Standing Up to Bad Programming Ideas

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Mr. Terry L. Hill is the Director of the Programs Division at The Florida Bar where he leads a team of six department heads who oversee six departments within The Florida Bar. He provides leadership and oversight for Legal Publications, Legal Specialization & Education, Professional Development, Meetings & Conventions, Law Office Management Assistance Service and Public Service Programs. Terry is also the CLE Director and the staff liaison to The Florida Bar Member Benefits Committee. A large part of his focus is on continuing legal education programming, marketing, and delivery methods. He has been a member of ACLEA since 2007 and has served as a member of an ACLEA Programming Committee. He is also a member of the National Association of Bar Executives (NABE) where he has been a presenter and served on the membership and sponsorship committees including roles as chair and vice chair. Prior to attending law school at Florida State University College of Law and joining The Florida Bar, Terry worked as a management representative and quality coordinator in the manufacturing industry and served in the U.S. Navy in Pearl Harbor and San Diego. He is the Chair of the Development Committee for the Florida State University Family Connection Advisory Council has served on the Leon County Schools District Advisory Council and as President of the Leon High School Touchdown Club. When Terry is not juggling his professional responsibilities with work and in his community, he spends time with his wife Yolanda, children Christopher, Savannah, and Sebastian, and the family dog Lucy.
Standing Up to a Bad Programming Idea

The title of this session alone makes one sit up and ask: “Why in the world would a CLE programmer or executive implement a bad programming idea?” If, based upon our own CLE knowledge and experience, we believe a programming idea to be poorly conceived or not feasible to be marketed, why shouldn’t we, to use that old cliché, “just say no.”

If only the world of CLE were so simple. CLE is a business, and just like in other businesses, executives are sometimes faced with tough decisions that are impacted by politics, relationships, institutional history, and that most dangerous noun, tradition. Many CLE executives possess the ability to decline to plan and execute what they believe is a poor programming idea. However, many of us do not have the ultimate say in the matter. If the President of the Bar, the Dean of the law school, the biggest donor to our organization or an influential bar leader or law school alumnus wants a program done, sometimes we must do it.

In those instances, we can try as hard as possible to turn what we think is a bad programming idea into a good one. That’s our obligation as CLE professionals. However, we know from experience that if that program fares poorly in terms of attendance and surplus, it is we and our team who will very likely be held accountable. In these ticklish situations, it is important to keep in mind the techniques to employ in order to minimize risk – risk to us and our department’s reputation, risk to our bottom line, and risk to our relationships with key players inside and outside our organizations.

Here are my top five tips for “standing up to bad programming ideas.”

1. “Just say no.” I mention this option above. It is an obvious strategy. However, it is not a strategy to be used lightly or frequently, especially if we are communicating with our supervisors, whether those supervisors are the CLE Director, the Dean, the Executive Director of the bar, the bar President or a major donor to our organization. This strategy can only be utilized if we have worked long and hard to establish a trusting relationship with that person to whom we are saying “no.” Building that relationship over time is a critical aspect of any CLE professional’s job description. It may not be an official part of our job descriptions, and it may not be something we think about on a daily basis. However, for anyone who toils in the CLE vineyards, building and cultivating relationships with people higher up in the organization is a critical path to success. Lobbyists say that 90% of their jobs is cultivation and 10% is harvest. We should be cultivating our relationships with key players continually so that when the time comes for us to approach our supervisors and have that difficult conversation about a poor programming idea; they will respectfully listen and be more inclined to accept our opinions than to accept the opinion of someone outside our CLE family. I recently had to engage in such a conversation with my supervisor at Georgetown Law Center. Fortunately, his response was “I’m leaving this decision up to you because I trust your judgment on this. If necessary, I will support you with the Dean.”
2. Seek support outside your department. Sometimes the ultimate decision-maker – if that person is not you – will listen to special confidantes or allies within your bar, law school, or organization. It is part of our job to know who those people are. At Georgetown Law Center, I know who the dean’s “go-to” faculty members are. On rare occasions, when I think the dean is being led down an incorrect path about a CLE programming idea, I seek out those people and meet with them in person. I lay out the facts and explain my concerns. Sometimes they will disagree with me and suggest that our department should put our collective head down, do the best we can, and plan and execute the program in question. More frequently, because I have worked on my relationships over time with these faculty members as well, they will offer to be allies in my cause, trying to persuade the dean that the particular CLE programming idea is not a sound one and would not inure to the benefit of Georgetown Law. Recently I had lunch with one of our Associate Deans to explain to her my concerns about an upcoming idea and asked her if she would be willing to advocate on our behalf with the dean. She agreed to do so, and by the time I met with the dean the following week, her advocacy had persuaded him to back off on the original idea.

3. Rely on history. CLE programs should always be collecting data, both quantitative and qualitative. This data should be used to make wise programming decisions. Just like we all collect detailed data on expenses and revenue for all our programs in order to make sound decisions about the following year’s versions of the same programs, so too must we collect and store data about the planning and execution – or non-execution – of new programming ideas. With the right kind of historical data, we can approach the supervisor with empirical results that explain why a programming idea that appears fine on its surface is actually a poor idea based upon our department’s past experience. We can explain how the current proposal is analogous to one received in the past, and why we did not implement that similar program. Sometimes, we can even pass along a story about a similarly poor idea that we heard from a colleague in ACLEA! It need not be our own war story. The point is that we are trying to persuade the listener that something like this was attempted previously and it failed.

