



Board Development: The Legal Aid Context

November 10, 2010



Training Goals

- Clarify legal aid board's roles & responsibilities;
- Increase capacity of boards & board members to carry out those responsibilities;
- Build greater sense of purpose & commitment within legal aid boards;
- Increase the notion of partnership and shared leadership between legal aid providers and boards.



What is governance?

To govern means to play the leading role – in partnership with the CEO and senior managers – in continuously answering 2 fundamental questions, thereby determining the shape & course of the organization:

- What should our organization be now and in the future?
- How well is our organization performing – programmatically, financially, and administratively?



Context: ABA Standards on Governance

- Outline overall functions and responsibilities of legal aid boards of directors from specific responsibilities with regard to:
 - fiscal matters,
 - relations with Chief Executive,
 - to conflicts of interest
 - communications with low-income and legal communications.



Context: Challenges facing LS Providers

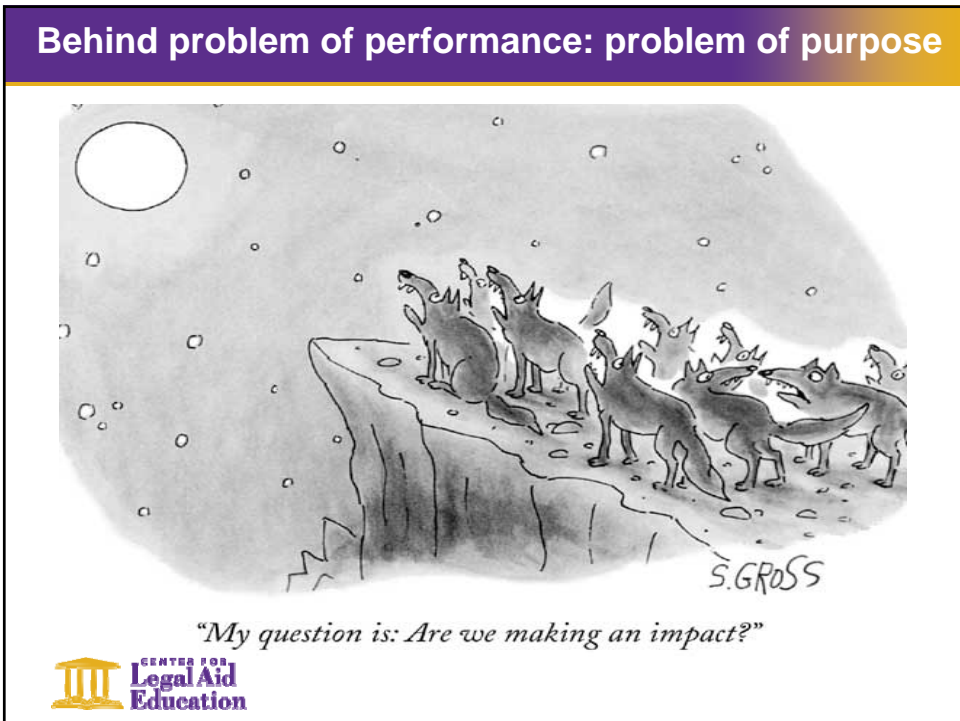
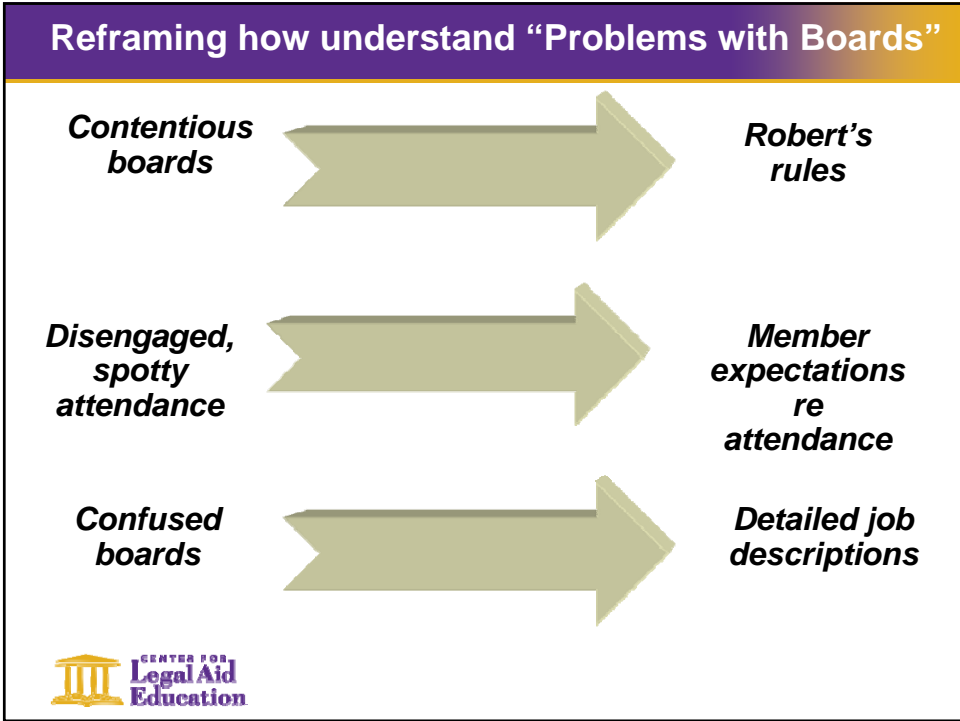
- Changing funding structures
- New/evolving client needs
- Changing delivery structures
 - *Regionalization*
 - *Mergers*
 - *Increased use of technology*
- Decline in traditional forms of advocacy
- What else??



