Governance   Management
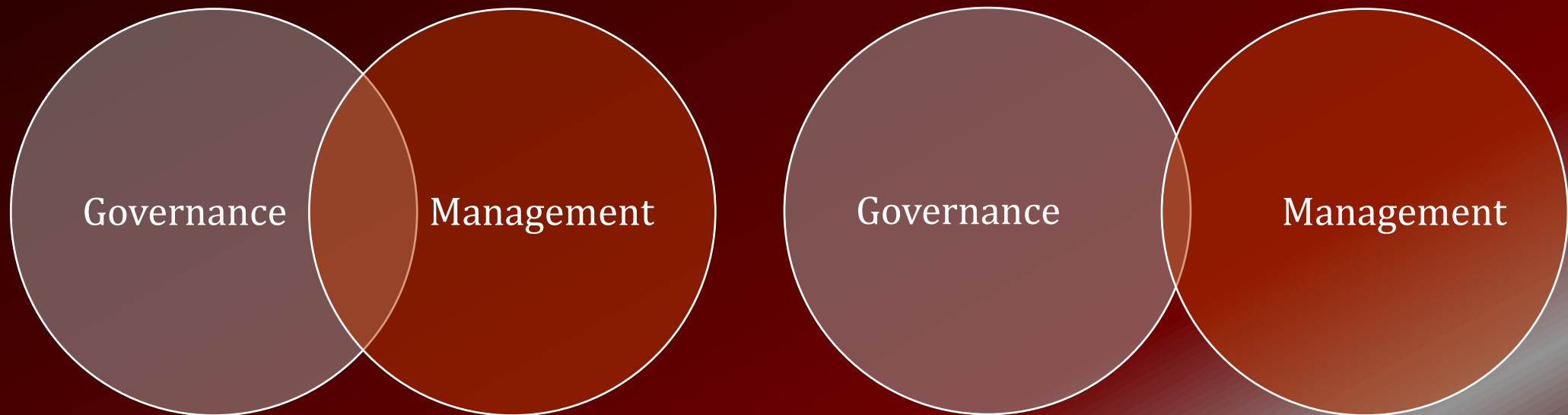
Governance law of gravity:

Unless it is intentionally monitored and evaluated the governing body's preoccupation will drift from governance towards management.

Board authority:

- The Board has authority when it is in session.

- Between meetings the Board has no authority other than the decisions it has approved and documented.

- Between meetings individual Board members do not have Board authority unless specific authority has been conveyed by Board action or Bylaws provision.

- Between meetings the Board chair and the head of the institution officially represent the institution.

Board meetings—3 configurations:

1. General session—Addresses general agenda items. Selected staff, advisors, and invitees in attendance.

2. Executive session—Addresses agenda items involving confidential information. Only board members (and advisors, if needed) in attendance.

3. Privileged session—Addresses agenda items requiring attorney-client privilege (protected information). Only Board members and attorney(s) in attendance.

Governance accountability:

- The Board can delegate portions of its <u>authority</u> to Board committees and to administration.

- However, the Board cannot delegate its <u>accountability</u>. The Board is ultimately responsible for organizational success, compliance, or failure of the institution.

Board structure—committees:

Board committees enhance effectiveness and efficiency of the full board by aiding in fulfilling its responsibilities
- Break down complex issues/tasks
- Accomplish groundwork needed for board
- Ensure issues discussed thoroughly
- Allow members to substantively contribute

Board structure—committees:

Board of Trustees

- Mission Focus
- Quality/Safety
- Legal, Compliance, Governance
- Budget & Finance
- Bylaws Review
- Research Affairs
- Executive Compensation
- Philanthropy/Public Affairs
- Audit Review
- Medical Staff

Board committee appointments:

- The Board must determine:

  - Status—Ad hoc (temporary) or standing

  - Membership—Number of trustees (and invitees)

  - Authority—Terms of reference or committee charge

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Responsibilities of the Governing Board:

- Timely oversight of institutional performance and trends
- Alignment with Church mission and institutional purpose
- Approve and review entity's mission statement
- Approve strategic and operational plans
- Develop and approve key policies and procedures
- Ensure adequate resources—operating/capital budgets
- Appoint/evaluate management personnel (CEO, VPs)
- Approve and monitor program for quality and safety
- Conduct board education and governance evaluation
- Ensure appropriate enterprise risk management

What Board members need to know/have:

- Institution's Constitution and Bylaws
- Institution's mission
- Organizational chart
- Legal structure of the institution, affiliates, subsidiaries…
- Property (real estate) owned/rented/leased…
- Board policy manual
- Access to minutes, reports, and other information
- Fiduciary obligations of trustees
- Board meeting schedule for the next 12 months

Fiduciary obligations for trustees:

