



BoardLink

Your connection to effective bar governance

On Confidentiality

Taken from "Tales from the Boardroom," in the Spring 2010 issue of BoardLink

The Metropolitan Bar Association is hiring a new executive director. There are four finalists; one is an internal candidate, the assistant executive director. A board member who serves on the search committee runs into the assistant executive director at a social event, and proceeds to describe the backgrounds and qualifications of the other three finalists. After the assistant executive director's final interview with the search committee the following week, the same board member gives him a thumbs-up and whispers "great job, you're going to get it" as he walks out the door. The committee subsequently selects one of the outside candidates.

So, what's the problem?

It's a natural human inclination to want to share. Were there any doubt, all we need to do is consider the ubiquity of Facebook. However, one of the most important responsibilities of board members is to observe confidentiality with regard to board matters.

But it's not just confidentiality for confidentiality's sake. Let's think about the practical impact of this board member's actions.

- He's significantly raised the staff member's expectations about getting the job. No doubt there would have been disappointment in any case, but what a perfect way to unnecessarily embitter a key staff member, not to mention the other staff colleagues who may have been supporting him.
- He's just complicated the new executive director's life. Those first steps in an executive director's tenure are so crucial: a unified vote of confidence from the board and a constructive transition into the position. So much for the unified vote! Additionally, the new executive director may now be faced with a (rightfully) disgruntled staff person, upon whom she will need to rely.
- Finally, let's acknowledge that there is always great interest in a major hiring decision like this. Word travels. What should have been a professional search reflecting the prestige and competence of the organization has been bungled by one person's indiscretion. Board members are responsible for protecting and advancing the reputation of the organization. Clearly, that didn't happen here.

In closing, here's some guidance from the [ABA Guidebook for Directors of Nonprofit Corporations](#):

"In the normal course of business, a director should treat as confidential all matters involving the corporation until there has been general public disclosure or unless the matter is of public record or common knowledge."