Association 101
TOP 10 QUESTIONS FROM LOCAL PRESIDENTS
QUESTION #1

“Since we are a nonprofit, does that mean we can’t make a ‘profit’ on our programs?”
Two types of businesses: \textbf{For-profit} and \textbf{Nonprofit}
For-Profits

• Exist to make money
• Live by sales
• Precise Objectives: Performance judged by the bottom line
• Business-like means conscious of profit/loss
Nonprofits/Not-for-Profits

• Exist to serve people
• Live by the good they do
• Subjective Objectives: Performance judged by the good they do – no exact measures exist
• Business-like means conscious of cost/benefits
• Both for-profits and nonprofits need to maximize revenues and minimize expenses
• Both need “surpluses” or they are out of business
• For-profit: surplus is called “profit” and is distributed to owners
• Nonprofit: surplus remains within the organization and cannot be distributed to anything other than advancing the mission and programs (money in the bank)
QUESTION #2

“Are we allowed to lobby the government?”
• Yes, but a better term is “advocacy”

• Restrictions for tax exempt associations, especially 501(c)(3):
  • Can’t use governments funds to advocate
  • Can’t support a specific candidate
  • 5% Rule

• Focus on *educating* your members about an issue and let them make up their own minds
QUESTION #3

“Do we need to be incorporated?”
• Most associations elect to become legal corporations when organized or at some time in the future.
• Incorporation creates an artificial legal entity that has an existence apart from its members.
• Eliminates personal liability of the members
• Contact Secretary of State with incorporation questions
QUESTION #4

“Can we do something if it is not in the Bylaws?”
• Some believe that the Board may only do the things that are enumerated in the Bylaws.
• However, the Bylaws cannot address every conceivable situation or decision in the life of the association.
• The membership cannot possibly consider and address every situation or issue that arises in the life of the association.
• The Bylaws enumerate the decisions made by the membership regarding its authority:
  • The things they want to \textit{reserve for themselves} to decide (e.g. the officers and Board members are elected by the membership at the annual business meeting).
  • The things they want to \textit{prohibit} (e.g. the president shall serve ex officio on all committees except the Nominating Committee).
• The membership has only the powers it grants to itself and are specifically enumerated in the Bylaws.

• If it is not in the Bylaws, it becomes the Board’s responsibility, obligation and legal duty to act on the issue on behalf of the membership.

• In these matters, the Board’s decision is final and cannot be overturned by the membership.
QUESTION #5

“Should we put it in the Bylaws?”
• The bylaws should only give general guidance or set minimal requirements...
  • especially in matters that can change during the life of the association...
  • e.g. dues structures, program chair responsibilities, committee mission statements, operational rules and processes, etc.
  • Specific decisions on these matters should be determined by a resolution of the membership or board of directors

• Many associations develop and use a *Manual of Policies and Procedures*
Question #6

“Why do we have to allow nonmembers to enter our festivals/competitions?”
• Federal Trade Commission considers our members to be competitors

• Any program that provides members a “competitive advantage” or “economic benefit” must be available for nonmembers

• For example, professional development events, competitions, and possibly festivals...

• Who determines if there is a competitive advantage? The Board of Directors
• Advertising to nonmembers is not required
• Nonmembers may be charged a fee or larger fee for participation
• *MTNA Antitrust Compliance Guide for State and Local Music Teachers Associations*
• Contact the MTNA Antitrust Compliance Officer (me)
QUESTION #7

“Can we require our members to attend (X) number of meetings/work in order to enter their students?”
• Yes, but really not a good idea.
• Membership Restrictions
• Legally, any restriction on membership that appears “arbitrary” is suspect.
• Any restriction should be “reasonable”: geographic, specialty
• Generally, it should be one that is required to practice the profession.
• FTC will assume that unreasonable restrictions or those not required to practice profession are done to reduce competition.
QUESTION #8

“How do we deal with problem members/officers/board members/committee chairs, including termination of membership or other ‘punishments?’”
• Members are required to be of honorable character and reputation
• Membership is a privilege, not a right
• Board has the right to discipline officers and members, up to and including termination of membership when it is “in the best interest” of the association.
• Ideally, the problem individual will be open to “persuasion”
• Disciplining members is very risky and usually leads to problems much worse than the original problem
Two Helpful Resources:

1. Chapter on “Discipline” in *Roberts’ Rules of Order*
   - Describes “punishments” that are available for groups
   - Prescribes parliamentary procedures to be followed

2. MTNA Code of Ethics
   - Contains the goals and ideals toward which every MTNA member should strive with their students, colleagues and society
   - **Aspirational** and not a requirement of membership
   - *MTNA Mediation of Ethical Disputes*
     - Members are encouraged to work out ethical disputes themselves
     - If issues cannot be resolved by the parties, the MTNA Executive Director may assist in trying to find a resolution though mediation
QUESTION #9

“Can you help me with Roberts’ Rules?”
• Roberts’ Rules are the parliamentary law of MTNA and most of our affiliates

• Complex, confusing, and contradictory

• Nothing substitutes for studying them, having “cheat sheets” or “scripting” (or a parliamentarian)

• Rules governing small meetings are different from large meetings as the formality necessary in large groups only hinders small groups
Basic Principles of Roberts’ Rules

• Someone has to facilitate or direct the discussion and keep order.
• All members of the group have the right to bring up ideas, discuss them, and come to a conclusion.
• Members should come to an agreement about what to do.
• Members should understand that the majority rules, but the rights of the minority are always protected by assuring them the right to speak and vote.
QUESTION #10

“What do I need to know about legal liability in the age of COVID-19?”
MTNA Resources

• COVID-19 FAQs for State and Local Music Teachers Associations
• Association Waiver and Release of Liability for Exposure to COVID-19
• FAQs on COVID-19 Vaccinations and MTNA State and Local Association Events
• A How-To Guide for Hosting Successful Online Adjudicated Events
• COVID-19 Toolkit
BONUS QUESTION

“Can we be sued if...”
Anyone with $100 can file a lawsuit for anything against any organization.

The real question is, “Can we successfully defend our actions or inactions in a court of law?”

Be prudent, use common sense, and be cautious
Two Safeguards for Nonprofit Volunteers

1. Volunteer Protection Act (1997)
   • Aim is to promote volunteerism
   • Limits or eliminates risk of liability for volunteers of nonprofits for acts or omissions that may harm others while working on behalf of an organization
   • Doesn’t cover intentional, criminal acts
2. Directors & Officers Liability Insurance

• Helps cover the defense costs, settlements, and judgments from lawsuits against the organization for negligence, discrimination, errors in judgment, mismanagement of funds, conflict of interest...

• Covers directors, officers, trustees, and those acting at the direction of the Board (e.g. committee chairs)
TOP 2 ORGANIZATIONAL QUESTIONS

#1: “How do we fill all of our positions with so few volunteers?”

#2: “How do we get more members, especially younger ones?”
“You can do it. We can help.”