Care

Loyalty

Obedience
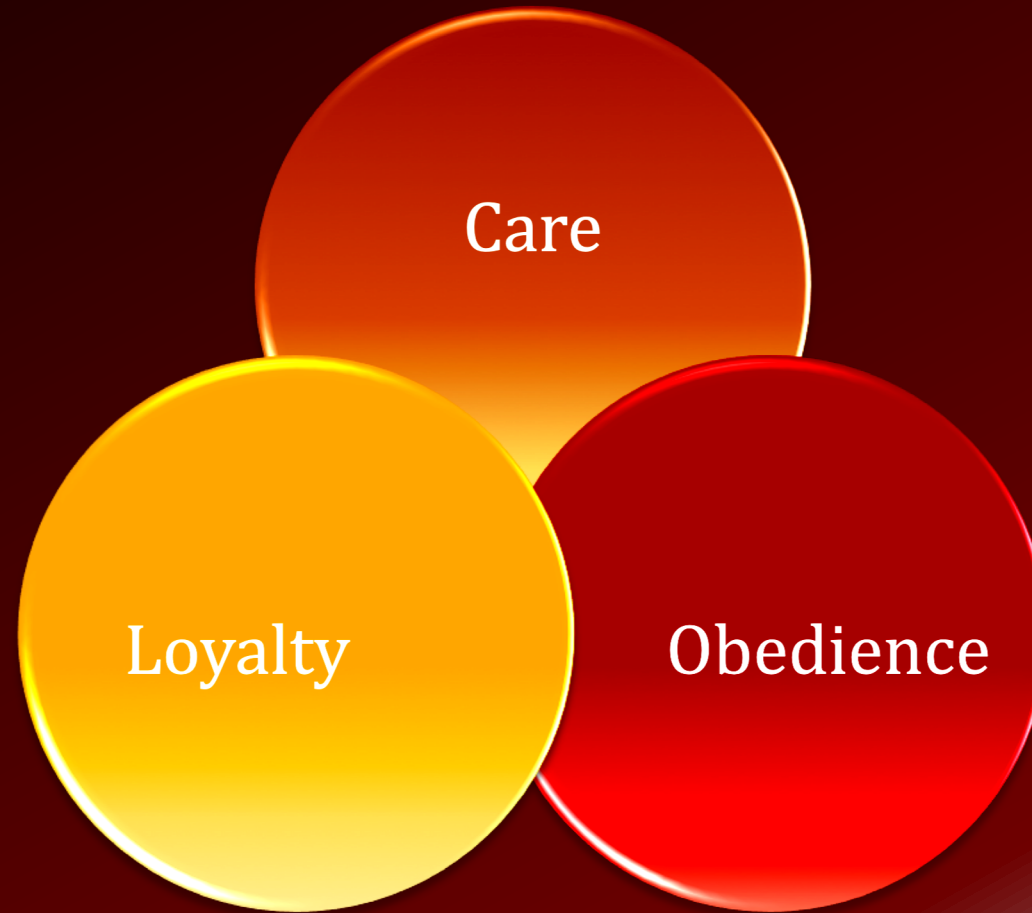
'Fiduciary' defined:

- Someone who acts for and on behalf of another in a relationship of trust.

- Requires action at all times for the sole benefit and interest of the one who trusts.

- Therefore, a 'board of trustees' acts not in its own interest but in the interest of the 'owners' of the institution (i.e. the Church entity that sponsors the institution).

The duty of care:

- What does it mean:
  - The manner in which the board makes decisions and oversees the institution.

- What to look for:
  - Board education and orientation for new trustees
  - Trustees attend meetings regularly
  - Trustees receive background material ahead of time
  - Decisions reflect best interest of the organization
  - Timely presentation of materials
  - Access to experts and opinions

The duty of loyalty:

- What does it mean:
  - Faithfulness to the organization and its mission

- What to look for:
  - Position not used for personal advantage
  - Conflict of interest awareness and disclosures
  - Undivided allegiance when making decisions
  - Maintaining confidentiality of privileged information

The duty of obedience:

- What does it mean:
  - Faithfulness to corporate purpose, mission, and decisions.

- What to look for:
  - Compliance with governance documents
  - Compliance with laws
  - Fulfilling commitments (to owners, to employees, to clients, to community, to government)

Board policies:

- A set of policies adopted by the Board for its own guidance and reference. The Board Policy Manual establishes a road map for how the Board functions.

- Board policies would include policies such as: conflict of interest, executive compensation, documentation of decisions, prohibition of retaliation, records retention, expenditure limits of executives, trustee expectations, board job description, filling board vacancies, board member and executive evaluations...

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Top concerns expressed by Board members:

- "Rubber stamping" management recommendations.
- Lack of a written succession plan.
- Inattention to board's own performance.
- Difficulty in officer evaluations.
- Lack of formal trustee recruitment and orientation.
- Reluctance to replace poor-performing trustees.
- Reluctance to address conflicts of interest.
- Under-investment in board education.
- Too much time listening to reports.
- Too much information, too little long-range planning.

What goes wrong on boards:

1. Time consumed is not proportional to results.
2. Tendency to drift from strategy to operations, from long-term challenges to short-term performance.
3. Driving by the rearview mirror.
4. Reactive rather than proactive stance.
5. Deluge of data but failure to comprehend whole picture.

