

2019 NATIONAL DIRECTORS INSTITUTE
BEST PRACTICES IN DIRECTOR RECRUITMENT AND ONBOARDING

NOVEMBER 19, 2019

A. Starting the Process

1. Board self-evaluation through a current board evaluation/skills matrix
 - a. Identify skills and experiences required to serve on the board
 - b. Identify missing skill sets of the current board
 - c. Consider committee requirements and needs
 - d. Consider corporate governance parameters
2. Create profile for desired director position
 - a. Identify strategic goals and objectives of the board
 - b. Identify qualities and skills desired
 - c. Consider shareholder make-up and demographics
 - d. Cultural fit – diversity
 - e. Organic growth v. external growth
 - f. “Board prospectus”
 - (i) Advantageous for a private company board
 - (ii) Create prior to recruiting
 - (iii) Describe the current board structure and the desired board structure
 - (iv) Outline the goals of the board
3. Attracting candidates
 - a. Opportunity to broaden experiences, perspectives and knowledge base
 - b. Learn from others
 - c. Enhance social and decision-making skills
 - d. Emphasize strong company ethics
 - e. Emphasize strong management structure
 - f. Opportunity to add value
 - g. Rewarding experience
 - h. Create a portfolio of relationships
 - i. Opportunity to provide guidance and advice
 - j. Opportunity to help overcome challenges
 - k. Offer a fair and reasonable compensation package
4. Source of candidates:
 - a. Individuals known by existing directors/officers (“Rolodex method”)

- (i) Advantage:
 - Better working relationship with the current board
- (ii) Disadvantages:
 - Depth and range of search is limited
 - Tendency to recommend individuals with similar characteristics
- b. Recruiting firms
 - (i) Advantage:
 - Easier to find candidates that match the needs of the company
 - (ii) Disadvantages:
 - Other board members are not familiar with the candidates
 - Firms may have exclusions on who they can recruit
 - Costs/fees
- c. Others
 - (i) Recruiter directories and databases
 - (ii) Shareholder nominations
 - (iii) Advisors

B. How Board Members Are Selected

- 1. Selection criteria:
 - a. Background of Candidate
 - (i) Professional and personal background
 - (ii) Current employment
 - (iii) Current job duties, responsibilities and time commitments
 - (iv) Prior jobs and responsibilities
 - (v) Business philosophy/style
 - (vi) Educational background
 - b. Experience in particular company's industry
 - (i) Knowledge of economic drivers of company's business
 - (ii) Knowledge of risks and opportunities
 - (iii) Knowledge of competitive landscape
 - c. Diversity
 - d. Other director positions
 - (i) Public
 - (ii) Private
 - (iii) Non-profit
 - (iv) Time commitments

- e. Corporate Governance philosophy
 - (i) Understanding of director duties and responsibilities
 - (ii) Any director educational programs
 - (iii) View of company's corporate governance policies, charter and bylaws
- f. Business management experience
- g. Charitable/civic organizations
- h. Any legal problems
 - (i) Professional
 - (ii) Personal
- i. Intangibles
 - (i) Experience, wisdom, integrity and ethics
 - (ii) Good communication skills
 - (iii) Analytical ability
 - (iv) Necessary skill sets/experience
 - Industry specific
 - Public company
 - Managerial
 - Other director positions
 - Financial
 - Technology
 - Corporate Governance
 - Strategic planning/succession planning
 - (v) "Fit" with the current culture of the board
 - (vi) Independence / no conflicts of interest
 - (vii) Time availability
 - (viii) Committees on which the candidate believes that she/he could add value / why?
 - (ix) Views of other shareholders/constituencies of the company
 - (x) Ability to deploy a collaborative approach to problem solving

C. Impediments to Recruitment

- 1. Time commitments
 - a. Concern:
 - (i) Candidates may be concerned that they cannot effectively serve on the board while maintaining another job
 - (ii) Candidates may have time commitment concerns if they serve on more than one board

2. Company Risks/Liability Concerns
 - a. Concerns:
 - (i) Financial risks
 - Inadequate director and officer liability insurance
 - (ii) Risks are contingent on the phase the company is in and the company's current stage of growth/relative size
3. Compensation
 - a. Concern that candidates will turn down board membership due to inadequate compensation package

D. Board Onboarding Considerations

1. Establish a board orientation program with input from management
2. Provide up-to-date information regarding the business – its operations, strategies, risks, competitive landscape, and management team, as well as the responsibilities and culture of the board and its committees
3. Provide suggested reading
4. Hold an initial orientation session with current members of the board and the new director
5. Conduct additional one-on-one meetings with key people in the company to foster a deeper understanding of the business, its key corporate governance processes, and its leaders
6. Remember that no “one size fits all” and orientation needs may vary depending on the new director's experience level, education, background, and areas of interest as a new director

E. Legal Considerations for General Counsel

1. Keep current assessment of board vacancies, board member expiration dates, and relevant term limits
2. Keep current with regulations impacting board composition, e.g. California board diversity law
3. Adopt a conflict-of-interest policy
4. Consider nepotism and fraternization policies
5. Review indemnification rights in charter documents
6. Obtain D&O insurance