Ethical Leadership Under the Model Rules

National Association of Attorneys General
Summer Meeting
June 20, 2017
So what...

**Just trust us**
United States
Ratings of honesty and ethics of members of Congress
% replying

Sources: Gallup; Office of Congressional Ethics
Economist.com
Attorneys General are Leaders of Leaders
Leadership Expectations

The Top 10 Leadership Competencies, Grouped Into Five Themes
When 195 global leaders were asked to rate 74 qualities, these rose to the top.

<table>
<thead>
<tr>
<th>Competency</th>
<th>Percentage</th>
<th>Description</th>
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<tbody>
<tr>
<td>Strong ethics &amp; safety</td>
<td>67%</td>
<td>Has high ethical and moral standards</td>
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<tr>
<td>Self-organizing</td>
<td>59%</td>
<td>Provides goals and objectives with loose guidelines/direction</td>
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<td>Efficient learning</td>
<td>56%</td>
<td>Clearly communicates expectations</td>
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<td>Nurtures growth</td>
<td>52%</td>
<td>Has the flexibility to change opinions</td>
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<tr>
<td>Connection &amp; belonging</td>
<td>43%</td>
<td>Is committed to my ongoing training</td>
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<td></td>
<td>42%</td>
<td>Communicates often and openly</td>
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<td></td>
<td>39%</td>
<td>Is open to new ideas and approaches</td>
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<td></td>
<td>38%</td>
<td>Creates a feeling of succeeding and failing together</td>
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<td></td>
<td>38%</td>
<td>Helps me grow into a next-generation leader</td>
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<td></td>
<td>37%</td>
<td>Provides safety for trial and error</td>
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Source: Sunnie Giles © HBR.org
Ethical vs. Unethical Leaders

**The Unethical Leader**
- Is arrogant and self-serving
- Excessively promotes self-interest
- Practices deception
- Breaches agreements
- Deals unfairly
- **Shifts blame to others**
- Diminishes others’ dignity
- Neglects follower development
- Withholds help and support
- **Lacks courage to confront unjust acts**

**The Ethical Leader**
- Possesses humility
- Maintains concern for the greater good
- Is honest and straightforward
- Fulfills commitments
- Strives for fairness
- Takes responsibility
- Shows respect for each individual
- Encourages and develops others
- **Serves others**
- Shows courage to stand up for what is right
Expectations = Model Rules

- Rule 5.1: Supervisors responsible for ensuring that lawyers conform to the Rules of Professional Conduct
- N.(1) applies in government context
- N.(2) reasonable efforts to establish internal policies and procedures to assure that lawyers will conform to rules
Establishing Ethical Leadership

• Faces matter
  – Perils of disconnected decision making
• Listening > Telling
• Flexibility
  – Government/Law are dynamic environments
• Follow the Rules
• Respect loyalty
  – Be wary of worship
Ethical Decision Making

• Recognize ethical issues
• More than one “right” answer
• Motivation to act ethically
• Learn from situation

An ethical person often chooses to do more than the law requires and less than the law allows—there is a difference between what you have a right to do and what is right to do. ~ Justice Potter Stewart
Rules as Guidelines

• Rule 1.1: Competence
• Rule 1.4: Communication
• Rule 1.6: Confidentiality
• Rules 1.7-1.11: Conflicts of Interest
• Rule 1.13 Organization as a Client
• Rule 2.1: Candid Assessment
• Rule 4.1: Truthfulness In Statements to Others
• Rule 8.4 (d): Not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation
Ethics Begin at the Top

• Naturally look to leader

• Fairness
  – Leader/Employees/Clients will honor the “rules of the game”
    • Antagonistic exchanges trigger fight/flight response—stifling innovation
    • “Safe” environment enables social engagement, innovation, creativity, and ambition
Facilitating Open Discussion

• Frame the problem without giving away position
• Ask for advice...instead of criticism/feedback
• Allow everyone opportunity to provide input
• Speak last
• More difficult issues—frame problem, initial discussion—break in time—come back to problem. Allows for productive brainstorming
Evaluate the “Cost” of a Meeting

• Length of meeting is more than just the meeting—factor in prep time and prep meetings
• Double booking meetings results in the need for yet more meetings
• Dysfunctional meeting behavior
  – Phones/email etc...
• Meeting Discipline—
  – Default—no longer than 30 minutes, no more than 5 attendees (larger/longer need justification/ approval)
  – Agenda/Objective—The purpose of this meeting is to:
  – Prep in advance/Start on time/End early!
Middle Manager Dilemma

• Carriers & Victims of Decisions
  – Ethically caught in the middle between “prescriptive” boss and implementing among subordinates
  – Conflicting demands from above and below
  – Recognize the middle manager continuously switches between assertiveness and deference
  – Meetings may enhance the dilemma of role switching—evaluate the need for meetings
Connecting

- Who has your back?
- Do you have their back?
- Succeed/Fail Together
- Humanize: Face to Face > email
- Everything flows downhill...
Abilene Paradox

• Common in government

• Don’t rock the boat!
  – Action-anxiety—fearing the group/leader repercussions for speaking out
  – Guess who isn’t invited to the next meeting

• Danger!
  – Decision by default that no one thinks is a good idea
Three Men Make A Tiger

• If repeated enough the absurd becomes the truth
  – Motivated reasoning—we hear things to confirm what we already know
  – Social Consensus reality—if an idea is popular, it must be good
    • If everyone is doing it, it can’t be wrong
  – Three types of lies: White, Black, Blue
Competence = Curiosity

• Law is a lifetime learning endeavor
  – Complacency is the enemy
• Open to new approaches/ideas
• Encourage a contrarian in the group
• Trial and error
• Ongoing training
Culture of Ethics

• Are ethics discussed within decision making?
• Model behavior
• Discipline ethical lapses
• Observe less misconduct
• Willing to report
• Fairness of reporting/disciplinary process
• Recognize and reward ethical conduct/reporting