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9 Steps to Creating a Compliance and Dispute Resolution Policy

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By: Steve Wellmeier

An inherent challenge for many associations is establishing a practical policy that deals with disputes between members or alleged violations of the organization's bylaws or ethics code. Without an agreed-upon policy, members can waste time at meetings discussing such problems and pointing fingers. If an allegation or dispute is serious enough, factions can form and feelings can fester, potentially undermining the association and its mission.

At the association where I served as director for five years, we successfully established a compliance and dispute resolution (C&DR) policy to help us navigate these difficult situations. I learned some great lessons in that process that I believe can help other associations come to grips with this thorny issue.

Patience and the spirit of collaboration are key attributes that should be embraced from the get-go. Here are nine essential steps to guide you through the process.

1. Begin With Agreement

Once your members realize that the organization is only going in circles as it attempts to resolve disputes, it's time to get a proposal to create a codified C&DR policy in front of the membership for a vote. Such a proposal might include the establishment of a working group of volunteers and some basic terms of reference to guide the group. The goal is to get a majority of the membership on board with the idea that a C&DR policy is needed and to gain their support for its development.

2. Create a Compliance Framework Document

Depending on the extent of an association's bylaws and policies, this can be simple or time-consuming. But it is important background work. We used an Excel spreadsheet to itemize all those bylaws or previously approved directives that were considered enforceable.

By "enforceable" I mean those that are measurable or definable in some way. Different members might interpret bylaws differently: Some might be seen more as recommendations than rules, and, while important, they may not be specific enough to charge a member with violating. Other provisions, while clearly measurable or definable, might be relatively minor unless violations are frequent or repeated. It's important to get consensus on these distinctions by the working group.

3. Plan to Create a Compliance Committee

Dispute resolution and policy compliance are serious matters, and shepherding the process of resolving a dispute should be the task of a full-ranking committee of volunteer members. One of the first tasks of the working group is to consider how to create a compliance committee and to develop terms of reference that detail its structure and role.

In the structure that my association devised, the compliance committee acts as a sort of district attorney's office, but with no legal power, of course. As the volunteers on the committee have full-time jobs, the association staff expects to do a lot of the spadework to make the committee's task as easy as possible once the process is underway.

4. Draft the Rules of Procedure

The rules of procedure are the heart and soul of any C&DR policy. This document details the standard operating procedure for each stage of the proceedings once an allegation is made.

The rules of procedure should be as simple and straightforward as possible. The document the working group creates will inevitably evolve as it is vetted by the executive committee and, eventually, an attorney. It should avoid legalese, if possible.

Where to start in drafting your own rules of procedure? Every association will have different needs and objectives, but a few key goals should be kept in mind:

- ✧ Ensure that the rules follow a deliberative step-by-step process and are fair and objective for all parties involved.
- ✧ Agree that the work of pursuing a complaint is feasible and balanced appropriately among the association's staff, compliance committee, executive committee, and membership, with proper authority falling where it should.
- ✧ Make sure the rules of procedure are flexible and accommodate a wide range of theoretical bylaw or ethics code violations, disputes, and complaints.
- ✧ Agree on proposed general sanction categories.
- ✧ Determine if your new rules of procedure conflict in any way with your current association bylaws.

5. Include Time Limits

Each step in the rules of procedure should include a time limit for reply by the accused member or the compliance committee. This goes to fairness for all the parties involved, as well as providing for a consistent application of the policy from one case to the next.

As the working group crafts the rules of procedure, I suggest keeping a spreadsheet that tracks the maximum number of days allowed in each step of the process, along with the running total. This will provide an overall timeline. If the process seems too long, the working group can trim time limits as appropriate to make sure the time required to complete the process is practical.

6. Protect the Rights of the Accused Member

In order for the C&DR policy to be fair, a high degree of transparency and open communication is imperative among all parties. If a member is accused of violating bylaws, he or she needs to know about it shortly after a complaint is lodged.

The accused member also must have opportunities to communicate directly with the complainant or observers of the alleged violation, association staff, compliance and executive committees, and, ultimately, the membership.

The review process also should provide the accused member with opportunities for dismissal of the complaint along the way. The vast majority of disputes and compliance issues likely will be resolved by the parties in the early stages of the review process.

7. Get Buy-In

Drafting the components of the C&DR policy can be a lengthy ordeal. While I did my best to keep the executive committee abreast of our progress, they didn't have the time to get into the nitty-gritty of the draft language.

Although the working group is the primary body charged with drafting the policy, don't assume that this group knows better than anyone else how to do it. Seek as much input as possible.

We did this by conducting a two-day workshop late in the C&DR policy drafting process. The workshop was open to all members, and quite a few attended. Their contributions in the final draft were invaluable. By getting involved, the workshop participants also became invested in the policy, and they were much more likely to support it when it was voted on at the next annual meeting.

8. Avoid Antitrust Pitfalls

Every industry needs healthy competition, and an association policy cannot be binding in the larger scheme of commerce. In other words, there can be no association sanctions or threats that would inhibit a member's ability to conduct business, as such a policy would raise antitrust concerns.

Contact legal counsel with experience in these matters to review your C&DR policy components and rules of procedure, once the working group and the executive committee agree to them. Money spent at this point is money invested in the long-term viability of your policy.

9. Court Member Acceptance

Let's face it: Most association members don't have time to pore through detailed drafts of documents that require their approval to become new policy. So, they will rely on a good executive summary to understand and vote on the issue.

The summary should provide a brief road map tracking the membership's initial vote to approve creation of a C&DR policy and any interim updates that kept them informed of progress. Members should not feel as if an important new policy is being thrust on them unexpectedly, particularly one that could result in their being sanctioned at some future point. Remind them that the policy has been created out in the open, with many opportunities for input.

The new C&DR process needs to be communicated clearly and concisely. Because of its step-by-step nature, a graphic flow chart is a good way to show members how the process will work. Presenting the procedure visually will go a long way in making it easier to grasp.

Trade associations are built on mutual trust and a firm belief in the organization's mission. To achieve member acceptance and success in practice, a C&DR policy must thoroughly embrace these characteristics.

Steve Wellmeier, former director of the International Association of Antarctica Tour Operators, is managing director of Navilogue, a management and communications consulting firm based in Providence, Rhode Island. The author's more in-depth discussion of creating a C&DR policy is available on the [Navilogue blog](#). Email: swellmeier@navilogue.com

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