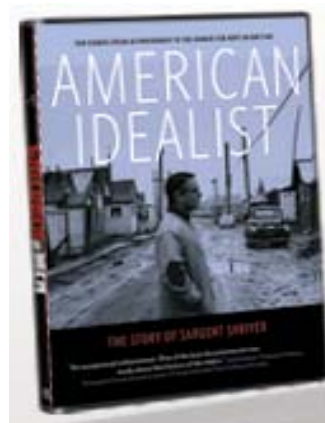
An initial question:

Problems with Boards





Watch Excerpt from American Idealist video



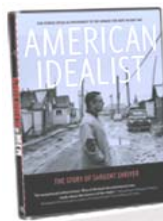
Debriefing “American Idealist”

- What stood out for you in watching this video?
- What did you learn about legal services history?
- What values did you see reflected?
- Which of these values are reflected in your legal services program?
- Which are not?



Values reflected in Shriver Video

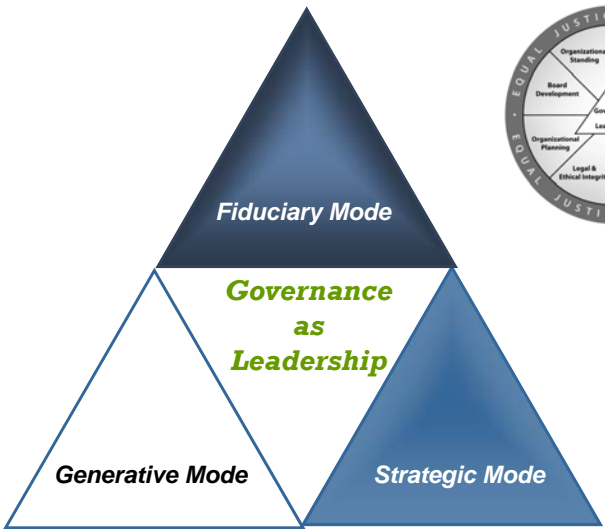
- **Leadership.** We believe poverty can be conquered.
- **Innovation.** Working together, we find solutions.
- **Service.** We're committed to advancing the cause of social and economic justice by working for the public good.
- **Action.** We give effective voice, on a daily basis, to people rarely heard.