Governance performance—4 key elements:

1. <u>Competency</u> of directors/trustees
2. <u>Culture</u> of the boardroom
3. <u>Care</u> of fiduciary obligations
4. <u>Conduct</u> of essential functions

Competency of trustees:

➢ Refers to personal and professional skills of individuals on the Board.

➢ Refers to the collective range of professional skills represented on the Board when evaluated against the type of business conducted in the organization.

Trustee competency:

Personal

- Reputation (integrity)
- Time and commitment
- Objectivity in thinking
- Ability to function beyond 'self-interest'
- Team member or soloist
- Social behavior

Professional

- Training/education
- Experience
- Skill and judgment

Board competency grid—LLU Health

Church representation
AHC Administration
Health Care Admin
Clinical practice/tech
Education/Academics
Nursing
Research
Strategic Planning
Finance and Investments

Information Technology
Legal affairs
Human Resources
Community Reps.
Government Relations
Philanthropy
Population health
Diversity
    Cultural/Ethnic/Gender

The effect of Board size:

Group size

Engagement

Recruit Board members who:

- Provide necessary expertise
- Attend meetings regularly
- Do their homework, come prepared
- Disclose potential conflicts of interest
- Understand the organization/purpose
- Recognize/respond to warning signals
- Maintain confidentiality of 'inside' info
- Challenge assumptions and refrain from excessive deference to management

Governance performance—4 key elements:

1. Competency of directors/trustees
2. <u>Culture</u> of the boardroom

Strategy/Procedures /Programs/Policies

Organizational culture

Elements of Boardroom culture:

Attitude
- Commitment to excellence
- Enthusiasm about mission

Attention
- Effective use of time
- Focus on strategic issues

Atmosphere
- Safe to talk
- Good group dynamics

Altitude
- Governance not management
- Big picture/future perspective

"…the highest-performing companies have extremely contentious boards that regard dissent as an obligation and that treat no subject as undiscussable."

—Sonnenfeld

The risk of 'groupthink':

- Deference to the view of the leader or influential spokesperson for an idea
- Uncritically supporting an idea because it appears to be popular
- Unwillingness to listen to dissent
- Unwillingness to express dissent in order to retain a favorable opinion of others

Governance performance—4 key elements:

1. Competency of directors/trustees
2. Culture of the boardroom
3. Care of fiduciary obligations

Conflicts of interest—Four basic rules:

1. **Define** (Create/circulate the policy)

2. **Declare** (Submit annual declaration)

3. **Decide** (Determine when COI is present)

4. **Document** (Record how COI is handled)

Conflict of interest:

➢ Because of the common objectives embraced by the various organizational units... membership held concurrently on more than one...committee or board does not of itself constitute a conflict of interest provided that all the other requirements of the policy are met. While serving...(on) multiple denominational entities is thus acknowledged and accepted...director...is expected to act in the best interest of that organization and its role in denominational structure.

Governance performance—4 key elements:

1. Competency of directors/trustees
2. Culture of the boardroom
3. Care of fiduciary obligations
4. Conduct of essential functions

Board performance—the environment:

- Board meeting frequency facilitates timely governance
- Reports provided to Board in advance of meeting
- Physical setting for meeting supports good group dynamics
- Adequacy of time for deliberations and decisions
- Agenda preparation and prioritization of items
- Timely documentation and subsequent approval of decisions

Ten commandments for Boards:

1. Make the boardroom a safe place to talk.
2. Reserve prime time for the most important item.
3.
4.
5.
6.
7.
8.
9.
10.

Board performance—leadership selection:

- A primary governance task is the selection and on-going evaluation of executive leadership.
- Leadership selection should take into account the needs of the organization and the qualifications of candidates.
- On-going (annual) executive evaluation is an effective way of identifying strengths and opportunities for development.
- Every Board should have a leadership succession plan.

Board performance—Board self-evaluation:

- Excellence in governance does not happen automatically! It requires on-going education, assessment, and improvement.
- Periodic (not less than once every two years) Board self-evaluation serves as internal feedback on Board performance.

Five summary observations:

1. The complexity of organizations and their conduct in society requires an increasing sophistication and attentiveness to governance. Board members need to <u>work harder, faster, smarter and longer</u>.

Five summary observations:

2. Excellence in governance does not happen automatically! It requires on-going education, assessment, and improvement. Periodic (not less than once every two years) Board self-evaluation serves as internal feedback on Board performance.

Five summary observations:

3. Boards are responsible for their own effectiveness:

Five summary observations:

4. Governance effectiveness is not the same as governance efficiency—the ability to do things well without waste.

Five summary observations:

5. Trustees must be alert to signs of "Mission Drift":
    - Board members cannot clearly articulate mission
    - Chasing dollars and building programs around dollars
    - Regularly questioning whether you are violating ethical or legal standards
    - Core group of board members are pushing the institution in a certain direction
    - Large turnover of staff/board members

Governance excellence is within reach. It will take intentionality, knowledge, and practice. The results will be well worth the effort.