

Avoiding Legal Potholes

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Organizations typically seek counsel to assist in developing corporate structure/bylaws and program policies and procedures for a new certification program. Although this provides direction for the program initially, there could be some legal potholes on the road to success. Here are some examples:

Due process. Since appeals leading to a court case are rare, some boards feel appeals can be handled as they emerge, using a subcommittee to adjudicate the dispute. But problems can arise if there is no formal, documented process set up in advance. Also, it is important that individuals with a conflict of interest will *not* be hearing the appeal.

Scoring errors. Even with quality control measures in place, scoring errors can happen. The legal pothole here is not necessarily in the error itself, but rather how it is handled. For example, consider setting aside funds as a cushion in the event of scoring error claims and create a communications/public relations plan that can be activated if errors occur. Bad press from scoring errors can cripple an organization financially and devastate its brand. Organizations have plans for disasters and acts of God, and it's a good idea to have a master plan for handling errors.

Contracts. Every contract signed by an organization has the potential for legal trouble. Areas that should be described clearly in any corporate contract include: a payment schedule based on performance, warranty/performance specifications, protection of intellectual property, indemnification terms, and grounds for termination.