Governance as Leadership: Legal Aid Context



Governance as Leadership








Adapted from "Governance as Leadership"
Richard, Chait et al. 2005

Fiduciary Role

Stewardship of assets

- Efficient use of resources
- Legal compliance
- Fiscal accountability
- Risk management
- Oversee and evaluate operations
- Appoint and evaluate CEO





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Strategic Role

Strategist in partnership with Management

- Scanning the internal/external environments
- Setting direction: vision, mission, values
- Strategic planning
 - Monitor and adjust
 - Establish performance



*Adapted from "Governance as Leadership"
Richard, Chait et al. 2005*

Generative Role

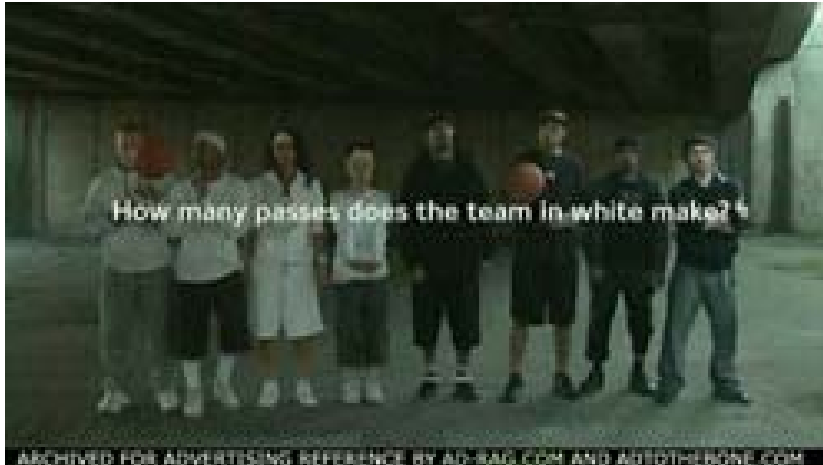
Making sense of forces, trends, situations

- Framing and reframing problems and opportunities
- Creative and innovative thinking
- Engages in thinking about what could be



*Adapted from "Governance as Leadership"
Richard, Chait et al. 2005*

The Value of Diverse Perspectives



Core Concepts

- Emphasize **modes**, not tasks, of governance.
- Think and work in three different modes.
- All three serve important purposes.
- Value added increases as board:
 - Becomes more proficient in more modes;
 - Does more work in third mode;
 - Chooses appropriate mode(s) of work.



The Payoff

*Governance
as
Leadership*



- Empowers the board and helps it to form “constructive partnerships.”
- Engages the collective mind.
- Exploits board’s talents.
- Enriches board’s work.
- Enhances performance of the board, staff and organization.



	Fiduciary	Strategic	Generative
Board’s purpose	Stewardship of tangible assets	Strategic partnership w/ management	Source of leadership for organization
Chief role	Steward	Strategist	Sense maker
Core work	Set mission, oversee operations, deploy resources, ensure compliance	Scan environment, shape strategy, create comparative advantage	Find and frame challenges, reconcile values and choices
Conducive process	Standing committees	Task forces, ad hoc work groups	Inclusive conversations
Power base	Legal authority		Ideas, insights

Basic Legal Responsibilities

- **Duty of care:**
 - Board members must exercise due care in all dealings with the organization and its interests.
- **Duty of loyalty:**
 - Requires members to exercise power in provider's interest, not in their own interest or interest of another entity.
- **Duty of obedience:**
 - Obedience to provider's mission & purpose must guide all decisions; must also ensure that provider functions within the law



Duty of care carried out by:

- Attendance at board & committee meetings
- Thorough preparation for board meetings
- Obtaining info re organizational issues, especially before voting on them
- Raising questions whenever something is unclear or questionable
- Using independent judgment
- Compliance with filing requirements
- Review of the provider's finances
- Review of the credentials and performances of the staff



Duty of loyalty carried out by:

- Disclosure of any conflicts of interests
- Adherence to the provider's conflict-of-interest policy
- Avoidance of the use of opportunities for personal gain or benefit
- Nondisclosure of confidential information about the provider



Duty of obedience carried out by:

- Compliance with all regulatory & reporting requirements (e.g., IRS Form 990; Sarbanes Oxley; reporting requirements related to federal, state, other funders)
- Examination of all documents governing the provider and its operation, such as bylaws
- Making decisions that fall within the scope of the organization's mission and governing documents





