Defining Roles and Responsibilities within an Organization

Sarah Sawyer: Welcome to this week's OK at Work with myself, Sarah Sawyer, my colleague Russell Berger, both attorneys at Offit Kurman. And today we are talking about organizational structure specifically as it relates to board governance and operations. So often you see this a lot, obviously in nonprofit space, there's private boards as well.

But where there's a board that is the main governing body for an organization. They're tasked with oversight to a certain degree. And then you have, executive directors, CEOs operations folks that are within the organization who are running it, running the day-to-day responsible for actually operations and the business functioning. And there's a lot of overlap between those roles. And it can be a little bit confusing about who needs to do what and who has what authority if [00:01:00] you're not careful and you don't have good legal documents and policies and procedures in place.

So what are some things that need to be in place for those organizations to function well, Russell?

Russell Berger: Yeah. Working back towards the legal documents from the operational I think you need to have good, clear guidance as to who's responsible for what decisions need to be made at certain levels.

For example, in a corporation, you've got stockholders, the stockholders delegate certain authorities to the board. The board then retains some authority and delegates further authority to the executive team. Having clarity as to what's in each group's bucket, I think makes things a little bit easier.

Then you draft the appropriate documentation, stockholder agreement, corporate bylaws, that sort of thing to get it in the right place. And similarly, like in an LLC where you might have a membership agreement instead of a stockholder agreement, you ought to be doing the same thing.

What types of decisions need to come to the ownership team? And again, whatever entity you are what decisions can be made at the management team level, [00:02:00] the day-to-day operational level. Are there certain types of decisions that need a super majority? Because this is such a big deal that, we don't wanna just do a 51 49, we need a two thirds, one third type vote.

Those are the kinds of questions that either when you're starting a business or you're evolving a business as you go into a new space as a business, you should be revisiting and, revising documents, corporate docs accordingly.

Sarah Sawyer: And I think this is something that you see large entities do very well.

Obviously if you've ever seen the show Succession or anything like that, there's a very complex legal process involved and people do it really well in large organizations. I think that it's something people skimp on in smaller organizations and businesses often where they're able to get away with just making decisions and just not really consulting the legal documents and just running the business. We talk a lot on OK at Work about disputes and then things start going wrong. And then they go to their legal documents and they say, I don't really know what to do based [00:03:00] on this.

We're arguing about who has the authority to do this or what process to follow. And we don't really have a fair guidance in the documents on what to do. And so that can be really sticky when that happens. And so it's really something that's important to pay attention to, even if you're small or you're growing or medium sized because it's classic, obviously we talked about it a lot when everyone's happy and everything's going well, not having a good process in place and stuff you can be okay and things can function.

But there's gonna be times where that clarity is gonna be really important and really helpful to the business. And having a document that you can point to, policies to point to, that everyone's on the same page, make sure that you're not getting, in your own way and having to spend a lot of unnecessary time fighting about those details.

Russell Berger: Yeah, and I also think it's helpful, to whoever it is that's running the business day to day to know, I'm all clear. I, can be mostly autonomous in these areas and, the board or whoever can check in and will ask what I'm doing and want [00:04:00] input, but, these are my decisions to make.

But if it reaches one of these enumerated categories, then it's not my decision to make. And I know that's a hard stop for me and, not that I can't raise it to the board or raise it to, the members but that it's gotta be raised. Giving that clarity to the people running the business, I think is really important.

Sarah Sawyer: Yeah. Well, so people can be agile. We hear that term used a lot in business, right? Wanting to be agile during COVID, we talked about pivoting a lot. So we'll bring that word back, but it's hard as a business to be agile, make quick decisions when you need to. If there isn't clarity on that. And so I think that's where people notice the lack of clarity the most is when they feeling paralyzed in the decisions that they need to make.

And that's never a good thing. It's good to pause and be thoughtful in your decision making. We talk about that a lot also on OK at Work and being proactive and thoughtful in your approach, but you gotta be able to move quickly when needed.

Russell Berger: Yeah. Right. And, to bring the point home, as your organization [00:05:00] changes, those allocations of responsibility could change too. And like anything, just like reviewing your handbook periodically to review these documents periodically and make sure it's structured the right way.

And it's the right game plan for the organization that you have today.

Sarah Sawyer: Yeah. Well, thanks Russell. We'll see you next time.

Russell Berger: Thanks, Sarah.