4. Distinguish the Current Circumstances or Idea from Another Successful Program or Idea. Just because a CLE idea works successfully in another time or a different venue does not mean that it will work for you or your CLE program. Very often members of our boards, advisory committees or governing bodies will approach us with a “fantastic” idea for a CLE program that has been executed successfully elsewhere. The person making the suggestion assumes that if it succeeded elsewhere, it will of course succeed in our own jurisdiction. For those of us who are lawyers, this is where our legal training comes into play. We were taught in law school that one technique in making oral arguments or in drafting effective briefs is to distinguish the facts of our own cases from those facts in other cases which are being cited by our adversaries to support their positions. About 15 years ago, Judy Areen then the Dean of Georgetown Law Center, approached me with the idea of replicating the Program in Instruction for Layers, a one-week residential CLE program that had been administered for many years by Harvard Law School. Judy saw the program as a great vehicle for expanding our Law Center’s revenue base, for enhancing the Georgetown Law brand and for providing additional revenue to several of
our star faculty during the summer when they are normally not teaching. I disagreed with Judy’s suggestion, and tried to persuade her that Georgetown is not Harvard and that the program would not succeed. I said that coming to Boston in the summer is much more pleasing than coming to Washington, DC. I said that virtually no law school has Harvard’s brand recognition and credibility. I said that unlike Harvard, we did not have the ability to offer attendees inexpensive housing in dorms. Despite all my arguments against implementing the program, Dean Areen decided to go forward. At that point, I had to resort to my back-up strategy.

5. When Disagreeing with the Key Decision Makers, Make a Great Paper Trail. When things go wrong in most organizations, the higher-ups immediately start finding someone to blame. The “blame game” is almost part of human nature – unfortunately. Many people, despite their chronological ages, do not know how to accept responsibility for their own behavior or decisions. In large organizations particularly, managers strive to identify someone lower down on the totem pole to take responsibility when a process or procedure goes awry. In a CLE context, the one person usually blamed when a program idea fails is the Director.

This eventuality is even more probable when the program idea comes from the dean, the bar president, the head of the executive committee, a major bar volunteer, a major law school donor, or any other influential supporter of your parent organization. In order to protect yourself and your team, be sure to “paper” every discussion you have with key players. “Papering” means documenting each discussion, decision and milestone in an e-mail which is saved, in a memo to the appropriate person, or, if necessary, in a memo to the file. It is imperative that you document your disagreement to move forward with what you consider to be a poor programming idea. It is almost guaranteed that at some point in your CLE career, someone higher up in the organization will look you in the face very seriously and say: That was a bad programming idea - Why did you ever come up with that one?” When you respond, “Actually, boss, that was not my idea. That was _____’s idea and I said that I thought it was a bad programming idea,” he or she will likely say, “I don’t remember that at all.” That is your opportunity to search for those e-mails that document your disagreement with this programming idea, even though they may go back several years. It is truly amazing how politically helpful such e-mails can become many months, and sometimes years, after they are written. When Dean Judy Areen agreed to cancel our one-week residential program modeled on the Harvard Program in Instruction for Lawyers after two years of low attendance and revenue, she bemoaned the poor choice “we” had made in implementing this program. I found my original e-mails expressing my strong belief that the program idea was a poor one from the beginning and forwarded them to the Dean. Those e-mails did a magical job of refreshing her recollection.

We all must be prepared for that poor programming idea to walk through the door one day. The best defense is a good offense. Be prepared with a strategy that you are confident will succeed. Take into account the best interest of your department and your organization. Build allies. Cultivate relationships. If in doubt, rely on the wisdom of ACLEA colleagues. You will survive, especially if you maintain a positive attitude!
“It’s still hard to say “no” when we’re putting together a new program. It think it’s because “yes” just sounds so much better. Yes is the thing of dreams. Yes, we can do this. Yes, we can do that. Yes feels really good. The problem is that “yes” often results in massive costs that we don’t consider when we’re dreaming up all the things we want to do. Yes doesn’t push back until it’s too late. If you’ve already agreed to do all these things, then it’s that much more difficult to say later on. Saying “no” means that you have to make tough choices that are not always obvious at the time. No can be can be hard, even painful; it can lead to imagining what could have been. Overtime you will often regret saying yes more than saying no.” – Jason Fried, How to Kill a Bad Idea, December 2010

No One Nos: Learning to Say No to Bad Ideas by Whitney Hess

Say “No” Without Saying “No” by Kim Fernandez
http://www.asaecenter.org/Resources/ANowDetail.cfm?ItemNumber=42751

When Your Boss Has a Dumb Idea by Margaret Heffernan
http://www.cbsnews.com/8301-505125_162-57478623/when-your-boss-has-a-dumb-idea/

Marketing – Just Say No! (to a bad idea) by Robert McCourty
http://www.metamend.com/article-marketing-ideas.html

How to Kill a Bad Idea by Jason Fried

* I have included articles on this list that directly or tangentially cover the topic of standing up to bad ideas. I do not agree with all of the content espoused in these articles and there are a few points that I take issue with. However, I do believe this is a decent collection of articles on the topic and the process of dealing with bad ideas.