Determine mission & purpose

Determine mission & purpose

- Responsible for creating and periodically reviewing statement of organization mission and purpose that:
 - Articulates goals
 - Ascertains means it will utilize to accomplish those goal
 - Identifies primary constituents to be served

CENTER FOR Legal Aid Education

Select & support the ED; assess performance



- Responsible for hiring ED & holding ED accountable for program's operations
 - Setting standards for ED performance
 - Regularly review ED performance
- Set ED compensation
- Ensure orderly succession – leadership development, emergency & planned succession



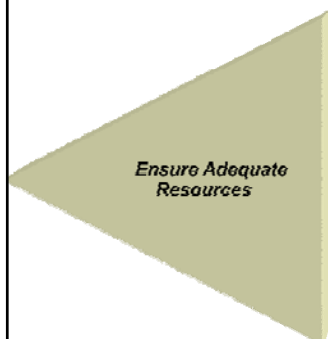
Determine, monitor & strengthen program

Responsible for monitoring programs & operations to ensure consistent with mission, functioning effectively & in compliance with it's:

- Own organizational policies & practices
- Mission and strategic goals
- Legal requirements
- Funder requirements



Ensure adequate resources



- Ensure that organization has adequate resources to fulfill its mission:

- **ABA Standard 1.1-3:** On Fiscal Matters
 - Budget, financial reports, accounting and control policies, audit, investment policies
- **ABA Standard 1.1-6:** On Resource development



Ensure legal & ethical integrity & accountability

- Adherence to legal standards and ethical norms.
- Consistent with mission, board responsible for setting broad general policies, including in the first instance, articles of incorporation & by-laws.
- **Standard 1.1** – on Overall Board Functions
- **Standard 1.1-7:** On Conflicts of interest
- **Standard 1.1-2:** Non-interference in client representation



Ensure organizational planning

Participate with staff in planning that furthers provider's mission & fosters effective & efficient utilization of resources to meet most compelling legal client needs

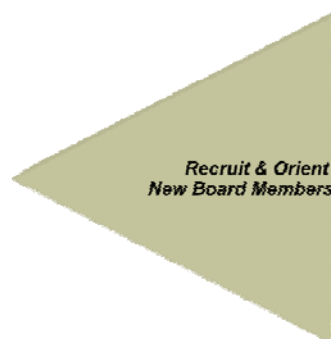


- **Standards 1.1:** overall functions of governing body
- **Standard 2.3 & LSC Performance Area 1:** Identifying legal needs and preparing to respond
- **LSC Reg, Sec 1620** – Priority Setting



Recruit & Orient New Board Members

- **Build diverse board that:**
 - Reflects broad cross-section of low-income & legal communities & other sectors, e.g., business, social service, law school other
 - Represents wide range of expertise & skills needed by board

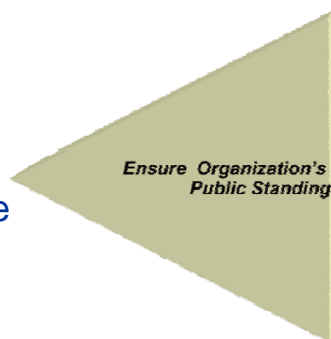


- ABA 1.3 – on Training Board Members
- ABA 1.2-2: On Members from Communities Served
- LSC Reg Section 607



Enhance organization's public standing

- Bd – program's primary link to the community – including clients, other constituents, public and media
 - Assist in public relations & when appropriate, engage in forceful advocacy on behalf of the provider.
- **1.1-5** – On Serving as Resource to the Provider
 - **1.1-6**: on Individual Members' Commitments to the Provider
 - **1.3**: on Board Communication with low-income & legal communities



Expectations of individual board members

- Adequate time
- Serving as a resource to the provider
- Understand and support legal aid mission
- Willingness to learn about:
 - Provider's mission
 - Provider funding and & legal requirements
 - Characteristics of low-income communities served by the provider & the legal problems they face

